

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Russell Brimer Inventory Liquidators Corp. and Regent Products Corp.

This Settlement Agreement is entered into by and between Russell Brimer, (hereinafter "Brimer" or "Plaintiff"), Inventory Liquidators Corp., (hereinafter "Inventory"), and Regent Products Corp. (hereinafter "Regent") (Inventory and Regent shall be identified hereinafter collectively as "Defendants") with Plaintiff and Defendants collectively referred to as the "Parties." Brimer is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Defendants employ ten or more persons and are person in the course of doing business for purposes of Proposition 65.

1.2 General Allegations

Brimer alleges that Defendants have manufactured, distributed and/or sold in the State of California (1) mugs with colored artwork or designs on the exterior containing lead, including, but not limited to Mug Ceramic with Coffee Print, Item No. G05203, (#7 21003 05203 1); (2) tape measures containing lead, including, but not limited to the tape measure found in the OD Old Values Sewing Kit G20348 (#7 21003 20348 8); and (3) metal zipper pulls including, but not limited to the zipper pull located on the OD Old Values Sewing Kit G20348 (#7 21003 20348 8).. Lead is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§25249.5 *et seq.* ("Proposition 65"), as a chemical known to the State of California to cause cancer, birth defects and other reproductive harm.

Brimer also alleges that have manufactured, distributed and/or sold in the State of California vinyl bags containing DEHP, including, but not limited to Good Old Values PVC Cosmetic Bag #G14411 (#7 21003 14411 8). DEHP is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§25249.5 *et seq.* ("Proposition 65"), as a chemical known to the State of California to cause cancer, birth defects and other reproductive harm. Lead and Cadmium shall be referred to herein as the "Listed Chemicals."

1.3 Product Descriptions

The products that are covered by this Settlement Agreement are defined, as follows: mugs with colored artwork or designs on the exterior containing lead ("Mug Products"), tape measures containing lead, zipper pulls containing lead (the "Lead Products") and vinyl bags containing DEHP. (the "DEHP Products") including, but not limited to, the products identified in Exhibit A to this Settlement Agreement. Mug Products, Lead Products and DEHP Products shall be collectively referred to herein as the "Products."

1.4 Notices of Violation

On or about February 24, 2009, Brimer served Defendants and various public enforcement agencies with a document entitled "60-Day Notice of Violation" (the "Notice") that provided Defendants and such public enforcers with notice that alleged that Defendants was in violation of California Health & Safety Code §25249.6 for failing to warn consumers and customers that the Ceramic Mug products exposed users in California to Lead. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

On or about June 30, 2009, Brimer served Defendants and various public enforcement agencies with a document entitled "Supplemental 60-Day Notice of Violation" (the "Supplemental Notice") that provided Defendants and such public enforcers with notice that alleged that Defendants was in violation of California Health & Safety Code §25249.6 for failing to warn consumers and customers that the Products exposed users in California to the Listed Chemicals. If no public enforcer diligently prosecutes the allegations set forth in the Supplemental Notice within 65 days of its issuance, the Tape Measure, Zipper Pull and Vinyl Bag Products shall be included in the definition of "Products" pursuant to this agreement.

1.5 No Admission

Defendants deny the material factual and legal allegations contained in Plaintiff's Notice and Supplemental and maintain that all products that they have sold and distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Defendants of any fact, finding, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Defendants of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Defendants. However, this section shall not diminish or otherwise affect the obligations, responsibilities and duties of Defendants under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean August 15, 2009.

