

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 Spencer Gifts LLC (“**Spencer Gifts**”), with CAPA and Spencer Gifts 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. Spencer Gifts 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 Spencer Gifts manufactures, imports, sells, and distributes for sale in California *Molded Axe Handle Coffee Mug, 20 oz. – The Haunted Mansion, 01571207* (the “**Products**”), without providing the health hazard warning that CAPA alleges is required by California Health & Safety Code § 25249.5 *et seq.* (“**Proposition 65**”). 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 February 22, 2024, CAPA served Spencer Gifts, the California Attorney General, and the requisite public enforcement agencies with a 60-Day Notice of Violation (“**Notice**”), alleging Spencer Gifts 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

Spencer Gifts 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 Spencer Gifts of any fact, finding, conclusion of law, issue of law, or violation of law. This section shall not, however, diminish or otherwise affect Spencer Gifts' obligations, responsibilities, and duties under this Agreement.

1.5 Effective Date

For purposes of this Agreement, “**Effective Date**” shall mean the date this Agreement is fully executed by all Parties.

2. INJUNCTIVE RELIEF: REFORMULATION & CUSTOMER NOTIFICATION

2.1 Reformulation Commitment

Commencing on the Effective Date and continuing thereafter, all Products Spencer Gifts manufactures, imports, sells, ships, or distributes for sale in or into California shall meet the Reformulation Standard for Reformulated Products, as defined by Section 2.2.

2.2 Reformulation Standard

For purposes of this Agreement, “Reformulated Products” are defined as those Products:

(a) containing no more than 0.009% or 90 parts per million (“ppm”) Lead in any decoration, description, artwork and/or design on the exterior surface when analyzed pursuant to U.S. Environmental Protection Agency (“EPA”) testing methodologies 3050B and 6020A or equivalent methodologies utilized by federal or state agencies for the purpose of determining Lead content in a solid substance; OR

(b) yielding a test result of no more than 1.0 microgram of Lead on any exterior surface covered with a decoration, description, artwork and/or design when sampled pursuant to the NIOSH 9100 testing protocol and analyzed pursuant to EPA 3050B and 6020A; AND

(c) yielding a result of non-detect (defined as no more than 25 ppm by weight of Lead) for any decorations located in the upper 20 millimeters of a Product, i.e., the “Lip-and-Rim” area when analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies used by state and federal agencies to determine Lead content in a solid substance.

If the decoration is tested after it is affixed to the Product, the percentage of the Lead by weight must relate only to the decorating materials and must not include any quantity of Lead attributable to non-decorating material (e.g., [glass or ceramic] substrate).

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty

Pursuant to Health and Safety Code § 25249.7(b), Spencer Gifts agrees to pay a civil penalty of \$1,250 within ten (10) business days of the Effective Date or of receipt of W9 forms for all payees in this Agreement, whichever is later. Spencer Gifts' 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. Spencer Gifts shall issue its payment in two checks made payable to: (a) "OEHHA" in the amount of \$937.50; and (b) "Center for Advanced Public Awareness" in the amount of \$312.50. CAPA's counsel shall deliver to OEHHA and CAPA their respective portion of the penalty payment.

3.2 Representations

Spencer Gifts represents that the sales data, product reformulation and/or knowledge of Lead (Pb) that it provided to CAPA in negotiating this Agreement was truthful and a material factor upon which CAPA relied to determine the civil penalty amount assessed pursuant to Health & Safety Code § 25249.7. If, within nine months of the Effective Date, CAPA discovers and presents to Spencer Gifts evidence demonstrating that the preceding representation was materially inaccurate, then Spencer Gifts shall have 30 days to meet and confer regarding CAPA's contention. In the event the 30-day meet and confer period passes without any such resolution between CAPA and Spencer Gifts, then CAPA shall be entitled to make an appropriate motion to the Court to cure any breach of this Section 4.2 of the Agreement pursuant to Code of Civil Procedure § 664.6. The prevailing Party on the motion shall be entitled to its reasonable attorneys' fees as approved by the Court.

3.3 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 ten (10) business days of the Effective Date or of receipt of W9 forms for all payees in this Agreement, whichever is later, Spencer Gifts agrees to issue a check in the amount of \$13,250 payable to "Seven Hills LLP" for all fees and costs incurred investigating, bringing this matter to Spencer Gifts' attention, negotiating a settlement in the public interest, and reporting its terms to Office of the California Attorney General pursuant to Section 9.

3.4 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

CAPA's counsel shall be solely responsible for distributing the checks payable to OEHHA and CAPA to their respective payee.

4. CLAIMS COVERED AND RELEASED

4.1 CAPA's Release of Spencer Gifts

This Agreement is a full, final and binding resolution between CAPA, as an individual and *not* on behalf of the public, and Spencer Gifts, of any violation of Proposition 65 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 Spencer Gifts, its parents, subsidiaries, affiliated entities under common ownership including: directors, officers,

employees, attorneys, and each entity to whom Spencer Gifts 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 Spencer Gifts 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 or any other statutory or common law claims that have been or could have been asserted by CAPA regarding Lead in the Products manufactured, distributed, sold and/or offered for sale by Spencer Gifts, before the Effective Date (collectively, “**Claims**”), against Spencer Gifts and Releasees.

The Parties further understand and agree that this Section 4.1 release shall not extend to upstream 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 Spencer Gifts.

4.2 Spencer Gifts’ Release of CAPA

Spencer Gifts, 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. Nothing in this Agreement shall be interpreted to relieve Spencer Gifts 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: (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 Spencer Gifts:

Kevin Mahoney
Spencer Gifts LLC
6826 Black Horse Pike
Egg Harbor Township, NJ 08234

For CAPA:

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

Copy to:
Lauren Shoor
Norton Rose Fulbright US LLP
555 S. Flower Street, 41st Floor
Los Angeles, CA 90071

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: _____

By: _____

Linda DeRose-Droubay
Executive Director
Center for Advanced Public Awareness

AGREED TO:

Date: 4/15/25

By: Kevin W. Mahoney

Kevin Mahoney
Senior Vice President & General Counsel
Spencer Gifts LLC

9. COMPLIANCE WITH REPORTING REQUIREMENTS

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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

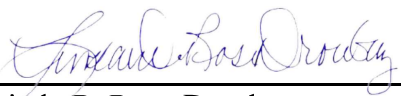
This Agreement may be modified only by a written agreement of the Parties.

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: April 15, 2025

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

AGREED TO:

Date: _____

By: _____
Kevin Mahoney
Senior Vice President & General Counsel
Spencer Gifts LLC