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7 Attorneys for Plaintiff
8 Michael DiPirro

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA
12 UNLIMITED CIVIL JURISDICTION
13

14 MICHAEL DIPIRRO,
15 Plaintiff,

16 v.

17 KELLY PRESLEY L.L.C.; and DOES 1-150,

18
19 Defendants.
20

Case No. 26CV186609

[PROPOSED] CONSENT JUDGMENT

(Health & Safety Code § 25249.6 *et seq.*)

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment (“Consent Judgment”) is entered into by and between plaintiff,
4 Michael DiPirro (“DiPirro”), and Kelly Presley L.L.C. (“Defendant”).

5 DiPirro and Defendant are individually referred to as a “Party” and collectively as the
6 “Parties.”

7 **1.2 Plaintiff**

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

11 **1.3 Defendant**

12 Defendant employs ten or more persons and is a person in the course of doing business for
13 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code
14 section 25249.6 *et seq.* (“Proposition 65”).

15 **1.4 General Allegations**

16 DiPirro alleges that Defendant manufactures or sells Lead Weights
17 in the State of California, which exposes consumers to Lead and lead compounds (“Lead”), a toxic
18 chemical, without first providing the clear and reasonable exposure warnings required by Proposition
19 65. Lead was listed pursuant to Proposition 65 as a chemical that is known to the State of California
20 to cause reproductive toxicity on February 27, 1987, and has been subject to the warning
21 requirements for reproductive harm since February 27, 1988. On October 1, 1992, California
22 identified and listed Lead and lead compounds as a chemical known to cause cancer. Lead and lead
23 compounds became subject to the “clear and reasonable warning” requirements of the act for cancer
24 one year later on October 1, 1993, for cancer.

25 **1.5 Product Description**

26 The products covered by this Consent Judgment are Lead Weights
27 that are sold, or distributed for sale in California by Defendant, including, but not limited to the
28 Presleys Outdoors Strap Decoy Weight 8oz (the “Products”).

1 **1.6 Notices of Violation**

2 On or about May 8, 2025, DiPirro served Noticed Party and certain requisite
3 public enforcement agencies with a “60-Day Notice of Violation” (“Notice”), a document that
4 informed the recipients of DiPirro’s allegation that Defendant violated Proposition 65 by failing to
5 warn its customers and consumers in California that the Products expose users to Lead and lead
6 compounds. To the best of the Parties’ knowledge, no public enforcer has commenced and is
7 diligently prosecuting the allegations set forth in the Notice.

8 **1.7 Complaint**

9 On or about , DiPirro filed the instant action against Defendant
10 alleged violations of Health & Safety Code § 25249.6 that are the subject of the Notice.

11 **1.8 No Admission**

12 Defendant denies the material, factual, and legal allegations contained in the Notices and
13 contends that it sells Products to California residents in accordance with applicable state laws and
14 requirements. Nothing in this Consent Judgment shall be construed as an admission by Defendant of
15 any fact, finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this
16 Consent Judgment constitute or be construed as an admission by Defendant of any fact, finding,
17 conclusion of law, issue of law, or violation of law, the same being specifically denied by Defendant.
18 This section shall not, however, diminish or otherwise affect Defendant’s obligations,
19 responsibilities, and duties under this Consent Judgment.

20 **1.9 Consent to Jurisdiction**

21 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
22 jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper in Alameda
23 County, and that this Court has jurisdiction to enter and enforce the provisions of this Consent
24 Judgment.

25 **1.10 Effective Date**

26 For purposes of this Consent Judgment, the term “Effective Date” shall mean the date of entry
27 of this Consent Judgment by this Court.
28

1 **2. INJUNCTIVE RELIEF: PROPOSITION 65 WARNINGS**

2 **2.1** Within thirty days of the Effective Date (a.k.a. the “Warning Date”), as to all Products
3 that contain lead (hereinafter the “Listed Chemical”) and are sold by and
4 shipped to a California address for sale by Defendant, Defendant shall provide a clear and reasonable
warning
5 for each Product as set forth below in Section 2.3. Each warning shall be prominently placed with such
6 conspicuousness as compared with other words, statements, designs, or devices as to render it likely
7 to be read and understood by an ordinary individual under customary conditions before purchase or
8 use. Each warning shall be provided in a manner such that the consumer or user understands to
9 which specific Product the warning applies, so as to minimize the risk of consumer confusion.
10 Compliance with the warning requirements set forth in Sections 2.1 through 2.3 or the warning
11 requirements of Proposition 65 and related regulations, as may be amended from time to time, shall
12 be deemed compliance with this Consent Judgment. This injunctive relief as specified herein is an
13 integral component of this agreement.

