

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered by and between Paul Wozniak (“Wozniak”) and Rug Doctor, LLC (“Rug Doctor”), with Wozniak and Rug Doctor each individually referred to as a “Party” and collectively as the “Parties.” Wozniak is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals, and to improve human health by reducing or eliminating hazardous substances used in consumer products. Rug Doctor employs ten or more individuals and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Wozniak alleges that Rug Doctor sells and distributes for sale in California, vinyl/PVC hoses containing di(2-ethylhexyl) phthalate (“DEHP”), and that it does so without first providing the health hazard warning required by Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to cause birth defects or other reproductive harm.

1.3 Product Description

For purposes of this Settlement Agreement, “Products” are defined as vinyl/PVC hoses containing DEHP that are manufactured, sold, or distributed for sale in California by Rug Doctor, or an Authorized Retailer of Rug Doctor, including, but not limited to the hose components of the *Deep Carpet Cleaner Upholstery Tool, #93270*, identified in Wozniak’s Notice. The term “Authorized Retailer,” as used herein, is any customer of Rug Doctor with retail stores, warehouses, or distribution centers in California, or who Rug Doctor reasonably believes to conduct online sales via the internet in or into California, and (1) to whom Rug Doctor directly sells the Products, or (b) Rug Doctor has

authorized as a reseller of the Products.

1.4 Notice of Violation

On June 29, 2017, Wozniak served Rug Doctor, the California Attorney General, and all other requisite public enforcers with a 60-Day Notice of Violation (“Notice”). The Notice alleges that Rug Doctor violated Proposition 65 by failing to warn its customers and consumers in California of the health risks associated with exposures to DEHP from the Products. No public enforcer has commenced and is diligently prosecuting an action to enforce the violations alleged in the Notice.

1.5 No Admission

Rug Doctor denies the material, factual, and legal allegations in the Notice, and maintains that all the products that it has sold, distributed for sale, or offered for sale 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 Rug Doctor of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Rug Doctor of any fact, finding, conclusion, issue of law, or violation of law, all of which are specifically denied by Rug Doctor. This Section shall not, however, diminish or otherwise affect Rug Doctor’s obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean February 1, 2018.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Commitment to Provide Reformulated Products or Warnings

Commencing on the Effective Date and continuing thereafter, Rug Doctor shall distribute or sell only those Products that are (a) Reformulated Products as defined in Section 2.2; or (b) Products with a clear and reasonable warning in accordance with

Section 2.3.

2.2 Reformulation Standard

For purposes of this Settlement Agreement, "Reformulated Products" are defined as Products containing DEHP in a maximum concentration of 1,000 parts per million (0.1%) when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A or 8270C or other methodologies utilized by state or federal agencies for the purpose of determining DEHP content in a solid substance.

2.3 Clear and Reasonable Warnings

Commencing on the Effective Date and continuing thereafter, for all Products manufactured, imported, distributed, sold or offered for sale in California by Rug Doctor that do not qualify as Reformulated Products, as defined in Section 2.2, Rug Doctor agrees it will only sell or distribute for sale in California Products bearing a clear and reasonable warning, in accordance with this Section or Proposition 65 and its implementing regulations, including those found at 27 Cal. Code Regs. § 25601 *et seq.* For purposes of this Settlement Agreement, a clear and reasonable warning shall be prominently placed with such conspicuousness, when 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 of purchase or use. Rug Doctor shall affix a warning directly to the Product or its accompanying labeling or packaging. A warning containing one of the following statements, which includes parenthetical language that Rug Doctor may provide, at its option, shall be deemed clear and reasonable:

WARNING: This product can expose you to chemicals, including DEHP, which are known to the State of California to cause [*cancer and*] birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

WARNING: “[*Cancer and*] Reproductive
Harm-www.P65Warnings.ca.gov”

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payments

Pursuant to Health and Safety Code section 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Rug Doctor agrees to pay \$2,000 in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty paid to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount retained by Wozniak. Wozniak’s counsel shall be responsible for delivering OEHHA’s portion of any penalty payment. Rug Doctor agrees to deliver its payment within ten (10) days of the Effective Date in two checks made payable to: (a) “OEHHA” in the amount of \$1,500; and (b) “Paul Wozniak, Client Trust Account” in the amount of \$500. Wozniak’s counsel shall deliver OEHHA’s portion of the penalty paid under this Settlement Agreement.

