

SETTLEMENT AGREEMENT

AG Notice Nos. 2025-02132

1. INTRODUCTION

1.1 Epps and Plaza Artist Materials of the Mid-Atlantic, Inc.

This settlement agreement (Settlement Agreement) is entered into by and between Jay Epps and Plaza Artist Materials of the Mid-Atlantic, Inc., (Settling Entity) with Epps and the Settling Entity referred to as the “Parties.” Epps 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. Pursuant to California Health & Safety Code §§25249.5, *et seq.* (Proposition 65), the Settling Entity is a responsible party that has sold the products at issue set forth in subsection 1.3 below to (a) California consumers or (b) non-California purchasers for which the products are shipped to an address in California (customers).

1.2 General Allegations

Epps alleges that the Settling Entity distributes, retails and/or otherwise facilitates for sale in California the products defined below, and that it does so without providing the online health hazard warning he contends is required by Proposition 65 for consumer exposures to cadmium and cadmium compounds. Cadmium and cadmium compounds are listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer. Cadmium is also listed pursuant to Proposition 65 as a chemical known to the State of California to cause developmental and male reproductive harm (reproductive toxicity).

1.3 Product Description

The products covered by this Settlement Agreement are artist paste paints (including kits containing such items) containing cadmium and/or and cadmium compounds (“cadmium paint”), offered for sale on plazaart.com and sold indirectly by the Settling Entity through the Walmart.com online marketplace. These are hereinafter collectively referred to as the “Product” or “Products”.

1.4 Notice of Violation

On June 28, 2025, Epps served the Settling Entity and certain requisite public enforcement agencies with a 60-Day Notice of Violation (Notice) alleging that it violated Proposition 65 when it failed to warn customers or consumers in California that certain artist paste paints products expose users to cadmium and/or cadmium compounds. To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

The Settling Entity denies the material, factual and legal allegations contained in the Notice and maintains that all Products that were manufactured, sold and distributed in California have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as either a waiver or admission by the Settling Entity of any fact, finding, issue of law or violation of law, in this or any other matter; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by the Settling Entity of any fact, finding, conclusion, issue of law or violation of law. This Settlement Agreement is the product of negotiation and compromise and is accepted by Settling Entity solely for purposes of settling, compromising, and resolving issues disputed in the Notice. This subsection shall not, however, diminish or otherwise affect the obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean November 7, 2025. The term "Compliance Date" shall refer to December 31, 2025.

2. **INJUNCTIVE RELIEF: WARNINGS**

2.1 Injunctive Relief

Pursuant to the terms set forth below, with respect to Products sold in California, the Settling Entity, at its option, agrees to: (a) provide clear and reasonable Proposition 65 warnings


for the Products as set forth in subsection 2.2 on each Product's online product page on plazaart.com; or (b) cease selling the Products that are to be shipped to an address in California, and/or delist the Products offered for sale as set forth in subsection 2.3. The Parties understand and agree that some Products may appear online that contain no warning, but are not available for sale to California consumers (sales cannot be completed) and that this complies with this subsection 2.1(b), so long as they are not shipped to a California address.

2.2 Clear and Reasonable Warnings (Products Sold Online)


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 of purchase or use.

- (a) Warning. The warning shall consist of the following or statement


(Warning):

 **WARNING:** This product can expose you to chemicals including cadmium and cadmium compounds, which are known to the State of California to cause cancer and reproductive harm. For more information go to www.P65Warnings.ca.gov.

- (b) Interim Warning for Certain Products. Until December 31, 2026, the Settling Entity may use the following online warning for those Products subject to a previously-filed Consent Judgment involving third-party manufacturers:

 **WARNING:** Do Not Spray Apply. This Product Contains Cadmium, a Chemical Known To The State Of California To Cause Cancer By Means Of Inhalation

- (c) Short-Form Warning. The Settling Entity may use the following short-form warning as set forth in this subsection 2.2 (Short-Form Warning):

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

If any of the Products are offered for sale to California consumers after the Compliance Date, such Product listings shall contain a warning (as set forth above) which is displayed to the purchaser prior to completion of the transaction without requiring the potential buyer to use considerable effort to be made aware of the health hazard advisory. The warning (or a clearly and reasonably marked hyperlink to the warning using the signal word “⚠ Warning” or “⚠ Product Warning”) given in conjunction with the online sale of the Products may appear either: (a) prominently placed on the page in which the Product’s image, price and add-to-cart are displayed; (b) on the same page as the order confirmation for the Products (e.g., review cart URL); or (c) on the page displayed to the purchaser during the checkout process prior-to-payment for any shipment recipient with a California address.

2.3 Option to Delist

On or before the Compliance Date, the Settling Entity may, at its option, comply with the injunctive commitments set forth in subsection 2.1 above by delisting a Product such that the item is then unavailable for online sale for shipment to an address in California. If it does so, the previously delisted Product may be reinstated for sale online to California consumers if it complies with subsections 2.1 through 2.2 prior to the date of such relisting.

2.4 Products in the Stream of Commerce

Any Products sold prior to the Compliance Date shall not be subject to the requirements of subsections 2.1 to 2.2.

2.5 Foreign Language Requirement

The Settling Entity shall comply with the requirements set forth in 27 California Code of Regulations §25602(d).

3. **MONETARY SETTLEMENT TERMS**

3.1 Civil Fines

Pursuant to Health & Safety Code §25249.7(b), and in settlement of all claims alleged in the Notice, the Settling Entity agrees to pay a total of \$5,000 in civil fines. This payment will be allocated in accordance with Health & Safety Code §25249.12(c)(1) and (d), with 75% of the

penalty amount paid to the Office of Environmental Health Hazard Assessment (OEHHA), and the remaining 25% of the penalty amount paid to and retained by Epps.