2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION

2.1 Reformulation Commitment

1. As of the Effective Date, Defendants shall only manufacture, distribute or sell or cause to be manufactured distributed or sold Products in California that are DEHP Free and Lead Free, as set forth below. For purposes of this Settlement Agreement, "Lead Free" Mug Products shall mean the materials for all colored artwork, designs or markings on the exterior must contain by weight no more than six one-hundredths of one percent (0.06%) lead as measured at Defendants' option, either before or after the material is fired onto (or otherwise affixed to) the Product, using EPA Test Method 3050b or an equivalent test method of sufficient sensitivity to establish a limit of quantitation (as distinguished from detection) of less than 600 ppm¹. In addition, Products sold in California containing colored artwork, designs or markings on the exterior that extend into the Lip and Rim Area must only utilize decorating materials that contain No Detectable lead.²

For purposes of this Settlement Agreement "Lead Free" Tape Measure and Zipper Pull Products shall mean that the Products contain less than any Product containing 0.1 percent (.1%)

¹ If Defendants tests, or causes to be tested, the decoration after it is affixed to the Product, the percentage of lead or cadmium by weight must relate only to the other portions of the decorating material and not include any calculation of non-decorating material.

² "Lip and Rim Area" is defined as the exterior top 20 millimeters of a hollowware Food/Beverage Product, as defined by American Society of Testing and Materials Standard Test Method C927-99. "No Detectable lead" shall mean that neither lead nor cadmium is detected at a level above two one-hundredths of one percent (0.02%) of lead or eight one-hundredths of one percent (0.08%) of cadmium by weight, respectively, using a sample size of the materials in question measuring approximately 50-100 mg and a test method of sufficient sensitivity to establish a limit of quantitation of less than 200 ppm.

lead or less (by weight) in each material used in the Products or any Product, for which the reasonably foreseeable exposure to the Listed Chemical from the product is indirect, that yields a result of less than 5 micrograms (ugs) of lead by a Ghost Wipe test conducted on all metal portions of the perimeter or other surface area of the Product, performed as outlined in NIOSH method of detection 9100.

For purposes of this Settlement Agreement, "DEHP Free" Vinyl Bag Products are defined as those containing less than or equal to 1,000 parts per million ("ppm") of DEHP. Defendants shall use Environmental Protection Agency ("EPA") testing methodologies 3580A and 8270C to determine whether the respective levels have been exceeded in its Products

Defendants further commit that 100% of the Products that they offer for sale in California after October 1, 2009, shall be DEHP Free and Lead Free, or shall otherwise be exempt from the warning requirements as set forth in Section 2.5.

2.2 Product Warnings

After the Effective Date, Defendants shall not sell, ship, or offer to be shipped for sale in California, Products containing the Listed Chemicals unless such Products are shipped with the clear and reasonable warnings set out in Section 2.3 and 2.4 or comply with the reformulation requirements of Lead Free and DEHP Free Products set out in Section 2.1.

Any warning issued for Products pursuant to Section 2.3 and 2.4, below, 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, for Products shipped directly to an individual in

California, before use.

2.3 Warnings For Retail Store Sales

(a) **Product Labeling.** Defendants may perform their warning obligation by affixing a warning to the packaging of, labeling to, or, if no label exists, directly on each Product sold in retail outlets in California by Defendants or its agents for the Products, that states:³

For Mug Products:

WARNING: The materials used as colored decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

or

WARNING: This product contains lead, a chemical known to the state of California to cause birth defects or other reproductive harm.

For Lead Products:

WARNING: This product contains lead, a chemical known to the state of California to cause birth defects or other reproductive harm

For DEHP Products:

WARNING: This product contains DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

³ For purposes of this Settlement Agreement, "sold in proximity to other like items" shall mean that the Product and another product are offered for sale close enough to each other so that the consumer, under customary conditions of purchase, could not reasonably determine which of the two products is subject to the warning sign.

(b) **Point-of-Sale Warnings.** Defendants may perform their warning obligations by ensuring that signs are posted at retail outlets in the State of California where the Products are sold. Point-of-sale warnings shall be provided through one or more signs posted in close proximity to the point of display of the Products that states:

WARNING: The following products will expose consumers to lead a chemical known to the state of California to cause birth defects or other reproductive harm:

[List each Product by brand name and description.]

or

WARNING: These products contain lead a chemical known to the state of California to cause birth defects or other reproductive harm.

[List each Product by brand name and description.]

