

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

HENKEL CORPORATION

Consumer Advocacy Group, Inc. (“CAG”) on the one hand and Henkel Corporation ShurTech Brands; ShurTech Brands, LLC; Shurtape Technologies, LLC; STM Industries, Inc. (hereto collectively referred to as “Henkel” for the limited purposes of this Agreement only) on the other hand, (CAG and Henkel collectively referred to as, the “Parties”) enter into this agreement (“Settlement Agreement”) for the purpose of avoiding prolonged and costly litigation to settle CAG’s allegations that Henkel violated California’s Proposition 65. The effective date of this Settlement Agreement shall be the date upon which it is fully executed by both Parties hereto (the “Effective Date”).

1.0 Introduction

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 CAG alleges that Henkel previously sold, at various times, PVC/Vinyl Lace Edgings including but not limited to “Peel & Stick” Manco® Lace Edging; “For Shelves, Decorations and Craft Projects”; 2 IN. x 72 IN; 5.07 cm. x 182.4 cm; Made in Indonesia; MANCO, INC. A Henkel Group Company, 32150 Just Imagine Drive, Avon, Ohio 44011; <http://www.manco.com>; WHITE FLORAL; UPC: 0 75353 25545 2; (referred to throughout as the “Covered Product(s)”).

The Covered Products are limited to those sold by Henkel.

1.3 CAG alleges that Covered Products contain Bis (2-ethylhexyl) phthalate, also known as Di (2-ethylhexyl) phthalate (“DEHP”), and that Henkel did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code* § 25249.5, *et seq.* (“Proposition 65”)).

1.4 On January 1, 1988, the Governor of California added DEHP to the list of chemicals known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity. These additions took place more than twenty (20) months before CAG served its “Sixty-Day Notice of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” which are further described below.

1.5 DEHP is referred to hereafter as the “Listed Chemical”.

1.6 On or about April 12, 2016 CAG served Dollar King; Dollar Kings, Inc.; Henkel Corporation; ShurTech Brands; ShurTech Brands, LLC; Shurtape Technologies, LLC; STM Industries, Inc.; and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Covered Products containing the Listed Chemical.

1.7 The Sixty-Day Notice (referred to as “Notice”) alleged that Henkel and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Products exposes persons to the Listed Chemical.

1.8 Henkel maintains that it has not manufactured, distributed or sold the Covered Product since approximately 2005.

1.9 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties' and the Covered Products' compliance with Proposition 65 (the "Dispute").

1.10 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by Henkel, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Henkel may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

2.0 Release

This Settlement Agreement is a full, final, and binding resolution between CAG, acting in its individual capacity, on the one hand, and (a) Henkel and its owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively "Releasees") and (b) all entities to whom Releasees directly or indirectly provide, distribute, or sell the Covered Products, including but not limited to distributors, wholesalers, customers, and retailers (collectively referred to as "Downstream Releasees"), on the other hand, of any violation(s) or claimed violation(s) of Proposition 65 or any statutory or common law claim that has been, could have

been or may in the future be asserted against the Releasees and Downstream Releasees regarding exposing persons to the Listed Chemical and/or the failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Products manufactured, shipped, and/or otherwise distributed prior to the Effective Date, even if sold by Downstream Releasees after the Effective Date. The Covered Products are limited to those sold by Henkel. CAG, in its individual capacity, and Henkel, in its individual capacity, agree that Henkel's compliance with this Settlement Agreement shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products that were distributed or sold by Henkel prior to the Effective Date, including those that might be sold by Downstream Releasees after the Effective Date.

CAG, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives and releases with respect to the Covered Products all rights to institute or participate in, directly or indirectly, any form of legal action, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees) (collectively "Claims"), against Releasees and/or Downstream Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in respect of any Covered Products sold up to the Effective Date, to the extent that such claims relate to Releasees' and/or Downstream Releasees' alleged exposure of persons to the Listed Chemical contained in the Covered Products and failure by Releasees and/or Downstream Releasees to warn about exposures to the Listed Chemical contained in the Covered Products.

CAG acknowledges that it is familiar with Section 1542 of 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.

CAG, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. The release in this section shall have no force or effect until the full amount of payments set forth in Section 4.0 below are paid in full.

3.0 Henkel's Duties

3.1 Henkel agrees, promises, and represents that after the Effective Date Henkel shall not manufacture or sell the Covered Products and shall, if intending to manufacture or sell any Covered Products in the future, to reformulate all Covered Products manufactured after the Effective Date to a point where the level of Listed Chemical in the Covered Products does not exceed 0.1% by weight, or Henkel shall cease importing or selling any Covered Products in California.

