

**SETTLEMENT AGREEMENT BETWEEN
APS&EE, LLC AND BEST BRANDS CONSUMER PRODUCTS, INC.**

1. RECITALS

1.1 The Parties

1.1.1 This Settlement Agreement (“Agreement”) is entered into by and between APS&EE, LLC (“APS&EE”) and Best Brands Consumer Products, Inc. and Best Brands Sales Company, LLC (collectively, “Best Brands”). APS&EE and Best Brands shall hereinafter collectively be referred to as the “Parties”.

1.1.2 APS&EE is an organization based in California which asserts an interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products.

1.1.3 APS&EE alleges that Best Brands and/or Best Brands Sales Company, LLC is a company in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

1.2 Allegations

1.2.1 APS&EE alleges that Best Brands sold “Best Brands Consumer Products” brand of spoon rests, including but not limited to spoon rests with a licensed Disney Stitch design, RN#22195, 4-92618-67433-7, (hereinafter the “Products”), in the State of California, causing users in California to be exposed to unsafe levels or significant exposures of Lead, without providing “clear and reasonable warnings”, in violation of Proposition 65. Lead is potentially subject to Proposition 65 warning requirements because it is listed by the State of California as known to cause cancer and birth defects or other reproductive harm.

1.2.2 On September 28, 2023, APS&EE provided a Sixty-Day Notice of Violation (the “Notice”), along with a Certificate of Merit, to Best Brands, Macy’s

Backstage, Inc., The Walt Disney Company, and the various public enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Products.

1.2.3 On or about November 3, 2023, Best Brands filed an action seeking declaratory judgment against APS&EE in United States District Court of New Jersey, *Best Brands Consumer Products Inc. v. APS&EE, LLC*, Case No. 2:23-cv-21858 (the “New Jersey Action”) for non-violation of Proposition 65, intentional interference with Plaintiff’s business relationship under New Jersey law, APS&EE’s intentional interference with prospective economic advantage under California law, intentional interference with contractual relationship under California law and declaration of lack of damages to defendant, all based on the Notice served by APS&EE. APS&EE denies the allegations in the New Jersey Action complaint, denies that jurisdiction is proper in federal court and in New Jersey, and claims the action violates APS&EE’s constitutional rights.

1.3 No Admissions

Best Brands denies all allegations in APS&EE’s Notice and maintains that the Products have been, and are, in compliance with all laws, and that Best Brands has not violated Proposition 65. This Agreement shall not be construed as an admission of liability by Best Brands but to the contrary as a compromise of claims that are expressly contested and denied. However, nothing in this section shall affect the Parties’ obligations, duties, and responsibilities under this Agreement.

1.4 Compromise

The Parties enter into this Agreement in order to resolve the controversy described above in a manner consistent with the public interest and to avoid prolonged and costly litigation between them.

1.5 Effective Date

The “Effective Date” shall be the date upon which a complete and fully executed copy of the Agreement is delivered to each Party or its counsel.

2. INJUNCTIVE RELIEF AND REFORMULATION

2.1 Reformulation

As of the Effective Date, Best Brands shall not distribute, sell, cause to be sold, or offer for sale the Products in California unless (a) the Products produce a test result no higher than 1.0 microgram of Lead based on a wipe sample collected using NIOSH Method 9100 or equivalent (“Reformulated Products”), or (b) the Products are distributed, sold, or offered for sale with a clear and reasonable warning as described below in Section 2.2.

2.2 Clear And Reasonable Warnings

2.2.1 For any Products that are not Reformulated Products, such Products shall be accompanied by a clear and reasonable warning. Best Brands shall provide the following warning statement as follows:

⚠ WARNING: This product can expose you to 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.

If Best Brands has reason to believe the Products may expose consumers to additional chemicals listed under Proposition 65, then it may replace “Lead which is” with “chemicals, including Lead, which are” in the warning statement. The warning shall be accompanied by a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the label for the product 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”. Additionally, if the Product contains consumer information in a foreign language, the warning must be provided in the foreign language.

2.2.2 Each unit shall carry said warning directly on each unit or its label or package, with such conspicuousness as compared with other words, statements or designs as to render it likely to be read and understood by an ordinary consumer prior to

sale. A Product that is sold by Best Brands on the internet shall also provide the warning message by a clearly marked hyperlink on the product display page, or otherwise prominently displayed to the purchaser before the purchaser completes his or her purchase of the Product. For Products that Best Brands knows another entity will sell on the internet, Best Brands shall include an instruction that the entity comply with the warning requirements of this section.

3. PAYMENTS

3.1 Civil Penalty Pursuant To Proposition 65

In settlement of all claims referred to in this Agreement, Best Brands shall pay a total civil penalty of one thousand dollars (\$1,000.00) to be apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$750.00) for State of California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining 25% (\$250.00) for APS&EE.