2.4 Warnings For Mail Order Catalog and Internet Sales. Defendants shall satisfy their warning obligations for Products sold via mail order catalog or the Internet to California residents by providing a warning: (i) in the mail order catalog; or (ii) on the website. Warnings given in the mail order catalog or on the website shall identify the specific Product to which the warning applies as further specified in sub sections (a) and (b) below.

(a) **Mail Order Catalog Warning.** Any warning provided in a mail order catalog must be in the same type size or larger than the Product description text within the catalog. The following warning shall be provided on the same page and in the same location as each display of the Product:

For Mug Products:

WARNING: The materials used as colored decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

or

WARNING: This product contains lead, a chemical known to the state of California to cause birth defects or other reproductive harm.

For Lead Products:

WARNING: This product contains lead, a chemical known to the state of California to cause birth defects or other reproductive harm

For DEHP Products:

WARNING: This product contains DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

Where it is impracticable to provide the warning on the same page and in the same location as the display of the Product, Defendants may utilize a designated symbol (▼) to cross reference the applicable warning and shall define the term "designated symbol" with the following language on the inside of the front cover of the catalog and on the same page as any order form for the Product(s):

WARNING: Certain products identified with this symbol ▼ and offered for sale in this catalog contain a chemical known to the State of California to cause birth defects and other reproductive harm.

The designated symbol must appear on the same page and in close proximity to the display or description of the Product on such page. On each page where the designated symbol appears, Defendants must provide a reference directing the consumer to the warning language and definition of the designated symbol.

If Defendants elect to sell the products in mail order catalog after the Effective Date, then the warnings must be included in all catalogs offering to sell one or more Products printed after January 1, 2010.

(b) **Internet Website Warning.** A warning may be given in conjunction with the sale of the Product via the Internet, provided it appears either: (a) on the same web page on which the Product is displayed; (b) on the same web page as the order form for the Product; (c) on the same page as the price for any Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The following warning statement shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Product for which it is given in the same type size or larger than the Product description text:

For Mug Products:

WARNING: The materials used as colored decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

or

WARNING: This product contains lead, a chemical known to the state of California to cause birth defects or other reproductive harm.

For Lead Products:

WARNING: This product contains lead, a chemical known to the state of California to cause birth defects or other reproductive harm

For DEHP Products:

WARNING: This product contains DEHP, a phthalate chemical known to the State of California to cause birth defects and other reproductive harm.

Alternatively, the designated symbol may appear adjacent to or immediately following the display, description, or price of the Product for which a warning is being given, provided that the following warning statement also appears elsewhere on the same web page, as follows:

WARNING: Products identified on this page with this symbol ▼ contain a chemical known to the State of California to cause birth defects and other reproductive harm.

2.5 Exceptions To Warning Requirements

The warning requirements set forth in Sections 2.2 through 2.4 shall not apply to:

- (i) Any Products manufactured before the Effective Date; or
- (ii) Lead Free or DEHP Free Products (as defined in Section 2.1).

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

In settlement of all the claims referred to in this Settlement Agreement against it, Defendants shall pay \$2,000.00 in civil penalties to be apportioned in accordance with California Health & Safety Code §25192, with 75% of these funds remitted to the State of

California's Office of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies remitted to Brimer as provided by California Health & Safety Code §25249.12(d). Defendants shall issue two separate checks for the penalty payment: (a) one check made payable to Hirst & Chanler LLP in Trust for the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of \$1,500.00, representing 75% of the total penalty and (b) one check to Hirst & Chanler LLP in Trust for Brimer in the amount of \$500.00, representing 25% of the total penalty. Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486) in the amount of \$1,500.00. The second 1099 shall be issued to Brimer in the amount of \$500.00, whose address and tax identification number shall be furnished, upon request, five calendar days before payment is due.

