

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Michael DiPirro (referred to herein as “DiPirro”) represented by his attorneys, Law Office of David R. Bush and Jeremy Fietz, Attorney-at-Law; and, Frank’s Great Outdoors, Inc. (referred to herein as “Noticed Party”) represented by its attorneys Dickinson Wright, PLLC.

Collectively, DiPirro and Noticed Party are referred to as the “Parties” or individually as a “Party”. The Parties enter into this Settlement Agreement for the purpose of avoiding prolonged and costly litigation to settle DiPirro’s allegations that the Noticed Party violated the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”).

DiPirro is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products.

1.2 General Allegations

DiPirro alleges that the Noticed Party manufactures, imports, sells, or distributes for sale, in the State of California products containing lead and lead compounds without first providing the clear and reasonable exposure warning required by Proposition 65. Lead and lead compounds is listed pursuant to Proposition 65 as a chemical that is known to the State of California to cause cancer and birth defects or other reproductive harm (hereinafter the “Listed

Chemical”).

1.3 Product Description

The products covered by this Settlement Agreement are Lead Sinkers containing the Listed Chemical that are manufactured, sold, or distributed for sale in California by the Noticed Parties, including, but not limited to the:

Frank’s In-Line Sinker with Chain - 1 1/2 oz (the “Products”).

1.4 Notice of Violation

On or about July 11, 2024, DiPirro served Noticed Party and certain requisite public enforcement agencies with a 60-Day Notice of Violation (Attorney General Notice #2024-02957, the “Notice”), a document that informed the recipients of DiPirro’s allegation that Noticed Party violated Proposition 65 by failing to warn consumers in California that the Products expose users to the Listed Chemical. To the best of the DiPirro’s knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Notice and the Noticed Party’s and the Product’s compliance with Proposition 65 (the “Dispute”). By execution of this Settlement Agreement, the Noticed Party does not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Noticed Party denies the material, factual, and

legal allegations contained in the Notice and maintains that all of the products they have manufactured, sold, or distributed for sale in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of any admission or evidence of fault, wrongdoing, or liability by the Noticed Party or any of its officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. This section shall not, however, diminish or otherwise affect the Noticed Party's obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the day the final requisite signature is applied to the Settlement Agreement.

2. INJUNCTIVE RELIEF: PRODUCT WARNINGS

2.1 Product Warnings.

Commencing within thirty (30) days of the Effective Date for any of the Noticed Party's Products that contain more than 0.009 percent (90 parts per million) of the Listed Chemical (which Noticed Party will determine through its own independent testing using a laboratory accredited by the State of California) and that are offered for sale in California, or shipped for sale in California, Noticed Party shall provide a clear and reasonable warning on the label of each Product as set forth in Section 2.3. Each warning shall be prominently placed 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. Each warning shall be

provided in a manner such that the consumer or user understands to which specific Product the warning applies, so as to minimize the risk of consumer confusion.

2.2 Internet Warnings.

In addition to the warning specified in Section 2.1 above, for all Products that Noticed Party offers for sale directly to consumers in California via the internet, Noticed Party shall provide a warning for such Products by including the warning set forth below in Section 2.3 on one or more of the following: (a) on the same web page on which a Product is displayed; (b) on the same web page as the order form for a Product; (c) on the same web page as the price for any Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The internet warning described above can also be delivered through a hyperlink using the word “[California Prop 65] WARNING” (language in brackets optional) which then takes the user to a display of the warning set out in Paragraph 2.3.

2.3 Text of the Warning.

The Noticed Parties shall use one of the warning options set forth below, which shall include a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline as shown below (the symbol may be black or white if the color yellow is otherwise not used on the Product’s packaging):



WARNING: This product can expose you to chemicals including lead and lead compounds, which are 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.



WARNING: Can expose you to lead, a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov.

2.4 Foreign Language Requirement.

Where a product sign, label or shelf tag used to provide a warning includes consumer information in a language other than English, the Warning must also be provided in that language in addition to English.

3. PENALTIES & PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)

3.1 Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b).

The Noticed Party shall make a civil penalty payment of \$1000 as a component of this settlement. Within ten (10) business days of the Effective Date, Noticed Party shall issue two separate checks as follows: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of \$750.00, representing 75% of the total penalty; and (b) one check to Michael DiPirro in the amount of \$250.00, representing 25% of the total penalty. OEHHA's check shall be delivered to Office of Environmental Health Hazard Assessment P.O. Box 4010 Sacramento, CA 95812-4010, Attn: Mike Gyurics. DiPirro's check shall be delivered to the office of Jeremy Fietz, Attorney at Law, 4241 Montgomery Drive, #123, Santa Rosa CA 95405. Additionally, two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010 Sacramento, CA 95812-4010, Attn: Mike Gyurics (EIN: 68-0284486) in the amount of \$750.00. The second 1099 shall be issued in the amount \$250.00 to Michael DiPirro and delivered to the office of Jeremy Fietz at the address

above.

4. REIMBURSEMENT OF FEES AND COSTS

The Noticed Party shall pay a total of \$ 34,500 for fees and costs incurred as a result of investigating, working with toxicology experts, bringing this matter to the Noticed Party's attention, document preparation, post-settlement compliance audit, and negotiating a settlement in the public interest. The payments made pursuant to this Settlement Agreement are a full and complete settlement of all monetary claims by DiPirro related to the Notice and the Dispute.

