

SETTLEMENT AGREEMENT BETWEEN APS&EE, LLC AND BABY BLING, LLC

1. RECITALS

1.1 The Parties

1.1.1 This Settlement Agreement (“Agreement”) is entered into by and between APS&EE, LLC (“APS&EE”) and Baby Bling, LLC (“Baby Bling”). APS&EE and Baby Bling shall hereinafter collectively be referred to as the “Parties”.

1.1.2 APS&EE is an organization based in California with an interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products.

1.1.3 APS&EE alleges that Baby Bling is a person in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

1.2 Allegations

1.2.1 APS&EE alleges that Baby Bling distributed, sold or made available for sale in the State of California Baby Bling baby bows, including but not limited to red bow headbands (#5021674) (hereinafter collectively the “Product(s)”) causing users in California to be exposed to hazardous levels of lead without providing “clear and reasonable warnings”, in violation of Proposition 65. Lead is potentially subject to Proposition 65 warning requirements because it is listed under that statute as known to the State of California to cause cancer and birth defects or other reproductive harm.

1.2.2 On May 3, 2019, APS&EE served a Sixty-Day Notice of Violation (“60-Day Notice”), along with a Certificate of Merit, to Baby Bling, Nordstrom, Inc., and

the various public enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Products.

1.3 No Admissions

Baby Bling denies all allegations in APS&EE's 60-Day Notice and maintains that the Products have been, and are, in compliance with all laws, and that Baby Bling has not violated Proposition 65. Specifically, Baby Bling alleges that it had some of the Products tested after receipt of the 60-Day Notice, and such testing confirmed these Products complied with Proposition 65 requirements for lead. Baby Bling also alleges that prior to purchase of the Products from its supplier, it received assurances from the supplier that the Products did not contain any detectable level of lead. This Agreement shall not be construed as an admission of liability by Baby Bling but to the contrary as a compromise of claims that are expressly contested and denied. However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities under this Agreement.

1.4 Compromise

The Parties enter into this Agreement in order to resolve the controversy described above in a manner consistent with prior Proposition 65 settlements and consent judgments that were entered on behalf of the public interest and to avoid prolonged and costly litigation between them.

1.5 Effective Date

The "Effective Date" shall be the date upon which a complete and fully executed copy of the Agreement is delivered to each Party's counsel.

1.6 Deemed Compliance with Proposition 65

Compliance by Baby Bling with this Agreement constitutes compliance with Proposition 65 with respect to any Lead exposure from the Products.

2. INJUNCTIVE RELIEF

As of the Effective Date, Baby Bling shall not distribute, sell or offer for sale the Products in California unless the Products have a lead content by weight of no more than 100 parts per million (0.01%).

3. PAYMENTS

3.1 Civil Penalty Pursuant To Proposition 65

In settlement of all claims referred to in this Agreement, Baby Bling shall pay a total civil penalty of Eight Thousand dollars (\$8,000.00) to be apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$6,000.00) for State of California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining 25% (\$2,000.00) for APS&EE.

Baby Bling shall issue two (2) checks for the civil penalty: (1) a check or money order made payable to “OEHHA” in the amount of \$6,000.00; and (2) a check or money order made payable to “Law Offices of Lucas T. Novak” in the amount of \$2,000.00. Baby Bling shall remit the payments within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.
LAW OFFICES OF LUCAS T. NOVAK
8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

3.2 Reimbursement Of APS&EE’s Fees And Costs

Baby Bling shall reimburse APS&EE’s reasonable experts’ and attorney’s fees and costs incurred in prosecuting the instant action, for all work performed through execution of this Agreement. Accordingly, Baby Bling shall issue a check or money order made payable to “Law Offices of Lucas T. Novak” in the amount of Twenty Two Thousand dollars (\$22,000.00). Baby Bling shall remit the payment within five (5) business days of the Effective Date, to:

Lucas T. Novak, Esq.
LAW OFFICES OF LUCAS T. NOVAK
8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

4. RELEASES

4.1 APS&EE’s Release Of Baby Bling

APS&EE, in consideration of the promises and monetary payments contained herein, on behalf of itself and its and its shareholders, directors, members, officers, employees, attorneys, experts, representatives, successors and assignees, hereby releases Baby Bling, its parents, subsidiaries, affiliated companies, shareholders, directors, members, managers, officers, partners, agents, employees, representatives, attorneys, successors and assignees, as well as its downstream distributors, wholesalers, retailers, and franchisees, including but not limited to Nordstrom, Inc. (collectively, "Released Parties"), from any alleged Proposition 65 violation claims asserted in APS&EE's 60-Day Notice regarding lead in the Products sold or distributed by Baby Bling for sale or potential sale in California before, up to and including the Effective Date.

4.2 Baby Bling's Release Of APS&EE

Baby Bling, and on behalf of the Released Parties, by this Agreement, waives all rights to institute any form of legal action against APS&EE, its shareholders, directors, members, officers, employees, attorneys, experts, successors and assignees for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against Baby Bling in this matter.

4.3 Waiver Of Unknown Claims

Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil Code 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.

Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits. The Parties acknowledge that each may subsequently

discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Agreement and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

5. SEVERABILITY

Should any part or provision of this Agreement for any reason be declared by a Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue in full force and effect.

6. GOVERNING LAW

The terms of this Agreement shall be governed by the laws of the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable or limited by reason of law generally, or as to the Products, Baby Bling shall provide written notice to APS&EE 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 Product is so affected.

7. NOTICES

All correspondence and notices required to be provided under this Agreement shall be in writing and delivered personally or sent by first class or certified mail addressed as follows:

TO BABY BLING: H. Kim Sim, Esq. Conkle, Kremer & Engel 3130 Wilshire Blvd., Suite 500 Santa Monica, CA 90403	TO APS&EE: Lucas Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069
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8. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Agreement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed


Agreement shall have the same force and effect as the originals.

9. **AUTHORIZATION**

The undersigned are authorized to execute this Agreement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Agreement. Each Party warrants to the other that it is free to enter into this Agreement and is not subject to any conflicting obligation that will or might prevent or interfere with the execution or performance of this Agreement by said Party.

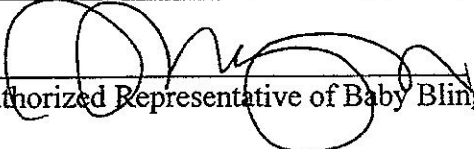
AGREED TO:

Date: 9/18/19

By: 
Authorized Representative of APS&EE, LLC

AGREED TO:

Date: 9-18-2019

By: 
Authorized Representative of Baby Bling, LLC