

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 John Moore and The Hillman Companies, Inc.

This Settlement Agreement is entered into by and between John Moore (“Moore”), and The Hillman Companies, Inc. and The Hillman Group, Inc. (“Hillman”), with Moore, and Hillman collectively referred to as the “Parties.” Moore is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Hillman employs ten or more persons and is persons in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.5 *et seq.* (“Proposition 65”).

1.2 General Allegations

Moore alleges that Hillman has manufactured, imported, distributed and/or sold in the State of California vinyl/PVC stickers containing DEHP. Di(2-ethylhexyl)phthalate (“DEHP”) is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects and other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as vinyl/PVC stickers containing DEHP including, *Hillman Sign Center Vinyl Letters/Numbers, #847015, UPC #0 45899 36328 7*, which are manufactured, imported, distributed, sold, and/or offered for sale by Hillman in the State of California, hereinafter the “Products.”

1.4 Notice of Violation

On September 29, 2016, Moore served Hillman, and various public enforcement agencies with a document entitled “60-Day Notice of Violation” (“Notice”) that provided the recipients with notice that Hillman was in violation of California Health & Safety Code § 25249.6 for

failing to warn consumers that the Products exposed users in California to DEHP. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission

Hillman denies the material, factual and legal allegations contained in Moore'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 all laws. Nothing in this Settlement Agreement shall be construed as an admission by Hillman 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 Hillman of any fact, finding, conclusion, issue of law or violation of law. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean January 30, 2017.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Standards

Reformulated Products are defined as those Products containing a maximum of 1,000 parts per million of DEHP when analyzed pursuant to 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 Reformulation Commitment

After July 30, 2017, Hillman shall not manufacture, purchase or import Products for sale in the State of California unless they are Reformulated Products as defined in Section 2.1 above.

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

In settlement of all the claims referred to in this Settlement Agreement, Hillman shall pay a total of \$2,500 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) & (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 Moore, as follows: Hillman shall issue checks, (1) to: “John Moore, Client Trust Account” totaling \$625, and (2) to the “Office of Environmental Health Hazard Assessment” totaling \$1,875. Upon receipt, Moore and his counsel will then ensure payment to OEHHA. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.1 Payment Procedures

3.1.1. Issuance of Payments. Payments shall be delivered no later than February 28, 2017 with all payments owed to Moore, pursuant to Sections 3 and 4, to be delivered to the following payment address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

4. REIMBURSEMENT OF FEES AND COSTS

The parties acknowledge that Moore and his 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. Hillman then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The parties then attempted to (and did) reach an accord on the compensation due to Moore and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Hillman shall pay \$15,000 for fees and costs incurred as a result of investigating, bringing this matter to Hillman’s attention, and negotiating a settlement in the public interest. Hillman shall make the check payable to “The Chanler Group” and shall deliver payment on or before February 28, 2017, to the address listed in Section 3.1 above.

5. RELEASES

5.1 Moore's Release of Hillman

This Settlement Agreement is a full, final and binding resolution between Moore, and Hillman of any violation of Proposition 65 that was or could have been asserted by Moore on behalf of himself and *not* on behalf of the public, and on behalf of his past and current agents, representatives, attorneys, successors and/or assignees, against Hillman, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys and each entity to whom Hillman directly or indirectly distributes or sells Products including, but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees ("Releasees"), based on their failure to warn about alleged exposures to DEHP contained in the Products that Hillman manufactured, purchased or imported for sale in California before July 30, 2017.

In further consideration of the promises and agreements herein contained, Moore on behalf of himself and *not* on behalf of the public, his past and current agents, representatives, attorneys, successors and/or assignees, as to Hillman only, hereby waives all of his rights 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 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, -- limited to and arising under Proposition 65 with respect to DEHP in the Products that Hillman manufactured, purchased or imported before July 30, 2017 (collectively "claims"), against Hillman, and Releases.

5.2 Hillman's Release of Moore

Hillman, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waive any and all claims against Moore and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Moore and his attorneys and other representatives, whether in the

course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

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 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 if any of the provisions of this Settlement Agreement are rendered inapplicable or no longer required as a result of any such repeal or preemption or rendered inapplicable by reason of law generally as to the Products, then Hillman shall provide written notice to Moore 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. Nothing in this Settlement Agreement shall be interpreted to relieve Hillman from any obligation to comply with any state or federal toxics control law.

8. NOTICES

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

For Hillman:

Douglas D. Roberts, Esq.
General Counsel
The Hillman Group, Inc.
10590 Hamilton Ave.
Cincinnati, Ohio 45231

With a copy to Hillman's counsel:

John E. Dittoe, Esq.
Law Office of John E. Dittoe
70 Hazel Lane
Piedmont, CA 94611

For Moore:

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

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.

10. COUNTERPARTS; FACSIMILE AND 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.

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

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

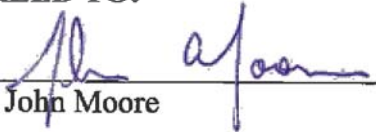
12. MODIFICATION

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

13. **AUTHORIZATION**


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

AGREED TO:

By: 
John Moore

Date: 2/13/17

AGREED TO:

By: 
DOUGLAS ROBERTS
The Hillman Companies and
The Hillman Group

Date: 1/30/17