

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement And Mutual Release Of Claims (“Settlement Agreement”) is entered into by and between Gabriel Espinoza (“Espinoza”), Anthony Ferreiro (“Ferreiro”) (collectively, “Enforcers”) and Bauer Hockey, LLC (“Bauer”) and Cascade Maverik Lacrosse, LLC (“Cascade Maverik” and together with Bauer, the “Companies”) of June 4, 2021 (“Settlement Agreement Date”). Together, Enforcers and the Companies are collectively referred to as the “Parties.” Enforcers are both individuals who 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. Enforcers allege that the Companies are 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. Enforcers allege that individuals have been exposed in concentrations exceeding applicable Proposition 65 levels to the chemicals di(2-ethylhexyl) phthalate (DEHP) and Bisphenol A (BPA) without such individuals first being provided with a clear and reasonable warning, as is required pursuant to Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer. BPA and DEHP are listed under Proposition 65 as chemicals known to the State of California to cause reproductive toxicity.

1.3 Product Description. The products covered by this Settlement Agreement are (a) Bauer branded hockey bags, (b) Cascade branded shields/masks/guards and (c) Maverik branded lacrosse bags (collectively, the “Products”). Enforcers allege that the Products have been imported, distributed, offered for sale and/or sold in California within the one year statute of limitations period applicable to the Notices, as defined in § 1.4.

1.4 Notices of Violation. On or about December 4, 2020, Espinoza served a “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “Espinoza Notice”). On or about February 3, 2021 and on or about February 16, 2021, Ferreiro served, respectively, a “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “Ferreiro Notices”). The

Espinoza Notice and Ferreiro Notices are collectively referred to herein as the "Notices." All of the Notices named Bauer Hockey, LLC, as well as, variously, other entities ("Named Entities"), as set forth in § 5.1. The Notices provided Bauer and others, including public enforcers, with notice that the Companies allegedly had violated California Health & Safety Code § 25249.6, by failing to provide a required warning, as set forth in § 1.2. No public enforcer has diligently prosecuted the allegations set forth in the Notices.

1.5 No Admission. The Companies deny the material factual and legal allegations contained in the Notices. Nothing in this Settlement Agreement shall be construed as an admission by the Companies or any other party, including the Named Entities, 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 of any fact, finding, conclusion, issue of law or alleged violation of law, such being specifically denied. However, this § 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties incumbent upon the Companies under this Settlement Agreement.

1.6 Effective Date. For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date the last payment has been made under this Agreement.

2. INJUNCTIVE RELIEF; REFORMULATION AND/OR WARNINGS

2.1 Reformulation of Products. As of the Effective Date, and continuing thereafter, Products that Bauer or Cascade Maverik ("the Companies"), as applicable, directly manufacture, import, distribute, sell, or offer for sale in California shall either: (a) be Reformulated Products pursuant to § 2.2, below; or (b) be labeled with a *clear and reasonable warning* pursuant to §§ 2.3 and 2.4, below. For purposes of this Settlement Agreement, "Reformulated Products" are Products that are 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.

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, and Products that contain concentrations of BPA that will result in an exposure of less than 3 micrograms per day (dermal exposure from solid materials) when analyzed pursuant an applicable and appropriate methodology utilized by federal or state government agencies for the purpose of determining the BPA content in a solid substance.

2.3 Clear and Reasonable Warning. As of the Effective Date, and continuing thereafter, a clear and reasonable warning as set forth in this §§ 2.3 and 2.4 must be provided for all Products; provided, however, that the foregoing shall not apply to Products that entered the stream of commerce prior to the Effective Date, have been reformulated as described in Section 2.2. or do not require a warning.

For Products that include DEHP, the warning shall consist of either the **DEHP Warning** or **DEHP Alternative Warning** described in §§ 2.3(a) or (b), respectively:

(a) **DEHP 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.

(b) **DEHP Alternative Warning:** Bauer or Cascade Maverk may, but are 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.

