

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1 Ecological Alliance, LLC and A.J. Wholesale Distributors, Inc.

This Settlement Agreement is entered into by and between Ecological Alliance, LLC (“Ecological”), on the one hand, and A.J. Wholesale Distributors, Inc. (“A.J.”), with Ecological and A.J. collectively referred to as the “Parties,” for the purpose of avoiding the cost and expense associated with further dispute and litigation. Ecological is a California limited liability company, which states that it is seeking to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Ecological contends that A.J. is a company in the course of doing business for purposes of Proposition 65.

1.2 General Allegations

Ecological alleges that A.J. distributed and/or sold in the State of California Air Line Oilers containing lead, and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* (“Proposition 65”). Lead is listed under Proposition 65 as a chemical known to the State of California to cause birth defects or other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as Air Line Oilers, including without limitation any component(s) or replacement part(s) thereof, manufactured by or for A.J., or offered for sale or distributed in California by A.J., containing lead. All such items shall be referred to herein as the “Products.”

1.4 Notice of Violation

On or about April 29, 2016, Ecological served A.J. and all public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with a document entitled “60-Day Notice of Violation” (“Notice”) that provided A.J. and such public enforcers with notice that alleged that A.J. was in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Products exposed users in California to lead. No public enforcer has diligently prosecuted the allegations set forth in the Notices.

1.5 No Admission

A.J. denies the material factual and legal allegations contained in Ecological’s Notice and maintains that all products that it has sold and distributed in California, including the Products, have been and are in compliance with Proposition 65 and all other applicable laws. Nothing in this Settlement Agreement shall be construed as an admission by A.J. 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 A.J. of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by A.J. However, this section shall not diminish or otherwise affect the obligations, responsibilities, and duties of A.J. or Ecological under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean 90 days after the date this Settlement Agreement is fully executed by A.J. and Ecological.

2. INJUNCTIVE RELIEF: WARNINGS

2.1 Warning Exemption

Products manufactured or acquired by A.J. for sale in California after the Effective Date shall not need a warning if the Products do not exceed the following limits for lead: 100 ppm by weight for any accessible component part. For purposes of this Settlement Agreement, accessible component part shall mean components of the Product to which a person would be exposed to lead by direct contact during normal use of the Product.

2.2 Warning

Products that do not meet the warning exemption standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.3 below. The warning requirements set forth in Section 2.3 below shall apply only to Products that A.J. manufactures or acquires after the Effective Date that are distributed, marketed, sold or shipped for sale in the State of California. The warning requirement shall not apply to Products that are already in the stream of commerce in California as of the Effective Date.

2.3 Warning Language

Where required under Sections 2.1 and 2.2 above, A.J. shall provide Proposition 65 warnings as follows:

- (a) A.J. may use the following warning statements:
 - (1) **WARNING:** This product may contain a chemical known to the State of California to cause cancer and/or birth defects or other reproductive harm.
 - (2) **WARNING:** This product may contain chemicals known to the State of California to cause cancer and/or birth defects or other reproductive harm.
- (b) The requirements for warnings, set forth in subsection (a) above are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations.

(c) If Proposition 65 warnings for lead should no longer be required, A.J. shall have no further obligations pursuant to this Settlement Agreement.

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

In settlement of all the claims referred to in this Settlement Agreement, A.J. shall pay a total of Four Hundred Dollars (\$400) in civil penalties pursuant to Health and Safety Code section 25249.7(b). This penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) by Ecological and the remaining 25% of the penalty remitted to Ecological. A.J. shall pay Ecological’s counsel the entire civil penalty payment referenced herein, and Ecological’s counsel will transmit 75% of the civil penalty payment to OEHHA.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties reached an accord on the compensation due to Ecological and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, A.J. shall reimburse Ecological’s counsel for fees and costs, incurred as a result of investigating and bringing this matter to A.J.’s attention. A.J. shall pay Ecological’s counsel Three Thousand Six Hundred Dollars (\$3,600) for all attorneys’ fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

In fulfillment of Paragraphs 3 and 4 above, by September 2, 2016, A.J. shall make a total payment of Four Thousand Dollars (\$4,000) for the civil penalties and attorney’s fees / costs by wire transfer to Plaintiff’s counsel Custodio & Dubey LLP:

Bank: Bank of America, N.A.

