

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Dr. Whitney R. Leeman. (“Leeman”) and C & D Visionary, Inc. (“C & D”), with Leeman and C & D each individually referred to as a “Party” and collectively as the “Parties.” Leeman 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. Leeman alleges that C & D 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

Leeman alleges that C & D manufactures, sells, and/or distributes for sale in California, vinyl/PVC identification (“ID”) holders containing di(2-ethylhexyl)phthalate (“DEHP”). DEHP is listed pursuant to Proposition 65 as a chemical known to cause birth defects and other reproductive harm. Leeman alleges that C & D failed to provide the health hazard warning allegedly required by Proposition 65 for exposures to DEHP from its vinyl/PVC ID holders.

1.3 Product Description

The products that are covered by this Settlement Agreement are vinyl/PVC ID holders containing DEHP as reflected on Exhibit A attached hereto (“Products”).

1.4 Notice of Violation

On or about August 20, 2015, Leeman served C & D, Hot Topic, Inc., and certain requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), alleging that C & D violated Proposition 65 when it failed to warn its customers and consumers in California that its Products expose users to DEHP. 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

C & D 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 C & D 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 C & D of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by C & D. However, this Section shall not diminish or otherwise affect C & D'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 the date this Settlement Agreement is executed by the Parties.

2. INJUNCTIVE RELIEF

2.1 Reformulation Commitment

As of the Effective Date, and continuing thereafter, C & D agrees to only purchase manufacture, sell, and/or distribute for sale in or into California, "Reformulated Products" or include warnings in accordance with Section 2.2 below. For purposes of this Settlement Agreement, "Reformulated Products" are Products containing DEHP in concentrations less than 0.1 percent (1,000 parts per million) when analyzed 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 DEHP content in a solid substance.

2.2 Clear and Reasonable Warnings

C & D began providing a clear and reasonable consumer warning on the Products within days of receiving the Notice, by late August 2015. Commencing on the Effective Date and continuing thereafter, C & D shall, for all Products sold in California that are not Reformulated Products, provide a clear and reasonable consumer warning in accordance with this Section. C & D further agrees that any warning utilized will be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. For purposes of this Settlement Agreement, a clear and reasonable warning for DEHP in Products shall consist of a warning affixed to the packaging, label, tag, or directly to a Product sold in California containing the following language:

WARNING: This product contains DEHP, a chemical known to the state of California to cause birth defects and other reproductive harm.

2.3 Sell-Through Period

C & D's products manufactured and distributed for retail sale prior to the Effective Date shall be subject to the release of liability pursuant to Section 4 of this Settlement Agreement with respect to C & D's obligation to reformulate or provide a clear and reasonable warning, without regard to when such Products were, or are in the future, sold to consumers, whether by internet sales or any other means.

3. MONETARY SETTLEMENT TERMS

3.1 Payment into the California Safe Drinking Water and Toxic Enforcement Fund Pursuant to Health & Safety Code §25249.12(c)

In settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, C & D agrees to pay \$3,500 into the California Safe Drinking Water and Toxic Enforcement Fund. The payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% (\$2,625) of the amount

paid to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% (\$875) of the amount paid to Leeman. In accordance with Section 3.3 below, C & D shall issue a check on or before the Effective Date to: “The Chanler Group in Trust for Dr. Whitney R. Leeman” in the amount of \$3,500. Of this amount, the Chanler Group shall remit \$2,625 to OEHHA, per the terms above. Leeman and/or the Chanler Group shall be solely responsible for the payment to OEHHA once received from C&D. All penalty payments shall be delivered to the address in Section 3.3 below.

3.2 Attorneys’ Fees and Costs

The Parties reached an accord on the compensation due to Leeman and her 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, C & D agrees to pay \$22,500 for all fees and costs incurred investigating, bringing this matter to the attention of C & D’s management, and negotiating a settlement. C & D’s payment shall be delivered to the address in Section 3.3 in the form of a check payable to “The Chanler Group.”

3.3 Payment Procedures

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 Leeman’s Release of C & D

This Settlement Agreement is a full, final and binding resolution between Leeman, as an individual and *not* on behalf of the public, and C & D, of any violation of Proposition 65 that was or could have been asserted by Leeman, on behalf of herself, or

on behalf of her past and current agents, representatives, attorneys, successors, and/or assignees (“Releasers”), and Releasers hereby release any such claims, against C & D, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom C & D directly or indirectly distributes or sells Products, including but not limited to downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees (“Releasees”), based on the failure to warn about alleged exposures to DEHP contained in Products manufactured, distributed, sold or offered for sale by C & D in California before the date that this Settlement Agreement is fully executed by the Parties.

In further consideration of the promises and agreements herein contained, Leeman, as an individual and *not* on behalf of the public, and on behalf of her 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 Products manufactured, distributed, sold and/or offered for sale by C & D before the date that this Settlement Agreement is fully executed by the Parties. Compliance with the terms of this Settlement Agreement constitutes compliance with Proposition 65 with respect to the alleged or actual failure to warn about exposures to DEHP from the Products as alleged in the Notice and referenced in this Settlement Agreement.

