

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Alicia Chin and Shen Manufacturing Company, Inc. d/b/a John Ritzenthaler Company.

This Settlement Agreement is entered into by and between Alicia Chin ("Chin"), and Shen Manufacturing Company, Inc. d/b/a John Ritzenthaler Company ("Ritz"). Together, Chin and Ritz are collectively referred to as the "Parties".

Chin 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.

Chin alleges that Ritz employs ten or more individuals and is considered a person in the course of doing business or purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code § 25249.6, *et seq* ("Proposition 65")

1.2 General Allegations

Chin alleges that Ritz imported, manufactured, distributed for sale, shipped for sale, sold, and/or offered for sale in California 14" Black PVC Gloves (SKU # 0 75215 00056 5) (Item CLGLR24BK-1) ("Products/s") that contain Di(2-ethylhexyl)phthalate ("DEHP") without first providing the exposure warning required by Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer.

1.3 Notice of Violation(s)

On or about August 22, 2019, and September 4, 2019, Chin served A City Discount, Inc.; John Ritzenthaler Company (AKA Shen Manufacturing Company, Inc.) and certain requisite public enforcement agencies with a "60-Day Notice of Violation" ("Notice") alleging that A City Discount, Inc.; John Ritzenthaler Company (AKA Shen Manufacturing Company, Inc.) violated Proposition 65 by failing to warn its customers and consumers in California that the Product 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.

1.4 No Admission

The Parties enter in this Settlement Agreement as a full and final settlement of all claims that were raised in the Notice, or that could have been raised in the Notice, arising out of the facts and/or conduct alleged therein. Ritz denies the material, factual and legal allegations contained in the Notice, and maintains that it is not a person subject to Proposition 65, nor subject to personal jurisdiction in the State of California, and that all of the products it has imported, manufactured, distributed for sale, shipped for sale, sold, and/or offered for sale, including the Products, have been, and are, in compliance with all laws, and are completely safe for their intended use. Nothing in this Settlement Agreement shall be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law. This Settlement Agreement is the product of negotiation and compromise and is accepted by Ritz for purposes of settling, compromising, and resolving issues disputed in the Notice. This Section shall not, however, diminish or otherwise affect Ritz's obligations, responsibilities, and duties under this Settlement Agreement.

1.5 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean January 20, 2020.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulated Products


Commencing on the Effective Date, and continuing thereafter, Ritz agrees to only import, manufacture, distribute for sale, ship for sale, sell, and/or offer for sale in California (a) "Reformulated Products" or (b) Products with a clear and reasonable warning, as defined by the California Code of Regulations, Title 27, Div. 4, Chap. 1, Art. 6 (commencing at §25600). For purposes of this Settlement Agreement, "Reformulated Products" are Products containing DEHP in concentrations of less than 0.1 percent (1,000 parts per million) 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 DEHP content in a solid substance. By entering into this Settlement Agreement, the Parties do not intend to expand or restrict any obligations or responsibilities that may be imposed upon Ritz by laws other than Proposition 65, nor do the parties intend this Settlement Agreement to affect any defenses available to Ritz under such other laws.

2.2 Clear and Reasonable Warning

For purposes of this Settlement Agreement and commencing on the Effective Date, Ritz shall, for all Products it imports, manufactures, distributes for sale, ships for sale, sell, and/or offer for sale in California that are not Reformulated Products, provide clear and reasonable warnings as set forth in subsections 2.2(a) or (b) below. Ritz shall employ the use of the warning symbol, which consists of a black exclamation point in a yellow equilateral triangle¹ with a bold black outline, provided in subsection 2.2(a) below. The warning symbol must be placed to the left of the text of the warning in a size no smaller than the height of the word "WARNING". The warning shall be prominently placed 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 customer or user understands to which specific Released Products the warning applies, so as to minimize the risk of customer confusion.

(a)  **WARNING:** This product can expose you to DEHP, 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.

(b)  **WARNING:** Cancer and Reproductive Harm — www.P65Warnings.ca.gov.

¹ If the sign, label or shall tag for the product is not printed using the color yellow, the symbol may be provided in black and white.

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3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payments

Pursuant to Health & Safety Code § 25249.7(b), in settlement of all the claims referred to in this Settlement Agreement, Ritz shall pay a total of \$1,500 in civil penalties in accordance with this section. Each penalty payment will be allocated in accordance with Health and Safety Code § 25249.12(c)(1) and (d), with seventy-five percent (75%) to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining twenty-five (25%) to Chin.

Ritz shall issue two checks for its initial civil penalty payment. The civil penalty to be paid as follows:

(i) a check shall be delivered to "OEHHA" in the amount of \$1,125, at the address of "Mike Gyurics, Fiscal Operations Branch Chief, Office of Environmental Health Hazard Assessment, P.O. Box 4010, Sacramento, CA 95812-4010";

(ii) a check payable to Alicia Chin in the amount of \$375, at the address of "O'Neil Dennis, Esquire, 385 Grand Avenue, Suite 300, Oakland, California, 94610".

