

Jonathan M. Genish (SBN 259031)
jgenish@blackstonepc.com
BLACKSTONE LAW, APC
8383 Wilshire Blvd., Suite 745
Beverly Hills, California 90211
Telephone: (310) 622-4278
Facsimile: (855) 786-6356

Attorneys for Plaintiff,
Consumer Protection Group, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

CONSUMER PROTECTION GROUP, LLC,
IN THE PUBLIC INTEREST,

PLAINTIFF,

V.

HARVEY PERFORMANCE COMPANY,
LLC, and DOES 1-30

DEFENDANTS.

CASE NO. 24STCV25649

[PROPOSED] CONSENT JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Dept.

Judge:

Complaint filed:

1. INTRODUCTION

1.1 Parties.

This Consent Judgment is entered into by and between Plaintiff Consumer Protection Group, LLC (“CPG”) acting on behalf of itself and in the interest of the public, and Defendant Harvey Performance Company, LLC (“Harvey” or “Defendant”), with each referred to as a “Party” and collectively referred to as “Parties.”

1.2 Defendant and Products.

Defendant is a Delaware corporation that is doing business at all times in California and employs ten (10) or more persons. CPG alleges that Defendant manufactured, caused to be manufactured, sold, or distributed in California Speedy Sharp Knife Sharpener (“Sharpener”) (referred to hereinafter as “Covered Products”). For purposes of this Consent Judgment, Defendant is deemed a person in the course of doing business in California and subject to the provisions of the

Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq. (“Proposition 65”).

1.3 Listed Chemicals.

Diisononyl phthalate (“DINP”) has been listed by the State of California as a chemical known to cause cancer.

1.4 Notice of Violation.

On or about October 2, 2023, Plaintiff gave notice of alleged violations of Health and Safety Code section 25249.6 (the “Notice”), to Harvey, Amazon.com Services LLC (“Amazon”), and to the California Attorney General, County District Attorneys, and City Attorneys for each County containing a population of at least 750,000 people in whose jurisdiction the violations allegedly occurred, concerning the Sharpener containing DINP. No public enforcer has brought and is diligently prosecuting the claims alleged in the Notice.

1.5 Complaint.

On October 2, 2024, CPG filed a Complaint for civil penalties and injunctive relief (“Complaint”) in the above-captioned action. In the Complaint, CPG alleges, among other things, that Defendant violated Proposition 65 by failing to give clear and reasonable warnings of exposure to DINP arising from the Sharpener.

1.6 Consent to Jurisdiction.

For purposes of this Consent Judgment, the Parties stipulate that this Court has jurisdiction over the allegations of violations contained in the Notice and Complaint and personal jurisdiction over Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Los Angeles and that this Court has jurisdiction to approve and enter this Consent Judgment as a full and final settlement and resolution of the allegations contained in the Complaint and of all claims which were or could have been raised by any person or entity based in whole or in part, directly or indirectly, on the facts alleged therein or arising therefrom or related thereto, and/or in the Notice.

1.7 No Admission.

This Consent Judgment resolves claims that are denied and disputed by the Defendant. The Parties enter into this Consent Judgment pursuant to a full and final settlement of any and all claims

between the Parties for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment shall be construed as an admission by the Parties of any allegation of the Notice or the Complaint, any fact, finding, conclusion of law, issue of law or violation of law, including without limitation, any admission concerning any alleged violation of Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, or the meaning of the terms “knowingly and intentionally expose” or “clear and reasonable warning” as used in Health and Safety Code section 25249.6. Nothing in this Consent Judgment, nor compliance with its terms, shall constitute or be construed as an admission by the Parties, or give rise to any inference, of any fact, conclusion of law, issue of law, or violation of law, such being specifically denied by Defendant, or of fault, wrongdoing, or liability by Defendant, or any of its officers, directors, employees, or parent, subsidiary or affiliated corporations, or be offered or admitted as evidence in any administrative or judicial proceeding or litigation in any court, agency, or forum. Furthermore, nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument, or defense the Parties may have in any other or future legal proceeding, except as expressly provided in this Consent Judgment.