14 **2.2 Internet Warnings.** In addition to the warning specified in Section 2.1 above, for all
15 Products that Defendant offers for sale directly to consumers in California via the internet on or after
16 the Warning Date, Defendant shall provide a warning for such Products by including the warning set
17 forth below in Section 2.3 on one or more of the following: (a) on the same web page on which a
18 Product is displayed; (b) on the same web page as the order form for a Product; (c) on the same web
19 page as the price for any Product; or (d) on one or more web pages displayed to a purchaser during
20 the checkout process. The internet warning described above can also be delivered through a
21 hyperlink using the word “[California Prop 65] WARNING” (language in brackets optional).

22 **2.3 Text of the Warning.** The text of the warning shall be printed in black ink on a light
23 background, in a font that is easy to read and legible, but in no case less than a size 6 font. Defendant
24 shall use the warning language as set forth below in 2.3(a) or 2.3(b) for Products containing Lead and
25 lead compounds, which shall include a symbol consisting of a black exclamation point in a yellow
26 equilateral triangle with a bold black outline as shown below (the symbol may be black or white if
27 the color yellow is otherwise not used on the Product’s packaging). /₃

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a. Full Warning.  **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.

b. Short-Form Warning.

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

In the event that Defendant continues to distribute the Products on or after January 1, 2028, Defendant agrees to comply with 27 C.C.R. § 25603 on and after that date, and will utilize the following Short-Form Warning:

 **WARNING:** Risk of cancer and reproductive harm from exposure to lead. See www.P65Warnings.ca.gov.

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

Defendant shall make a civil penalty payment of \$3,000 as a component of this settlement. The penalty payment will be allocated by DiPietro's counsel in accordance with California Health & Safety Code § 25249.12(c)(1) & (d), with 75% of the penalty funds remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty remitted to DiPietro. The award of penalty as specified herein is an integral component of this agreement.

1 **4. REIMBURSEMENT OF FEES AND COSTS**

2 The parties acknowledge that DiPirro and his counsel offered to resolve this dispute without
3 reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee
4 issue to be resolved after the material terms of the agreement had been tentatively agreed upon. The
5 Defendant then expressed a desire to resolve the fee and cost issue shortly after the other settlement
6 terms had been finalized. The parties then attempted to (and did) reach an accord on the
7 compensation due to DiPirro and his counsel under general contract principles and the private
8 attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work
9 performed through the mutual execution of this agreement. The Defendant shall pay a total of
10 \$57,000 for fees and costs incurred as a result of investigating, working with toxicology
11 experts, bringing this matter to the Defendant's attention, document preparation, negotiating a
12 settlement in the public interest, time spent in litigation, and post-settlement audit and compliance
13 work. The award of fees and costs as specified herein is an integral component of this agreement.

14
15 **5. PAYMENT AND FORM 1099**

16 **5.1 Payment.** The complete settlement payment in the amount of \$60,000 shall be
17 paid within seven business days of the Effective Date, to the bank account of Jeremy Fietz,
18 Attorney at Law (via wire transfer, or ACH payment; number provided upon request) or by physical
19 check to the office of Jeremy Fietz, Attorney at Law, 4241 Montgomery Drive, #123, Santa Rosa CA
20 95405, and for the latter option shall be in the form of a check made payable to: "Jeremy Fietz,
21 Attorney at Law". For any payment that is returned for any reason, including insufficient funds, a
22 payment must be made in the form of a cashier's check within three (3) calendar days of notification
23 of insufficient funds, plus a 10% service fee paid to DiPirro's attorneys.

