

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement is entered into by and between Precila Balabbo (“Balabbo”) and Spikes & Sparrow Overseas BV (“Spikes & Sparrow”). Together, Balabbo and Spikes & Sparrow are collectively referred to as the “Parties.” Balabbo is an individual who resides in the State of California, and seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Balabbo alleges that Spikes & Sparrow is 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. Balabbo alleges that Spikes & Sparrow has exposed individuals to chromium (hexavalent compounds) (“CrVI”) from its sales of (a) Spikes & Sparrow leather satchels, style A2/A4 SP-1113-YU-47, and (b) Spikes & Sparrow genuine leather wallets, style A3/A5 SP-1154-AZ-47 without first providing users and consumers of the product with a clear and reasonable health hazard exposure warning as required pursuant to Proposition 65. CrVI is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.

1.3 Product Description. The products covered by this Settlement Agreement are (a) Spikes & Sparrow leather satchels, including but not limited to, style A2/A4 SP-1113-YU-47, and (b) Spikes & Sparrow genuine leather wallets, including but not limited to, style A3/A5 SP-1154-AZ-47 (collectively, the “Products”) that have been manufactured by Spikes & Sparrow and imported, distributed, offered for sale and/or sold in California.

1.4 Notices of Violation. On August 25, 2023, Balabbo served The TJX Companies, Inc. (“TJX”), Spikes & Sparrow (incorrectly named as “Spikes & Sparrow”), Vecktis International B.V. LLC, and various public enforcement agencies with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “First August Notice”). The First August Notice provided Spikes & Sparrow and such others, including public enforcers, with notice that



alleged that Spikes & Sparrow was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of the Spikes & Sparrow leather satchels, style A2/A4 SP-1113-YU-47 will expose them to CrVI. No public enforcer has diligently prosecuted the allegations set forth in the First August Notice.

On August 31, 2023, Balabbo served TJX, Spikes & Sparrow (incorrectly named as “Spikes & Sparrow”), Vecktis International B.V. LLC, and various public enforcement agencies with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “Second August Notice”). The Second August Notice provided Spikes & Sparrow and such others, including public enforcers, with notice that alleged that Spikes & Sparrow was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of Spikes & Sparrow genuine leather wallets, style A3/A5 SP-1154-AZ-47 will expose them to CrVI. No public enforcer has diligently prosecuted the allegations set forth in the Second August Notice.

The First August Notice and the Second August Notice are collectively referred to herein as, the “Notices.”

1.5 No Admission. Spikes & Sparrow denies the material factual and legal allegations contained in the Notices and maintains that, to the best of its knowledge, all products that are or have been 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 Spikes & Sparrow 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 by Spikes & Sparrow of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Spikes & Sparrow. However, this § 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notices, Spikes & Sparrow maintains that it has not knowingly manufactured, or caused to be manufactured, the Products for sale in California in violation of Proposition 65.




1.6 **Effective Date.** For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Agreement is last executed by the Parties.

2. **INJUNCTIVE RELIEF: WARNINGS**

2.1 **Clear and Reasonable Warning.** Commencing within ninety (90) days after the Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 2.1 and 2.2 must be provided for all Products that Spikes & Sparrow manufacturers, imports, distributes, sells, or offers for sale in California. There shall be no obligation for Spikes & Sparrow to provide an exposure warning for Products that entered the stream of commerce within 90 days after the Effective Date. The warning shall consist of either the **Warning** or **Alternative Warning** described in §§ 2.1(a) or (b), respectively:

(a) **Warning:**

 **WARNING:** This product can expose you to chemicals including chromium (hexavalent compounds), 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) **Alternative Warning:**  **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

2.2 A **Warning** or **Alternative Warning** provided pursuant to § 2.1 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** or **Alternative 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, provided that the **Warning** or **Alternative 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** or **Alternative Warning** may be contained in the same section of the packaging, labeling, or instruction booklet that states other safety warnings or consumer information, if any, concerning the use of the

Product and shall be at least the same size as those other safety warnings. If “consumer information,” as that term is defined in Title 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, is provided in a foreign language, Spikes & Sparrow shall provide the **Warning** or **Alternative Warning** in the foreign language in accordance with applicable warning regulations adopted by the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”).

In addition to affixing the **Warning** or **Alternative Warning** to the Product’s packaging or labeling, the **Warning** or **Alternative Warning** shall be posted on websites where Spikes & Sparrow offers Products for sale to consumers in California. The requirements of this Section shall be satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink using the word “**WARNING**,” appears on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. To comply with this Section, Spikes & Sparrow shall (a) post the **Warning** or **Alternative Warning** on its own website and, if it has the ability to do so, on the websites of its third-party internet sellers; and (b) if it does not have the ability to post the **Warning** or **Alternative Warning** on the websites of its third-party internet sellers, provide such sellers with written notice in accordance with Title 27, California Code of Regulations, Section 25600.2. Third-party internet sellers of the Product that have been provided with written notice in accordance with Title 27, California Code of Regulations, Section 25600.2 are not released in Section 5 of this Agreement if they fail to meet the warning requirements of this Section.