For Products that include BPA, the warning shall consist of either of the following warnings:

(c) **⚠ WARNING:** This product contains a chemical known to the State of California to cause [cancer,] birth defects or other reproductive harm.

(d) **⚠ WARNING:** This product can expose you to chemicals including Bisphenol A (BPA), 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.

2.4 A Warning or Alternative Warning provided pursuant to § 2.3 must print the word “**WARNING:**” 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 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 Products' packaging or labeling, or on a placard, shelf tag, sign or electronic device or automatic process, providing that the warning is 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. The warning may be contained in the same section of the packaging, labeling, or instruction booklet that states other safety warnings, if any, concerning the use of the Products and shall be at least the same size as those other safety warnings.

If the Companies sell Products via an internet website directly to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning is provided either via on a clearly marked hyperlink using the word "WARNING" on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. If the warning is provided using the short-form warning label content pursuant to Section 25602(a)(4), the warning provided on the website may use the same content. For purposes of this subarticle, a warning is not prominently displayed if the purchaser must search for it in the general content of the website. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately following the display, description, price, or checkout listing of the Products, if the warning statement appears elsewhere on the same web page in a manner that reasonably associates it with the product(s) as to which the warning is being provided.

2.5 Compliance with Warning Regulations. The Parties agree that the Companies 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") 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, the Companies shall pay \$3,000.00 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 Penalty remitted to OEHHA and the remaining 25% of the Penalty remitted to Enforcers. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

3.1 Civil Penalty. Within thirty (30) after the Settlement Agreement Date, Bauer shall issue separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$2,250.00; and to (b) "Brodsky & Smith, LLC in Trust for Espinoza and Ferreiro" in the amount of \$750.00. 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 Enforcers, pursuant to § 3.1 shall be delivered to the following payment address:

Evan J. Smith, Esquire
Brodsky & Smith, LLC
Two Bala Plaza, Suite 805
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. The Companies agree to provide Enforcers' counsel with a copy of the checks payable to OEHHA, simultaneous with its penalty payments

to Enforcers, to be delivered to the address provided in § 3.2(a)(i), as proof of payment to OEHHA.

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

(i) “Gabriel Espinoza” whose address and tax identification number shall be provided within five (5) days after this Settlement Agreement is fully executed by the Parties;

(ii) “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;

(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 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 the Enforcers. The Parties thereafter reached an accord on the compensation due to 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, the Companies shall reimburse Enforcers’ counsel for fees and costs incurred as a result of investigating and bringing this matter to the Companies’ attention, and negotiating a settlement in the public interest. Within thirty (30) after the Settlement Agreement Date Bauer shall issue a check payable to “Brodsky & Smith, LLC” in the amount of \$25,500.00 for delivery to the address identified in § 3.2(a)(i), above.

5. RELEASE OF ALL CLAIMS

5.1 Release of Bauer, Cascade Maverik and Upstream Suppliers And Other Entities And Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution between Enforcers, acting on their own behalf, and Bauer and Cascade Maverik, of any violation of Proposition 65 that was or could have been asserted by Enforcers or on behalf of their past and current agents, representatives, attorneys, successors, and/or assigns (“Releasers”) for the alleged failure to provide warnings for exposures to DEHP and/or BPA under Proposition 65 respecting the Products, and Releasers shall and hereby do as of the Settlement Agreement Date release any such claims against Bauer and Cascade Maverik and their respective parents, subsidiaries, affiliated entities, shareholders, marketplaces, suppliers, directors, officers, agents, employees, attorneys, successors and assignees, and each entity to whom Bauer or Cascade Maverik directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, and their respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the “Releasees”), including, without limitation, the entities that were formally issued by Brodsky & Smith, LLC, one or more of the three Notices issued between December 2020 and February 2021 that are referenced in greater detail in § 1.4, which entities named in the Notices included Bauer Hockey, LLC, Bauer Nike Hockey, Inc., TSG Enterprises, LLC, TSG Enterprises, LLC t/a Pure Hockey, MonkeySports, Inc., MonkeySports CA, Inc., Bauer Performance Lacrosse, Inc., Cascade Maverik Lacrosse, LLC, Bob Perani Sport Shops, Inc., Bob Perani Sport Shops, Inc., dba Perani’s Hockey World, Bauer Hockey, LLC, dba Maverik Lacrosse (the “Named Entities”), from all claims for violations of Proposition 65 through the Effective Date relating to the Products.