3.2 Attorneys’ Fees and Costs

The Parties reached an accord on the compensation due to Wozniak and his counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, within ten (10) days of the Effective Date, Rug Doctor agrees to pay \$17,500 to Wozniak and his counsel for all fees and costs incurred investigating, bringing this matter to the attention of Rug Doctor’s management, and negotiating a settlement that provides a significant public benefit. Rug Doctor’s payment under this Section shall be delivered in a check payable to “The Chanler Group.”

3.3 Payment Address

All payments required by this Settlement Agreement shall be delivered to:

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

4. **CLAIMS COVERED AND RELEASED**

4.1 **Wozniak's Release of Rug Doctor**

This Settlement Agreement is a full, final, and binding resolution between Wozniak and Rug Doctor, of any violation of Proposition 65 that was or could have been asserted by Wozniak on his own behalf or on behalf of his past and current agents, representatives, attorneys, successors, and assignees, against Rug Doctor and its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys ("Releasees"), and each entity to whom Rug Doctor directly or indirectly distributes or sells Products, including, but not limited, to its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Downstream Releasees"), based on the failure to warn about exposures to DEHP in Products manufactured, sold, or distributed for sale by Rug Doctor before the Effective Date, as alleged in the Notice.

In further consideration of the promises and agreements herein contained, Wozniak on his own behalf and on behalf of his past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all rights that he may have to institute or participate in, directly or indirectly, any form of legal action, and releases all claims against Rug Doctor, Releasees and Downstream Releasees including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, expenses, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to the alleged or actual failure to warn about exposures to DEHP in Products manufactured, distributed, sold or offered for sale by Rug Doctor, before the Effective Date.

The releases provided by Wozniak under this Settlement Agreement are provided solely on Wozniak's behalf and are not releases on behalf of the public in California.

4.2 Rug Doctor's Release of Wozniak

Rug Doctor, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives all claims against Wozniak and his attorneys and other representatives, for any actions taken or statements made, whether in the course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

5. SEVERABILITY

If, after the execution of this Settlement Agreement, any provision of this agreement is held by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

6. 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. If Proposition 65 is repealed or otherwise rendered inapplicable by reason of law generally, or as to the Products, then Rug Doctor may provide written notice to Wozniak of any asserted change in the law, and shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

7. NOTICE

Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (a) personal delivery; (b) first-class, registered or certified mail, return receipt requested; or (c) a recognized overnight courier on any Party by the other at the following addresses:

For Rug Doctor:

Travis Lewis, Chief Executive Officer
Rug Doctor, LLC
4701 Old Shepard Place
Plano, TX 75093

Julia R. Graeser, Esq.
Barg Coffin Lewis & Trapp, LLP
600 Montgomery Street, Suite 525
San Francisco, CA 94104

For Wozniak:

Proposition 65 Coordinator
The Chanler Group
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.

8. COUNTERPARTS; FACSIMILE SIGNATURES

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

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

Wozniak and her attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7(f).

10. MODIFICATION

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

11. ENFORCEMENT OF SETTLEMENT AGREEMENT

Any party may file suit in California Superior Court 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.

No action to enforce this Settlement Agreement may be commenced or maintained unless the party seeking enforcement notifies the other party of the specific acts alleged to breach this Settlement Agreement and, thereafter, meets and confers with the other Party for a period of not less than 45 days in an effort to resolve the alleged breach informally before serving or filing any action to enforce the terms and conditions contained in this Settlement Agreement.

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 the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

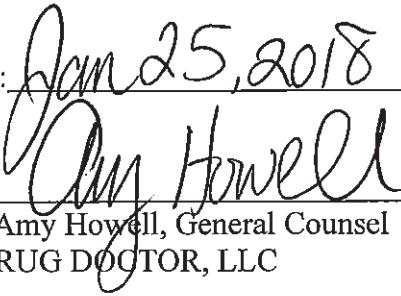
Date: 1/25/2018

Date:

By:


PAUL WOZNIAK

By:


Amy Howell, General Counsel
RUG DOCTOR, LLC