

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Russell Brimer (“Brimer”) and Jakks Pacific, Inc. (“Jakks”), with Brimer and Jakks 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. Brimer alleges that Jakks employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Brimer alleges that Jakks has manufactured, distributed, sold and/or offered for sale in the State of California erasers causing an exposure to di(2-ethylhexyl)phthalate (“DEHP”) without the requisite Proposition 65 warning. DEHP is listed pursuant to Proposition 65 as a chemical known to the State of California to cause birth defects or other reproductive harm.

1.3 Product Description

The products that are covered by this Settlement Agreement are defined as:

(1) Erasers containing DEHP that are manufactured, imported, distributed and/or sold in California by Jakks including, but not limited to, *SpongeBob Squarepants 2 Ct. No.2 Pencils with Bonus Eraser*, Item #70237 (#0 22876 70237 6). All such erasers are referred to collectively herein as the “Covered Products”; and

(2) Bags with vinyl/PVC components containing DEHP that are manufactured, imported, distributed and/or sold in California by Jakks including, but not limited to, *Storm Series Dual – Line Stunt Kite Flaming Skull*, #84649 (#0 13229 84649 6). All such bags with vinyl/PVC components are referred to collectively herein as the “Additional Products.”

Covered Products and Additional Products are referred to collectively herein as the “Products.”

1.4 Notice of Violation

On or about July 11, 2012, Brimer served Jakks and various public enforcement agencies with a "60-Day Notice of Violation" ("Notice") that provided the recipients with notice of Brimer's allegation that Jakks was in violation of Proposition 65 for failing to warn consumers in California that the Covered Products expose users to DEHP. 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

This Settlement Agreement resolves claims that are denied and disputed by Jakks, and is entered into by Jakks solely for the purposes of avoiding the expense and uncertainty of litigation. Jakks denies the material, factual and legal allegations contained in Brimer's Notice, and maintains that all of the products it has manufactured, imported, distributed and/or sold in California, including the Products, have been, and are, in compliance with all laws including Proposition 65. Nothing in this Settlement Agreement shall be construed as an admission by Jakks of any fact, finding, conclusion of law, issue of law or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Jakks of any fact, finding, conclusion of law, issue of law or violation of law, such being specifically denied by Jakks. This Section shall not, however, diminish or otherwise affect Jakks' obligations, responsibilities and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean April 12, 2013.

2. INJUNCTIVE RELIEF: REFORMULATION COMMITMENT

As of the Effective Date and continuing thereafter, Jakks shall only sell or offer for sale in California Products that are "Reformulated Products." "Reformulated Products" are defined as those Products which contain DEHP in concentrations of less than or equal to 0.1 percent (1,000 parts per million) of DEHP when analyzed pursuant to EPA testing methodologies 3580A and

8270C, or any method allowed by any state or federal agency to determine DEHP content by weight in a solid substance.

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

In settlement of all the claims referred to in this Settlement Agreement, Jakks shall pay a total of \$10,000 in civil penalties in accordance with this Section, which, based on a review of the circumstances and information exchanged, Brimer agrees reflects a fair penalty assessment pursuant to the criteria applicable under Proposition 65. Each penalty payment will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Brimer, as follows:

3.1 Initial Civil Penalty

Jakks shall pay an initial civil penalty in the amount of \$4,000 on or before the Effective Date. Jakks shall issue two separate checks made payable as follows: (a) “OEHHA” in the amount of \$3,000; and (b) “The Chanler Group in Trust for Russell Brimer” in the amount of \$1,000. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.2 Final Civil Penalty

Jakks shall pay a final civil penalty of \$6,000 on or before May 15, 2013. The final civil penalty shall be waived in its entirety, however, if, no later than May 1, 2013, an officer of Jakks provides Brimer with written certification that, as of the date of such certification and continuing into the future, Jakks has met the reformulation standard specified in Section 2 above, such that all Products manufactured, imported, distributed, sold and offered for sale in California by Jakks are Reformulated Products. If not waived pursuant to the terms above, Jakks shall issue two separate checks for its final civil penalty payments made payable as follows: (a) “OEHHA” in the amount of \$4,500; and (b) “The Chanler Group in Trust for Russell Brimer” in the amount of \$1,500.

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3.3 Payment Procedures

3.3.1. Issuance of Payments. Payments shall be delivered as follows:

(a) All payments pursuant to Sections 3.1 through 3.2, shall be delivered to the following payment address:

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

(b) All payments owed to OEHHA (EIN: 68-0284486), pursuant to Sections 3.1 through 3.2, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

Mike Gyrics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyrics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

With a copy of the checks payable to OEHHA mailed to The Chanler Group at the address set forth above in 3.3.1(a), as proof of payment to OEHHA.

3.3.2 Issuance of 1099 Forms. Jakks shall issue separate 1099 forms for any payments to Brimer hereunder, whose address and tax identification number shall be furnished upon request after this Settlement Agreement has been fully executed by the Parties, and OEHHA at the addresses listed in Section 3.3.1 above.

