

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Dennis Johnson (“Johnson”) and Audrey Kallander (nee Donaldson) (“Kallander”) (Johnson and Kallander shall hereinafter be collectively referred to as “Citizen Enforcers”) on the one hand, and UMA Enterprises, Inc. (“UMA”) on the other hand, with Citizen Enforcers and UMA each individually referred to as a “Party” and collectively as the “Parties.” Citizen Enforcers are individuals residing in the State of California who seek to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. Citizen Enforcers allege that UMA 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

Citizen Enforcers allege that UMA manufactures, sells, and distributes for sale in California metal and glass jewelry boxes containing lead and metal and glass lanterns containing lead. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects and other reproductive harm. The Citizen Enforcers allege that UMA 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 specifically defined as, and limited to,: (i) *Metal Framed with Glass Jewelry Box; UPC: 7 58647 54288 8; (ii) , Item No.: 2032670; (ii) CosmoLiving Metal and Glass Jewelry Box; UPC: 7 58647 54288 8; (iii) Metal and Glass Handcrafted in India Jewelry Box; UPC: 7 58647 54288 8; (iv) Macy’s Backstage Metal and Glass Jewelry Box; UPC: 4 92614 97426 4; and (v) Home Depot Metal & Glass Lantern S/2 Small; UPC: 7 58647 79102 6*, that are

manufactured, sold, or distributed for sale in California by UMA (hereinafter referred to collectively as “Products”).

1.4 Notices of Violation

On October 22, 2021, Kallander served Tuesday Morning, Inc. and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from the noticed product. UMA was subsequently identified as the manufacturer/supplier of the noticed product.

On May 16, 2022, Kallander served New Home Depot Product Authority, LLC and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from the noticed product. UMA was subsequently identified as the manufacturer/supplier of the noticed product.

On June 29, 2022, Johnson served Macy’s Backstage, Inc. and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from the noticed product. UMA was subsequently identified as the manufacturer/supplier of the noticed product.

On August 10, 2022, Johnson served Nordstrom, Inc. and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from the noticed product. UMA was subsequently identified as the manufacturer/supplier of the noticed product.

On September 30, 2022, Johnson served Hearst Communications, Inc., Living Spaces Furniture, LLC and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from the noticed product. UMA was subsequently identified as the manufacturer/supplier of the noticed product.

On April 21, 2023, Johnson served UMA and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that the notice recipients violated Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from Metal and Glass Jewelry Boxes.

On April 21, 2023, Kallander served UMA and the requisite public enforcement agencies with 60-Day Notices of Violation, alleging that the notice recipients violated Proposition 65 when they failed to warn their customers and consumers in California of the health hazards associated with exposures to lead from Metal and Glass Jewelry Boxes and Metal and Glass Lanterns.

The October 22, 2021 Notice, May 16, 2022 Notice, June 29, 2022 Notice, August 10, 2022 Notice, September 30, 2022 Notice, and the April 21, 2023 Notices shall collectively be referred to hereinafter as the “Notices.” No public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notices.

1.5 No Admission

UMA denies the material, factual, and legal allegations contained in the Notices and maintains that all of the products that it has 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 UMA 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 UMA of any fact, finding,

conclusion, issue of law, or violation of law, such being specifically denied by UMA. This Section shall not, however, diminish or otherwise affect UMA'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 July 5, 2023.

2. INJUNCTIVE RELIEF

2.1 Reformulation Standards

"Reformulated Products" are defined as those Products that: (a) contain no more than 90 parts per million ("ppm") lead in any accessible component of the Products when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3050B or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance; and (b) yield no more than 1.0 microgram of lead on any surface sampled and analyzed pursuant to the NIOSH 9100 testing protocol.


2.2 Reformulation/Warning Commitment

As of the Effective Date, UMA shall not manufacture, import, distribute, sell or offer the Products for sale in the State of California unless they are Reformulated Products pursuant to Section 2.1 or bear a warning pursuant to Section 2.3.

2.3 Warnings


By 60 days after the Effective Date, all Products UMA sells and/or distributes for sale in California that do not qualify as Reformulated Products, shall bear a clear and reasonable warning pursuant to this Section. UMA further agrees that the warning will be prominently placed with such conspicuousness when 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 of purchase or use. For purposes of this

Consent Judgment, a clear and reasonable warning for the Products shall contain one of the following statements:

 **WARNING:** Cancer and Reproductive Harm-

www.P65Warnings.ca.gov

OR

 **WARNING:** This product can expose you to chemicals including lead, which are known to the State of California to cause cancer and birth defects and other reproductive harm. For more information go to www.P65Warnings.ca.gov.

