

SETTLEMENT AGREEMENT

BETWEEN ERIKA MCCARTNEY AND W W WOOD, INC.

1. RECITALS

1.1 The Parties

This Settlement Agreement (“Settlement”) is entered into by and between Erika McCartney (“Ms. McCartney”) and W W Wood, Inc. (“W W Wood”). Ms. McCartney and W W Wood shall hereinafter collectively be referred to as the “Parties.”

Ms. McCartney is a citizen of the State of California with an interest in improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and substances and reducing exposure to hazardous substances found in consumer products. W W Wood is a person in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

1.2 Allegations

Ms. McCartney alleges W W Wood manufactured, distributed, supplied, and/or sold certain wood products, specifically wood chips for use by consumers during barbecuing, causing users in California to be exposed to wood dust without providing “clear and reasonable warnings,” in violation of Proposition 65. Wood dust (the “Listed Substance”) is subject to Proposition 65 warning requirements because it is listed as known to the State of California to cause cancer.

On October 24, 2014, a sixty-day notice of violation, along with a Certificate of Merit, was provided by Ms. McCartney to W W Wood and various public enforcement agencies

regarding the alleged violation of Proposition 65 with respect to W W Wood, Inc.'s Western Hickory BBQ Smoking Chips. On June 23, 2015, a second sixty-day notice with accompanying Certificate of Merit was provided by Ms. McCartney to W W Wood and various public enforcement agencies regarding alleged violation of Proposition 65 with respect to W W Wood, Inc.'s additional BBQ Wood Chips, specifically, Western Brand Alder BBQ Smoking Chips, Apple BBQ Smoking Chips, Cherry BBQ Smoking Chips, Maple BBQ Smoking Chips, Mesquite BBQ Smoking Chips, Oak Smokin' Chips, Orange Smoking Chips, Peach Smoking Chips, and Jack Daniel's Whiskey Barrel Smoking Chips. ("60-Day Notices.") The products referenced in both notices are hereinafter referred to collectively as "Covered Products."

1.3 No Admissions

W W Wood denies all allegations in Ms. McCartney's 60-Day Notices and maintains that the Covered Products have been, and are, in compliance with all laws, and that W W Wood has not violated Proposition 65. This Settlement shall not be construed as an admission of liability by W W Wood but as a compromise of claims that are expressly contested and denied. However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities under this Settlement.

1.4 Compromise

The Parties enter into this Settlement in order to resolve the controversy described above and avoid prolonged and costly litigation between them.

1.5 Effective Date

The "Effective Date" shall be the date four months from which this Settlement is signed by both Parties and delivered to each Party.

2. INJUNCTIVE BELIEF

2.1 Warning Obligations for Covered Products

After the Effective Date, W W Wood shall not manufacture, decorate, import, distribute or offer for use or sale any Covered Product containing the Listed Substance for distribution, sale or use in California, unless clear and reasonable warnings are given in a manner consistent with the method and language set forth in Section 2.2.

2.2 Manner of Providing Warning

For the Covered Products, W W Wood shall provide the following warning ("Warning") as specified below:

"[California Proposition 65] **WARNING:** Burning this product may result in the emission of combustion by-products which are known by the State of California to cause cancer, birth defects and/or reproductive harm. The product contains wood dust, known by the State of California to cause cancer."

The text above appearing in brackets shall be optional. The Warning shall be permanently affixed to or printed on (at the point of manufacture, prior to shipment to California, or prior to distribution within California) the outside packaging or container of each unit of the Covered Products. The Warning shall be displayed with such conspicuousness, as compared with other words, statements designs or devices on the outside packaging or labeling, as to render it likely to be read and understood by an ordinary individual prior to use. If the Warning is displayed on the product container or labeling, the Warning shall be at least the same size as the largest of any other health or safety warnings on the product container or labeling, and the word "**WARNING**" shall be in all capital letters and in bold print.

3. PAYMENTS

3.1 Civil Penalty Pursuant To Proposition 65

In settlement of all claims referred to in this Settlement, W W Wood shall pay a total civil penalty of \$12,500 to be apportioned in accordance with Health and Safety Code section 25249.12(c)(1) and (d), with 75% paid to State of California Office of Environmental Health Hazard Assessment, and the remaining 25% paid to Ms. McCartney.

