

SETTLEMENT AGREEMENT
BETWEEN
CONSUMER ADVOCACY GROUP, INC.
AND
DND FASHION, INC.

Consumer Advocacy Group, Inc., (“CAG”) and DND Fashion, Inc., a California corporation (hereto referred to as “DND”), (CAG and DND collectively referred to as, the “Parties”) enter into this agreement (“Settlement Agreement”) for the purpose of avoiding prolonged and costly litigation to settle CAG’s allegations that DND violated Proposition 65. The effective date of this Settlement Agreement shall be the date of the latest signature of all the Parties hereto (the “Effective Date”).

1.0 Introduction

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 DND previously sold, at various times, Women’s High Heel Strappy Shoes (referred to throughout as the “Covered Products”), including but not limited to: Silver High Heeled Strappy Shoes; "Bella Marie ®"; "Jean-08-J"; "Silver Lucite FU"; "8/1/2"; " 044 D5201 C941"; "SKU 400220483186". The Covered Products are limited to those sold or distributed for sale by DND only.

1.3 CAG alleges that Covered Products contain Di (2-ethylhexyl) phthalate (“DEHP”), also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl)

phthalate, and that DND did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code* § 25249.5, *et seq.* (“Proposition 65”)).

1.4 On January 1, 1988, the Governor of California added DEHP to the list of chemicals known to the State to cause cancer, and on October 24, 2003, the Governor added DEHP to the list of chemicals known to the State to cause developmental male reproductive toxicity. These additions took place more than twenty (20) months before CAG served its “Sixty-Day Notice of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” which is further described below.

1.5 DEHP is referred to hereafter as the “Listed Chemical”.

1.6 On or about February 25, 2021, (Attorney General Notice # 2021-00515), CAG served DND Fashion Inc., Bella Marie, dd's Discounts, Ross Stores, Inc. dba dd's Discounts, Ross Stores, Inc., and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Covered Products containing the Listed Chemical (referred to as the “Notice”).

1.7 The Notice alleged that DND and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of Covered Products exposes persons to the Listed Chemical.

1.8 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties’ and the

Covered Products' compliance with Proposition 65 as described in the Notice (the "Dispute").

1.9 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by DND, its officers, directors, employees, or parents, subsidiaries or affiliated corporations or any other Released Parties (defined below), in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or DND may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

2.0 Release

This Settlement Agreement is a full, final, and binding resolution between CAG, acting in its individual capacity, on the one hand, and (a) DND, (b) DND's owners, parents, subsidiaries, affiliates, sister and related companies, divisions, employees, shareholders, officers, directors, insurers, attorneys, predecessors,

successors, agents, and assigns, including but not limited to Bella Marie (collectively “Affiliates”) and (c) all entities and persons to whom DND and/or any Affiliates directly or indirectly provide, distribute, or sell the Covered Products, including but not limited to distributors, wholesalers, customers, retailers (including, but not limited to: Ross Stores, Inc., dd's Discounts, and each of their respective parents, subsidiaries, and affiliated entities; Burlington Stores, Inc., and its parents, subsidiaries, and affiliated entities), franchisees, cooperative members, ecommerce platforms, online marketplaces, and licensees (collectively, “Downstream Releasees”), on the other hand, of any violation(s) or claimed violation(s) of Proposition 65 or any statutory or common law claim that has been, could have been or may in the future be asserted against DND, the Affiliates, and the Downstream Releasees (collectively, the “Released Parties”), or any of them, regarding exposing persons to the Listed Chemical and/or the failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Products manufactured, shipped, sold, purchased, offered for sale, and/or otherwise distributed on or prior to the Effective Date, even if sold by any Downstream Releasees after the Effective Date provided such Covered Products were purchased from DND, and including, but not limited to, the Notice and the Dispute.

CAG, on behalf of itself and its past and current agents, officers, directors, employees, contractors, consultants, experts, representatives, representatives, attorneys, subsidiaries, affiliates, sister and related companies, successors, and assignees, hereby unconditionally, irrevocably, and absolutely waives, releases,

and discharges the Released Parties from any and all rights to institute or participate in, directly or indirectly, any form of legal action, including, without limitation, all claims, notices of violation, 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) (collectively "Claims"), whether known or unknown, suspected or unsuspected, that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted with respect to any Covered Products manufactured, shipped, sold, purchased, offered for sale, and/or otherwise distributed on or prior to the Effective Date, even if sold by any Downstream Releasees after the Effective Date provided such Covered Products were purchased from DND, only to the extent that such Claims relate to alleged exposure of persons to the Listed Chemical contained in the Covered Products, or any failure by any of the Released Parties to warn about exposures to the Listed Chemical contained in the Covered Products. The foregoing release includes, without limitation, all Claims arising from or relating to the Notice and/or the Dispute.

CAG acknowledges that it is familiar with Section 1542 of 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.


CAG, on behalf of itself and its past and current agents, officers, directors, employees, contractors, consultants, experts, representatives, representatives, attorneys, subsidiaries, affiliates, sister and related companies, successors, and assignees, hereby expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. The release in this section shall have no force or effect until the full Settlement Amount set forth in Section 4.0 below is paid in full.

