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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 CITY AND COUNTY OF SAN FRANCISCO
15 UNLIMITED CIVIL JURISDICTION
16

17 LAURENCE VINOCUR,
18 Plaintiff,
19 v.
20 STREAMLIGHT, INC.,
21 Defendant.
22

Case No. CGC-18-564803

**[PROPOSED]
CONSENT JUDGMENT**

Cal. Health & Safety Code § 25249.6 et seq.
and Cal. Code Civ. Proc. § 664.6

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff Laurence Vinocur
4 (“Vinocur”) and defendant Streamlight, Inc. (“Streamlight”), with Vinocur and Streamlight each
5 individually referred to as a “Party” and collectively as the “Parties.”

6 **1.2 Plaintiff**

7 Vinocur is an individual residing in the State of California who seeks to promote awareness
8 of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous
9 substances contained in consumer products.

10 **1.3 Defendant**

11 Streamlight employs ten or more persons and is a person in the course of doing business for
12 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &
13 Safety Code § 25249.6 *et seq.* (“Proposition 65”).

14 **1.4 General Allegations**

15 Vinocur alleges that Streamlight has manufactured, imported, distributed, shipped, sold
16 and/or offered for sale in the State of California portable lighting products containing concentrations
17 of Lead and di(2-ethylhexyl)phthalate (“DEHP”) above the allowable state limits without first
18 providing the exposure warning required by Proposition 65. Lead and DEHP are listed pursuant to
19 Proposition 65 as chemicals known to the State of California to cause birth defects or other
20 reproductive harm.

21 **1.5 Product Description**

22 The “Portable Lighting Products” that are covered by this Consent Judgment are defined as
23 portable lighting products containing Lead and/or DEHP including, but not limited to, *Streamlight*
24 *Siege AA Rugged LED Lantern, Part # 449303, UPC #0 80926 44941 1*, that are manufactured,
25 imported, distributed, shipped, sold and/or offered for sale in California by Streamlight.

26 **1.6 Notices of Violation**

27 On April 27, 2017, Vinocur served Streamlight and the requisite public enforcement agencies
28 with a “60-Day Notice of Violation” (the “Notice”) that provided the recipients with notice of

1 alleged violations of Proposition 65 based on Streamlight’s alleged failure to warn its customers and
2 consumers that its lantern handles expose users in California to Lead.

3 On September 28, 2017, Vinocur served Streamlight and the requisite public enforcement
4 agencies with a “Supplemental 60-Day Notice of Violation” (the “Supplemental Notice”) that
5 provided the recipients with notice of alleged violations of Proposition 65 based on Streamlight’s
6 alleged failure to warn its customers and consumers that its lanterns handles expose users in
7 California to Lead and DEHP.

8 On or about March 9, 2018, Vinocur served Streamlight and the requisite public enforcement
9 agencies with a “Second Supplemental 60-Day Notice of Violation” (the “2nd Supplemental Notice”) that
10 provided the recipients with notice of alleged violations of Proposition 65 based on
11 Streamlight’s alleged failure to warn its customers and consumers that its portable lighting products
12 expose users in California to Lead and DEHP.

13 The Notice, Supplemental Notice and 2nd Supplemental Notice are collectively referred to
14 herein as the “Notices.” To the best of the Parties’ knowledge, no public enforcer has prosecuted the
15 allegations set forth in the Notices.

16 **1.7 Complaint**

17 On March 6, 2018, Vinocur filed the instant action (“Complaint”), naming Streamlight as a
18 defendant for the alleged violations of California Health and Safety Code § 25249.6 that are the
19 subject of the Notice and Supplemental Notice. Upon the Court’s entry of Judgment pursuant to the
20 terms of this Consent Judgment, the Complaint shall be deemed amended nunc pro tunc to include
21 all Portable Lighting Products and alleged violations that are the subject of the Notices.

22 **1.8 No Admission**

23 Streamlight denies all factual and legal allegations contained in Vinocur’s Notices and
24 Complaint. It maintains that all products that it has sold and/or offered for sale in California,
25 including the Portable Lighting Products, have been and are in compliance with all federal, state, or
26 local laws. Nothing in this Consent Judgment shall be construed as, nor shall compliance with this
27 Consent Judgment constitute or be construed as, an admission by Streamlight of any fact, finding,
28

1 conclusion of law, issue of law or violation of law. However, this Section shall not diminish or
2 otherwise affect Streamlight’s obligations, responsibilities and duties under this Consent Judgment.