W W Wood shall issue two (2) checks for the civil penalty: (1) a check or money order made payable to "Office of Environmental Health Hazard Assessment" in the amount of \$9,375.00; and (2) a check or money order made payable to "Erika McCartney" in the amount of \$3,125.00. W W Wood shall remit the payments within five (5) business days of the signing of this Agreement, to:

Pacific Justice Center
ATTN: Robert B. Hancock, Esq.
50 California Street, Suite 1500
San Francisco, CA 94111

3.2 Payment of Attorneys' Fees And Expenses

W W Wood shall pay Ms. McCartney's attorney's fees and expenses incurred in prosecuting the instant action, in the amount of \$37,500. Accordingly, W W Wood shall issue a check or money order made payable to "Pacific Justice Center" in the amount of \$37,500. W W Wood shall remit the payment within five (5) business days of the signing of this Agreement to:

Pacific Justice Center
ATTN: Robert B. Hancock, Esq.
50 California Street, Suite 1500
San Francisco, CA 94111

4. RELEASES

4.1 Ms. McCartney's Release Of W W Wood

Ms. McCartney, acting in her individual capacity, her past and current agents, representatives, attorneys, successors, and/or assignees, in consideration of the promises and monetary payments contained herein, hereby releases W W Wood, its parents, subsidiaries, shareholders, directors, members, officers, employees, agents and attorneys, from the claims asserted in Ms. McCartney's 60-Day Notice dated December 16, 2013 regarding violation of Proposition 65 with respect to the Covered Products.

4.2 W W Wood's Release Of Ms. McCartney

W W Wood, by this Settlement, waives all rights to institute any form of legal action against Ms. McCartney, her past and current agents ,representatives, attorneys, experts, successors, and/or assignees, for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against W W Wood in this matter.

4.3 Waiver Of Unknown Claims

Each of the Parties acknowledges that they are familiar with Section 1542 of California Civil Code which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Each of the parties waives and relinquishes any right or benefit it has or may have under Section 1542 of *California Civil Code* or any similar provision under the statutory or non statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits pertaining to the claims in this Settlement. The Parties acknowledge that each may

subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Settlement and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

5. SEVERABILITY

Should any non-material part or provision of this Settlement for any reason be declared by a Court to be invalid, void, unenforceable, or against law or public policy, the remaining portions and provisions shall continue in full force and effect.

6. GOVERNING LAW

The terms of this Settlement shall be governed by the laws of the State of California.

7. INTEGRATION

This Settlement constitutes the entire agreement between the parties with respect to the subject matter hereof and may not be amended or modified except in writing executed by both Parties.

8. COUNTERPARTS

This Settlement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Settlement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed Settlement shall have the same force and effect as the originals.

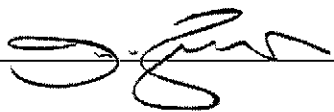
9. AUTHORIZATION

The undersigned are authorized to execute this Settlement on behalf of their respective Party. Each Party has read, understood, and agrees to all of the terms and conditions of this

Settlement. Each Party warrants to the other that it is free to enter into this Settlement and not subject to any conflicting obligation which will or might prevent or interfere with the execution or performance of this Settlement by said Party.

AGREED: W.W. Wood, Inc.

Date: 8/26/2015

By: 

Its: President/CEO

AGREED:

Date: _____

Erika McCartney

Settlement. Each Party warrants to the other that it is free to enter into this Settlement and not subject to any conflicting obligation which will or might prevent or interfere with the execution or performance of this Settlement by said Party.

AGREED: W W Wood, Inc.

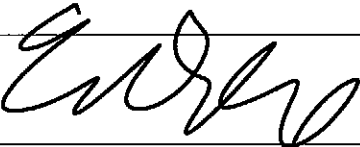
Date: _____

By: _____

Its: _____

AGREED:

Date: ^{8/28/15} _____



Erika McCartney