1.8 The “Effective Date” is the date that this Consent Judgment is approved by the Court.


2. INJUNCTIVE RELIEF


2.1 Immediately after the Effective Date, Defendant shall cease selling, offering for sale in California, or distributing for sale in California the Covered Products, unless the Covered Products contain no more than 1000 parts per million (“ppm”) of DINP (referred to as a “Reformulated Product”) or contain a warning as described in Section 2.3. The warning requirement set forth in Section 2.3 shall not apply to any Reformulated Product.


2.2 Covered Products manufactured on or prior to the Effective Date irrespective of their sale date shall be exempted from the requirements in Section 2.


2.3 For any Covered Product that is not a Reformulated Product requiring a warning after the Effective Date, a warning must be affixed to or printed on the Covered Product’s packaging or labeling, or on a placard, shelf tag, sign or electronic device or automatic process, provided that the warning is displayed with such conspicuousness as 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 before purchase or use. The following warnings are deemed to comply with Proposition 65:

 **WARNING:** This product can expose you to chemicals including Diisononyl phthalate (DINP), which is known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov.


 **CAWARNING:** This product can expose you to chemicals including Diisononyl phthalate (DINP), which is known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov.

 **CALIFORNIA WARNING:** This product can expose you to chemicals including Diisononyl phthalate (DINP), which is known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov.

 **WARNING:** Can expose you to Diisononyl phthalate (DINP), a carcinogen www.P65Warnings.ca.gov

 **CAWARNING:** Can expose you to Diisononyl phthalate (DINP), a carcinogen www.P65Warnings.ca.gov

Or

 **CALIFORNIA WARNING:** Can expose you to Diisononyl phthalate (DINP), a carcinogen www.P65Warnings.ca.gov

The warning shall be accompanied by a symbol consisting of a black exclamation point in a yellow equilateral triangle with a black outline. Where the label, labeling, package, shelf tag or sign for the Products 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.**” However, if Defendant opts to use the Short-Form Warning, said warning must be provided on each Product or its label or package.

If Defendant sells Covered Products that require a warning pursuant to Section 2.3 via Defendant’s website to customers located in California, the requirements of this Section shall be satisfied if the warning, or a clearly marked hyperlink using the word “WARNING”, “CA WARNING” or “CALIFORNIA WARNING,” appears on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase as provided for in 27 CCR sections 25601 and 25602. If consumer information is provided on the Covered Product in a foreign language, Defendant shall provide the warning in the same foreign language in accordance with Section 25602 (d).

3. SETTLEMENT PAYMENTS

3.1 Payment and Due Date.

Within twenty one days (21) of the Effective Date Defendant shall pay a total of seventy-five thousand dollars (\$75,000.00) in full and complete settlement of all monetary claims by CPG related to the Notice and Complaint with such total payment including the Civil Penalties to be submitted to OEHHA and CPG and reimbursement of attorney’s fees and costs. Separate 1099s shall be issued for each component of the settlement. Within two (2) business days of the Effective Date, Blackstone Law, APC will provide Defendant with (i) wire instructions pursuant to which Defendant shall make the \$75,000 payment, and (ii) the employer identification number (“EIN”) number for CPG and the EIN for Blackstone Law, APC so that Defendant can issue 1099s to CPG and Blackstone Law, APC, which will be sent to CPG’s counsel at the address provided in Section 12. Defendant will issue a 1099 to OEHHA.

3.2 Civil Penalty.

Counsel for CPG shall be responsible to issue a check made payable to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of six thousand dollars (\$6,000.00) representing 75% of the total penalty and another check to CPG in the amount of two thousand dollars (\$2,000.00) representing 25% of the total penalty

3.3 Reimbursement of Attorneys' Fees and Costs.

Sixty-seven thousand dollars (\$67,000.00) of the total \$75,000 settlement referenced in Section 3.1 shall be for Blackstone Law, APC as complete reimbursement for any and all reasonable investigation fees and costs, attorneys' fees, expert fees, report costs, and any and all other costs and expenses incurred as a result of investigating, bringing this matter to the Defendant's attention, litigating, negotiating a settlement in the public interest, and seeking and obtaining court approval of this Consent Judgment.