3 **1.9 Consent to Jurisdiction**

4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
5 jurisdiction over Streamlight as to the allegations contained in the Complaint, that venue is proper in
6 the City and County of San Francisco, and that the Court has jurisdiction to enter and enforce the
7 provisions of this Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure §
8 664.6.

9 **1.10 Effective Date**

10 For purposes of this Consent Judgment, the term “Effective Date” means the date on which
11 the Court approves this Consent Judgment.

12 **2. INJUNCTIVE RELIEF: REFORMULATION STANDARD**

13 **2.1 Reformulated Products**

14 Commencing on the Effective Date and continuing thereafter, all Portable Lighting Products
15 shall be Reformulated Products. “Reformulated Products” are defined as Portable Lighting Products
16 that contain (i) DEHP, butyl benzyl phthalate (“BBP”), di-n-butyl (“DBP”), di-isodecyl phthalate
17 (“DIDP”), diisononyl phthalate (“DINP”), and di-n-hexyl phthalate (“DnHP”) each in concentrations
18 not greater than 0.5 percent (5,000 parts per million) in each plasticized Accessible Component
19 (“Accessible Component” is defined as each component that can be touched or handled during
20 reasonably a foreseeable use) when analyzed pursuant to Consumer Product Safety Commission
21 (“CPSC”) testing methodology CPSC-CH-C1001.09.3 and U.S. Environmental Protection Agency
22 (“EPA”) testing methodology 8270C or another methodology utilized by federal or state government
23 agencies for the purpose of determining phthalate content in a solid substance until December 31,
24 2019, and in concentrations not greater than 0.1 percent (1,000 parts per million) commencing on
25 January 1, 2020, and (ii) Lead in a concentration not greater than 90 parts per million by weight in
26 any Accessible Component when analyzed pursuant to EPA testing methodologies 3050B and/or
27 6010B, and that yield a result of less than 1.0 micrograms of Lead when analyzed pursuant to the
28 NIOSH 9100 testing protocol.

1 **3. MONETARY SETTLEMENT TERMS**

2 **3.1 Civil Penalty Payment**

3 Pursuant to Health & Safety Code § 25249.7(b), in settlement of all the claims referred to in
4 this Consent Judgment, Streamlight shall pay a total civil penalty in the amount of \$7,500 within ten
5 (10) days of the Effective Date by issuing two separate checks payable as follows: (a) “OEHHA” in
6 the amount of \$5,625; and (b) “Laurence Vinocur Client Trust Account” in the amount of \$1,875.

7 The civil penalty payment will be allocated in accordance with Health & Safety Code
8 § 25249.12(c)(1) & (d), with Vinocur remitting 75% of the funds to the California Office of
9 Environmental Health Hazard Assessment (“OEHHA”) and retaining the remaining 25% of the
10 penalty.

11 **3.2 Reimbursement of Attorney’s Fees and Costs**

12 The parties acknowledge that Vinocur and his counsel offered to resolve this dispute without
13 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee
14 issue to be resolved after the material terms of this Consent Judgment had been settled. Vinocur
15 then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had
16 been finalized. The Parties then attempted to (and did) reach an accord on the compensation due to
17 Vinocur and his counsel under general contract principles and the private attorney general doctrine
18 codified at Code of Civil Procedure § 1021.5, for all work performed through court approval of this
19 Consent Judgment to inform Streamlight of the allegations in the Notices and resolve this matter in
20 the public interest. Streamlight shall tender a check payable to “The Chanler Group” in the amount
21 of \$50,000 within ten (10) days of the Effective Date.

22 **3.3 Payment Procedures**

23 All payments pursuant to Sections 3.1 and 3.2 shall be delivered to the following payment

24 address: The Chanler Group
25 Attn: Proposition 65 Controller
26 2560 Ninth Street
27 Parker Plaza, Suite 214
28 Berkeley, CA 94710

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1 **4. RELEASE OF ALL CLAIMS**

2 **4.1 Vinocur’s Public Release of Proposition 65 Claims**

3 Vinocur, acting on his own behalf and in his representative capacity as an enforcer of the
4 public interest on behalf of the people of California, releases Streamlight, its parents, subsidiaries,
5 affiliated entities under common ownership, directors, officers, employees and attorneys
6 (“Releasees”) and each entity to whom it directly or indirectly distributes or sells the Portable
7 Lighting Products including, but not limited to, its downstream distributors, wholesalers, customers,
8 retailers, franchisers, resellers, cooperative members, licensors and licensees (“Downstream
9 Releasees”) for any actions, causes of action, obligations, costs, expenses, attorneys’ fees, damages,
10 losses, claims, liabilities, demands, or violations of any nature, character or kind, whether known or
11 unknown, suspected or unsuspected, arising under Proposition 65 for alleged or actual exposures to
12 Lead and/or DEHP from Portable Lighting Products prior to the Effective Date, as set forth in the
13 Notices.

