

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Audrey Donaldson (“Donaldson”) and Camco Manufacturing, Inc. (“Camco”), with Donaldson and Camco each individually referred to as a “Party” and collectively as the “Parties.” Donaldson is an individual residing in the State of California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. Donaldson alleges that Camco 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 General Allegations

Donaldson more specifically alleges that Camco manufactures, imports, distributes, sells, and/or offers for sale in California, certain brass RV water pressure regulators containing lead (“Lead”). Lead is listed pursuant to Proposition 65 as a chemical known to cause reproductive harm and cancer. Donaldson alleges that Camco failed to provide the health hazard warning required by Proposition 65 for exposures to Lead.

1.3 Product Description

The products covered by this Settlement Agreement are brass RV water pressure regulators containing lead including, but not limited to, *Camco RV Water Pressure Regulators, UPC 0 14717 40055 8*, manufactured, imported, and distributed for sale in California by Camco (hereinafter, “Covered Products”).

1.4 Notice of Violation

On March 6, 2020, Donaldson served Camco, its retailer Sportsman’s Warehouse Southwest, Inc. (“Sportsman’s Warehouse”), and the requisite public enforcement

agencies with a 60-Day Notice of Violation (“Notice”), alleging that Camco and Sportsman’s Warehouse violated Proposition 65 by failing to warn their customers and consumers in California of the health hazards associated with exposures to Lead from the Covered Products. No public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

Camco denies the material, factual, and legal allegations contained in the Notice and maintains that all the products that it has sold and distributed in California, including the Covered Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Camco of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Camco of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied. This Section shall not, however, diminish or otherwise affect Camco’s obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean June 1, 2020.


2. INJUNCTIVE RELIEF

2.1 Interim Relief. The parties are informed and believe that, on or about March 12, 2020, Sportsman’s Warehouse removed the Covered Products from its physical store shelves, pending receipt of Proposition 65 warnings from its supplier, and updated its website where the Covered Products were listed for sale, to include Proposition 65 warnings.


2.2 Warnings. No later than six (6) months after the Effective Date, Covered Products distributed for sale in California by Camco, including those distributed to

Sportsman's Warehouse, shall bear a clear and reasonable warning which shall consist of either the "Warning" or "Alternative Warning" appearing below.

2.2.1 Warning:

 **WARNING:** This product can expose you to chemicals including lead, 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.

2.2.2 Alternative Warning:

 **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

A "Warning" or "Alternative Warning" must have the word "**WARNING:**" appear in all capital letters and in bold font, followed by a colon. The warning symbol to the left of the word "**WARNING:**" must be a black exclamation point in a yellow equilateral triangle with a black outline, except that if the sign or label for the Covered Products does not use the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller than the height of the word "**WARNING:**". The warning shall be affixed to or printed on the Covered Products' packaging or labeling and displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use.

2.3 Covered Products manufactured, imported, distributed for sale, or otherwise in Camco's possession or inventory before the Effective Date shall be exempt from the warning requirements of Section 2.2.

2.4 The Parties agree and intend that compliance with the injunctive terms of this Settlement Agreement shall constitute compliance with Proposition 65 with respect to exposures to Lead from the Covered Products.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payment

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, Camco agrees to pay \$2,500 in civil penalties no later than fifteen (15) days after the Effective Date. 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 remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount paid to Donaldson and delivered to the address in Section 3.3 herein. Camco will provide its payment, no later than fifteen (15) days after the Effective Date, in two checks as follows: (1) “OEHHA” in the amount of \$1,875; and (2) “Audrey Donaldson” in the amount of \$625.

3.2 Attorneys’ Fees and Costs

The Parties acknowledge that Donaldson 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 the agreement had been settled. Shortly after the other settlement terms had been reached, Camco expressed a desire to resolve Donaldson’s fees and costs. The Parties reached an accord on the compensation due to Donaldson’s counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, no later than fifteen (15) days after the Effective Date, Camco agrees to pay \$17,500, in the form of a check made payable to “Voorhees & Bailey, LLP,” for all fees and costs incurred investigating, bringing this matter to the attention of Camco, and negotiating a settlement.

3.3 Payment Address

All payments under this Settlement Agreement shall be delivered to the following address:

Voorhees & Bailey, LLP
990 Amarillo Avenue
Palo Alto, CA 94303

4. CLAIMS COVERED AND RELEASED

4.1 Donaldson's Release of Proposition 65 Claims

Donaldson, in her individual capacity only, releases Camco, its directors, officers, agents employees, attorneys, and each entity to whom Camco directly or indirectly distributes or sells Covered Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers (including, but not limited to, Sportsman's Warehouse), franchisees, cooperative members, and licensees (collectively, "Releasees"), from all claims for violations of Proposition 65 based on unwarned exposures to Lead from the Covered Products, manufactured, imported, or otherwise distributed by Camco prior to the Effective Date. This release shall not extend upstream to any entity that manufactured or otherwise supplied the Covered Products to Camco.

4.2 Donaldson's Individual Release of Claims

Donaldson, in her individual capacity only, provides a 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 Donaldson of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of alleged or actual exposures to Lead from the Covered Products, manufactured, imported, or otherwise distributed by Camco prior to the Effective Date. This release shall not extend upstream to any entity that manufactured or otherwise supplied the Covered Products to Camco.

4.3 Camco's Release of Donaldson

Camco, on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Donaldson and her attorneys and other representatives, for any and all actions taken or statements made by Donaldson and her attorneys and other representatives, whether in the course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with respect to the Covered Products.

5. 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.

6. GOVERNING LAW

This Settlement Agreement applies within the State of California, shall be governed by the laws of the State of California, and is subject to any California judgment resolving Proposition 65 claims to which Camco is a party. In the event that Proposition 65 is repealed or the Settlement Agreement is otherwise rendered inapplicable by reason of law generally, or as to the Covered Products, then Camco may provide written notice to Donaldson 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 Covered Products are so affected.

7. NOTICE

Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (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 Camco:

Jeff Russell
Camco Manufacturing, Inc.
121 Landmark Drive
Greensboro, NC 27409

For Donaldson:

Voorhees & Bailey, LLP
Proposition 65 Coordinator
990 Amarillo Avenue
Palo Alto, CA 94303

and

Samir J. Abdelnour
Hanson Bridgett LLP
1676 N. California Blvd., Suite 620
Walnut Creek, CA 94596

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

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

10. MODIFICATION

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

11. 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:

Dated:

Dated: 6/1/20

By: _____
AUDREY DONALDSON

By:  _____
CAMCO MANUFACTURING, INC.
JEFF RUSSELL

11. 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:

Dated: 6-2-20

Dated:

By: 

AUDREY DONALDSON

By: _____
CAMCO MANUFACTURING, INC.