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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 v.

14 OCEANIC INTERNATIONAL, INC., HUI SH
15 OUTDOORS, LLC, LP SCUBA, LLC,

16 Defendants.

Case No.: CGC-25-621564

CONSENT JUDGMENT

Judge: Joseph M. Quinn

Dept.: 302

Hearing Date: October 7, 2025

Hearing Time: 9:00 AM

Complaint Filed: January 21, 2025

1 **1. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Gabriel
3 Espinoza acting on behalf of the public interest (hereinafter “Espinoza”) and Huish Outdoors, LLC
4 (“Huish” or “Defendant”) with Espinoza and Defendant collectively referred to as the “Parties” and
5 each of them as a “Party.” Espinoza is an individual residing in California that seeks to promote
6 awareness of exposures to toxic chemicals and improve human health by reducing or eliminating
7 hazardous substances contained in consumer products. Huish is alleged to be a person in the course
8 of doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

9 **1.2 Allegations and Representations.** Espinoza alleges that Defendant has exposed
10 individuals to di(2-ethylhexyl) phthalate (DEHP) from its sales of Hollis regulator bags, UPC #
11 020545210474 without providing a clear and reasonable exposure warning pursuant to Proposition
12 65. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to
13 cause cancer and birth defects or other reproductive harm.

14 **1.3 Notice of Violation/Action.** On March 28, 2024, Espinoza served Huish and
15 various public enforcement agencies with documents entitled “60-Day Notice of Violation”
16 pursuant to Health & Safety Code §25249.7(d) (the “Notice”), alleging that Defendant violated
17 Proposition 65 for failing to warn consumers and customers that use of Hollis regulator bags, UPC
18 # 020545210474 expose users in California to DEHP. No public enforcer has brought and is
19 diligently prosecuting the claims alleged in the Notice. On January 21, 2025, Espinoza filed a
20 complaint (the “Complaint”).

21 **1.4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has**
22 **jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that**
23 **venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve,**
24 **enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution**
25 **of all claims which were or could have been raised in the Action based on the facts alleged therein**
26 **and in the Notice.**

1 1.5 Defendant denies the material allegations contained in Espinoza's Notice and
2 Complaint and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment
3 shall be construed as an admission by Defendant of any fact, finding, issue of law, or violation of
4 law; nor shall compliance with this Consent Judgment constitute or be construed as an admission
5 by Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being
6 specifically denied by Defendant. However, this section shall not diminish or otherwise affect the
7 obligations, responsibilities, and duties of Defendant under this Consent Judgment.

8 **2. DEFINITIONS**

9 2.1 **Covered Products.** The term "Covered Products" means Hollis regulator bags,
10 UPC # 020545210474 that are manufactured, distributed, shipped into California and/or offered for
11 sale in California by Huish.

12 2.2 **Effective Date.** The term "Effective Date" means the date this Consent Judgment is
13 entered as a Judgment of the Court.

14 **3. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS**

15 3.1 **Reformulation of Covered Products.** Commencing within sixty (60) days after the
16 Effective Date (the "Compliance Date"), and continuing thereafter, Covered Products that Huish
17 directly manufactures, imports, distributes, sells, or offers for sale in California shall either be: (a)
18 Reformulated Products pursuant to § 3.2, below; or (b) be labeled with a clear and reasonable
19 exposure warning pursuant to §§ 3.3 and 3.4, below. For purposes of this Consent Judgment, a
20 "Reformulated Product" is a Covered Product that is in compliance with the standard set forth in §
21 3.2 below. The warning requirement set forth in §§ 3.3 and 3.4 shall not apply to any Reformulated
22 Product.

23 3.2 **Reformulation Standard.** "Reformulated Products" shall mean Covered Products
24 that contain concentrations less than or equal to 0.1% (1,000 parts per million (ppm)) of DEHP
25 when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3580A
26 and 8270C or other methodology utilized by federal or state government agencies for the purpose
27 of determining the phthalate content in a solid substance.
28

1 3.3 **Clear and Reasonable Warning.** Commencing on the Compliance Date, and
2 continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 3.3 and 3.4
3 must be provided for all Covered Products that Defendant manufacturers, imports, distributes, sells,
4 or offers for sale in California that is not a Reformulated Product. There shall be no obligation for
5 Defendant to provide a warning for Covered Products that enter the stream of commerce prior to
6 the date this Consent Judgment is signed by both Parties. The warning shall consist of either the
7 **Warning** or **Alternative Warning** described in §§ 3.3(a) or (b), respectively:

8 (a) **Warning.** The “Warning” shall consist of the statement:

9 ⚠ **WARNING:** This product can expose you to chemicals including di(2-
10 ethylhexyl) phthalate (DEHP), which is known to the State of California to cause
11 cancer and birth defects or other reproductive harm. For more information go to
12 www.P65Warnings.ca.gov.

