

PROPOSITION 65 SETTLEMENT AGREEMENT

A. DEFINITIONS and SIGNATURES

NOTICE: 60-Day Notice of Violation described herein.

DATE OF 60-DAY NOTICE: April 24, 2018.

ALLEGED VIOLATOR(S): Cascades Tissue Group, a division of Cascades Holding US Inc. and its affiliates identified in the NOTICE as Cascades Tissue Group, Inc. ("Cascades"), Wal-Mart Stores, Inc. ("Wal-Mart").

PRODUCTS: Bath Tissue; Toilet Paper

Example Products: BW Bathroom Tissue 4 Rolls (UPC 0-70524-07548-8); and
Great Value Everyday Soft Bath Tissue (UPC0-78742-17857-8)

LISTED CHEMICAL(S): Polychlorinated biphenyls ("PCB's")

Type(s) of Potential Harm: X Cancer
 Birth Defects and Other Reproductive Harm

EFFECTIVE DATE: Date that this Agreement is fully executed.

TESTING PROGRAM: Cascades to implement testing program for PCB's. The testing shall take place according to the procedure contained in Exhibit 1 to this Settlement Agreement.

PAYMENTS:

<u>Civil Penalty Payment (total):</u>	\$7,600.00
75% to OEHHA:	\$5,700.00
25% to DiPirro:	\$1,900.00

Attorneys' Fees and Costs: \$65,075.00

GRAND TOTAL: \$72,675.00

DEFINITIONS :

“**LOT**”: all Products manufactured from one given jumbo roll

“**PRODUCTION RUN**”: All jumbos roll produced from a manufacturing run of a product

“**TESTED LOT**”: Lot from which a **PRODUCT** is tested

ADDRESSES:

For Cascades:

Attn: Pierre Brochu
Vice President, Legal Affairs
Cascades Tissue Group
77, boul. Marie-Victorin
Candiac (Québec) Canada J5R 1C2
pbrochu@cascades.com

with a copy to:

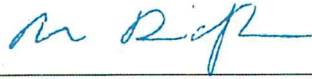
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For DiPirro:

Law Offices of David R. Bush
6761 Sebastopol Avenue, Suite 111
Sebastopol, CA 95472
drbush@drbushlaw.com
Phone: (707) 827-331
Fax: (707) 676-4301

B. SIGNATORIES TO THIS SETTLEMENT AGREEMENT

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.

AGREED TO:
Date: 11/19/2019
By: 
Michael DiPirro, Plaintiff

AGREED TO:
Date: 11/20/2019
By: 
Title: V.P. Legal Affairs
Cascades Tissue Group a division of
Cascades Holding US Inc.

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Michael DiPirro (“DiPirro”), and Cascades Tissue Group, a division of Cascades Canada ULC (“Cascades”) with DiPirro and Cascades individually referred to as a “Party” and collectively as the “Parties.” DiPirro 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. Cascades employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

DiPirro alleges that Cascades sells, or distributes for sale in the State of California, PRODUCTS containing the LISTED CHEMICAL(S), without first providing the clear and reasonable exposure warning required by Proposition 65. The LISTED CHEMICAL(S) are listed pursuant to Proposition 65 as one or more chemicals that are known to the State of California to cause cancer and/or birth defects or other reproductive harm as listed in Section A above.

1.3 Product Description

The PRODUCTS covered by this Settlement Agreement are the PRODUCTS identified above in Section A that are sold or distributed by Cascades for sale in California, including, but not limited to the Example Products listed above in Section A.

1.4 Notice of Violation

On the Date of the NOTICE as defined in Section A above, DiPirro served Cascades, Wal-Mart Stores, Inc. (“Wal-Mart”), and certain requisite public enforcement agencies with a “60-Day Notice of Violation” (“NOTICE”), a document that informed the recipients of DiPirro’s allegation that VIOLATOR(S) violated Proposition 65 by failing to warn its customers and consumers in California that the PRODUCTS expose users to one or more LISTED CHEMICAL(S). To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the NOTICE.