24 **5.2 Issuance of 1099 Form.** The Defendant shall provide DiPirro's counsel, Jeremy
25 Fietz, Attorney-at-Law, with one 1099 form for the entire settlement amount. Such 1099 shall be
26 made on the Form 1099 MISC with the amount reported in box 10 ("Gross proceeds paid to an
27 attorney"). The Defendant acknowledges that 1099 shall NOT be issued under form 1099 NEC. A

W9 shall be provided by Jeremy Fietz, Attorney-at-Law after this Agreement has been fully executed by the Parties to this agreement. Issuance of the incorrect form of 1099 shall result in a fee of \$1000 payable to “Jeremy Fietz, Attorney at Law”, unless promptly corrected upon notice by Plaintiff to Defendant.

6. CLAIMS COVERED AND RELEASED

6.1 DiPirro’s Public Release of Proposition 65 Claims

DiPirro, acting on his own behalf and in the public interest, releases Defendant, any persons or entities identified on any of the Notices as an alleged violator, retailer, manufacturer, or distributor (collectively, “Noticed Parties”), and each of the respective officers, directors, shareholders, employees, attorneys, representatives, shareholders, subsidiaries, affiliates, parents, divisions, successors, assigns, insurers, supplier, dealers, distributors, retailers, and customers of Defendant (collectively, “Affiliates”), and any other person or entity to whom Defendant directly or indirectly distributes or sells the Products collectively with Defendant, and Affiliates, (the “Releasees”), from all claims for violations of Proposition 65 up through the Effective Date based on exposures to the Listed Chemical from the use of any Products, as set forth in the Notices and the Complaint. Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to the Listed Chemical from the use of the Products sold by Defendant after the Effective Date, as set forth in the Notices.

6.2 DiPirro’s Individual Release of Claims

In further consideration of the promises and agreements herein contained, DiPirro, *not* in his representative capacity, but on behalf of himself and his past and current agents, representatives, attorneys, successors, and assigns, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action, and releases any and all actions, causes of action, obligations, costs, expenses, fees, attorneys’ fees, fines, penalties, damages, losses, claims, suits, liabilities, and demands that he has or may have against Defendant and/or any other Releasee, of any nature, character, or kind, whether known or unknown, suspected or unsuspected, arising out of alleged or

1 actual exposures to the Listed Chemical from the use of any of the Products sold or distributed for
2 sale by Defendant in the State of California before the Warning Date.

3 DiPirro, in his individual capacity and not in his representative capacity, waives and
4 relinquishes all rights and benefits of California Civil Code section 1542 with respect to any and
5 claims relating to the Products and/or the Notices, and does so understanding and acknowledging the
6 significance and consequence of specifically waiving section 1542. California Civil Code § 1542
7 states as follows:

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

14 Thus, notwithstanding the provisions of section 1542, DiPirro expressly acknowledges this
15 Consent Judgment is intended to include in its effect, without limitation, all claims relating to the
16 Products and/or the Notices that DiPirro does not know or suspect to exist in his favor at the time of
17 signing this Consent Judgment, and that this Consent Judgment contemplates the extinguishment of
18 any such claims.

19 **6.3 Defendant's Release of DiPirro**

20 Defendant, on its own behalf and on behalf of its past and current agents, representatives,
21 attorneys, successors, and assignees, hereby waives any and all claims that it may have against
22 DiPirro and his attorneys and other representatives, for any and all actions taken or statements made
23 (or those that could have been taken or made) by DiPirro and his attorneys and other
24 representatives, whether in the course of investigating claims, otherwise seeking to enforce
25 Proposition 65 against it in this matter, or with respect to the Products.

26 **7. COURT APPROVAL**

27 This Consent Judgment is not effective until it is approved and entered by the Court and shall
28 be null and void if, for any reason, it is not approved and entered by the Court within one year after it
has been fully executed by all Parties.

1 **8. SEVERABILITY**

2 If, subsequent to the execution of this Consent Judgment, any provision of this Consent
3 Judgment is held by a court to be unenforceable, the validity of the remaining provisions shall not be
4 adversely affected.

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6 **9. GOVERNING LAW**

7 The terms of this Consent Judgment shall be governed by the laws of the State of California
8 and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise
9 rendered inapplicable by reason of law generally, or as to the Products, then Defendant may apply to
10 the Court for a modification of its obligations hereunder, with respect to, and to the extent that, the
11 Products are so affected. Nothing in this Consent Judgment shall be interpreted to relieve Defendant
12 from any obligation to comply with any pertinent state or federal toxics control laws.