5. PAYMENT AND FORM 1099

5.1 Payment.

Within ten (10) business days of the Effective Date, Noticed Party shall make a payment in the amount of \$34,500 to Jeremy Fietz, Attorney at Law (via wire transfer, or ACH payment; number provided upon request) or by physical check sent to the office of Jeremy Fietz, Attorney at Law, 4241 Montgomery Drive, #123, Santa Rosa CA 95405, and for the latter option shall be in the form of a check made payable to: "Jeremy Fietz, Attorney at Law".

5.2 Issuance of 1099 Form.

The Noticed Party shall provide DiPirro's counsel, Jeremy Fietz, Attorney-at-Law, with a 1099 form for \$34,500. Such 1099 shall be made on the Form 1099 MISC with the amount reported in box 10 ("Gross proceeds paid to an attorney"). The Noticed Party acknowledges that 1099 shall NOT be issued under form 1099 NEC. A W9 shall be provided by Jeremy Fietz, Attorney-at-Law after this Settlement Agreement has been fully executed by the Parties to this agreement.

6. CLAIMS COVERED AND RELEASED

6.1 DiPirro's Release of Noticed and Related Parties

This Settlement Agreement is a full, final, and binding resolution between DiPirro and the Noticed Party by DiPirro, on behalf of himself, or on behalf of his past and current agents, representatives, attorneys, successors, and assignees, against the Noticed Party, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, and all upstream manufacturers, distributors and wholesalers, and each entity to whom Noticed Party directly or indirectly distributes or sells the Products, including its downstream distributors and retailers including, but not limited to, Amazon.com (collectively referred to as "Releasees"), of any violation(s) or claimed violation(s) of Proposition 65, including the Notice and the Dispute or any statutory or common law claim that has been, could have been or may in the future be asserted against the Noticed Party or the Releasees regarding exposing persons to the Listed Chemical and the failure to warn about exposure to the Listed Chemical arising only in connection with the Products.

In further consideration of the promises and agreements herein contained, DiPirro, on his own behalf and on behalf of his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives and releases all rights to institute or participate in, directly or indirectly, any form of legal action, including, without limitation, all actions and causes of action, in law or in equity, claims, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses, including, without limitation, investigation fees, expert fees, and attorneys' fees (collectively "Claims") against the Noticed Party and Releasees arising under Proposition 65, the Notice, the Dispute or any other statutory or common law claims that were or could have been asserted with respect to exposures to the Listed Chemical from Products distributed, sold, or

distributed for sale in California by the Noticed Party prior to the Effective Date.

DiPirro acknowledges that the Claims released in this Settlement Agreement may include unknown claims, and nevertheless DiPirro intends to release such claims, and in doing so waives California Civil Code § 1542 (and any other state, federal, or international law of similar import), 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.

DiPirro understands and acknowledges that the significance and consequence of this waiver of California Civil Code Section 1542 is that even if DiPirro 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 the Listed Chemical from the Products, including by way of example, any exposure to, or failure to warn with respect to exposure to the Listed Chemical from the Products, DiPirro will not be able to make any claim for those damages against the Noticed Party or any Releasees. Furthermore, DiPirro 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 the Listed Chemical from the Products as may exist as of the date of this release but which DiPirro does not know exist, and which, if known, would materially affect its decision to enter

into this Settlement Agreement, regardless of whether its lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

6.2 Noticed Party's Release of DiPirro

The Noticed Party hereby waives any and all claims that it may have against DiPirro and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by DiPirro and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

7. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

8. GOVERNING LAW

The terms of this Settlement Agreement 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 or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then the Noticed Party may provide written notice to DiPirro of any asserted change in the law, and have no further obligations pursuant to this Settlement Agreement, with respect to, and to the extent that, the Products are so affected. Nothing in this Settlement Agreement shall be interpreted to relieve Noticed Party from any obligation to comply with any applicable state or federal toxics control laws.

9. NOTICES

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

For Frank's Great Outdoors, Inc.:

CEO
1212 N Huron Rd
Linwood, MI 48634

With a copy to:

AnnMarie Sanford
Dickinson Wright, PLLC
2600 West Big Beaver, Suite 300
Troy, MI, 48084

AND

For Michael DiPirro:
Jeremy Fietz, Attorney-at-Law
4241 Montgomery Drive, #123
Santa Rosa CA 95405

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.

10. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts, and by facsimile or 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.

11. POST-EXECUTION ACTIVITIES

DiPirro agrees to comply with the reporting form requirements referenced in Health and Safety Code section 25249.7(f).

12. MODIFICATION

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

13. AUTHORIZATION

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

14. 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. APPLICATION OF SETTLEMENT AGREEMENT

This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, DiPirro, the Noticed Party and the Releasees.

AGREED TO:

Date: 3/4/25

By: 

Michael DiPirro

AGREED TO:

Date: 3/3/25

By: 

Frank's Great Outdoors, Inc.

Print Name: Peter J. Gorshe

Title: CEO