The Settling Entity will deliver its civil penalty payment to the address in subsection 3.3 by overnight courier, with a tracking number, or through an automatic electronic transfer such that payment is received by Epps' counsel with ten business days after the Effective Date, subject to Epps and his counsel completing any reasonably necessary tax and compliance documentation to enable the Settling Entity to complete the payment. For non-electronic payments, the Settling Entity shall provide two checks made payable to: (a) "OEHHA" in the amount of \$3,750; and (b) "Jay Epps" in the amount of \$1,250. Thereafter, Epps' counsel shall send the portions of the penalties paid by the Settling Entity to OEHHA and Epps.

3.2 Reimbursement of Attorneys' Fees and Costs

The Parties acknowledge that Epps and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving the issue to be resolved after the material terms of the agreement had been settled. Shortly after the other settlement terms had been finalized, the Settling Entity expressed a desire to resolve Epps' fees and costs. The Parties then negotiated a resolution of the compensation due to Epps' counsel under general contract principles, Proposition 65 implementing regulation for fee awards at 11 California Code of Regulations §3201 and/or the private attorney general doctrine codified at California Code of Civil Procedure §1021.5. For all work performed in connection with the claims alleged in the Notice through the mutual execution of this agreement, the Settling Entity shall reimburse Epps' counsel \$33,000.

The Settling Entity will deliver its payment to the address in subsection 3.3 by courier, with a tracking number, or through an automatic electronic transfer such that payment is received by Epps' counsel within ten business days after the Effective Date, in the form of a check payable to "Chanler, LLC," subject to Epps and his counsel completing any reasonably necessary tax and compliance documentation to enable the Settling Entity to complete the payment. The reimbursement shall cover all fees and costs incurred by Epps investigating,

bringing this matter to the Settling Entity's attention and negotiating a settlement for the claims alleged in the Notice in furtherance of the public interest.

3.3 Payment Address

All non-electronic payments required by this Settlement Agreement shall be delivered to the following address:

Chanler, LLC
Attn: Proposition 65 Controller
72 Huckleberry Hill Road
New Canaan, CT 06840

4. CLAIMS COVERED AND RELEASED

4.1 Epps' Release of the Settling Entity and Releasees

This Settlement Agreement is a full, final and binding resolution between Epps, as an individual (and not on behalf of the public yet furthers its health interest), and the Settling Entity, of any violation of Proposition 65 that was or could have been asserted by Epps on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, against the Settling Entity and each of its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys, as well as any distributors or other sellers of the Settling Entity's Products (releasees), based on their failure to warn online about alleged exposures to cadmium and cadmium compounds contained in the Products. This release is expressly limited to Products sold and/or offered for sale for shipment to persons with a California address on plazaart.com and walmart.com before the Compliance Date.

In further consideration of the promises and agreements herein contained, Epps as an individual and not on behalf of the public, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all of his rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he 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 with respect to cadmium and cadmium compounds in the Products against the Settling Entity and the releasees in connection with the Products and Notice. Nothing in this subsection, therefore, shall affect Epps' right to commence an action under Proposition 65 against the Settling Entity and its releasees that do not involve the Products covered by this Settlement Agreement.

4.2 The Settling Entity's Release of Epps

The Settling Entity, on behalf of itself, its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against Epps 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 Epps and his attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 in connection with the Notice or Products.

5. SEVERABILITY

If, subsequent to its execution, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

6. GOVERNING LAW & ENFORCEMENT

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. Nothing in this Settlement Agreement shall be interpreted to relieve the Settling Entity from any obligation to comply with any pertinent state or federal law.

The Parties agree that if the OEHHA changes its warning regulations affecting subsections 2.2 through 2.5 above, then the Settling Entity may either conform with the revised law or continue to conform with the terms provided in this Settlement Agreement if the new implementing regulations so allow. In doing so, the Settling Entity will be in compliance with this Settlement Agreement as long as it continues to fulfill any warning obligations unaffected by

such new changes. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this Settlement Agreement are rendered inapplicable or no longer required as a result of any such repeal or preemption or rendered inapplicable by reason of law generally as to the Products, then the Settling Entity shall provide written notice to Epps of any asserted change in the law and shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

7. NOTICE

Unless specified herein, all correspondence, notices, and service of process required to be provided pursuant to this Settlement Agreement shall be in writing and: (a) personally delivered; (b) sent by first class (registered or certified mail) return receipt requested; or (c) sent by overnight courier; and (d) electronically transmitted to one party by the other party at the following addresses:

For the Settling Entity:

John Epperson
Buchalter PC
425 Market Street, Suite 2900
San Francisco, CA 94105
jepperson@buchalter.com

For Epps:

Proposition 65 Coordinator
Chanler, LLC
72 Huckleberry Hill Road
New Canaan, CT 06840
clifford@chanlerLLC.com

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.

8. COUNTERPARTS; FACSIMILE AND SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or 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 HEALTH & SAFETY CODE § 25249.7(F)

Epps agrees to comply with the reporting requirements referenced in Health & Safety Code §25249.7(f).

10. MODIFICATION


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

11. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood, and agreed to all of the terms and conditions contained herein.

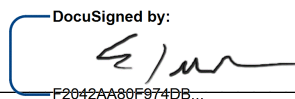
AGREED TO:

Date: November 7, 2025

By: 
Jay Epps

AGREED TO:

Date: November 4, 2025

By: 
F2042AA80F974DB...

NAME: Eric Zelenko

TITLE: President

Plaza Artist Materials of the Mid-Atlantic, Inc.