

## SETTLEMENT AGREEMENT

### 1. INTRODUCTION

**1.1 The Parties.** This Settlement Agreement is entered into by and between Anthony Ferreiro ("Ferreiro"), Ema Bell ("Bell") (collectively, "Citizen Enforcers") and Urban Expressions, Inc. ("Urban Expressions"). Together, Citizen Enforcers and Urban Expressions are collectively referred to as the "Parties." Ferreiro and Bell are individuals that reside in the State of California, and who seek to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Citizen Enforcers allege that Urban Expressions is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, et seq. ("Proposition 65").

**1.2 General Allegations.** Citizen Enforcers allege that Urban Expressions has exposed individuals to the chemical di(2-ethylhexyl) phthalate (DEHP) from its sales of Aqua handbags, purses, bags, clutches, totes and fanny packs, without first providing users and consumers of the product with a clear and reasonable health hazard exposure warning as required pursuant to Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and reproductive toxicity.

**1.3 Description of the Products.** The products covered by this Settlement Agreement are *Aqua* handbags, purses, bags, clutches, totes and/or fanny packs including but not limited to UPC #s (a) 840611158017, (b) 840611162212, and (c) 840611162038 (the "Products"), that have been imported, distributed, offered for sale and/or sold in California by Urban Expressions.

**1.4 Notices of Violation.** On June 25, 2019 (Ferreiro - UPC # 840611158017; Bell - UPC # 840611162212) Citizen Enforcers served Urban Expressions and various public enforcement agencies with documents entitled "Notice of Violation of California Health & Safety Code § 25249.6, et seq." relating to the Products (collectively, the "June Notices"). Thereafter, on November 7, 2019 (UPC # 840611162038) Ferreiro served served Federated Department Stores, Inc., Macy's West Stores, Inc. (collectively, Macy's) and various public enforcement agencies with a second "Notice of

Violation of California Health & Safety Code § 25249.6, et seq.” relating to the Products (the “November Notice”)<sup>1</sup>. Urban Expressions was subsequently identified as the manufacturer and supplier of UPC # 840611162038 identified in the November Notice and entered into negotiations with Citizen Enforcers as indemnitor to Macy’s to resolve the claims concerning the Products. The Notices provided Urban Expressions and such others, including public enforcers, with notice that alleged that Urban Expressions was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of the Products will expose them to DEHP. No public enforcer has diligently prosecuted the allegations set forth in the Notices.

**1.5 No Admission.** Urban Expressions denies the material factual and legal allegations contained in the Notices and maintains that, to the best of its knowledge, all products that are or have been 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 Urban Expressions 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 Urban Expressions of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Urban Expressions. However, this § 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notices, Urban Expressions maintains that it has not knowingly manufactured, or caused to be manufactured, the Products for sale in California in violation of Proposition 65 and further, has not knowingly failed to place a warning on such Products.

**1.6 Effective Date.** For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Agreement is last executed by the Parties.

## 2. INJUNCTIVE RELIEF: WARNINGS

**2.1 Reformulation of Products.** As of the Effective Date, and continuing thereafter, Products that Urban Expressions directly manufactures, imports, distributes, sells, or offers for sale in California shall either: (a) be Reformulated Products pursuant to § 2.2, below; or (b) be labeled with

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<sup>1</sup> The June Notices and the November Notice are collectively referred to herein as, the “Notices.”

a clear and reasonable exposure warning pursuant to §§ 2.3 and 2.4, below. For purposes of this Settlement Agreement, a “Reformulated Product” is a Product that is in compliance with the standard set forth in § 2.2, below. The warning requirement set forth in §§ 2.3 and 2.4 shall not apply to any Reformulated Product or to any Product manufactured, imported, distributed, or sold by Urban Expressions prior to the Effective Date.

**2.2 Reformulation Standard.** “Reformulated Products” shall mean Products that contain concentrations less than or equal to 0.1% (1,000 parts per million (ppm)) of DEHP when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or other methodology utilized by federal or state government agencies for the purpose of determining the phthalate content in a solid substance.

**2.3 Clear and Reasonable Warning.** As of the Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 2.3 and 2.4 must be provided for all Products that Urban Expressions manufactures, imports, distributes, sells, or offers for sale in California that is not a Reformulated Product. The warning shall consist of either the **Warning** or **Alternative Warning** described in §§ 2.3(a) or (b), respectively:

(a) **Warning.** The “Warning” shall consist of the statement:

**⚠ WARNING:** This product can expose you to chemicals including di(2-ethylhexyl) phthalate (DEHP), which are 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).

(b) **Alternative Warning:** Urban Expressions may, but is not required to, use the alternative short-form warning as set forth in this § 2.3(b) (“**Alternative Warning**”) as follows:

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

**2.4** A **Warning** or **Alternative Warning** provided pursuant to § 2.3 must meet the requirements of 27 Cal. Code Regs. §§ 25601(c), 25602, and 25603.

**2.5 Compliance with Warning Regulations.** The Parties agree that Urban Expressions shall be deemed to be in compliance with this Settlement Agreement by either adhering to §§ 2.3 and 2.4 of this Settlement Agreement or by complying with warning requirements adopted by the State of

California's Office of Environmental Health Hazard Assessment ("OEHHA") in effect as of and after the Effective Date.

