

Mark N. Todzo, State Bar No. 168389  
Joseph Mann, State Bar No. 207968  
503 Divisadero Street  
San Francisco, CA 94117  
Tel.: (415) 913-7800 Fax: (415) 759-4112

Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH

Brian C. Johnson, State Bar No. 235965  
Josh Voorhees, State Bar No. 241436  
THE CHANLER GROUP  
2560 Ninth Street, Parker Plaza, Suite 214  
Berkeley, CA 94710-2565  
Tel.: (510) 848-8880 Fax: (510) 848-8118

Attorneys for Plaintiff  
JOHN MOORE

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH, a  
non-profit corporation,

Plaintiff,

v.

AMERIWOOD INDUSTRIES, INC., *et al.*,

Defendants.

For Entry in Case Nos. RG-12652926 and  
RG-13673582

*Assigned for All Purposes to the Honorable  
George Hernandez, Jr., Department 17*

**[PROPOSED] CONSENT  
JUDGMENT**

JOHN MOORE,

Plaintiff,

v.

DOREL U.S.A., INC., *et al.*,

Defendants.

**1. INTRODUCTION**

1.1. This Consent Judgment is entered into by Plaintiffs, Center for Environmental Health ("CEH"), a non-profit corporation, and John Moore ("Moore"), an individual, and

1 Defendants Dorel Industries Inc., Ameriwood Industries, Inc., Dorel U.S.A., Inc., Dorel Asia  
2 Inc., and Dorel Juvenile Group, Inc. (collectively, “Defendants”) to settle claims asserted by  
3 CEH and Moore against Defendants as set forth in their respective complaints entitled *Center for*  
4 *Environmental Health v. Ameriwood Industries, Inc., et al.* (Alameda County Superior Court  
5 Case No. RG-13673582), and *John Moore v. Dorel U.S.A., Inc., et al.* (Alameda County Superior  
6 Court Case No. RG-12652926) (collectively, the “Actions”). CEH, Moore, and Defendants are  
7 each referred to individually as a “Party” and collectively as the “Parties.”

8 1.2. On May 10, 2012, Moore served a “Notice of Violation” of the California Safe  
9 Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”) (the “First Moore  
10 Notice”) to Defendants Dorel U.S.A., Inc. and Dorel Juvenile Group, Inc., the California  
11 Attorney General, the District Attorneys of every County in the State of California, and the City  
12 Attorneys for every City in State of California with a population greater than 750,000. The First  
13 Moore Notice alleges violations of Proposition 65 with respect to the presence of di(2-  
14 ethylhexyl)phthalate (“DEHP”) in chairs with vinyl or faux leather components manufactured,  
15 sold, and/or distributed for sale in California by Defendants.

16 1.3. On January 2, 2013, Moore served a “Notice of Violation” of Proposition 65 (the  
17 “Second Moore Notice”) to Defendants Dorel U.S.A., Inc. and Dorel Juvenile Group, Inc., the  
18 California Attorney General, the District Attorneys of every County in the State of California,  
19 and the City Attorneys for every City in State of California with a population greater than  
20 750,000. The Second Moore Notice alleges violations of Proposition 65 with respect to the  
21 presence of tris (1,3-dichloro-2-propyl) phosphate (“TDCPP”) in foam-cushioned upholstered  
22 chairs manufactured, sold, and/or distributed for sale by Defendants.

23 1.4. On January 15, 2013, CEH served a “Notice of Violation” of Proposition 65 (the  
24 “First CEH Notice”) to Defendants Dorel Industries Inc., Ameriwood Industries, Inc., and Dorel  
25 Asia Inc., the California Attorney General, the District Attorneys of every County in the State of  
26 California, and the City Attorneys for every City in State of California with a population greater  
27 than 750,000. The First CEH Notice alleges violations of Proposition 65 with respect to the

1 presence of TDCPP in foam-cushioned upholstered furniture manufactured, distributed, and/or  
2 sold by Defendants.

3 1.5. Also on January 15, 2013, CEH served a “Notice of Violation” of Proposition 65  
4 (the “Second CEH Notice”) to Defendants Dorel Industries Inc. and Dorel Asia Inc., the  
5 California Attorney General, the District Attorneys of every County in the State of California,  
6 and the City Attorneys for every City in State of California with a population greater than  
7 750,000. The Second CEH Notice alleges violations of Proposition 65 with respect to the  
8 presence of lead and lead compounds in faux leather furniture manufactured, distributed, and/or  
9 sold by Defendants.

10 1.6. On February 1, 2013, CEH served a “Notice of Violation” of Proposition 65 (the  
11 “Third CEH Notice”) to Defendants Dorel Industries Inc. and Dorel Juvenile Group, Inc., the  
12 California Attorney General, the District Attorneys of every County in the State of California,  
13 and the City Attorneys for every City in State of California with a population greater than  
14 750,000. The Third CEH Notice alleges violations of Proposition 65 with respect to the presence  
15 of TDCPP in foam-cushioned pads for children and infants to lie on manufactured, distributed,  
16 and/or sold by Defendants. The First and Second Moore Notices, and the First, Second, and  
17 Third CEH Notices are referred to collectively as the “Notices.” To the best of the Parties’  
18 knowledge, no public enforcer has commenced and is diligently prosecuting any of the alleged  
19 violations that are the subject of the Notices.

