

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Ecological Rights Foundation & Almo Corporation

This Settlement Agreement is entered into by and between Ecological Rights Foundation ("ERF") and Almo Corporation ("Almo"), collectively referred to as the "Parties." ERF is an organization with its principal place of business in the State of California. For purposes of this settlement only, Almo stipulates that it is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code section 25249.6, et seq. ("Proposition 65").

1.2 General Allegations

ERF alleges that Almo has distributed, marketed and/or sold in the State of California charcoal grills and hibachis that are used primarily for cooking. ERF further contends that when California residents use charcoal grills and hibachis, they are exposed to carbon monoxide, a chemical known to the State of California to cause reproductive toxicity. For purposes of this Settlement Agreement, "Covered Products" means charcoal grills and hibachis that are or will be marketed in California by Almo.

1.3 Notice of Violation

On December 4, 2017, ERF served Almo and various public enforcement agencies with a Notice of Violations of Proposition 65 (the "Notice"). The Notice provided Almo and others, including public enforcers, with notice that alleged that Almo was in violation of California Health & Safety Code § 25249.5, for failing to warn California consumers and customers that the Covered Products expose users to carbon monoxide. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.4 No Admission

Almo denies the material factual and legal allegations contained in the Notice. Nothing in this Settlement Agreement shall be construed as an admission by Almo 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 Almo of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Almo. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties of any party under this Settlement Agreement. Notwithstanding the allegations in the Notice, Almo maintains that it has not violated Proposition 65, knowingly, intentionally or otherwise.

1.5 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date on which all parties have signed this Settlement Agreement.

2. INJUNCTIVE RELIEF

2.1 Clear and Reasonable Warnings

No later than 120 days after the Effective Date, Almo shall not distribute or offer for sale in California any Covered Product unless the Covered Product is accompanied by one of the following warning statements:

WARNING: Chemicals known to the state of California to cause birth defects or other reproductive harm, including carbon monoxide, are produced by combustion of propane, charcoal or wood when used with this product.

WARNING: This product can expose you to carbon monoxide, which is a combustion byproduct known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

WARNING: This product can expose you to carbon monoxide, a chemical known to the State of California to cause birth defects or other reproductive harm. For more information, go to www.P65Warnings.ca.gov.

WARNING: Reproductive Harm – www.P65Warnings.ca.gov

The warning statements shall be affixed to or printed on the Covered Products or their packaging, as well as printed in the Covered Products' instruction booklets (if any). The warnings shall be displayed with such conspicuousness, as compared with other words, statements, designs, or devices as to render them likely to be read and understood by an ordinary individual under customary conditions of purchase or use. Warnings may be contained in the same section of the instruction booklets that contains other safety warnings concerning the use of the Covered Products. The type size of the warning must be legible, and no smaller than any other warning provided with the Covered Products. The word "WARNING:" shall be in upper case letters and bold text. Defendant may utilize a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline or a black exclamation point in a white triangle with black border if no yellow is used in the section of the packaging, print or online material regarding the Covered Products that contains other warning language regarding use of the Covered Products.

3. REIMBURSEMENT OF FEES AND COSTS

Almo shall reimburse ERF's counsel for \$17,000 in ERF's fees and costs incurred as a result of investigating and bringing this matter to Almo's attention, and negotiating a settlement in the public interest. The payment shall be made payable to Ecology Law Center and sent no later than 10 days after the Effective Date via USPS certified mail, return receipt requested, to the following address:

Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, CA 95061

4. RELEASE OF ALL CLAIMS

4.1 Release of Almo Corporation

ERF acting on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors and/or assignees (all of whom, collectively, are defined as the “ERF Releasors”), releases Almo Corporation, and its respective parents, subsidiaries, affiliated entities, marketplaces directors, officers, agents, employees, attorneys and each entity to whom Almo directly or indirectly distribute or sell the Covered Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees and all other upstream and downstream entities in the distribution chain, and the predecessors, successors, and assigns of any of them (collectively, the “Releasees”), from all claims for violations of Proposition 65 through the Effective Date based on failure to warn about alleged exposures to carbon monoxide from use of the Covered Products. This settlement is a full, final and binding resolution of all claims that were or could have been asserted against Almo and/or the Releasees for failure to provide warnings for alleged exposures to chemicals contained in the Covered Products.

In further consideration of the promises and agreements herein contained, and for the payment to be made pursuant to Section 3 above, the ERF Releasors provide a 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 against Almo and/or any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to Proposition 65 chemicals from use of the Covered Products.

4.2 Almo Corporation’s Release of ERF

Almo, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waive any and all claims against ERF, its attorneys

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

4.3 California Civil Code Section 1542

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. ERF on behalf of itself only, on one hand, and Almo, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 above may include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such unknown claims.

California Civil Code section 1542 reads 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.

ERF and Almo each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

5. 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.

6. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law 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 Covered Products, Almo shall provide written notice to ERF 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, a Covered Product is so affected.

7. 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) USPS Priority Mail; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Almo Corporation:

Patricia Leotta
Almo Corporation
2709 Commerce Way
Philadelphia, PA 19154

For Ecological Rights Foundation:

Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, CA 95061

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.

8. COUNTERPARTS: 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.

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

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

10. MODIFICATION

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

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

AGREED TO:

AGREED TO:

Date: 8/9/18

Date: 7/23/2018

By: James Lamport
James Lamport, Executive Director
Ecological Rights Foundation

By: Patricia A. Leotta
Patricia Leotta,
General Counsel and Senior Vice
President
Almo Corporation