The above warning statements shall also include a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the label is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word “WARNING.”

If UMA sells Products via its own proprietary internet website to customers located in California, the warning requirements of this section shall be satisfied if the foregoing warning appears either: (a) on the same web page on which a Product is displayed and/or described; (b) on the same page as the price for the Product; (c) on one or more web pages displayed to a California purchaser prior to completion of the checkout process. 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 Product, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the warning applies.

The parties acknowledge that the warnings required by this section are not the exclusive methods of providing Proposition 65 warnings and agree that UMA may utilize “safe harbor” warning language and methods of transmission promulgated by the Office

of Environmental Health Hazard Assessment without being deemed in breach of this Settlement Agreement.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payment

Pursuant to Health and Safety Code section 25249.7(b)(2), and as consideration for the releases contained in Sections 4.1 and 4.2 below, UMA agrees to pay \$4,000 in civil penalties no later than 25 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 Citizen Enforcers and delivered to the address in Section 3.3 herein. UMA will provide its payment in three checks as follows: (1) “OEHHA” in the amount of \$3,000; (2) “Dennis Johnson” in the amount of \$500; and (3) “Audrey Kallander” in the amount of \$500.

3.2 Attorneys’ Fees and Costs

The Parties acknowledge that Johnson and his 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, UMA expressed a desire to resolve Johnson’s fees and costs. The Parties reached an accord on the compensation due to Johnson’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, within 25 days of the Effective Date, UMA agrees to pay \$24,000, 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 UMA’s management, 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 Citizen Enforcers' Release of Proposition 65 Claims

Citizen Enforcers acting on their own behalf, and not on behalf of the public, release UMA, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents employees, attorneys, and each entity to whom UMA directly or indirectly distributes or sells Products, including, but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees (collectively, "Releasees"), from all claims for violations of Proposition 65 through the Effective Date based on unwarned exposures to lead in the Products. The Parties further understand and agree that this Section 4.1 release shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to UMA.

4.2 Citizen Enforcers' Individual Release of Claims

Citizen Enforcers, in their individual capacities only and not in their representative capacity, provide 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 Citizen Enforcers 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 in the Products manufactured, imported, distributed, or sold by UMA prior to the Effective Date. The Parties further understand and agree that this Section 4.2 release shall not

extend upstream to any entities that manufactured the Products, or any component parts thereof, or any distributors or suppliers who sold the Products, or any component parts thereof to UMA. Nothing in this Section affects Citizen Enforcers' right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve UMA's Products.

4.3 UMA's Release of Citizen Enforcers

UMA, 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 Citizen Enforcers and their attorneys and other representatives, for any and all actions taken, or statements made by Citizen Enforcers and their 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 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

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 or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then UMA may provide written notice to Citizen Enforcers 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 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 UMA:

Brian M. Ledger
Gordon & Rees Scully Mansukhani
101 W. Broadway; Suite 2000
San Diego, CA 92101

For Citizen Enforcers:

Dennis Johnson
Audrey Kallander
c/o Voorhees & Bailey, LLP
535 Ramona Street; Suite 5
Palo Alto, CA 94301

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)

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

10. MODIFICATION

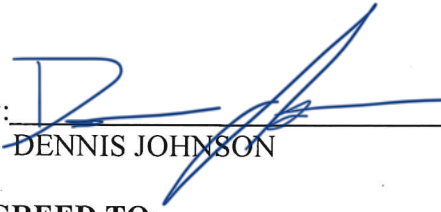
This Settlement Agreement may be modified only by written agreement of the Parties.

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:

Date: 7/6/2023

By: 
DENNIS JOHNSON

AGREED TO:

Date: 7/5/23

By: 
UMA ENTERPRISES, INC.

AGREED TO:

Date: _____

By: _____
AUDREY KALLANDER

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:

Date: _____

By: _____
DENNIS JOHNSON

AGREED TO:

Date: 7/5/23

By:  _____
UMA ENTERPRISES, INC.

AGREED TO:

Date: July 6, 2023

By:  _____
AUDREY KALLANDER