

PROPOSITION 65 SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties

This Settlement Agreement (“**Agreement**”) is entered into by and between Center for Advanced Public Awareness (“**CAPA**”) and The Mines Press, Inc. (“**Mines**”), with CAPA and Mines each individually referred to as a “**Party**” and, collectively, the “**Parties.**” CAPA is a California-based non-profit organization proceeding in the public interest pursuant to California Health & Safety Code § 25249.7(d) to ensure that chemicals known to the State of California to cause cancer, birth defects or other reproductive harm are disclosed in or eliminated from consumer products sold in California. CAPA alleges Mines is a person in the course of doing business for purposes of California Health & Safety Code § 25249.11(b).

1.2 Consumer Product Description

CAPA alleges that Mines manufactures, imports, sells, and distributes for sale in California ceramic trays with surface decorations containing the heavy metal, Lead, including, but not limited to, *iscream Lightning Trinket Tray, 870-077 68468 1218, UPC 8 11402 03726 2*, without providing the health hazard warning that CAPA alleges is required by California Health & Safety Code § 25249.5 *et seq.* (“**Proposition 65**”). Ceramic trays with surface decorations are referred to hereinafter as the “**Products.**” Lead is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects and other reproductive harm.

1.3 Notice of Violation

On November 20, 2023, CAPA served Mines, the California Attorney General, and the requisite public enforcement agencies with a 60-Day Notice of Violation (“**Notice**”), alleging Mines violated Proposition 65 by failing to warn its customers and consumers in California that its Products can expose users to Lead. No public enforcer has commenced and is diligently prosecuting an action to enforce the allegations in the Notice.

1.4 No Admission

Mines denies the factual and legal allegations contained in the Notice and maintains that all products it has sold or distributed for sale in California, including the Products, have been,

and are, in compliance with all laws. Nothing in this Agreement shall constitute or be construed as, nor shall compliance with this Agreement constitute or be construed as, an admission by Mines of any fact, finding, conclusion of law, issue of law, or violation of law. This section shall not, however, diminish or otherwise affect Mines' obligations, responsibilities, and duties under this Agreement.

1.5 Effective Date

For purposes of this Agreement, “**Effective Date**” shall mean May 31, 2024.

2. INJUNCTIVE RELIEF

Commencing on the Effective Date and continuing thereafter, Mines will not manufacture, import, sell, ship, or distribute for sale the Products in or into California, directly or through one or more third party retailers or e-commerce marketplaces.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty

Pursuant to Health and Safety Code § 25249.7(b), Mines agrees to pay a civil penalty of \$1,450 within five (5) business days of the Effective Date. Mines' civil penalty payment will be allocated according to Health and Safety Code §§ 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment (“**OEHHA**”), and the remaining twenty-five percent (25%) retained by CAPA. Mines shall issue its payment in two checks made payable to: (a) “**OEHHA**” in the amount of \$1,087.50; and (b) “**Center for Advanced Public Awareness**” in the amount of \$362.50. CAPA's counsel shall deliver to OEHHA and CAPA their respective portion of the penalty payment.

3.2 Reimbursement of Attorneys' Fees and Costs

CAPA and its counsel offered to resolve the allegations in the Notice without reaching terms on the amount of reimbursement of attorneys' fees and costs. Shortly after the Parties finalized the other material settlement terms, they negotiated and reached an accord on the amount of reimbursement to be paid to CAPA's counsel, under general contract principles and

the private attorney general doctrine, codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution and reporting of this Agreement to the Office of the California Attorney General. Within five (5) days of the Effective Date, Mines agrees to issue a check in the amount of \$18,500 payable to “Seven Hills LLP” for all fees and costs incurred investigating, bringing this matter to Mines’ attention, negotiating a settlement in the public interest, and reporting its terms to Office of the California Attorney General pursuant to Section 9.

3.3 Payments

All payments payable and due under this Agreement shall be delivered to CAPA’s counsel at following address:

Seven Hills LLP
Attn: Laralei Paras
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111

4. CLAIMS COVERED AND RELEASED

4.1 CAPA’s Release of Mines

This Agreement is a full, final and binding resolution between CAPA, as an individual and *not* on behalf of the public, and Mines, of any violation that was or could have been asserted by CAPA on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, against Mines, its parents, subsidiaries, affiliated entities under common ownership including: directors, officers, employees, attorneys, and each entity to whom Mines directly or indirectly distributes or sells Products, including, but not limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees (collectively, “**Releasees**”), based on their failure to warn under Proposition 65 about alleged exposures to Lead contained in the Products that were manufactured, distributed, sold and/or offered for sale by Mines in California before the Effective Date, as alleged in the Notice.

In further consideration of the promises and agreements herein contained, CAPA as an individual and *not* on behalf of the public, on behalf of itself, its past and current agents,

representatives, attorneys, successors, and/or assignees, hereby waives all of CAPA's rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that CAPA may have, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses including, but not exclusively, investigation fees, expert fees, and attorneys' fees arising under Proposition 65 with respect to Lead in the Products manufactured, distributed, sold and/or offered for sale by Mines, before the Effective Date (collectively, "**Claims**"), against Mines and Releasees.

The Parties further understand and agree that this Section 4.1 release shall extend neither 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 Mines. Nothing in this Section affects CAPA's right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Mines' Products.

4.2 Mines' Release of CAPA

Mines, on behalf of itself, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against CAPA and its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by CAPA and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with respect to the Products.

5. SEVERABILITY

If, subsequent to the execution of this Agreement, any provision of this 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 Agreement shall be governed by the laws of the State of California and apply within California. In the event that Proposition 65 is repealed, preempted, or is otherwise

rendered inapplicable by reason of law generally, or as to the Products, then Mines may provide CAPA with written notice of any asserted change in the law, and shall have no further injunctive obligations pursuant to this Agreement, with respect to, and to the extent that, the Products are so affected. Nothing in this Agreement shall be interpreted to relieve Mines from its obligation to comply with any pertinent state or federal law or regulation.

7. NOTICE

Unless specified herein, all correspondence and notice required by this Agreement shall be in writing and sent by electronic mail and by either (i) first-class registered or certified mail, return receipt requested; or (ii) a recognized overnight courier to any Party by the other at the following addresses:

For Mines:

Whitney Jones Roy
SheppardMullin
333 South Hope Street, 43rd Floor
Los Angeles, CA 90071-1422
WRoy@sheppardmullin.com

For CAPA:

Laralei Paras, Partner
Seven Hills LLP
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
laralei@sevenhillsllp.com

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

8. COUNTERPARTS AND PDF SIGNATURES

This Agreement may be executed in counterparts and by 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 REPORTING REQUIREMENTS

CAPA and its counsel agree to comply with the reporting form requirements referenced in California Health and Safety Code § 25249.7(f).

10. ENTIRE AGREEMENT

This Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein.

There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Agreement have been made by any Party hereto. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto.

11. MODIFICATION


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

12. AUTHORIZATION

The undersigned are authorized to execute this Agreement on behalf of their respective Parties and have read, understood, and agreed to all of the terms and conditions of this Agreement.


AGREED TO:

Date: 05/28/24

By: 
Linda DeRose-Droubay, Exec Director
Center for Advanced Public Awareness

AGREED TO:

Date: 5/24/2024

By: 
Steven Mines, CEO
The Mines Press, Inc.