5.2 The Companies’ Release of Enforcers. The Companies, on behalf of themselves, their respective past and current agents, representatives, attorneys, successors and/or assignees, hereby waive and release any and all claims against Enforcers, their attorneys and other representatives, for any and all actions taken or statements made by 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. Notwithstanding the foregoing, the Companies are not relying on any such actions or statements of which it is aware as of the Settlement Agreement Date and, furthermore, this Settlement Agreement embodies all of the obligations and all of the rights of the Parties with respect to the Notices and any associated conduct of which the Companies are aware as of the Settlement Agreement Date, including statements by counsel for Enforcers that would be encompassed within the litigation or any other privilege recognized under California law.

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 Notices and relating to the Products will develop or be discovered. Enforcers, on behalf of themselves only, on one hand, and the Companies, 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.

Enforcers and the Companies each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

5.4 Deemed Compliance with Proposition 65. The Parties agree that compliance by the Companies with this Settlement Agreement constitutes compliance with Proposition 65 with respect to alleged exposure(s) to DEHP and/or BPA arising from the Products.

5.5 Public Benefit. It is alleged that the commitments contained herein, and the actions to be taken under this Settlement Agreement, absent default hereunder, 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 the Parties that to the extent any other private party initiates an

action alleging a violation of Proposition 65 with respect to failure to provide a warning concerning exposure to DEHP and/or BPA prior to sale of the Products, such private party action would not confer a significant benefit on the general public as to those Products addressed in 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. This Settlement Agreement is subject to the changes in the laws or regulations or case law pertaining to Proposition 65.

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, without giving effect to its conflict of laws jurisprudence. 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, Bauer shall provide written notice to 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, Products are 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, provided, however, that email notice shall be provided promptly to the other Party contemporaneous with the service of such correspondence and notices, as specified in subsections (i) and (ii) immediately above, but shall not constitute formal notice:

For Bauer and Cascade Maverik:

Richard J. McNeil

Crowell & Moring LLP
3 Park Plaza, 20th Floor
Irvine, CA 92614
rmcneil@crowell.com

For Enforcers:

Evan J. Smith
Brodsky & Smith, LLC
Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004
esmith@brodskysmith.com

Either party, from time to time, may specify in writing to the other party a change as to which all notices and other communications shall be sent, which shall become effective within two (2) days of the providing of such change.

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)

Enforcers agree to undertake and comply with the reporting requirements referenced in Health & Safety Code § 25249.7(f). Enforcers shall first send a copy of the report they intend to counsel for Bauer and Cascade Maverik for his review and comment.

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties or *their successor or assigns*.

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.

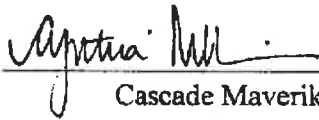
AGREED TO:

AGREED TO:

Date: _____

Date: June 3, 2021

By: _____
Gabriel Espinoza

By: 
Cascade Maverik Lacrosse, LLC

Date: June 3, 2021

By: 
Bauer Hockey, LLC

AGREED TO:

Date: _____

By: _____
Anthony Ferreiro

Date: _____

Date: _____

By: _____
Gabriel Espinoza

By: _____
Cascade Maverik Lacrosse, LLC

: _____

Date: _____

By: _____
Bauer Hockey, LLC

AGREED TO:

Date: 6/16/2021

By: Anthony Ferreira
Anthony Ferreira

Date: 6/16/2021

Date: _____

By:  _____
Gabriel Espinoza

By: _____
Cascade Maverik Lacrosse, LLC

Date: _____

By: _____
Bauer Hockey, LLC

AGREED TO:

Date: _____

By: _____
Anthony Ferreiro