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

In settlement of all the claims referred to in this Settlement Agreement, Urban Expressions shall pay \$1,500.00 as a Civil Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Civil Penalty remitted to OEHHA and the remaining 25% of the Civil Penalty remitted to Citizen Enforcers. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

**3.1 Civil Penalty.** Within thirty (30) days of the Effective Date, Urban Expressions shall issue three (3) separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$1,125.00; to (b) "Brodsky & Smith, LLC in Trust for Ferreiro" in the amount of \$187.50; and to (c) "Brodsky & Smith, LLC in Trust for Bell" in the amount of \$187.50. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

**3.2 Payment Procedures.**

(a) **Issuance of Payments.** Payments shall be delivered as follows:

(i) All payments owed to Citizen Enforcers, pursuant to § 3.1 shall be delivered to the following payment address:

Evan J. Smith, Esquire  
Brodsky & Smith, LLC  
Two Bala Plaza, Suite 510  
Bala Cynwyd, PA 19004

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to § 3.1 shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
P.O. Box 4010

Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief  
Office of Environmental Health Hazard Assessment  
1001 I Street  
Sacramento, CA 95814

(b) **Copy of Payments to OEHHA.** Urban Expressions agrees to provide Citizen Enforcers' counsel with a copy of the checks payable to OEHHA, simultaneous with its penalty payments to Citizen Enforcers, to be delivered to the address provided in § 3.2(a)(i), as proof of payment to OEHHA.

(c) **Tax Documentation.** Urban Expressions agrees to provide a completed IRS 1099 for its payments to, and Citizen Enforcers agree to provide IRS W-9 forms for, each of the following payees under this Settlement Agreement:

(i) "Anthony Ferreiro" whose address and tax identification number shall be provided within five (5) days after this Settlement Agreement is fully executed by the Parties;

(ii) "Ema Bell" whose address and tax identification number shall be provided within five (5) days after this Settlement Agreement is fully executed by the Parties;

(iii) "Brodsky & Smith, LLC" (EIN: 23-2971061) at the address provided in Section 3.2(a)(i); and

(iv) "Office of Environmental Health Hazard Assessment" 1001 I Street, Sacramento, CA 95814.

4. **REIMBURSEMENT OF FEES AND COSTS**

The Parties acknowledge that Citizen Enforcers and their counsel offered to reach preliminary agreement on the material terms of this dispute before reaching terms on the amount of fees and costs to be reimbursed to them. The Parties thereafter reached an accord on the compensation due to Citizen Enforcers and their counsel under general contract principles and the private attorney general doctrine

and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Under these legal principles, Urban Expressions shall reimburse Citizen Enforcers' counsel for fees and costs incurred as a result of investigating and bringing this matter to Urban Expressions' attention, and negotiating a settlement in the public interest. Within thirty (30) days of the Effective Date, Urban Expressions shall issue a check payable to "Brodsky & Smith, LLC" in the amount of \$17,000.00 for delivery to the address identified in § 3.2(a)(i), above.

5. **RELEASE OF ALL CLAIMS**

**5.1 Release of Urban Expressions and Downstream Customers and Entities.** This Settlement Agreement is a full, final and binding resolution between Citizen Enforcers, each acting on their own behalf, and Urban Expressions, of any violation of Proposition 65 that was or could have been asserted by Citizen Enforcers or on behalf of their past and current agents, representatives, attorneys, successors, and/or assigns ("Releasers") for failure to provide warnings for alleged exposures to DEHP contained in the Products, and Releasers hereby release any such claims against Urban Expressions and its parents, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors and assignees, and each entity to whom Urban Expressions directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, including but not limited to Macy's, Inc., Macy's Retail Holdings, Inc., Bloomingdales, Inc., and their respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the "Releasees"), from all claims for violations of Proposition 65 through the Effective Date.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to §§ 3 and 4 above, Citizen Enforcers, each on behalf of themselves, their past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives any right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that they may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys' fees, expert

fees, and investigation fees, and costs), damages, losses, liabilities and demands against any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to the chemical DEHP in the Products.

**5.2 Urban Expressions' Release of Citizen Enforcers.** Urban Expressions, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Citizen Enforcers, their attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Citizen Enforcers and/or their attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

**5.3 California Civil Code § 1542.** It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. Citizen Enforcers each on behalf of themselves only, on one hand, and Urban Expressions, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released in §§ 5.1 and 5.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 1542 reads 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.

Citizen Enforcers and Urban Expressions acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

**5.4 Deemed Compliance with Proposition 65.** Compliance by Urban Expressions with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposure to DEHP from use of the Products.

**5.5. Public Benefit.** It is Urban Expressions' understanding that the commitments it has agreed to herein, and actions to be taken by Urban Expressions under this Settlement Agreement, would confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of Urban Expressions that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Urban Expressions failure to provide a warning concerning exposure to DEHP prior to use of the Products it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Products addressed in this Settlement Agreement, provided that Urban Expressions is in material compliance with this Settlement Agreement.

**6. 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 but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

**7. GOVERNING LAW**

The terms of this Settlement Agreement shall be governed by the law 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 or limited by reason of law generally, or as to the Products, Urban Expressions shall provide written notice to Citizen Enforcers 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.

**8. NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class



(registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Urban Expressions:

Milord A. Keshishian  
Milord & Associates, PC

10517 West Pico Boulevard  
Los Angeles, CA 90064

For Citizen Enforcers:

Evan J. Smith  
Brodsky & Smith, LLC  
Two Bala Plaza, Suite 510  
Bala Cynwyd, PA 19004

Either 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.

9. COUNTERPARTS: 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.

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

Citizen Enforcers agree to comply with the reporting requirements referenced in Health & Safety Code § 25249.7(f).

11. MODIFICATION

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

12. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

13. AUTHORIZATION

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

**AGREED TO:**

**AGREED TO:**

Date: 1/29/20

Date: 1/29/2020

By: *Anthony Ferreiro*  
Anthony Ferreiro

By: *[Signature]*  
Ema Bell

**AGREED TO:**

Date: 01/21/2020

By: *[Signature]*  
Urban Expressions, Inc.  
*FABIO STANCOVICI PRES*

*[Handwritten mark]*