

**Confidential Settlement**  
**Cal Evidence Code 1152**  
**SETTLEMENT AGREEMENT**

**1. INTRODUCTION**

**1.1 Parties**

This Settlement Agreement is entered into by and between John Moore (“Moore”) and defendants WCM Holdings, Inc. and West Chester Holdings, Inc. (“collectively, West Chester”), with Moore and West Chester each individually referred to as a “Party” and collectively as the “Parties.” Moore is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals, and to improve human health by reducing or eliminating hazardous substances used in consumer products. Moore alleges that West Chester employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

**1.2 General Allegations**

Moore alleges that West Chester manufactures, sells, and/or distributes for sale in California, vinyl/PVC gloves containing diisononyl phthalate (“DINP”). DINP is listed pursuant to Proposition 65 as a chemical known to cause cancer. Moore alleges that West Chester failed to provide the health hazard warning allegedly required by Proposition 65 for exposures to DINP from its vinyl/PVC gloves.

**1.3 Product Description**

The products that are covered by this Settlement Agreement are vinyl/PVC gloves containing DINP including, but not limited to: the *Westchester Protective Gear Vinyl Disposable Gloves, #2710/L, UPC #6 62909 02717 7*; the *Westchester Vinyl Disposable Gloves, #00110/O, UPC #6 62909 00056 9*; and the *Westchester Protective Gear Vinyl*

*Disposable Gloves, #2750/S, UPC #6 62909 02755 9*; manufactured, sold or distributed for sale in California by West Chester (“Products”).

**1.4 Notice of Violation**

On or about January 30, 2015 Moore served West Chester, and certain requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that West Chester violated Proposition 65 when it failed to warn its customers and consumers in California that its Products expose users to DINP. To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

**1.5 No Admission**

West Chester denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products that it has sold and distributed in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by West Chester of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by West Chester of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by West Chester. However, this Section shall not diminish or otherwise affect West Chester’s obligations, responsibilities, and duties under this Settlement Agreement.

**1.6 Effective Date**

For purposes of this Settlement Agreement, the term “Effective Date” shall mean February 6, 2016.

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## 2. **INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

### 2.1 **Reformulation Commitment**

After the Effective Date On or before August 1, 2016 and continuing thereafter, West Chester shall only distribute or sell Products in California if they are either (1) sold or shipped with a clear and reasonable warning as set forth in subsection 2.2; or (2) exempt pursuant to section 2.3 as Reformulated Products as defined in section 2.4.

### 2.2 **Product Warnings**

For Products requiring a warning under section 2.1, each warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs or devices as to render it likely to be read or understood by an ordinary individual under customary conditions before purchase or use. West Chester shall affix or print a warning upon the packaging or labeling of any Products or directly on any Products. The warning under this section 2.2 shall state as follows:

**Warning:** This Product Contains DINP, a Phthalate Chemical, Known to the State of California to Cause Cancer.

Or

**Warning:** This Product Contains a Chemical Known to the State of California to Cause Cancer.

### 2.3 **Exception to Warning Requirements**

The warning requirement set forth in section 2.2 shall not apply to Reformulated Products (as defined in Section 2.4 below).

### 2.4 **Reformulation Standards**

“Reformulated Products”. For purposes of this settlement agreement, “Reformulated Products” are Products containing DINP in concentrations less than 0.1 percent (1,000 parts per million) in each accessible when analyzed by a laboratory accredited by the state of California, a federal agency, National Volunteer Laboratory Accreditation Program (NVLAP) ANSI-ASQ National Accreditation Board, International

Accreditation Services, Inc. or similarly nationally-recognized organizations pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or other methodology utilized by federal or state government agencies for the purpose of determining DINP content in a solid substance.

### **3. MONETARY SETTLEMENT TERMS**

#### **3.1 Civil Penalty Payments**

Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this settlement Agreement, West Chester agrees to pay 6,000 in civil penalties. Each penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount paid to Moore, and delivered to the address in Section 3.3 herein.

**3.1.1 Initial Civil Penalty.** On or before the Effective Date, West Chester shall pay an initial civil penalty in the amount of \$2,000. West Chester will provide its payment in two checks for the following amounts made payable to: (a) “OEHHA” in the amount of \$1,500; and (b) “John Moore, Client Trust Account” [Tax Payer Identification Number 557-31-7744] in the amount of \$500.

**3.1.2 Final Civil Penalty.** On or before December 15, 2016, West Chester shall pay a final civil penalty of \$4,000 with West Chester to provide payment in two checks in accordance with the formula set forth in paragraph 3.1.1 above. The final civil penalty shall be waived in its entirety, however, if, no later than December 1, 2016, an officer of West Chester provides Moore’s counsel with written certification that, as of the date of the certification, all Products shipped, sold or distributed for sale in California are Reformulated Products, and that they will continue to provide only Reformulated Products in the future. The option to provide a written certification of reformulation in lieu of making the final civil penalty payment required by this Section is a material term,

and time is of the essence. West Chester shall deliver its certificate, if any, to Moore's counsel at the address provided in Section 3.3, below.