4. RELEASE OF ALL CLAIMS

4.1 This Consent Judgment is a full, final, and binding resolution between CPG acting on its own behalf, and on behalf of the public interest, and Defendant, and its parents, shareholders, members, directors, officers, managers, employees, representatives, agents, attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, manufacturers, suppliers, and affiliates, and each of their predecessors, successors and assigns (collectively, "Defendant Releasees"), and each entity to or via whom any Defendant Releasee directly or indirectly exports, distributes or sells Covered Products, including, but not limited to, manufacturers, suppliers, distributors, wholesalers, customers, licensors, licensees retailers, franchisees, cooperative members, and online marketplaces, including but not limited to Amazon, each of their owners, purchasers, officers, directors, attorneys, representatives, shareholders, agents, employees, and sister and parent entities (collectively, "Downstream Releasees"), for all claims that have been asserted for, could have been asserted for, or that arise out of alleged or actual violations of Proposition 65 or its implementing regulations for alleged exposures to DINP from Covered Products prior to and including up to the Effective Date. Defendant, Defendant Releasees and Downstream Releasees are hereby collectively referred to as the "Released Parties." CPG, on behalf of itself and in the public interest, hereby discharges and releases

Released Parties from any and all claims, 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 limited to, fees of attorneys, experts, and others) of any nature whatsoever, whether known or unknown, fixed or contingent, asserted for, that could have been asserted for, that arise out of alleged exposures to DINP from the Covered Products sold, manufactured or distributed by any Released Party in California up to the Effective Date, or the failure of any Released Party to provide clear, accurate and reasonable warnings under Proposition 65, Business and Professions Code §17200, et seq., or any other applicable law about exposure to DINP, predicated or based on a violation of Proposition 65, arising from the sale, distribution, or use of any Covered Products sold, manufactured or distributed by any Released Party in California up to the Effective Date (collectively “Claims”). CPG agrees that any and all Claims are resolved with prejudice by this Consent Judgment. The release in this Section 4.1 applies to all Covered Products that Defendant manufactured, distributed, or sold on or prior to the Effective Date, regardless of the date any other Released Party may distribute or sell the Covered Products that Defendant manufactured, distributed, or sold on or prior to the Effective Date. Nothing in this Section affects CPG’s right to commence or prosecute an action under Proposition 65 against any person other than the Released Parties.

4.2 CPG on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees (collectively, the “CPG Releasors”), and *not* in its representative capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and discharges and releases Defendant, Defendant Releasees and Downstream Releasees from any and all Claims arising under Proposition 65 or any other statutory or common law related to or arising from DINP exposure from Covered Products manufactured, distributed, or sold by Defendant, Defendant Releasees or Downstream Releasees. It is possible that other claims not known to the Parties arising out of the facts contained in the Notice, or alleged in the Complaint, relating to the Covered Products, will hereafter be discovered or developed. CPG, on behalf of itself and CPG Releasors only, acknowledges that this Consent Judgment is expressly intended to cover and include all such claims as to the Covered Products, through and including the Effective Date, including all

rights of action therefor. CPG acknowledges that the Claims released in Sections 4.1 and 4.2 may include unknown claims, and nevertheless CPG intends to release such claims, and in doing so waives California Civil Code § 1542 which 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 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

CPG understands and acknowledges that the significance and consequence of this waiver of California Civil Code Section 1542 is that even if CPG suffers future damages arising out of or resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any violation of Proposition 65 or any other statutory or common law regarding the failure to warn about exposure to DINP from the Covered Products, including but not limited to, any exposure to, or failure to warn with respect to exposure to DINP from the Covered Products, CPG will not be able to make any claim for those damages against Released Parties. Furthermore, CPG acknowledges that it intends these consequences for any such Claims arising from any violation of Proposition 65 or any other statutory or common law regarding the failure to warn about exposure to DINP from Covered Products as may exist as of the date of this release but which CPG does not know exist, and which, if known, would materially affect its decision to enter into this Consent Judgment, regardless of whether its lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

4.3 Similarly, Defendant waives any and all claims against CPG, its attorneys and other representatives, for any and all actions taken, or statements made (or those that could have been taken or made) by CPG and its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to exposure to DINP from Covered Products.

