

**SETTLEMENT AGREEMENT**  
**Between**  
**CENTER FOR ADVANCED PUBLIC AWARENESS, INC.**  
**and**  
**WEIHAI KAIHAND TRADE CO. LTD.**

**1. INTRODUCTION**

**1.1 Parties**

This Settlement Agreement is entered into by and between the CENTER FOR ADVANCED PUBLIC AWARENESS, INC. (“CAPA”) on the one hand and WEIHAI LUDA ARTS & CRAFT LTD. (“WEIHAI”) on the other hand, with WEIHAI and CAPA each individually referred to as a “Party” and collectively as the “Parties.”

**1.2 Introduction and General Allegations.**

1.2.1 CAPA is a not-for profit corporation duly organized and existing in the State of California, which seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products.

1.2.2 CAPA alleges that WEIHAI employs ten or more persons, and CAPA alleges that WEIHAI 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”).

1.2.3 CAPA alleges that WEIHAI imported, sold, and/or distributed for sale in California Covered Products, as defined below, that contain Di-(2-ethylhexyl) phthalate (“DEHP”), a chemical pursuant to Proposition 65 listed by the State of California to cause cancer and reproductive toxicity. CAPA further alleges that WEIHAI failed to provide the health hazard warning required by Proposition 65 for exposures to DEHP from the Covered Products.

### 1.3 **Product Description.**

The products covered by this Settlement Agreement are the Goodfellow & Co. Wallets with UPC No. 490441515575, which were imported, sold and/or distributed for sale in California by WEIHAI (“Covered Products”).

### 1.4 **60 Day Notice of Violation and Exchange of Information.**

On February 13, 2019, CAPA served Target Corporation (“Target”) and the requisite public enforcement agencies with a 60-Day Notice of Violation (“Notice”), related to the Covered Products, alleging that Target violated Proposition 65. The Notice alleged that Target had failed to warn its customers and consumers in California that the Covered Products exposed users in California to DEHP..

As the manufacturer of the Covered Products, WEIHAI was notified by Target of the Notice and the Proposition 65 allegations therein. CAPA subsequently provided WEIHAI with test results in CAPA’s possession concerning its allegations. WEIHAI provided CAPA with data related to the Covered Products including sales information. 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.**

The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties’ and the Covered Products’ compliance with Proposition 65. Specifically, CAPA alleges that WEIHAI imported, manufactured, sold or distributed for sale in the state of California, Covered Products which contained DEHP without first providing the clear and reasonable exposure warning required by Proposition 65. WEIHAI denies that such a warning is required under Proposition 65 or any otherwise applicable law.

WEIHAI further denies the material, factual, and legal allegations contained in the Notice and maintains that all of the products that it has imported, manufactured and/or sold and distributed in California, including the Covered Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall constitute or be construed, considered,

offered, or admitted as evidence of an admission by WEIHAI of any fact, finding, conclusion, issue of law, or violation of law, or evidence of fault, wrongdoing, or liability by WEIHAI, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by WEIHAI of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by WEIHAI. This Section shall not, however, diminish or otherwise affect WEIHAI's obligations, responsibilities, and duties under this Settlement Agreement.

Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that the Parties may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

#### **1.6 Effective Date.**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date this Agreement is fully executed by the Parties.

## **2. INJUNCTIVE RELIEF: REFORMULATED PRODUCTS**

**2.1 Reformulation Standard.** WEIHAI has represented that it is no longer manufacturing the Covered Products. However, commencing on the Effective Date, and continuing thereafter, to the extent that WEIHAI decides to again import, manufacture, ship to be sold or offer for sale or purchase the Covered Products in California, they shall be deemed to comply with Proposition 65, and be exempt from any Proposition 65 warning requirements with respect to DEHP if the Products meet the standard of "Reformulated Products." "Reformulated Products" shall mean Covered Products containing less than or equal to 1,000 parts per million (0.1%) DEHP in each accessible component when analyzed pursuant to Environmental Protection Agency testing methodologies 3580A and 8270C, CPSC-CH-C1001-09.3 or equivalent methodologies utilized by federal or state agencies for the purpose of determining DEHP content in a solid substance ("Reformulation Standard"). With respect to existing Covered Products, meaning those that are currently in the channels of distribution, with distributors, and retailers, WEIHAI may continue to sell-through those items. However, as of the