13 (b) **Alternative Warning:** Huish may, but is not required to, use the alternative short-
14 form warning¹ as set forth in this § 3.3(b) (“**Alternative Warning**”) as follows:

15 ⚠ **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

16 3.4 A **Warning** or **Alternative Warning** provided pursuant to § 3.3 must print the word
17 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to
18 the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral
19 triangle with a black outline, except that if the sign or label for the Covered Product does not use
20 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller
21 than the height of the word “**WARNING:**”. The **Warning** or **Alternative Warning** shall be affixed
22 to or printed on the Covered Product’s packaging or labeling, or on a placard, shelf tag, sign or
23 electronic device or automatic process only if such electronic device or automatic process provides
24 the **Warning** or **Alternative Warning** without the purchaser having to seek it out, providing that
25 the **Warning** or **Alternative Warning** is displayed with such conspicuousness, as compared with
26 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**

27 ¹ An **Alternative Warning** on a Covered Product manufactured and labeled after January 1, 2028
28 shall be provided in accordance with Title 27, California Code of Regulations, § 25603(b).

1 may be contained in the same section of the packaging, labeling, or instruction booklet that states
2 other safety warnings, if any, concerning the use of the Covered Product and shall be at least the
3 same size as those other safety warnings. If “consumer information,” as that term is defined in Title
4 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, is
5 provided in a foreign language, Huish shall provide the **Warning** or **Alternative Warning** in the
6 foreign language in accordance with applicable warning regulations adopted by the State of
7 California’s Office of Environmental Health Hazard Assessment (“OEHHA”).

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

21 **3.5 Compliance with Warning Regulations.** Defendant shall be deemed to be in
22 compliance with this Consent Judgment by either adhering to §§ 3.3 and 3.4 of this Consent
23 Judgment or by complying with warning regulations adopted by OEHHA applicable to the Covered
24 Product and exposures at issue.

1 **4. MONETARY TERMS**

2 **4.1 Civil Penalty.** Huish shall pay \$1,000.00 as a Civil Penalty pursuant to Health and
3 Safety Code section 25249.7(b), to be apportioned in accordance with California Health & Safety
4 Code § 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the Civil
5 Penalty remitted to Espinoza, as provided by California Health & Safety Code § 25249.12(d).

6 4.1.1 Within ten (10) days of the Effective Date, Huish shall issue two separate
7 checks for the Civil Penalty payment to (a) “OEHHA” in the amount of \$750.00; and to (b)
8 “Gabriel Espinoza” in the amount of \$250.00. Payment owed to Espinoza pursuant to this Section
9 shall be delivered to the following payment address:

10 Evan J. Smith, Esquire
11 Brodsky Smith
12 Two Bala Plaza, Suite 805
13 Bala Cynwyd, PA 19004

14 Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly
15 to OEHHA (Memo Line “Prop 65 Penalties”) at one of the following address(es):

16 For United States Postal Service Delivery:

17 Mike Gyurics
18 Fiscal Operations Branch Chief
19 Office of Environmental Health Hazard Assessment
20 P.O. Box 4010
21 Sacramento, CA 95812-4010

22 For Non-United States Postal Service Delivery:

23 Mike Gyurics
24 Fiscal Operations Branch Chief
25 Office of Environmental Health Hazard Assessment
26 1001 I Street
27 Sacramento, CA 95814

28 A copy of the check payable to OEHHA shall be mailed to Brodsky Smith at the address set forth
above as proof of payment to OEHHA.

1 4.2 **Attorneys' Fees.** Within ten (10) days of the Effective Date, Huish shall pay
2 \$17,500.00 to Brodsky Smith as complete reimbursement for Espinoza's attorneys' fees and costs
3 incurred as a result of investigating, bringing this matter to the attention of Huish, litigating and
4 negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to Code
5 of Civil Procedure § 1021.5.

6 **5. RELEASE OF ALL CLAIMS**

7 5.1 Espinoza acting on his own behalf, and in the public interest, releases Huish, and its
8 parents, shareholders, members, directors, officers, managers, employees, representatives, agents,
9 attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their
10 predecessors, successors and assigns ("Defendant Releasees"), and all entities to whom they
11 directly or indirectly distribute or sell Covered Products, including but not limited to manufacturers,
12 suppliers, distributors, wholesalers, customers, licensors, licensees, retailers, including but not
13 limited to Oceanic International, Inc., LP Scuba, LLC, Scuba.com, Inc., and their parents,
14 subsidiaries, and affiliates, franchisees, and cooperative members ("Downstream Releasees"), from
15 all claims for violations of Proposition 65 based on exposure to DEHP from use of the Covered
16 Products manufactured by Huish through the Compliance Date as set forth in the Notice. Huish's
17 compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65
18 by Huish with respect to exposures to DEHP from use of the Covered Products as set forth in the
19 Notice. The Parties agree that while no Downstream Releasee is bound by this Consent Judgment
20 and its terms do not provide the only manner of compliance with Proposition 65 as to any
21 Downstream Releasee, compliance by a Downstream Releasee with this Consent Judgment
22 constitutes compliance with Proposition 65 by that Downstream Releasee with respect to exposure
23 to DEHP from use of the Covered Products.