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14
15 **10. NOTICES**

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

20 For Kelly Presley L.L.C.:

21 Cathleen S. Huang
22 Bowles & Verna, LLP
23 2121 N. California Blvd., Suite 875
24 Walnut Creek, CA, 94596-8180

25 For Plaintiff DiPirro:

26 Jeremy Fietz, Attorney-at-Law
27 4241 Montgomery Drive, #123
28 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.

1 **11. ENTIRE AGREEMENT; COUNTERPARTS; FACSIMILE SIGNATURES**

2 This Consent Judgment contains the entire and only agreement between the Parties and any
3 and all prior negotiations and understandings related hereto shall be deemed to have been merged
4 within it. There are no representations or terms of agreement made by any Party with respect to the
5 subject matter hereof or the other Party except for those contained in this Consent Judgment. This
6 Consent Judgment may be executed in counterparts, and by facsimile or portable document format
7 (PDF) signature, each of which shall be deemed an original, and all of which, when taken together,
8 shall constitute one and the same document.

9
10 **12. POST EXECUTION ACTIVITIES**

11 DiPirro agrees to comply with the reporting form requirements referenced in Health & Safety
12 Code § 25249.7(f). The Parties further acknowledge that, pursuant to Health & Safety Code
13 § 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement. In furtherance
14 of obtaining such approval, DiPirro and Defendant agree to mutually employ their best efforts, and
15 that of their counsel, to support the entry of this agreement as a Consent Judgment, and to obtain
16 judicial approval of the settlement. Plaintiff's counsel shall be responsible for preparation and filing
17 of the Motion to Confirm and for compliance with regulatory notice requirements. Upon request of
18 Plaintiff's counsel, Defendant and/or their counsel, shall timely provide a declaration/affidavit in full
19 support of any and all aspects of this proposed Consent Judgment.

20
21 **13. MODIFICATION**

22 This Consent Judgment may be modified only by: (i) a written agreement of the Parties and
23 upon entry of a modified consent judgment by the Court thereon; or (ii) upon a successful motion or
24 application of any Party and the entry of a modified consent judgment by the Court.

1 **14. AUTHORIZATION**

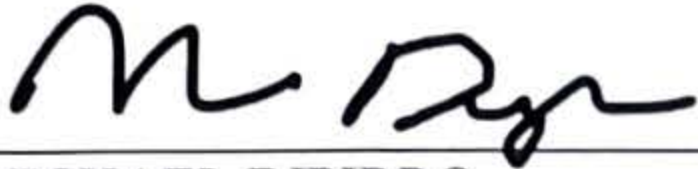
2 The undersigned are authorized to execute this Consent Judgment on behalf of their respective
3 Parties and have read, understood and agree to all of the terms and conditions of this Consent
4 Judgment.

5
6 **15. RETENTION OF JURISDICTION AND ENFORCEMENT**

7 DiPirro represents and warrants neither he nor his agents or attorneys have assigned or
8 otherwise transferred, or attempted to assign, or transfer, any claim or claims against Defendant.
9 DiPirro further warrants that neither he nor his agents or attorneys are aware of any other potential
10 private enforcer or attorney who intends to bring litigation based on the 60-Day Notice. Any further
11 action taken to enforce the terms of this agreement after approval by the Court shall carry the right to
12 recover attorneys' fees and costs incurred in such effort. This Court shall retain jurisdiction of this
13 matter to implement and enforce the terms of this Consent Judgment under Code of Civil Procedure §
14 664.6. Public agency prosecutors may enforce the settlement under H&S §25249.7(c) and private
15 party enforcers acting "in the public interest" may enforce the settlement under H&S §25249.7(d).

16 AGREED TO:

17 Date: 07/14/2026

18 By: 
19 MICHAEL DIPIRRO

AGREED TO:

20 Date: 8-5-26

21 By: 
22 Kelly Presley L.L.C.
23 Print Name: Kelly R Presley
24 Title: Owner

25 **SO ORDERED:**

26 **DATED:**

27 **ALAMEDA COUNTY SUPERIOR COURT**
28 _____