Payments shall be delivered on or before August 15, 2009, at the following address:

HIRST & CHANLER LLP
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

4. REIMBURSEMENT OF FEES AND COSTS

The parties reached an accord on the compensation due to Brimer and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Defendants shall reimburse Brimer's counsel for fees and costs, incurred as a result of investigating, bringing this matter to Defendants's attention, and negotiating a settlement in the public interest. Defendants shall pay Brimer and his counsel \$33,000.00 for all attorneys' fees,

expert and investigation fees, and related costs. The payment shall be made payable to Hirst & Chanler LLP and shall be delivered on or before August 15, 2009, at the following address:

HIRST & CHANLER LLP

Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

Defendants shall issue a separate 1099 for fees and cost paid in the amount of \$33,000.00 to Hirst & Chanler LLP, 2560 Ninth Street, Parker Plaza, Suite 214, Berkeley, CA 94710 (EIN: 20-3929984).

5. RELEASE OF ALL CLAIMS

5.1 Release of Defendants and Downstream Customers

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Brimer, on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, and in the interest of the general public, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, 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 limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against Defendants and each of their downstream distributors, wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners,

purchasers, users, parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees"). This release is limited to those claims that arise under Proposition 65, as such claims relate to Defendants' alleged failure to warn about exposures to or identification of the Listed Chemical contained in the Products.

The Parties further understand and agree that this release shall not extend upstream to any 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 Defendants.

5.2 Defendants' Release of Brimer

Defendants waive any and all claims against Brimer, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Brimer and his attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

6. SEVERABILITY

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

7. 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 Defendants shall provide written notice to Brimer of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

8. NOTICES

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

To Defendants:
Regent Products Corp.
c/o Jennifer T. Taggart, Partner
DEMETRIOU, DEL GUERCIO, SPRINGER & FRANCIS, LLP
801 South Grand Avenue, Suite 1000
Los Angeles, California 90017-4613

To Brimer:
Proposition 65 Coordinator
Hirst & Chanler, LLP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

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.

9. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and

the same document.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Plaintiffs agree to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f).

11. MODIFICATION

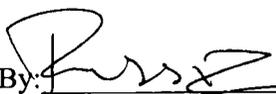
This Settlement Agreement may be modified only by a written agreement of the Parties.

12. ATTORNEY'S FEES

In the event a dispute arises with respect to any provision of this Agreement, the prevailing party shall be entitled to recover reasonable costs and attorneys' fees incurred in connection with such dispute.

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.

AGREED TO:	AGREED TO:
Date: <u>7.23.09</u>	Date: _____
By:  Russell Brimer	By: _____ Defendant .

the same document.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Plaintiffs agree to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f).

11. MODIFICATION

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

12. ATTORNEY'S FEES

In the event a dispute arises with respect to any provision of this Agreement, the prevailing party shall be entitled to recover reasonable costs and attorneys' fees incurred in connection with such dispute.

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.

AGREED TO:	AGREED TO:
Date: _____	Date: <u>August 5, 2009</u>
By: _____ Russell Brimer	By: <u>[Signature]</u> Ray Batkiewicz, Vice President Regent Products Corporation

<p>APPROVED AS TO FORM:</p> <p>Date: <u>3/1/09</u></p> <p>HIRST & CHANLER LLP</p> <p>By: <u>[Signature]</u></p> <p>Daniel Bornstein Attorneys for Russell Brimer</p>	<p>APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>DEMETRIOU, DEL GUERCIO, SPRINGER & FRANCIS, LLP</p> <p>By: _____</p> <p>Jennifer T. Taggart Attorneys for Regent Products Corporation</p>
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<p>APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>HIRST & CHANLER LLP</p> <p>By: _____</p> <p>Daniel Bornstein Attorneys for Russell Brimer</p>	<p>APPROVED AS TO FORM:</p> <p>Date: <u>8/6/09</u></p> <p>DEMETRIOU, DEL GUERCIO, SPRINGER & FRANCIS, LLP</p> <p>By:  _____</p> <p>Jennifer T. Taggart Attorneys for Regent Products Corporation</p>
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EXHIBIT A

The Products covered by this Settlement Agreement are

Lead Products

Mugs with Colored Artwork or Designs on the exterior
Tape Measures
Zipper Pulls

DEHP Products:

Vinyl Bags