4.2 C & D’s Release of Leeman

C & D, 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 Leeman and her attorneys and other representatives, for any and all

actions taken or statements made (or those that could have been taken or made) by Leeman and her attorneys and other representatives, whether in the course of investigating claims, or otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

4.3 Mutual California Civil Code section 1542 Waiver

Leeman in her individual capacity only and *not* in any representative capacity, and C & D, each on her/its own behalf, and on behalf of her/its agents, attorneys, representatives, successors and assigns, also provides a general release which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of Leeman or C & D of any nature, character or kind, whether known or unknown, suspected or unsuspected, arising out of any alleged violations of Proposition 65 with respect to the Products sold by C & D, as set forth in the Notice, or as to Leeman or Leeman's counsel in connection with investigating the claims and the Products that are the subject of this Settlement Agreement. Leeman and C & D each acknowledge and represent that she/it is familiar with Section 1542 of the 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.

Leeman and C & D each expressly acknowledge and hereby waive the provisions of Section 1542 of the California Civil Code.

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 C & D specifically as a result of a statutory exemption, or as to the Products, then C & D may provide written notice to Leeman of any asserted change in the law, or its applicability to C & D or the Products, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, C & D 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:

For C & D:

Debra J. Albin-Riley
Arent Fox LLP
Gas Company Tower
555 West Fifth Street, 48th Floor
Los Angeles, CA 90013

For Leeman:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

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.

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)

Leeman and her 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. DISPUTE RESOLUTION

If Leeman determines at a future date that a violation of this agreement has occurred, Leeman shall provide notice to C & D. Prior to bringing any action to enforce any requirement of this Settlement Agreement, the party alleging a violation of this settlement agreement shall provide the other party with written notice of the grounds for such allegation together with supporting information as well as a complete demand for the relief sought. The Parties shall then meet and confer regarding the basis for the allegation in an attempt to resolve the matter informally, including providing the party alleged to be in violation with a reasonable opportunity of at least thirty (30) days to cure any alleged violation. Should such attempts at informal resolution fail, the party alleging a violation may file a motion, notice or any other appropriate request for relief.

12. 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: 5/27/2016

Date: 5/31/2016

By: 
DR. WHITNEY R. LEEMAN

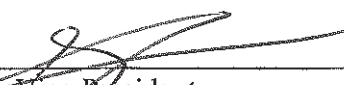
By: 
Charlie Pirayee, Vice President
C & D VISIONARY, INC.

Exhibit A to Settlement Agreement Between Dr. Whitney R. Leeman and C & D Visionary, Inc.

<i>DC Comics Superman Logo Lanyard</i>	SKU# LAN-DC-0001
<i>DC Comics Batman Keep Calm And Call Batman Lanyard</i>	SKU# LAN-DC-0002
<i>DC Comics Superman Logo On Black Lanyard</i>	SKU# LAN-DC-0003
<i>DC Comics Originals Batman Logo on Purple Lanyard</i>	SKU# LAN-DC-0004
<i>DC Comics Originals Wonder Woman Logo Lanyard</i>	SKU# LAN-DC-0005
<i>DC Comics Originals Justice League Lanyard</i>	SKU# LAN-DC-0006
<i>DC Comics Originals Multibatman Logo Lanyard</i>	SKU# LAN-DC-0007
<i>DC Comics Batman Skinny With Logo Lanyard With Rubber Charm</i>	SKU# LAN-DC-0008
<i>DC Comics Batman Be Yourself Lanyard With Rubber Charm</i>	SKU# LAN-DC-0010
<i>Misfits Glow In the Dark Skull Lanyard</i>	SKU# LAN-0118
<i>Suicite Silence Logo Lanyard</i>	SKU# LAN-0191
<i>Grateful Dead 50th Anniversary Lanyard</i>	SKU# LAN-0192
<i>C&D Original designed lanyard HUNTERS, WIZARDS, DOC</i>	SKU# LAN-HT-01
<i>C&D Original designed lanyard MEOW OR NEVER SKINNY</i>	SKU# LAN-HT-02
<i>C&D Original designed lanyard MEOWS IT GOING SKINNY</i>	SKU# LAN-HT-03
<i>C&D Original designed lanyard CANT SLEEP CLOWNS EAT ME SKINNY</i>	SKU# LAN-HT-04
<i>C&D Original designed lanyard FLUENT SARCASM SKINNY</i>	SKU# LAN-HT-05
<i>C&D Original designed lanyard GREY NAUTICAL ANCHOR SKINNY</i>	SKU# LAN-HT-06
<i>C&D Original designed lanyard PINK SUGAR SKULLS SKINNY</i>	SKU# LAN-HT-07
<i>C&D Original designed lanyard Pride Tie Dye</i>	SKU# LAN-HT-08
<i>C&D Original designed lanyard EKG MUSIC HEART</i>	SKU# LAN-HT-0008
<i>C&D Original designed lanyard Twentyone Pilots</i>	SKU# LAN-WEA-01VSI
<i>DC Comics Originals Batman Retractable Lanyard</i>	SKU# RL-DC-0002
<i>Marvel Comics Retro Retractable Lanyard</i>	SKU# RL-MVL-0001
<i>Matvel Extreme Classic Deadpool Commone Sense Retractable Lanyard</i>	SKU# RL-MVL-0002