Best Brands shall issue these payments collectively as part of the total payment described below in Section 3.2 via wire transfer to Law Offices of Lucas T. Novak. After receipt of the wire transfer, Law Offices of Lucas T. Novak shall be responsible for forwarding the respective payments to OEHHA and APS&EE.

3.2 Reimbursement Of APS&EE’s Fees And Costs

Best Brands shall reimburse APS&EE’s reasonable experts’ and attorney’s fees and costs incurred in prosecuting the instant action for all work performed through execution of this Agreement, in the amount of twelve thousand five hundred dollars (\$12,500.00). Accordingly, Best Brands shall remit total payment via wire transfer to Law Offices of Lucas T. Novak in the amount of thirteen thousand five hundred dollars (\$13,500.00), which includes the civil penalty described in Section 3.1, within five (5) business days of the Effective Date. Wire instructions will be sent to Best Brands’ counsel upon APS&EE’s execution of this Agreement.

4. RELEASES

4.1 APS&EE’s Release Of Best Brands

APS&EE, in consideration of the promises and monetary payments contained herein, hereby releases and waives all rights to institute any form of legal action against Best Brands, its parents, subsidiaries, affiliated companies under common ownership or control, shareholders, directors, members, officers, employees, attorneys, successors and assignees, including Best Brands Consumer Products, Inc. and Best Brands Sales Company, LLC, and each entity in the downstream distribution and retail chain of the Products, including but not limited to Macy's Backstage, Inc., as well as each licensor, including but not limited to The Walt Disney Company, Disney Consumer Products, Inc., and its/their affiliated companies under common ownership or control, shareholders, directors, members, officers, employees, attorneys, successors and assignees (collectively "Releasees"), from all Proposition 65 claims regarding failure to warn about exposure to Lead from the Products that were distributed or sold by Best Brands before and up to the Effective Date. APS&EE acknowledges that it has had a full and fair opportunity to test the Products. Provided that Best Brands and Releasees abide by their obligations herein, APS&EE warrants that it shall not institute or maintain any further action against any of the Releasees based on the Products distributed or sold by Best Brands before and up to the Effective Date; warrants that it shall not issue or publish any disparaging statements or press releases about Best Brands or the Releasees based on this action and/or the Products; and agrees that if it does institute or maintain any such action or issue or publish any such statements, then Best Brands' release of APS&EE herein shall be rendered void and unenforceable. However, this is not a confidential Agreement; nothing herein shall prevent APS&EE from complying with the requirements and/or procedures for reporting settlement to the State of California, pursuant to California Health & Safety Code section 25249.6, et seq.

4.2 Best Brands's Release Of APS&EE

Best Brands, by this Agreement, waives all rights to institute or maintain any form of legal action against APS&EE, its shareholders, directors, members, officers,

employees, attorneys, experts, successors and assignees for actions or statements made or undertaken before and up through the Effective Date, whether in the course of investigating claims or seeking enforcement of Proposition 65 against Best Brands in this matter, provided that APS&EE abides by its obligations herein, including, but not limited, to the obligations of Section 4.1. If any Releasee should institute or maintain any such action, then APS&EE's release of said Releasee in this Agreement shall be rendered void and unenforceable. Furthermore, within five (5) business days of the Effective Date, Best Brands shall file a request for dismissal with prejudice of the New Jersey Action in its entirety.

4.3 Waiver Of Unknown Claims

Each of the Parties acknowledges that it is familiar with Section 1542 of California 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.

Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Agreement and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

5. SEVERABILITY

Should any part or provision of this Agreement for any reason be declared by a Court to be invalid, void or unenforceable, the remaining portions and provisions shall

continue in full force and effect.

6. GOVERNING LAW

The terms of this Agreement shall be governed by the laws of the State of California. Should enforcement of this Agreement be necessary, the appropriate venue shall be California Superior Court for the County of Los Angeles, unless the Parties stipulate in writing to another venue.

7. NOTICE

All correspondence and notice required to be provided under this Agreement shall be in writing and delivered personally or sent by first class or certified mail addressed as follows:

TO BEST BRANDS: Lee Goldberg, Esq. Goldberg Cohen LLP 1350 Avenue of the Americas 3rd Floor New York, NY 10019	TO APS&EE: Lucas T. Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069
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8. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Agreement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed Agreement shall have the same force and effect as the originals.

9. ENTIRE AGREEMENT

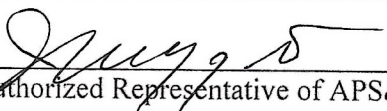
This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties as to the subject matter hereof.

10. AUTHORIZATION

The undersigned are authorized to execute this Agreement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Agreement. Each Party warrants to the other that it is free to enter into this Agreement and is not subject to any conflicting obligation that will or might prevent or interfere with the execution or performance of this Agreement by said Party.


AGREED TO:

Date: 12.29.23

By: 
Authorized Representative of APS&EE, LLC

AGREED TO:

Date: 12/29/23

By: 
Authorized Representative of Best Brands Consumer Products, Inc.
and Best Brands Sales Company, LLC