1.5 No Admission

Cascades denies the material, factual, and legal allegations contained in the NOTICE and contends that all of the PRODUCTS it has produced, sold, or distributed for sale in California, have been, and are, in compliance with all applicable state laws and requirements relating to the PRODUCTS. Nothing in this Settlement Agreement shall be construed as an admission by Cascades of any fact, finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by

Cascades of any fact, finding, conclusion of law, issue of law, or violation of law, the same being specifically denied by Cascades. This section shall not, however, diminish or otherwise affect Cascades' obligations, responsibilities, and duties under this Settlement Agreement.

2. VOLUNTARY TESTING PROGRAM

2.1 Voluntary Testing Program

Cascades agrees to implement and follow the Voluntary Testing Program attached hereto as Exhibit 1.

2.2 Prohibition on Sale or Distribution for Sale in California

Cascades will not sell, or distribute for sale, in California PRODUCTS, or products made from jumbo rolls, that have tested positive for PCBs in the Voluntary Testing Program.

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

3.1 Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b). Cascades shall make a Civil Penalty Payment of \$7,600.00, as defined in Section A above, and in accordance with this section, within fifteen (15) days of the Effective Date. The 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 DiPirro in accordance with Section 3.3 below. The penalty payment shall be delivered to the address listed in Section A., above.

3.2 Payment. Payment shall be delivered by Cascades to Law Office of David R. Bush at the address listed in section A., above, or via bank wire to David R. Bush, LAW OFFICE OF DAVID R. BUSH, no later than thirty (30) days following the EFFECTIVE DATE.

3.3 Issuance of 1099 Forms. Cascades shall provide DiPirro's counsel with a separate 1099 form for each of its payments under this Agreement to:

- (a) "Office of Environmental Health Hazard Assessment", P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) for 75% of civil penalties paid;
- (b) "Michael DiPirro," whose address and tax identification number shall be furnished upon request after this Agreement has been fully executed by the Parties for 25% of the civil penalties paid.

4. REIMBURSEMENT OF FEES AND COSTS

Cascades shall pay \$65,075.00 as attorney's fees and costs incurred as a result of investigating, bringing this matter to Cascades' attention, and negotiating a settlement in the public interest.

4.1 Payment. Payment shall be delivered by Cascades to Law Office of David R. Bush at the address listed in section A., above, or via bank wire to David R. Bush, LAW OFFICE OF DAVID R. BUSH, no later than fifteen (15) days following the EFFECTIVE DATE.

4.2 Issuance of 1099 Forms. Cascades shall provide DiPirro's counsel with a separate 1099 form for each of its payments under this Agreement to:

- (a) "Law Offices of David R. Bush," for fees and costs reimbursed pursuant to this agreement.

5. CLAIMS COVERED AND RELEASED

5.1 DiPirro's Release of VIOLATOR(S)

This Settlement Agreement is a full, final, and binding resolution between DiPirro and Cascades of any violation of Proposition 65 that was or could have been asserted by DiPirro, on behalf of himself, or on behalf of his past and current agents, representatives, attorneys, successors, and assignees, in its personal name and for the public interest, against Cascades , its

parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and each entity to whom Cascades directly or indirectly distributes or sells the PRODUCTS, including, without limitation, Walmart Inc. and its affiliates and subsidiaries, Cascades' downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Releasees"), for unwarned exposures to the LISTED CHEMICAL(S) from the PRODUCTS sold or distributed for sale in California by Cascades prior to the EFFECTIVE DATE.

In further consideration of the promises and agreements herein contained, DiPirro, on his own behalf and on behalf of his 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 Cascades and Releasees from all claims whether known or unknown, suspected or unsuspected that he may have against Cascades and Releasees, including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses, including, without limitation, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 for alleged or actual exposures to the LISTED CHEMICAL(S) from PRODUCTS sold, or distributed for sale in California by Cascades prior to the EFFECTIVE DATE.

With respect to the foregoing waiver and release in this paragraph, DiPirro hereby specifically waives any and all rights and benefits which he now has, or in the future may have, conferred by virtue of Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.2 Cascades' Release of DiPirro

Cascades, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims that it may have against DiPirro 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 DiPirro 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, except for fraudulent act.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining provisions 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 as to the PRODUCTS, then Cascades may provide written notice to DiPirro of any asserted change in the law, and 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 Cascades from any obligation to comply with any pertinent state or federal toxics control laws.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered or certified mail, return receipt requested; or (iii) a recognized overnight courier on any party by the other party at the addresses listed in Section A above. Any party may, from time

to time, specify in writing to the other party a change of address to which all notices and other communications shall be sent.

