

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 John Moore and RGGD, Inc.

This Settlement Agreement (Settlement Agreement) is entered into by and between John Moore (Moore) and RGGD, Inc. (RGGD) with Moore and RGGD 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. RGGD 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, California Health & Safety Code §§ 25249.5 et seq. (Proposition 65).

1.2 General Allegations

Moore alleges that RGGD manufactures, imports, sells and/or distributes for sale in California, ornaments with vinyl photo windows that contain di(2-ethylhexyl)phthalate (DEHP), and that it does so without providing the health hazard warning that Moore alleges is required by Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer, birth defects and other reproductive harm. RGGD represents that it made a one-time sale of the ornament product at issue into California and that it currently has no plans to re-introduce the ornament product for sale into California. Upon receiving Moore’s 60-Day Notice of Violation dated May 31, 2018, RGGD asserts that it promptly investigated Moore’s claims and sent instructions to its sole California customer of the ornament product, Grocery Outlet Inc., requesting that any affected ornament products remaining in retail stores be returned to RGGD.

1.3 Product Description

The products that are covered by this Settlement Agreement are ornaments with vinyl photo windows containing DEHP including, but not limited to, the *Felt Photo Frame Ornament*,

GOI Item #114831, UPC #0 98811 65914 2 that are manufactured, imported, distributed, sold and/or offered for sale by RGGD in the State of California, hereinafter the “Products.”

1.4 Notice of Violation

On or about May 31, 2018, Moore served RGGD, Grocery Outlet Inc., and certain requisite public enforcement agencies with a 60-Day Notice of Violation (Notice), alleging that RGGD violated Proposition 65 when it failed to warn its customers and consumers in California that the Products expose users to DEHP. 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

RGGD denies the material, factual and legal allegations contained in the 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 RGGD 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 RGGD of any fact, finding, conclusion, issue of law or violation of law. This section shall not, however, 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 February 8, 2019.

2. INJUNCTIVE RELIEF: MARKET WITHDRAWAL

RGGD represents that, prior to the Effective Date, and in response to Moore’s Notice, it has withdrawn the Products from the California market and that it currently has no plans to re-introduce the Products for sale into California. Should RGGD decide to manufacture, import, purchase for resale, distribute, and/or offer the Products for sale in the State of California during the five year period following the Effective Date, RGGD shall provide Moore with at least three months’ written notice of its intent to do so, at which time the parties will agree on appropriate

injunctive relief that complies with the warning requirements of Title 27 California Code of Regulations § 25600, et seq., as amended from time to time.

3. MONETARY SETTLEMENT TERMS

3.1 Payments Pursuant to Health and Safety Code § 25249.7(b)(2)

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, RGGD agrees to pay a total of \$1,000 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 amount paid to the California Office of Environmental Health Hazard Assessment (OEHHA) and the remaining 25% of the penalty amount retained by Moore.

RGGD will deliver its payment on or before February 15, 2019, in two checks for the following amounts made payable to: (a) “OEHHA” in the amount of \$750; and (b) “John Moore, Client Trust Account” in the amount of \$250. Moore’s counsel shall be responsible for delivering OEHHA’s portion of the penalties paid under this Settlement Agreement.

3.2 Reimbursement of Attorneys’ 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 the issue to be resolved after the material terms of the agreement had been settled. Shortly after the other settlement terms had been finalized, RGGD expressed a desire to resolve Moore’s fees and costs. The Parties then negotiated a resolution of 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, RGGD shall reimburse Moore and his counsel \$7,500. RGGD’s payment shall be delivered to the address in Section 3.3, on or before February 15, 2019, in the form of a check payable to “The Chanler Group.” The reimbursement shall cover all fees and costs incurred by Moore investigating, bringing this matter to RGGD’s attention and negotiating a settlement of the matter.

3.3 Payment Address

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

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

4. CLAIMS COVERED AND RELEASED

4.1 Moore's Release of RGGD and Grocery Outlet Inc.

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

In further consideration of the promises and agreements herein contained, Moore as an individual and *not* on behalf of the public, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of Moore's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that Moore 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 exclusively, investigation fees, expert fees, and attorneys' fees

arising under Proposition 65 with respect to DEHP in the Products, as alleged in the Notice, manufactured, distributed, sold and/or offered for sale by RGGD, before the Effective Date (collectively, Claims), against RGGD and Releasees.

The Parties further understand and agree that this Section 4.1 release shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to RGGD. Nothing in this Section affects Moore's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve RGGD's Products.

4.2 RGGD's Release of Moore

RGGD, on behalf of itself, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives 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 or otherwise seeking to enforce Proposition 65 against it in this matter with respect to the Products.

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 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 RGGD shall provide written notice to Moore 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. Nothing in this Settlement Agreement shall be interpreted to relieve RGGD from any obligation to comply with any pertinent state or federal toxics control law.

7. NOTICE

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 RGGD:

Randy Greenberg, CEO
RGGD, Inc.
4950 South Santa Fe Ave
Vernon, CA 90058

With a Copy to:

Diane B. Sherman, Esq.
Law Offices of Diane B. Sherman
1801 Century Park East, Suite 1200
Los Angeles, CA 90067

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.

8. 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.

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

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

10. **MODIFICATION**

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

11. **AUTHORIZATION**

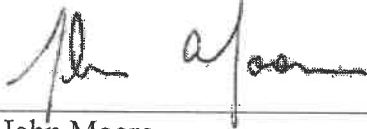
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained herein.


AGREED TO:

AGREED TO:

Date: 2/7/19

Date: 2/15/18

By: 
John Moore

By: 
Randy Greenberg, CEO
RGGD, Inc.