### **3.2 Attorneys' Fees and Costs**

The Parties reached an accord on the compensation due to Moore and his counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, West Chester agrees to pay \$21,000 to Moore and his counsel for all fees and costs incurred investigating, bringing this matter to the attention of West Chester's management, and negotiating a settlement in the public interest. West Chester's payment shall be due on or before (30) days of the Effective Date, and delivered to the address in Section 3.3 in the form of a check payable to "The Chanler Group" [Tax Payer Identification Number 94-3171522]

### **3.3 Payment Address**

All payments required by this Settlement Agreement shall be delivered to the following address:

The Chanler Group  
Attn: Proposition 65 Controller  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710

## **4. CLAIMS COVERED AND RELEASED**

### **4.1 Moore's Release of West Chester**

This Settlement Agreement is a full, final and binding resolution between Moore, as an individual and not on behalf of the public, and West Chester, of any violation of Proposition 65 that was or could have been asserted by Moore, on behalf of himself, or on behalf of his past and current agents, representatives, attorneys, successors, and/or assignees ("Releasers"), and Releasers hereby release any such claims, against West Chester, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, licensors, and licensees and each entity to whom West

Chester directly or indirectly distributes or sells Products, including but not limited to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, (“Releasees”), based on the alleged failure to warn about alleged exposures to DINP contained in Products manufactured, distributed, sold or offered for sale by West Chester in California before the Effective Date.

In further consideration of the promises and agreements herein contained, Moore, on his own behalf, and on behalf of his past and current agents, representatives, attorneys, successors, and/or assignees, hereby covenants not to sue and waives any right to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he may have, including, without limitation, all actions and causes of action in law and in equity, all suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys’ fees arising under Proposition 65 with respect to DINP contained in the Products manufactured, distributed, sold and/or offered for sale by West Chester before the date that this Settlement Agreement is fully executed by the Parties.

#### **4.2 West Chester’s Release of Moore**

West Chester, on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Moore and his attorneys and other representatives, for any and all actions taken or statements made by Moore and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

### **5. SEVERABILITY**

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

**6. GOVERNING LAW**

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or otherwise rendered inapplicable by reason of law generally, as to West Chester specifically as a result of a statutory exemption, or as to the Products, then West Chester may provide written notice to Moore of any asserted change in the law, or its applicability to West Chester or the Products, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, West Chester or the Products are so affected.

**7. NOTICE**

Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (a) personal delivery; (b) first-class, registered or certified mail, return receipt requested; or (c) a recognized overnight courier on any Party by the other at the following addresses:

**West Chester**

John Francy, Chief Financial Officer  
WCM Holdings, Inc.  
West Chester Holdings, Inc.  
11500 Canal Road  
Sharonville, OH 45241

John J. Allen, Esq.  
Allen Matkins  
515 South Figueroa Street, 9th Floor  
Los Angeles, CA 90071

**Moore**

Proposition 65 Coordinator  
The Chanler Group  
2560 Ninth Street  
Parker Plaza, Suite 214  
Berkeley, CA 94710

Any Party may, from time to time, specify in writing to the other a change of address to which all notices and other communications shall be sent.

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**8. COUNTERPARTS; FACSIMILE SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (PDF) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

**9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

Moore and his attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7(f).

**10. MODIFICATION**

This Settlement Agreement may be modified only by written agreement of the Parties.

**11. AUTHORIZATION**

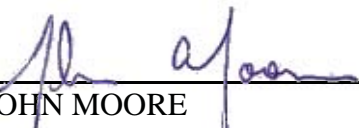
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.

**AGREED TO:**

**AGREED TO:**

Date: 2-1-2016

Date: \_\_\_\_\_

By:  \_\_\_\_\_  
JOHN MOORE

By: \_\_\_\_\_  
John Francy, Chief Financial Officer  
WCM HOLDINGS, INC.  
WEST CHESTER HOLDINGS, INC.



8. **COUNTERPARTS; FACSIMILE SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (PDF) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

9. **COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

Moore and his attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7(f)

10. **MODIFICATION**

This Settlement Agreement may be modified only by written agreement of the Parties.

11. **AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.

**AGREED TO:**


Date: \_\_\_\_\_

By: \_\_\_\_\_

JOHN MOORE

**AGREED TO:**

Date: February 10, 2016

By:  \_\_\_\_\_

John Francy, Chief Financial Officer  
WCM HOLDINGS, INC.  
WEST CHESTER HOLDINGS, INC.