9. **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.

10. **POST-EXECUTION ACTIVITIES**

DiPirro agrees to comply with the reporting form requirements referenced in Health and Safety Code section 25249.7(f).

11. **MODIFICATION**

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

Voluntary Testing Program for Polychlorinated Biphenyls**1. Annual testing of finished product.**

Beginning within one year of the Effective Date, Cascades shall annually test three randomly selected samples of a PRODUCT from the Lot (in the form intended for sale to the end-user) for Polychlorinated Biphenyls ("PCB") content. "PRODUCT" or "PRODUCTS" shall have the meaning used in the Parties' Settlement Agreement.

2. Additional quality control requirements if PCB is detected during annual testing of PRODUCTS.

Cascades will quarantine the annually Tested Lot until it has received test results. If any PCB's are detected during the annual testing of PRODUCTS, then those PRODUCTS coming from the Tested Lot will not be distributed, sold, offered for sale, or sold for use by Cascades in California.

Cascades will then quarantine and test each consecutive Lot of the PRODUCT. Cascades will not ship for sale in California any PRODUCT from Tested Lot until after it has received test results confirming that PCB's have not been detected. Cascades will continue testing each Lot of PRODUCT until PCB's have not been detected in three (3) randomly selected samples of three consecutive Lots coming from that Production Run.

3. Termination of annual testing of finished PRODUCTS.

The requirement for annual testing of PRODUCTS will terminate after PCB's have not been detected in annual testing of PRODUCTS during each of three (3) consecutive years.

4. Quarterly testing of jumbo rolls.

Notwithstanding the above, once each quarter, Cascades shall test for PCB content a jumbo roll intended to be use for the manufacturing of PRODUCTS.

Cascades will quarantine all jumbo rolls manufactured from the same Production Run (the "Quarantined Jumbo"). Cascades will not manufacture any PRODUCTS from such Quarantined Jumbo until after it has received test results confirming that PCB's have not been detected.

5. Additional quality control requirements if PCB's are detected during quarterly testing of jumbo rolls.

If PCB's are detected during the quarterly testing of a jumbo roll, then Cascades will quarantine all jumbo rolls of a Production Run of PRODUCTS until it has confirmed,

through additional testing, that jumbo rolls with detectable levels of PCB's will not be used for the production of PRODUCTS.

Jumbo rolls determined to have detectable levels of PCB's during quarterly testing will not be used in the production of any Products that will be distributed, sold, offered for sale, or sold for use by Cascades in California.

6. Termination of quarterly testing requirement.

The quarterly testing requirement will terminate after PCB's have not been detected in quarterly testing during each of 3 consecutive years.

7. Standard for analysis and detection of PCB.

Testing for PCB's shall be performed using EPA Methods 8082 or 8270(D). Cascades may use different laboratory methods providing that the alternative method is at least as sensitive as the method to which the parties have agreed.

All annual testing of PRODUCTS pursuant to this Settlement Agreement shall be performed by an independent third-party laboratory having one of the certifications authorized by 27 CCR § 25900(a)(3):

Certified by the State of California or accredited by the State of California, a federal agency, the National Environmental Laboratory Accreditation Program or similar nationally recognized accrediting organization to perform the particular method of detection and analysis in question.

Cascades shall retain all test results and documentation for a period of three (3) years from the date of each test. For annual testing performed by an independent third-party laboratory, Cascades shall arrange for the laboratory to send the annual test results to Plaintiff's counsel within 30 days of conducting each test.

PCB will be detected, within the meaning of this agreement, if a lab using a reporting limit of 150 ug/kg reports the detection of a PCB.

8. "Most favored nation" clause.

If Plaintiff reaches settlements or judgment with other paper products companies in which it agrees to different testing procedures, laboratory methods, or reporting limits, Cascades may, at its option, comply by using those testing procedures, laboratory methods, or reporting limits.