3.2 Henkel agrees, promises, and represents that, as of the Effective Date, to the extent it ships or sells any Covered Products in Henkel's existing inventory (such as it is on the Effective Date) that have not been reformulated, it will provide warnings on such Covered Products that comply with Proposition 65. The warnings shall be provided in such a conspicuously and prominent manner that will assure the message is made available and likely to be read, seen, or heard by the consumer prior to or at the time of the sale or purchase. The Parties agree that product labeling stating that "WARNING: This product contains chemicals known to the State of California to cause cancer, or birth defects, or other reproductive harm" shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered

Products for any Covered Products in existing inventory that had not been reformulated and were distributed and/or sold by Releasees after the Effective Date. 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, Henkel shall be entitled to use, at its discretion, such other compliant warning text and/or method of transmission without being deemed in breach of this Agreement.

4.0 Payments

4.1 Henkel agrees to pay a total of forty-two thousand dollars (\$42,000) within thirty (30) days of the Effective Date by separate checks apportioned as follows:

4.2 Payment to CAG: Thirteen-thousand dollars (\$13,000) shall be paid to Consumer Advocacy Group, Inc. The check shall be delivered to: Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, CAG shall provide Henkel with CAG's Employer Identification Number.

4.3 Attorneys' Fees and Costs: Twenty-eight thousand dollars (\$28,000) of such payment shall be paid to Yeroushalmi & Associates, as CAG's attorneys, for reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to Henkel's attention. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, Yeroushalmi & Associates shall provide Henkel with its Employer Identification Number.

4.4 Penalty: Henkel shall issue two separate checks for a total amount of one thousand dollars (\$1,000) as penalties pursuant to Health & Safety Code § 25249.12: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of seven-hundred and fifty dollars (\$750), representing

75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of two-hundred and fifty dollars (\$250), representing 25% of the total penalty. Both checks shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. Additionally, two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95812 (EIN: 68-0284486) in the amount of \$750. The second 1099 shall be issued in the amount of \$250 to CAG and delivered to: Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

5.0 Authority to Enter Into Settlement Agreement

5.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind CAG to this Settlement Agreement.

5.2 Henkel represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Henkel to this Settlement Agreement.

6.0 Report of the Settlement Agreement to the Office of the Attorney General Of California

6.1 CAG shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Parties' execution of this Settlement Agreement.

7.0 Execution in Counterparts and Facsimile

7.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

8.0 Entire Agreement

8.1 This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

9.0 Modification of Settlement Agreement

9.1 Any modification to this Settlement Agreement shall be in writing and signed by the Parties.

10.0 Application of Settlement Agreement

10.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, CAG and the Releasees and Downstream Releasees identified in Section 2 above.

11.0 Enforcement of Settlement Agreement

11.1 Any party may file suit before the Superior Court of the County of Los Angeles, consistent with the terms and conditions set forth in paragraphs 11.2 and 11.3 of this Settlement Agreement, to enforce the terms and conditions contained in this Settlement Agreement. The prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement.

11.2 No action to enforce this Settlement Agreement may be commenced or maintained, and no notice of violation related to the Covered Products may be served or filed against Henkel by CAG, unless the party seeking enforcement or alleging violation notifies the other party of the specific acts alleged to breach this Settlement Agreement at least 90 days before serving or filing any action or Notice of Violation. Any future sale of the Covered Product by a Downstream Releasee after the effective Date may not be enforced against Henkel without reasonable belief that Henkel sold or

distributed the Covered Product to the Downstream Releasee after the Effective Date. Notwithstanding anything else in this Settlement Agreement, Covered Products that were manufactured prior to the Effective Date and that are not in Releasees' existing inventory shall be subject to the release of liability pursuant to Section 2.0 of this Settlement Agreement, without regard to when such Covered Products may ultimately be distributed or sold to customers by Downstream Releasees. As a result, the obligations of Releasees as set forth in this Settlement Agreement, including but not limited to Henkel's obligations under Section 3.0, do not apply to Covered Products manufactured prior to the Effective Date and which are not in Releasees' possession. Any notice to Henkel must contain (a) description of the Covered Product, (b) the specific date(s) upon which the Covered Product was discovered to be available for sale after the Effective Date in California without reformulation, (c) the store or other place at which the product was found to remain available for sale to consumers, and (d) other evidence or other support for the allegations in the notice.

12.0 Notification Requirements

12.1 Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi, Esq.
YERUSHALMI & YERUSHALMI
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212

For Henkel:

Henkel Corporation
One Henkel Way
Rocky Hill, CT 06067

ATTN: Law Group

And copy to:

Todd L. Normane
COHEN & GRIGSBY, P.C.
625 Liberty Avenue
Pittsburgh PA 15222-3152

Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.

13.0 SEVERABILITY

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

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14.0 GOVERNING LAW

14.1 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, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Products, then Henkel shall provide written notice to CAG 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 Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 09/30/16

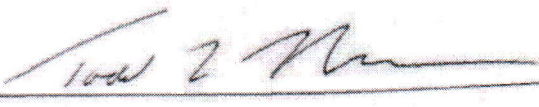
By: 

Printed Name: Michael Marcus

Title: Director

HENKEL CORPORATION

Dated: 9/30/2016

By: 

Printed Name: Todd L. Normane

Title: Attorney for Henkel Corporation
Cohen & Grigsby P.C.