3.2 Reimbursement of Attorney's Fees and Costs

The parties acknowledge that Chin and her 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 this Settlement Agreement had been settled. Shortly after the other settlement terms had been finalized, Ritz expressed a desire to resolve Chin's fees and costs, including, but not limited to, attorneys' fees. The Parties then attempted to, and did, reach an accord on the compensation due to Chin and her counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure section 1021.5 for all work performed (and to be performed) through the mutual execution of this Settlement Agreement. On or before the Effective Date, Ritz shall pay \$8,500 for the fees and costs incurred by Chin in investigating, bringing

this matter to Ritz's attention, and negotiating a settlement in the public interest, inclusive of all fees and costs incurred (and yet to be incurred) negotiating, drafting, and obtaining any necessary approvals in the public interest. The payment shall be paid to "O'Neil Dennis" and delivered to:

O'Neil Dennis, Esq.
385 Grand Avenue, Suite 300
Oakland, CA 94610

4. **CLAIMS COVERED AND RELEASED**

4.1 Chin, acting on behalf of herself, hereby releases Ritz, its parents, subsidiaries, affiliated entities that are under common ownership, directors, officers, employees, attorneys, shareholders ("Releasees"), and any of its downstream distributors, wholesalers, customers, retailers (including but not limited to A City Discount, Inc.), franchisees, cooperative members, licensors, licensees, and any other person or entity to whom they directly or indirectly distribute or sell the Product(s) ("Downstream Releasees"), from any alleged or actual violation of Proposition 65 that has been asserted by Chin in the public interest in her Notice regarding the alleged failure to warn about exposure to DEHP in the Product(s) manufactured, sold and/or distributed by Ritz prior to the Effective Date, 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 Chin of any nature, character or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or actual exposures to DEHP in the Products sold or distributed for sale by Ritz before the Effective Date.

4.2 Chin, on behalf of herself, her past and current agents, representatives, attorneys, successors, and/or assigns, and in the interest of the general public, hereby waive all rights to institute or participate in, directly or indirectly, any form of legal action, and releases all claims, 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, fixed or contingent (collectively "Claims"), against Ritz, Releasees, and Downstream Releasees arising from any violation or alleged violation of Proposition 65 regarding the failure to warn about exposure to DEHP in Product(s) manufactured, sold or distributed prior to the Effective Date.

4.3 Chin's Individual Release of Claims

Chin, in her individual capacity only and *not* in her representative capacity, on behalf of herself, her past and current agents, representative, attorneys, successors, and/or assigns, also provides a general release to Ritz, Releasees, and Downstream Releasees, inclusive of A City Discount, Inc., 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 Chin of any nature, character or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or actual exposures to DEHP in the Products sold or distributed for sale by Ritz before the Effective Date. Chin acknowledges that she is familiar with Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Chin, in her individual capacity only and *not* in her representative capacity, expressly waives and relinquishes any and all rights which she may have under, or which may be conferred on her by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that she may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery of



existence of any such additional or different claims or facts arising out of the released matters.

4.4 Ritz's Release of Chin

Ritz, acting on behalf of itself and any of its downstream distributors, wholesalers, customers, retailers (including but not limited to A City Discount, Inc.), franchisees, cooperative members, licensors, licensees, and any other person or entity to whom they directly or indirectly distribute or sell the Product(s) ("Downstream Releasees") hereby releases Chin, her attorneys, and representatives ("Releasees"), from any and all actions taken or statements made by Chin and her attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

4.5 Ritz, acting on behalf of itself and any of its downstream distributors, wholesalers, customers, retailers (including but not limited to A City Discount, Inc.), franchisees, cooperative members, licensors, licensees, and any other person or entity to whom they directly or indirectly distribute or sell the Product(s) ("Downstream Releasees") also provides a general release to Chin, her representatives and attorneys, 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, and liabilities of any nature, character or kind, whether known or unknown, suspected or unsuspected, arising out of Chin's Proposition 65 enforcement action. Ritz acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Ritz, acting on behalf of itself and any of its downstream distributors, wholesalers, customers, retailers (including but not limited to A City Discount, Inc.), franchisees, cooperative members,



licensors, licensees, and any other person or entity to whom they directly or indirectly distribute or sell the Product(s) ("Downstream Releasees") expressly waives and relinquishes any and all rights which it may have under, or which may be conferred on her by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that she may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery of existence of any such additional or different claims or facts arising out of the released matters.

4.6 Ritz, on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against Chin and her attorneys and other representatives, for any and all actions taken or statements made by Chin and her attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or 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 remaining provisions 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, preempted, or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Ritz shall provide written notice to Chin 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.

7. **NOTICE**

Unless specified herein, all correspondence and notice required by this Settlement Agreement shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered, or certified mail, return receipt requested; or (iii) a recognized overnight courier to the following addresses:

For John Ritzenthaler Company:

Shen Manufacturing Company, Inc.
d/b/a John Ritzenthaler Company
Attn: Steve Siana, Esq
941 Pottstown Pike, Ste. 200
Chester Springs, PA 19425

For Chin:

O'Neil Dennis, Esq.
385 Grand Avenue, Suite 300
Oakland, CA 94610

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.

8. **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.

9. **POST EXECUTION ACTIVITIES**

Chin agrees to comply with the reporting form requirements referenced in Health and Safety Code § 25249.7(f).

10. **MODIFICATION**

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

11. **ENTIRE AGREEMENT**

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussion, negotiations,

commitments, or understandings related thereto, if any, are hereby merged herein. No supplementation, modification, waiver, or termination of this Settlement Agreement shall be binding unless executed in writing by the Parties to be bound thereby. No waiver of any of the provisions of this Settlement Agreement shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver unless set forth in writing between the Parties.

12. **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: 1/15/2020

Date: 1/16/2020

By: _____

Alicia Chin

By: _____

Shen Manufacturing Company, Inc. & John
Ritzenthaler Company