14 **4.2 Vinocur’s Individual Release of Claims**

15 Vinocur, in his individual capacity only and *not* in his representative capacity, also provides a
16 release to Streamlight, Releasees, and Downstream Releasees which shall be effective as a full and
17 final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses,
18 attorneys’ fees, damages, losses, claims, liabilities and demands of Vinocur of any nature, character
19 or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or actual
20 exposures to Lead, DEHP, BBP, DBP, DIDP, DINP and/or DnHP from Portable Lighting Products
21 prior to the Effective Date.

22 **4.3 Streamlight’s Release of Vinocur**

23 Streamlight, on its own behalf, and on behalf of its past and current agents, representatives,
24 attorneys, successors, and assignees, releases any and all claims against Vinocur and his attorneys
25 and other representatives, for any and all actions taken or statements made by Vinocur and his
26 attorneys and other representatives, whether in the course of investigating claims, otherwise seeking
27 to enforce Proposition 65 against it in this matter or with respect to Portable Lighting Products.

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1 **5. COURT APPROVAL**

2 This Consent Judgment is not effective until it is approved and entered by the Court and shall
3 be null and void if, for any reason, it is not approved and entered by the Court within one year after
4 it has been fully executed by the Parties.

5 **6. SEVERABILITY**

6 If, subsequent to the Court's approval and entry of this Consent Judgment as a judgment, any
7 provision is held by a court to be unenforceable, the validity of the remaining provisions shall not be
8 adversely affected.

9 **7. GOVERNING LAW**

10 The terms of this Consent Judgment shall be governed by the laws of the State of California
11 and apply within the State of California. If Proposition 65 is repealed or is otherwise rendered
12 inapplicable by reason of law generally, or as to the Portable Lighting Products, Lead, DEHP, BBP,
13 DBP, DIDP, DINP and/or DnHP, then Streamlight shall provide written notice to Vinocur of any
14 asserted change in the law, and shall have no further obligations pursuant to this Consent Judgment
15 with respect to, and to the extent that, the Portable Lighting Products are so affected.

16 **8. NOTICES**

17 Unless specified herein, all correspondence and notices required to be provided pursuant to
18 this Consent Judgment shall be sent by: (i) first-class, registered or certified mail, return receipt
19 requested; or (ii) overnight courier on any party by the other party at the following addresses:

20 For Streamlight:

21 Raymond Sharrah, President
22 Streamlight, Inc.
23 30 Eagleville Road
24 Eagleville, PA 19403

25 with a copy to:

26 Maureen F. Gorsen, Esq.
27 ALSTON & BIRD LLP
28 1121 L Street, Suite 700
Sacramento, CA 95814

For Vinocur:

The Chanler Group
Attention: Prop 65 Coordinator
2560 Ninth Street
Parker Plaza Suite 214
Berkeley CA, 94710

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.

1 **9. COUNTERPARTS; FACSIMILE/PDF SIGNATURES**

2 This Consent Judgment may be executed in counterparts and by facsimile or portable
3 document format (pdf) signature, each of which shall be deemed an original, and all of which, when
4 taken together, shall constitute one and the same document.

5 **10. POST EXECUTION ACTIVITIES**

6 Vinocur agrees to comply with the reporting form requirements referenced in California
7 Health & Safety Code § 25249.7(f). The Parties further acknowledge that, pursuant to Health and
8 Safety Code § 25249.7(f), a noticed motion is required to obtain judicial approval of this Consent
9 Judgment. Vinocur and Streamlight agree to support the entry of judgment pursuant to terms of this
10 Consent Judgment, and to obtain judicial approval of this Consent Judgment in a timely manner.


11 **11. MODIFICATION**

12 This Consent Judgment may be modified only by: (i) a written agreement of the Parties and
13 entry of a modified consent judgment thereon by the Court; or (ii) a successful motion or application
14 of any Party, and the entry of a modified consent judgment thereon by the Court.

15 **12. AUTHORIZATION**

16 The undersigned are authorized to execute this Consent Judgment on behalf of their
17 respective Parties and have read, understood and agree to all of the terms and conditions of this
18 Consent Judgment.

19 **AGREED TO:**
20
21 Date: 4/9/2018

22
23 By: 
24 LAURENCE VINO CUR

AGREED TO:
25
26 Date: 4-9-18

27 By: 
28 Raymond Sharrah, President
STREAMLIGHT, INC.