

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Martha Velarde & Rhode Island Textile Company

This Settlement Agreement is entered into by and between Martha Velarde ("Velarde") and Rhode Island Textile Company, dba Westminster Pet Products, Inc. ("Rhode Island Textile"). Together, Velarde and Rhode Island Textile are collectively referred to as the "Parties." Velarde is an individual that resides in the State of California, and seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products.

1.2 General Allegations

Velarde alleges that Rhode Island Textile has imported, distributed and/or sold in the State of California Ruffin It vinyl pet toys (the "Products") without requisite Proposition 65 warning that the Product contains the chemicals Di-isodecyl phthalate (DIDP) and Diisononyl phthalate (DINP).

On April 20, 2007, the State of California listed DIDP as a chemical known to the state to cause reproductive toxicity.

On December 20, 2013, the State of California listed Diisononyl phthalate (DINP) as a chemical known to cause cancer.

1.3 Notice of Violation(s)

On August 27, 2015 Velarde served Berberian Enterprises, Inc. dba Jon's Marketplace ("Jon's Marketplace"), Rhode Island Textile, and various public enforcement agencies with a document entitled "Notice of Violation of California Health & Safety Code § 25249.5, *et seq.*" (the "Notice"). The Notice provided Rhode Island Textile and such others, including public enforcers, with notice that alleged that Rhode Island Textile was in violation of California Health & Safety Code § 25249.5, for failing to warn consumers and customers that the Products exposed users in California to DIDP

and DINP. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.4 No Admission

Rhode Island Textile denies the material factual and legal allegations contained in the Notice and maintains that, to the best of its knowledge, all products that are or have been 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 Rhode Island Textile of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Rhode Island Textile of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Rhode Island Textile. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notice, Rhode Island Textile maintains that it has not knowingly manufactured, or caused to be manufactured, the Products for sale in California which are in violation of Proposition 65.

1.5 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean November 15, 2015.

2. INJUNCTIVE RELIEF

2.1 Reformulation of the Product

Commencing on the Effective Date, and continuing thereafter, Rhode Island Textile shall only manufacture, distribute or offer for sale in California, reformulated Products pursuant to Section 2.2 or Products that are labeled with a clear and reasonable warning pursuant to Section 2.4. For purposes of this Settlement Agreement, "Reformulated Products" are Products that meets the standard set forth in Section 2.2 below.

2.2 Reformulation Standard

“Reformulated Products” shall mean Products that contains less than or equal to 1,000 parts per million (“ppm”) of each of DINP and DIDP when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C.

2.3 Grace Period for Products Manufactured Prior to the Effective Date

Liability for Covered Products that were manufactured and distributed for retail sale prior to the Effective Date shall be subject to the releases provided by Section 5 of this Settlement Agreement.

2.4 Clear and Reasonable Warnings

Commencing on the Effective Date, Rhode Island Textile shall, for all Products it manufactured on or after the Effective Date that it sells or distributes and which are intended for sale in California that are not Reformulated Products, or which Rhode Island Textile has reason to believe will be distributed or sold in California, provide clear and reasonable warnings as set forth in subsections 2.3(a) and (b) below. The 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 and understood by an ordinary individual under customary conditions before purchase or use. Each warning shall be provided in a manner such that the consumer or user is reasonably likely to understand to which specific Products the warning applies, so as to minimize the risk of consumer confusion.

In the event that the Office of Environmental Health Hazard Assessment promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, Rhode Island Textile shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement.

(a) **Retail Store Sales**

(i) **Product Labeling.** Rhode Island Textile shall affix a warning to the packaging, labeling or directly on each of the Products intended to be sold in California by Rhode Island Textile that states:

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used.

(ii) **Point of Sale Warnings.** Alternatively, Rhode Island Textile may provide warning signs in the form below to its customers in California with instructions to post the warnings in close proximity to the point of display of the Products. Such instruction sent to Rhode Island Textile customers shall be sent by certified mail, return receipt requested.

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used.