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4. REIMBURSEMENT OF FEES AND COSTS

The parties acknowledge that Brimer 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 this fee issue to be resolved after the material terms of the agreement had been settled. Brimer then expressed a desire to resolve the fee and cost issue shortly after the other settlement terms had been finalized. The parties then attempted to (and did) reach an accord on the compensation due to Brimer and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Jakks shall pay \$33,000 in complete settlement of any claims by Brimer for attorney's and any other fees and costs incurred as a result of investigating, bringing this matter to Jakks' attention, and negotiating a settlement in the public interest. Jakks shall issue a separate 1099 for fees and costs (EIN: 94-3171522), shall make the check payable to "The Chanler Group" and shall deliver payment on or before the Effective Date, to the address listed in Section 3.3.1(a) above.

5. RELEASE OF ALL CLAIMS

5.1 Brimer's Release of Jakks

This Settlement Agreement is a full, final, and binding resolution between Brimer and Jakks of any violation of Proposition 65 based on the alleged failure to warn about exposures to DEHP contained in the Covered Products manufactured, distributed, sold and/or offered for sale by Jakks in California before the Effective Date that was or could have been asserted by Brimer, on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, against Jakks, its parents, subsidiaries, *e.g.* Flying Colors Toys, Inc., affiliated entities under common ownership, directors, officers, employees, attorneys (collectively "Jakks" for purposes of this Section 5.1), and each entity to whom Jakks directly or indirectly distributes or sells the Covered Products including, but not limited to, Jakks' downstream distributors, wholesalers, customers, franchisees, cooperative members, licensees and retailers ("Releasees").

Brimer also, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action arising under Proposition 65 only with respect to DEHP in the Products manufactured, distributed, sold and/or offered for sale by Jakks before the Effective Date 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) (collectively "Claims") against Jakks or the Releasees limited to and arising under Proposition 65 with respect to DEHP in the Covered Products manufactured, distributed, sold and/or offered for sale by Jakks before the Effective Date.

Brimer, in his individual capacity only, and *not* in a representative capacity, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, further provides a release herein to Jakks and the Releasees which shall be effective as a full and final accord and satisfaction, and as a bar to any Claims of any nature, character or kind, known or unknown, suspected or unsuspected, arising out of alleged or actual exposure to DEHP in the Products manufactured, distributed, sold and/or offered for sale by Jakks prior to the Effective Date. Brimer agrees that Jakks' compliance with this Settlement Agreement constitutes compliance with Proposition 65 with respect to any actual or alleged exposures to DEHP in the Products.

Brimer and Jakks agree that all waivers and releases in this Section shall specifically not apply to any separate legal action arising under Proposition 65 that may, either presently or in the future, be alleged against Jakks or its Releasees, arising out of a separate "60-Day Notice of Violation" with respect to either DEHP in any product that does not qualify as a Product as defined in Section 1.3 above, or any other chemical listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

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5.2 Jakks' Release of Brimer

Jakks on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Brimer 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 Brimer and his attorneys and other representatives, whether in the course of investigating the Claims settled herein, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to alleged DEHP in the Products.

6. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the complete execution of this Settlement Agreement by the Parties, Jakks may, in its sole discretion, send Brimer a written request to draft and file a complaint, incorporate the terms of this Settlement Agreement into a proposed consent judgment, and to seek court approval of this Settlement Agreement in the form of a consent judgment pursuant to California Health & Safety Code § 25249.7, or as may be otherwise allowed by law. If requested, Brimer agrees to reasonably cooperate with Jakks and to use his best efforts, and that of his counsel, to obtain approval of the Parties' settlement by a Superior Court in California and an entry of judgment in accordance with the terms set forth herein. Pursuant to California Code of Civil Procedure §§ 1021 and 1021.5, Jakks will reimburse Brimer and his counsel for the reasonable fees and costs incurred in drafting and filing the complaint, converting this Settlement Agreement into a proposed consent judgment, and seeking judicial approval of the settlement, in an all inclusive total amount not to exceed \$15,000, excluding only any fees and costs that may be incurred in the event of a third-party appeal (if any). Within twenty (20) days after its receipt of monthly invoices from Brimer for work performed under this Section, Jakks will remit payment to The Chanler Group at the address set forth in Section 3.3.1(a) above.

7. 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.

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 and/or DEHP, then Jakks 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.

9. 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 any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the parties.

9. NOTICES

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

For Jakks:

General Counsel
Jakks Pacific, Inc.
22619 Pacific Coast Highway
Malibu, CA 90265

with a copy to:

J. Robert Maxwell, Esq.
Rogers Joseph O'Donnell, A.P.C.
311 California Street, 10th floor
San Francisco, CA 94104

For Brimer:

Proposition 65 Coordinator
The Chanler Group
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.

10. COUNTERPARTS; FACSIMILE/PDF 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. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

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

12. MODIFICATION

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

13. AUTHORIZATION

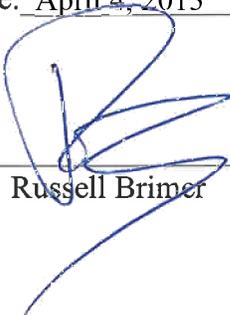
The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: April 4, 2013

Date: April 2, 2013

By: 
Russell Brimer

By: 
Joel Bennett, Executive Vice President
and Chief Financial Officer
Jakks Pacific, Inc.