

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Laurence Vinocur and Lifetime Brands, Inc.

This Settlement Agreement (Settlement Agreement) is entered into by and between Laurence Vinocur (Vinocur) and Lifetime Brands, Inc. (Lifetime) with Vinocur and Lifetime collectively referred to as the “Parties.” Vinocur 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. Lifetime previously acquired the business and certain assets of Fred & Friends (Fred) from Easy Aces, Inc. Fred, including under Lifetime’s ownership, previously imported and distributed the vinyl/PVC plant ties at issue in Vinocur’s 60-Day Notice of Violation to Lifetime described below.

1.2 General Allegations

Vinocur alleges that Lifetime and Fred have imported, sold and/or distributed for sale in California, vinyl/PVC plant ties that contain di(2-ethylhexyl)phthalate (DEHP), and that they have done so without providing the warning that Vinocur alleges is required by the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.5 *et seq.* (Proposition 65). DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth defects and other reproductive harm.

1.3 Product Description

The “Products” covered by this Settlement Agreement are defined as vinyl/PVC plant ties including but not limited to, Genuine Fred Yard Goods 8 Plant Ties, Style #5170296, UPC #7 28987 02508 2, which are imported, distributed, sold and/or offered for sale by Lifetime or Fred in the State of California.

1.4 Notice of Violation

Vinocur has served Lifetime and certain requisite public enforcement agencies with a 60-Day Notice of Violation (Notice), alleging that it had violated Proposition 65 when it or Fred failed to warn consumers in California that the Products exposed 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

Lifetime on its own and Fred's behalf denies the material, factual and legal allegations contained in the Notice and maintains that all products that it or Fred have 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, nor shall compliance with this Settlement Agreement constitute or be construed as, an admission by Lifetime or Fred 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 January 16, 2019.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Standards

"Reformulated Products" are defined as Products containing DEHP in concentrations of less than 0.1 percent (1,000 parts per million) in each accessible component when analyzed by a laboratory accredited by the State of California, a federal agency, or a nationally recognized accrediting organization. For purposes of compliance with this reformulation standard, testing samples shall be prepared and extracted using Consumer Product Safety Commission (CPSC) methodology CPSC-CH-C1001.09.3 and analyzed using U.S. Environmental Protection Agency (EPA) methodology 8270D, or other methodologies utilized by federal or state government agencies to determine phthalate content in a solid substance.

2.2 Injunctive Relief

As of the Effective Date, Lifetime shall not import, distribute, sell or offer Products for sale in the State of California unless they are Reformulated Products pursuant to Section 2.1.

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, Lifetime 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 Vinocur.

Lifetime will deliver its payment within ten (10) business days of the Effective Date, in two checks for the following amounts made payable to: (a) "OEHHA" in the amount of \$750; and (b) "Laurence Vinocur, Client Trust Account" in the amount of \$250. Thereafter, Vinocur'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 Vinocur 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, Lifetime expressed a desire to resolve Vinocur's fees and costs. The Parties then negotiated a resolution of the compensation due to Vinocur's 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, Lifetime shall reimburse Vinocur's counsel \$16,000. Lifetime's payment shall be delivered to the address in Section 3.3, within ten (10) business days of the Effective Date, in the form of a check payable to "The Chanler Group." The

reimbursement shall cover all fees and costs incurred by Vinocur investigating, bringing this matter to Lifetime'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 Vinocur's Release of Lifetime

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

In further consideration of the promises and agreements herein contained, Vinocur 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 Vinocur's rights to

institute or participate in, directly or indirectly, any form of legal action and releases all claims that Vinocur 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 sold and/or offered for sale by Lifetime or Fred, before the Effective Date, against Lifetime, Fred and Releasees.

The releases in this Settlement Agreement are specifically limited to the Products sold by Lifetime or Fred, and specifically exclude any other products not falling within the definition of "Products" set forth in Section 1.3. Nothing in this Section affects Vinocur's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Lifetime's or Fred's Products.

4.2 Lifetime's Release of Vinocur

Lifetime, on behalf of itself, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against Vinocur 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 Vinocur 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 Lifetime shall provide written notice to Vinocur 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 Lifetime 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 Lifetime:

Sara Shindel
General Counsel
Lifetime Brands, Inc.
1000 Stewart Avenue
Garden City, NY 11530

With a copy to:

Robert Falk, Esq.
Morrison & Foerster
425 Market Street
San Francisco, CA 94105

For Vinocur:

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)**

Vinocur 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**

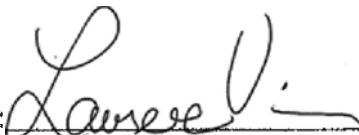
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained herein.

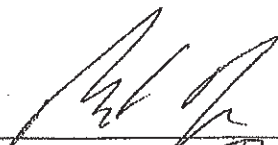
AGREED TO:

AGREED TO:

Date: 2/28/2019

Date: January 15, 2019

By: 
Laurence Vinocur

By: 
Name of Officer: Robert Kay, CEO
for Lifetime Brands, Inc.