(b) **Mail Order Catalog Warning.** In the event that Rhode Island Textile sells Products via mail order catalog directly to consumers located in California after the Effective Date that are not Reformulated Products, Rhode Island Textile shall provide a warning for such Products sold via mail order catalog to such California residents. A warning that is given in a mail order catalog shall be in the same type size or larger than the Products description text within the catalog. The following warning shall be provided on the same page and in the same location as the display and/or description of the Products:

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used. Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Product, Rhode Island Textile may utilize a designated symbol in yellow with an exclamation point within the triangle to cross reference the applicable warning and shall define the term “designated symbol” with the following language on the inside of the front cover of the catalog or on the same page as any order form for the Products:

[PROPOSITION 65] WARNING: Certain products identified with this symbol  and offered for sale in this catalog contain chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

The bracketed text may, but is not required to, be used. The designated symbol must appear in yellow with an exclamation point within the triangle on the same page and in close proximity to the display and/or description of the Products. On each page where the designated symbol appears, Rhode Island Textile must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

(c) **Internet Sales Warning.** In the event that Rhode Island Textile sells Products via the internet directly to consumers located in California after the Effective Date that are not Reformulated Products, Rhode Island Textile shall provide a warning for such Products sold via the internet to such California residents. A warning that is given on the internet shall be in the same type size or larger than the Products description text and shall be given in conjunction with the direct sale of the Products. The warning shall appear either: (a) on the same web page on which the Products are displayed; (b) on the same web page as the order form for the Products; (c) on the same

page as the price for the Products; or (d) on one or more web pages displayed to a purchaser during the checkout process. The following warning shall be provided:

[PROPOSITION 65] WARNING:

This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)

In settlement of all the claims referred to in this Settlement Agreement, Rhode Island Textile shall pay a total of \$2000.00 in civil penalties in accordance with this Section. Each penalty payment will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Velarde. Each penalty payment shall be delivered to the addresses listed in Section 3.2 below. Rhode Island Textile shall be liable for payment of interest, at a rate of 10% simple interest, for all amounts due and owing that are not received within two business days of the date they are due.

3.1 Civil Penalty

On or before the Effective Date, Rhode Island Textile shall issue two separate checks for the initial civil penalty payment to (a) "OEHHA" in the amount of \$1,500.00; and (b) "Brodsky & Smith, LLC in Trust for Velarde" in the amount of \$500.00. All penalty payments shall be delivered to the addresses listed in Section 3.2 below.

3.2 Payment Procedures

(a) Issuance of Payments. Payments shall be delivered as follows:

(i) All payments owed to Velarde, pursuant to Section 3.1 shall be delivered to the following payment address:

Evan J. Smith, Esquire
Brodsky & Smith, LLC
Two Bala Plaza, Suite 510
Bala Cynwyd, PA 19004

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to Section 3.1 shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

(b) Copy of Payments to OEHHA. Rhode Island Textile agrees to provide Velarde's counsel with a copy of the checks payable to OEHHA, simultaneous with its penalty payments to Velarde, to be delivered to the address provided in Section 3.2(a)(i), as proof of payment to OEHHA.

(c) Tax Documentation. Rhode Island Textile agrees to provide a completed IRS 1099 for its payments to each of the following payees under this Settlement Agreement:

(i) "Martha Velarde" whose address and tax identification number shall be provided after this Settlement Agreement is fully executed by the Parties;

(ii) "Brodsky & Smith, LLC" (EIN: 23-2971061) at the address provided in Section 3.2(a)(i); and

(iii) "Office of Environmental Health Hazard Assessment" 1001 I Street, Sacramento, CA 95814.