24 5.2 In addition to the foregoing, Espinoza, on behalf of himself, his past and current
25 agents, representatives, attorneys, and successors and assignees, and not in his representative
26 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of
27 legal action and releases Huish, Defendant Releasees, and Downstream Releasees from any and all
28

1 manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts,
2 agreements, promises, liabilities, damages, charges, losses, costs, expenses, and attorneys' fees, of
3 any nature whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the
4 future, with respect to any alleged violations of Proposition 65 related to or arising from Covered
5 Products manufactured, distributed, or sold by Huish, Defendant Releasees or Downstream
6 Releasees. With respect to the foregoing waivers and releases in this paragraph, Espinoza hereby
7 specifically waives any and all rights and benefits which he now has, or in the future may have,
8 conferred by virtue of the provisions of § 1542 of the California Civil Code, which provides as
9 follows:

10 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
11 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
12 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
13 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
14 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
15 DEBTOR OR RELEASED PARTY.

16 5.3 Huish waives any and all claims against Espinoza, his attorneys and other
17 representatives, for any and all actions taken, or statements made (or those that could have been
18 taken or made) by Espinoza and his attorneys and other representatives, whether in the course of
19 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
20 and with respect to Covered Products.

21 6. INTEGRATION

22 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
23 any and all prior negotiations and understandings related hereto shall be deemed to have been
24 merged within it. No representations or terms of agreement other than those contained herein exist
25 or have been made by any Party with respect to the other Party or the subject matter hereof.

26 7. GOVERNING LAW

27 7.1 The terms of this Consent Judgment shall be governed by the laws of the State of
28 California and apply within the State of California.

1 **8. NOTICES**

2 8.1 Unless specified herein, all correspondence and notices required to be provided
3 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
4 class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party
5 by the other party at the following addresses:

6 For Defendant:

7 L. John Nelson IV
8 Procopio
9 525 B St., Ste. 2200
 San Deigo, CA 92101

10 And

11 For Espinoza:

12 Evan Smith
13 Brodsky Smith
 9465 Wilshire Blvd., Ste. 300
 Beverly Hills, CA 90212

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

16 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

17 9.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
18 which shall be deemed an original, and all of which, when taken together, shall constitute one and
19 the same document.

20 **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**

21 **APPROVAL**

22 10.1 Espinoza agrees to comply with the requirements set forth in California Health &
23 Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.
24 Defendant agrees it shall support approval of such Motion.

1 10.2 This Consent Judgment shall not be effective until it is approved and entered by the
2 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the
3 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30
4 days, the case shall proceed on its normal course.

5 10.3 If the Court approves this Consent Judgment and is reversed or vacated by an
6 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
7 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on
8 its normal course on the trial court's calendar.

9 **11. MODIFICATION**

10 11.1 This Consent Judgment may be modified only by further stipulation of the Parties
11 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

12 **12. ATTORNEY'S FEES**

13 12.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
14 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

15 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions
16 pursuant to law.

17 **13. RETENTION OF JURISDICTION**

18 13.1 This Court shall retain jurisdiction of this matter to implement or modify the
19 Consent Judgment.

1 **14. AUTHORIZATION**

2 14.1 The undersigned are authorized to execute this Consent Judgment on behalf of their
3 respective Parties and have read, understood, and agree to all of the terms and conditions of this
4 document and certify that he or she is fully authorized by the Party he or she represents to execute
5 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
6 explicitly provided herein each Party is to bear its own fees and costs.

7 **AGREED TO:**

AGREED TO:

8
9 Date: _____

Date: August 8, 2025

10 By: _____
11 GABRIEL ESPINOZA

By:  _____
HUSH OUTDOORS, LLC

12
13 **IT IS SO ORDERED, ADJUDGED AND DECREED:**

14
15 Dated: _____

16 Judge of Superior Court

1 **14. AUTHORIZATION**

2 14.1 The undersigned are authorized to execute this Consent Judgment on behalf of their
3 respective Parties and have read, understood, and agree to all of the terms and conditions of this
4 document and certify that he or she is fully authorized by the Party he or she represents to execute
5 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
6 explicitly provided herein each Party is to bear its own fees and costs.

7 **AGREED TO:**

AGREED TO:

8
9 Date: 8 | 19 | 25

Date: _____

10 By: 

11 GABRIEL ESPINOZA

By: _____

HUIH OUTDOORS, LLC

12
13 **IT IS SO ORDERED, ADJUDGED AND DECREED:**

14
15 Dated: _____

16 Judge of Superior Court