Effective Date, no new Covered Products may be distributed or sold in California that are not Reformulated Products or do not contain the warnings set forth in Paragraph 2.3

2.2 **Warning Option.** Covered Products that do not meet the Reformulation Standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.3 below. This warning shall only be required as to Covered Products that are sold or shipped out to consumers, retailers, or distributors after the Effective Date. No Proposition 65 warning for DEHP shall be required as to any Covered Products that are already in the stream of commerce as of the Effective Date.

2.3 **Warning Language.** Commencing on the Effective Date, WEIHAI shall ensure that any unreformulated Covered Products that it ships to California retailers or for sale in California includes a clear and reasonable warning. The warning shall be affixed to the packaging or labeling using language similar to the warnings below:

⚠ **WARNING:** This product can expose you to chemicals including Di-(2-ethylhexyl), which is 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](http://www.P65Warnings.ca.gov).

OR

⚠ **[California Proposition 65] WARNING:** Cancer and Reproductive Harm - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

The warning shall be prominently displayed with such conspicuousness as 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 before purchase or use. Each warning shall be provided in a manner such that the consumer or user is reasonably likely to understand to which specific Product the warning applies, so as to minimize the risk of consumer confusion. In the event that the Office of Environmental Health Hazard Assessment (“OEHHA”) promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, WEIHAI shall be entitled to use, at its discretion, such other warning text and/or methods of transmission without being deemed in breach of this Agreement

2.4 **Accessible Component.** The term “Accessible Component” shall mean any component of the Covered Product that could be touched by a person during reasonably foreseeable use.

2.5 **Compliance with Settlement Terms.** The Parties agree that compliance with the terms of this Settlement Agreement by WEIHAI shall be deemed to be compliance with Proposition 65 by all Releasees with respect to any exposures to the Listed Chemical in the Covered Product manufactured, distributed, or sold by WEIHAI after the Effective Date.

**3. CIVIL PENALTY PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)**

WEIHAI shall pay a civil penalty of one thousand dollars and zero cents (\$1,000.00), to be apportioned in accordance with California Health & Safety Code §§25249.12(c) & (d), with 75% of these funds (\$750.00) remitted to OEHHA and the remaining 25% of the penalty (\$250.00) remitted to CAPA. WEIHAI shall make payment by wire transfer in accordance with section 5 below. CAPA’s counsel shall be responsible for delivering OEHHA’s and CAPA’s portions of any penalty payment made under this Settlement Agreement.

**4. REIMBURSEMENT OF FEES AND COSTS**

The Parties acknowledge that CAPA and its counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving any fee reimbursement issue to be resolved after the material terms of the agreement had been settled. The parties reached an accord on the compensation due to CAPA and its counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure (CCP) § 1021.5, for all work performed through the mutual execution of this agreement. More specifically, WEIHAI shall pay the total amount of nineteen thousand dollars and zero cents (\$19,000.00) for fees and costs incurred by CAPA as a result of investigating, bringing this matter to the attention of WEIHAI, and negotiating a settlement. WEIHAI shall make payment by wire transfer in accordance with section 5 below.

## **5. PAYMENT INFORMATION**

WEIHAI shall make a total payment of twenty thousand dollars and zero cents (\$20,000.00) for the civil penalties and attorney's fees / costs by wire transfer to Plaintiff's counsel Kawahito Law Group APC. Wire transfer instructions will be provided separately by email to counsel for WEIHAI

Other than this payment, each side is to bear its own attorneys' fees and costs.

To allow for the issuance of a timely payment to be rendered pursuant to the above, CAPA shall provide WEIHAI with a completed IRS Form W-9 for the Kawahito Law Group APC at least five calendar days prior to payment.

Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486). The second 1099 shall be issued to Kawahito Law Group APC, who shall furnish a W-9 at least seven calendar days before payment is due. Payment shall be due within 10 days of the Effective Date of this Settlement Agreement and delivered to the following address:

## **6. RELEASE OF ALL CLAIMS**

### **6.1 Full, Final and Binding Resolution of Proposition 65 Allegations.**

CAPA, on behalf of itself, its 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 all claims relating to the Covered Products, 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 limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against WEIHAI that were or could have been asserted by CAPA against (a) WEIHAI, (b) each of WEIHAI's downstream distributors (specifically including but not limited to Target Corporation), wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, insurers, accountants, attorneys,

purchasers, and users, and their respective owners, directors, officers, employees, agents, principals, shareholders, insurers, accountants, representatives, attorneys, predecessors, successors, and assignees (c) WEIHAI's parent companies, corporate affiliates, parent and entities, subsidiaries, predecessors, successors, and assignees, and their respective owners, officers, directors, attorneys, representatives, shareholders, agents, and employees, sister and parent entities, predecessors, successors, and assignees (collectively "Releasees"). This release is provided in CAPA's individual capacity and is not a release on behalf of the public.

CAPA also, in its capacity only, and on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides a general 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 of any nature, character or kind, known or unknown, suspected or unsuspected, against Weihai and the Releasees related to the Covered Products. CAPA acknowledges that it is familiar with California Civil Code section 1542, which provides as follows:

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.

CAPA, in its capacity only, and on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of California Civil Code section 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters.

## 6.2 WEIHAI's Release of CAPA.

WEIHAI on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against CAPA, its attorneys and other representatives, for any and all actions taken or statements made by CAPA and its

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 Covered Products.

**6.3 Enforcement of Settlement Agreement.**

Any party may file suit before the Superior Court of the County of Los Angeles 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.

**7. SEVERABILITY**

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

**8. 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 Covered Products, then WEIHAI shall have no further obligations pursuant to this Settlement Agreement.

**9. NOTICE**

Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by e-mail and either: (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 WEIHAI: Kendra B. Lounsberry  
Barnes & Thornburg LLP  
2029 Century Park East, 3<sup>rd</sup> Floor  
Los Angeles, CA 90067  
kendra.lounsberry@btlaw.com

For CAPA: James K. Kawahito  
Kawahito Law Group APC  
Attn. CAPA v. WEIHAI  
222 N. Pacific Coast Hwy., Suite 2222

El Segundo, CA 90245  
jkawahito@kawahitolaw.com

with a copy to:

Center for Advanced Public Awareness, Inc.  
2342 Shattuck Ave. #347  
Berkeley, CA 94704

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.

**10. 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.

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

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

**12. MODIFICATION**

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

**13. AUTHORIZATION**

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understand, and agreed to all of the terms and conditions of this Settlement Agreement.

**AGREED TO:**

**AGREED TO:**

Date: 9/16/2019

Date: \_\_\_\_\_

By:  \_\_\_\_\_  
Center for Public Awareness, Inc.

By: \_\_\_\_\_  
Weihai Luda Arts & Craft. Ltd.

El Segundo, CA 90245  
jkawahito@kawahitolaw.com

with a copy to:

Center for Advanced Public Awareness, Inc.  
2342 Shattuck Ave. #347  
Berkeley, CA 94704

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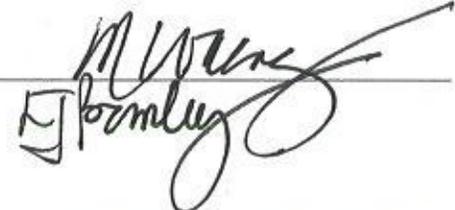
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**AGREED TO:**

**AGREED TO:**

Date: 9-17-19

Date: 

By: Center for Public Awareness, Inc.

By: Weihai Luda Arts & Craft. Ltd.