4. REIMBURSEMENT OF FEES AND COSTS

The parties acknowledge that Velarde and her counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee issue to be resolved after the material terms of the agreement had been settled. Velarde then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The Parties reached an accord on the compensation due to Velarde and her counsel under general contract principles and the private attorney general doctrine and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Under these legal principles, Rhode Island Textile shall reimburse Velarde's counsel for fees and costs incurred as a result of investigating and bringing this matter to Rhode Island Textile's attention. On or before the Effective Date, Rhode Island Textile shall issue a check payable to "Brodsky & Smith, LLC" in the amount of \$15,500.00 for delivery to the following address:

Evan Smith, Esquire
Brodsky & Smith, LLC
Two Bala Plaza, Ste. 510
Bala Cynwyd, PA 19004

5. RELEASE OF ALL CLAIMS

5.1 Release of Rhode Island Textile and Downstream Customers and Entities

Velarde acting on her own behalf, releases Rhode Island Textile, and its parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents, employees, attorneys and each entity to whom Rhode Island Textile directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, including without limitation, Jon's Marketplace, franchisees, cooperative members and licensees (collectively, the "Releasees"), from all

claims for violations of Proposition 65 through the Effective Date based on their failure to warn about alleged exposures to the chemicals DIDP and DINP that are contained in the Products, and were distributed, sold and/or offered for sale by Rhode Island Textile to customers and consumers in the State of California. This settlement is a full, final and binding resolution of all claims that were or could have been asserted against Rhode Island Textile and/or the Releasees for failure to provide warnings for alleged exposures to DIDP and DINP contained in the Product.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Section(s) 3 and 4 above, Velarde, on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, provides a release herein 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 Rhode Island Textile or the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to the chemicals DIDP and DINP in the Products.

5.2 Compliance

With the terms of this Settlement Agreement by Rhode Island Textile and its Releasees shall constitute compliance with Proposition 65 by Rhode Island Textile and its Releasees with respect to any alleged failure to warn about DIDP and DINP in the Products manufactured, distributed, or sold by Rhode Island Textile and its Releasees after the Effective Date.

5.3 Rhode Island Textile's Release of Velarde

Rhode Island Textile, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Velarde, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Velarde and/or 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.

5.4 California Civil Code Section 1542

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. Velarde on behalf of herself only, on one hand, and Rhode Island Textile, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released in Sections 5.1 and 5.2 above may include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542 reads 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.

Velarde and Rhode Island Textile each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

6. 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.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law of the State of California and apply within the State of California. In the event that Proposition 65 is

repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, Rhode Island Textile shall provide written notice to Velarde of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Rhode Island Textile:

James J. Carria
Rhode Island Textile Company, Inc.
211 Columbus Avenue
Pawtucket, RI 02861
T: 401.721.1412

with a copy to:

Renee D. Wasserman, Esquire
Alecia E. Cotton, Esq.
Rogers Joseph O'Donnell
311 California Street, 10th Floor
San Francisco, CA 94104
415-956-2828

For Velarde:

Evan J. Smith, Esquire
Brodsky & Smith, LLC
Two Bala Plaza, Suite 510
Bala Cynwyd, PA 19004
877-534-2590

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

9. **COUNTERPARTS: SIGNATURES**

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

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

Velarde agrees to comply with the reporting requirements referenced in Health & Safety Code section 25249.7(f).

11. **MODIFICATION**

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

12. **AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

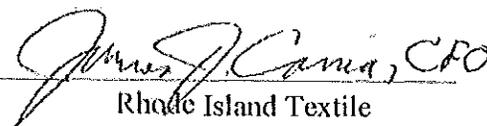
AGREED TO:

Date: _____

Date: 10/26/2015

By: _____

Martha Velarde

By:  CFO

Rhode Island Textile

9. COUNTERPARTS: SIGNATURES

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

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

Velarde agrees to comply with the reporting requirements referenced in Health & Safety Code section 25249.7(f).

11. MODIFICATION

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

12. AUTHORIZATION

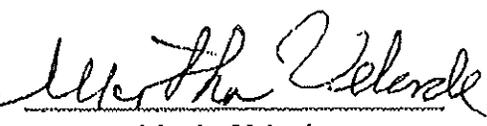
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: October 26, 2015

Date: _____

By: 
Martha Velarde

By: _____
Rhode Island Textile