5. ENTRY OF CONSENT JUDGMENT

5.1 CPG shall promptly file a motion seeking approval of this Consent Judgment pursuant to California Health & Safety Code § 25249.7(f).

5.2 This Consent Judgment shall not be effective until it is approved and entered by the Court. If this Consent Judgment is not approved in full by the Court: (a) this Consent Judgment and any and all prior agreements between the Parties merged herein shall be null and void, and the actions shall revert to the status that existed prior to the filing of this Consent Judgment with the Court; (b) no term of this Consent Judgment or any draft thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.

5.3 The Parties shall make all reasonable efforts possible to have the Consent Judgment approved by the Court, and Defendant agrees not to object to the Consent Judgment or any of its terms at the motion for approval hearing.

6. MODIFICATION OF JUDGMENT

This consent judgment may be modified only upon written agreement of the parties and upon entry of a modified consent judgment by the court thereon.

7. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter to implement and enforce the terms of this Consent Judgment under Code of Civil Procedure § 664.6. In any proceeding brought by either Party to enforce this Consent Judgment, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs. In the event CPG files an action against Defendant that is prohibited by the releases contained in Section 4 of this Consent Judgment, Defendant shall be entitled to recover its reasonable attorney fees and costs to defend against such action.

8. ATTORNEY FEES

Except as specifically provided in Section 3.3, each Party shall bear its own costs and attorney fees in connection with this action.

9. ENTIRE AGREEMENT

This Consent Judgment 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 and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

10. GOVERNING LAW

10.1 The terms of this Consent Judgment 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 if any of the provisions of this Consent Judgment are rendered inapplicable or are no longer required as a result of any such repeal or preemption, or rendered inapplicable by reason of law generally as to the Covered Product, then the Defendant shall have no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, Covered Products are so affected, provided that Defendant shall have no recourse to claw back payments already made in accordance to Section 3 of this Consent Judgment.

10.2 The Parties, including their counsel, have participated in the preparation of this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This Consent Judgment was subject to revision and modification by the Parties and has been accepted and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby waive California Civil Code §1654.

11. EXECUTION AND COUNTERPARTS

11.1 This Consent Judgment may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document and have the same force and effect as original signatures.

12. NOTICES

12.1 Unless otherwise specified herein, all correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier, in either case with a courtesy copy sent via email, on any Party by the other Party at the following addresses:

If to CPG:

Jonathan Genish, Esq.
Blackstone Law, APC
8383 Wilshire Blvd., Suite 745
Beverly Hills, CA 90211
Email: jgenish@blackstonepc.com
Tel.: 310-622-4278

If to Defendant:

Jonathan D. Baker, Esq.
Dickinson Wright RLLP
615 National Ave., Suite 220
Mountain View, CA 94043
Email: JDBaker@dickinson-wright.com
Tel.: 408-701-6180

Mark Rogge, Esq.
Dickinson Wright RLLP
615 National Ave., Suite 220
Mountain View, CA 94043
Email: MRogge@dickinsonwright.com
Tel.: 408-701-6146

Ann Marie Sanford
Dickinson Wright PLLC
2600 W. Big Beaver Rd., Suite 300
Troy, MI 48084
Email: ASanford@dickinsonwright.com
Tel.: 248-205-3246

Any 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.

13. AUTHORITY TO STIPULATE

Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to enter into this Consent Judgment and to execute it on behalf of the Party represented and legally to bind that Party.

AGREED TO:

Date: July 9, 2025

By: 

On behalf of
Consumer Protection Group, LLC

AGREED TO:

Date: July 13, 2025

By: 

Harvey Performance Company, LLC

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: _____

Judge of the Superior Court
Hon.