Routing No.: 026009593

Account No.: 325054144600

Beneficiary: Custodio & Dubey LLP

Other than this payment, each side is to bear its own attorneys' fees and costs.

6. RELEASE OF ALL CLAIMS

6.1 Release of A.J. and Downstream Customers

This Settlement Agreement is a full, final and binding resolution between Ecological and A.J. of any violation of Proposition 65 that was or could have been asserted by Ecological on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, against A.J., its parent companies, corporate affiliates, affiliated entities under common ownership, subsidiaries, and their respective officers, directors, members, attorneys, representatives, shareholders, agents, employees, and each entity to whom A.J. directly and indirectly sells or distributed the Products, including its downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, members, owners, purchasers and users (collectively "Releasees") based on the alleged or actual failure to warn about exposures to lead from Products sold or distributed for sale by A.J. in California before the effective date.

In further consideration of the promises and agreements herein, Ecological, in its own capacity, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims it may have relating to the Products, 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) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"). The releases provided by Ecological under this Settlement Agreement are provided solely on Ecological's own behalf and not on behalf of the public in California.

Ecological also, in its capacity, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides a general 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 any nature, character or kind, known or unknown, suspected or unsuspected, against A.J. and the Releasees. Ecological understands and agrees that as a condition of this Settlement Agreement, it waives any and all rights and benefits which he now has, or in the future may have, by virtue of California Civil Code section 1542, 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.

Ecological, in its capacity only, and on behalf of itself, 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 California Civil Code section 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.

Ecological and its attorneys further agree that they shall not publish this Settlement Agreement (or any of the terms thereof) on the internet, through the media, or by any other means of communication, nor shall they cause the same to be done. However, this provision shall not be construed to prevent any disclosures that may be necessary to effectuate the terms of the Settlement Agreement or to comply with any reporting requirements to the California Attorney General or as required by law, rule or regulation.

6.2 A.J.'s Release of Ecological

A.J. waives any and all claims against Ecological, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Ecological and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

7. 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 is otherwise rendered inapplicable by reason of law generally, or as to the Products, then A.J. shall have no further obligations pursuant to this Settlement Agreement.

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 courier on any party by the other party at the following addresses:

For A.J.:

Sophia Belloli
Downey Brand LLP
455 Market Street, Suite 1500
San Francisco, CA 94105

For Ecological:

Vineet Dubey
Custodio & Dubey LLP
448 S. Hill St., Suite 612
Los Angeles, CA 90013

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; FACSIMILE/E-SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or e-signatures, 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 SECTION 25249.7(f)

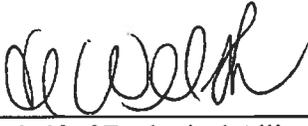
Ecological agrees to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

11. MODIFICATION

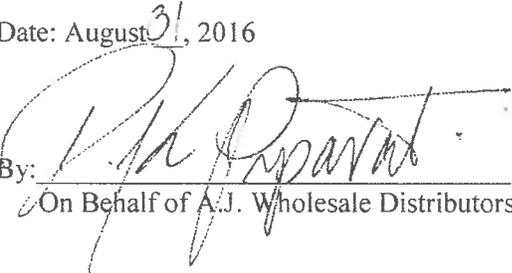
This Settlement Agreement may be modified only by a written agreement signed by the Parties.

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.

<p>AGREED TO:</p> <p>Date : August <u>30</u> 2016</p> <p>By:  On Behalf of Ecological Alliance, LLC</p>	<p>AGREED TO:</p> <p>Date: August __, 2016</p> <p>By: _____ On Behalf of A.J. Wholesale Distributors, Inc.</p>
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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.

<p>AGREED TO:</p> <p>Date : August __, 2016</p> <p>By: _____ On Behalf of Ecological Alliance, LLC</p>	<p>AGREED TO:</p> <p>Date: August <u>31</u>, 2016</p> <p>By:  On Behalf of A.J. Wholesale Distributors, Inc.</p>
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