2.3 Compliance with Warning Regulations. The Parties agree that Spikes & Sparrow shall be deemed to be in compliance with this Settlement Agreement by either adhering to § 2 of this Settlement Agreement or by complying with warning regulations adopted by the State of California’s OEHHA applicable to the Product and the exposures at issue within 90 days 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, within ten (10) business days of the Effective Date Spikes & Sparrow shall pay \$2,000.00 via wire/ACH transfer to Brodsky Smith LLP Trust Account as the Civil Penalty payment. 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 Balabbo. Upon receipt of the wire/ACH transfer, Brodsky Smith LLP shall be solely responsible for disbursing the civil penalty payments to OEHHA and Balabbo as set forth herein. For all amounts due and owing that are not received within the payment times set forth herein, Spikes & Sparrow shall pay a late civil penalty payment fee equal to \$100/day to be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d). Brodsky Smith LLP shall provide Spikes & Sparrow with wire/ACH transfer instructions and account information by the Effective Date.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge that Balabbo and her 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 them. The Parties thereafter reached an accord on the compensation due to Balabbo and her 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, Spikes & Sparrow shall reimburse Balabbo's counsel for fees and costs incurred as a result of investigating and bringing this matter to the attention of Spikes & Sparrow, and negotiating a settlement in the public interest. Within ten (10) business days of the Effective Date, Spikes & Sparrow shall pay \$21,000.00 via wire/ACH transfer to Brodsky Smith LLP Trust Account. Brodsky Smith LLP shall provide Spikes & Sparrow with wire/ACH transfer instructions and account information by the Effective Date.

5. RELEASE OF ALL CLAIMS

5.1 Release of Spikes & Sparrow and Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution between Balabbo, acting on her own behalf, and Spikes & Sparrow, of any violation of Proposition 65 that was or could have been asserted by Balabbo or on behalf of her past and current agents, representatives, attorneys, successors, and/or assigns ("Releasers") for failure to provide warnings for alleged exposures to CrVI from use of the Products, and Releasers hereby release any such claims against Spikes & Sparrow and its parents,

subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors and assignees, and each entity to whom Spikes & Sparrow directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, including but not limited to TJX, and its respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the "Releasees"), from all claims for violations of Proposition 65 through 90 days after the Effective Date, based on exposure to CrVI from use of the Products.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to §§ 3 and 4 above, Balabbo, on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives any right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that she may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys' fees, expert fees, and investigation fees, and costs), damages, losses, liabilities and demands against any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to the chemical CrVI from use of the Products.

5.2 Spikes & Sparrow's Release of Balabbo. Spikes & Sparrow, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Balabbo, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Balabbo and/or her 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 exposure to CrVI from use of the Products.

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. Balabbo on behalf of herself only, on one hand, and Spikes & Sparrow, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through 90 days after 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 HIS, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Balabbo and Spikes & Sparrow 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 Spikes & Sparrow with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposure to CrVI from use of the Products.

5.5 Public Benefit. It is Spikes & Sparrow's understanding that the commitments it has agreed to herein, and actions to be taken by Spikes & Sparrow under this Settlement Agreement, 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 Spikes & Sparrow that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Spikes & Sparrow's failure to provide a warning concerning exposure to CrVI prior to use of the Products it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Products addressed in this Settlement Agreement, provided that Spikes & Sparrow is in material compliance with 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.

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. Nothing about this Settlement Agreement or the choice of law provision in this § 7 shall in any way be deemed to establish personal jurisdiction over Spikes & Sparrow in California or the United States for any claims, whether related to this Settlement Agreement or otherwise. 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, Spikes & Sparrow shall provide written notice to Balabbo 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, a Product is 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:

For Spikes & Sparrow:

Kris Venetis
Spikes & Sparrow
De Vlasman 22C
6669 ND
Dodewaard The Netherlands

With copy to:

Lauren Shoor
Norton Rose Fulbright US LLP
555 S. Flower St., 41st Fl.
Los Angeles, CA 90071

For Balabbo:

Evan J. Smith
Brodsky Smith

Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

Either party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

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)

Balabbo agrees to comply with the reporting requirements referenced in Health & Safety Code § 25249.7(f).

11. MODIFICATION

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

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: 10 APRIL 2024

By: _____

By: KRIS VENETIS

Precila Balabbo

Spikes & Sparrow



Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

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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: 4 | 11 | 24

Date: _____

By: 
Precila Balabbo

By: _____
Spikes & Sparrow