3.0 DND's Duties

3.1 DND agrees, promises, and represents that DND shall reformulate any Covered Products manufactured after the Effective Date and offered for sale in California to a point where the level DEHP in the Covered Products does not exceed 0.1% by weight.

3.2 DND agrees, promises, and represents that, as of the Effective Date, to the extent it ships or sells any Covered Products in existing inventory that have not been reformulated, it will provide warnings on such Covered Products that comply with Proposition 65. The warnings shall be provided in such a conspicuous and prominent manner that will assure the message is made available

and likely to be read, seen, or heard by the consumer prior to or at the time of the sale or purchase. The Parties agree that product labeling stating that:

 **WARNING:** This product can expose you to chemicals including Di(2-ethylhexyl) phthalate (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.

shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products for any Covered Products in existing inventory that had not been reformulated and were distributed and/or sold by any of the Released Parties after the Effective Date. Where DND uses a label for the Covered Product in existing inventory, that exceeds 0.1% of DEHP includes consumer information as defined by California Code of Regulations title 27 §25600.1(c) in a language other than English, the warning must also be provided in that language in addition to English. Should DND sell or distribute any Covered Products in existing inventory, that exceeds 0.1% of DEHP, through the internet the warning will be posted in the manner provided for with respect to internet sales, as provided for in 27 CCR section 25602(b), as may be subsequently amended. Notwithstanding anything to the contrary in this Settlement Agreement, in the event that the state of California or any of its agencies, offices, or departments, including but not limited to, Office of Environmental Health Hazard Assessment, promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth in this Settlement Agreement, the Released Parties, or any of them,

shall be entitled to use, at their discretion, such other warning text and/or method of transmission without being deemed in breach of this Settlement Agreement.

4.0 Payments

4.1 By October 6, 2023, DND agrees to pay a total of eighty thousand dollars (\$80,000.00; “Settlement Amount”) by separate checks apportioned as follows:

4.1.1 Penalty: DND shall issue two separate checks for a total amount of twelve thousand dollars (\$12,000) as follows: (a) one check made payable to the State of California’s Office of Environmental Health Hazard Assessment (OEHHA) in the amount of nine thousand dollars (\$9,000.00), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of three thousand dollars (\$3,000.00), representing 25% of the total penalty. OEHHA’s check shall be delivered to:

Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010
Attn: Mike Gyurics

or, for non-USPS delivery, to:

Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814
Attn: Mike Gyurics.

CAG’s check shall be delivered to:

Yeroushalmi & Yeroushalmi
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, California 90212
Attn: Reuben Yeroushalmi.

Additionally, two separate 1099s shall be issued for the above payments:
The first 1099 shall be issued to OEHHA, P.O. Box 4010 Sacramento, CA 95812-4010, Attn: Mike Gyurics (EIN: 68-0284486) in the amount of \$9,000. The second 1099 shall be issued in the amount of \$3,000 to CAG and delivered to Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, CA 90212. By the Effective Date, CAG shall provide DND with its completed and signed W-9 form.

4.1.2 Attorneys' Fees and Costs: sixty-eight thousand dollars (\$68,000.00) of the Settlement Amount shall be paid to Yeroushalmi & Yeroushalmi, as CAG's attorneys, for reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to DND's attention. The check shall be delivered to: Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. By the Effective Date, Yeroushalmi & Yeroushalmi shall provide DND with its completed and signed W-9 form. Except as expressly set forth in this Section 4.1.2, each Party shall bear its respective costs, fees, and attorney's fees with respect to the Notice, the Dispute, this Settlement Agreement, and all matters therein.

5.0 Authority to Enter Into Settlement Agreement

5.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind CAG to this Settlement Agreement.

5.2 DND represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind DND to this Settlement Agreement.

6.0 Report of the Settlement Agreement to the Office of the Attorney General Of California

6.1 CAG shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Effective Date.

7.0 Execution in Counterparts and Facsimile

7.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

8.0 Modification of Settlement Agreement

8.1 Any modification to this Settlement Agreement shall be in writing and signed by the Parties.

9.0 Application of Settlement Agreement

9.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, CAG and DND, the Affiliates, and the Downstream Releasees identified in Section 2 above.

10.0 Enforcement of Settlement Agreement

10.1 Notwithstanding the above, CAG may bring an action to enforce any breach of the monetary settlement terms in Section 4.0, above, upon five (5) days' prior written notice by CAG to DND of the alleged breach in accordance with the notification requirements set forth in Section 11.0, below. In case of any

enforcement action, the prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement.

11.0 Notification Requirements

11.1 Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi, Esq.
YEROUSHALMI & YEROUSHALMI
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212

For DND:

DND Fashion, Inc.
15841 Euclid Ave.
Chino, CA 91708
Attn: George Yang

Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.

13.0 Severability

13.1 If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

14.0 Governing Law

14.1 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 Listed Chemical and/or the Covered Products, then DND shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: _____ By: _____
Printed Name: _____
Title: _____

DND FASHION, INC.

Dated: 10/3/2023 | 8:44 PM PDT _____
By:  _____
Printed Name: George Yang
Title: CEO

Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Products, then DND shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 10/4/2023 By: *Michael Marcus*
Printed Name: Michael Marcus
Title: Director

DND FASHION, INC.

Dated: _____ By: _____
Printed Name: _____
Title: _____