20 1.7. Each of Defendants is a corporation that employs ten (10) or more persons and  
21 that manufactures, distributes, and/or sells Covered Products (as defined herein) in the State of  
22 California.

23 1.8. For purposes of this Consent Judgment only, the Parties stipulate that: (i) this  
24 Court has jurisdiction over the allegations of violations contained in the Notices and Complaints  
25 and personal jurisdiction over Defendants as to the acts alleged in the Complaints; (ii) venue is  
26 proper in Alameda County; and (iii) this Court has jurisdiction to enter this Consent Judgment as  
27 a full and final resolution of all claims which were or could have been raised in the Complaints  
28

1 based on the facts alleged in the Notices and Complaints with respect to Covered Products  
2 manufactured, distributed, and/or sold by Defendants.

3 1.9. The Parties enter into this Consent Judgment as a full and final settlement of all  
4 claims that were or which could have been raised in the Complaints arising out of the facts or  
5 conduct related to Defendants alleged therein. By execution of this Consent Judgment and  
6 agreeing to comply with its terms, the Parties do not admit any fact, conclusion of law, or  
7 violation of law, nor shall compliance with the Consent Judgment constitute or be construed as  
8 an admission by the Parties of any fact, conclusion of law, or violation of law. Defendants deny  
9 the material, factual, and legal allegations in the Notices and Complaints and expressly deny any  
10 wrongdoing whatsoever. Except as specifically provided herein, nothing in this Consent  
11 Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense any Party  
12 may have in this or any other pending or future legal proceedings. This Consent Judgment is the  
13 product of negotiation and compromise and is accepted by the Parties solely for purposes of  
14 settling, compromising, and resolving issues disputed in these Actions.

15 1.10. Defendants confirm that after receipt of the Notices, they immediately undertook  
16 good faith measures to reformulate the products identified in the Notices and/or notify their  
17 California customers of the alleged presence of the Listed Chemical Flame Retardants, Lead  
18 and/or DEHP in those non-reformulated products. Defendants confirm that, as of July 2013, all  
19 products specifically identified in the Notices, and intended for sale in California, have been  
20 reformulated or relabeled with warnings pursuant to Section 3.1.3.

## 21 **2. DEFINITIONS**

22 2.1. "Accessible Component" means any part, piece, feature, or aspect of a Covered  
23 Faux Leather Product that may be touched or handled during a reasonably foreseeable use.

24 2.2. "Chemical Flame Retardant" means any halogenated or phosphorous-based  
25 chemical compound used for the purpose of resisting or retarding the spread of fire. "Chemical  
26 Flame Retardant" does not include any chemical that has been rated as a Benchmark 4 chemical  
27  
28

1 pursuant to Clean Production Action's GreenScreen ([http://www.cleanproduction.org/](http://www.cleanproduction.org/Green.Greenscreen.php)  
2 [Green.Greenscreen.php](http://www.cleanproduction.org/Green.Greenscreen.php)).

3 2.3. "Covered Faux Leather Products" means faux leather furniture (*i.e.*, furniture with  
4 a polyvinyl chloride or other soft plastic, vinyl, or synthetic leather component) manufactured,  
5 distributed, and/or sold by Defendants in California.

6 2.4. "Covered Foam-Cushioned Products" means upholstered products containing  
7 foam, including but not limited to, foam-cushioned pads or components for children and infants  
8 to lie on and/or sit upon, infant walkers, child restraint systems, and foam-cushioned upholstered  
9 furniture, including chairs, seats, tables futons, and recliners, manufactured, distributed, and/or  
10 sold by Defendants in California.

11 2.5. "Covered Products" means Covered Foam-Cushioned Products and Covered  
12 Faux Leather Products.

13 2.6. "DEHP Limit" means the maximum concentration of DEHP by weight specified  
14 in Section 3.3.2.

15 2.7. "Effective Date" means the date that the Court grants the motion for approval of  
16 this Consent Judgment contemplated by Section 11.

17 2.8. "Lead Limits" means the maximum concentrations of lead and lead compounds  
18 ("Lead") by weight specified in Section 3.2.2.

19 2.9. "Listed Chemical Flame Retardants" means Tris(1,3-dichloro-2-propyl) phosphate  
20 ("TDCPP"), Tris(2-chloroethyl) phosphate ("TCEP"), and Tris(2,3-dibromopropyl) phosphate  
21 ("TDBPP").

22 2.10. "Paint or other Surface Coatings" means a fluid, semi-fluid, or other material,  
23 with or without a suspension of finely divided coloring matter, which changes to a solid film  
24 when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other  
25 surface. This term does not include printing inks or those materials which actually become a part  
26 of the substrate, such as the pigment in a plastic article, or those materials which are actually  
27 bonded to the substrate, such as by electroplating or ceramic glazing.

2.11. “Reformulated Products” are Covered Products that comply with the TDCPP Limit, Lead Limits, and DEHP Limit established by this Consent Judgment.

2.12. “TB 117” means Technical Bulletin No. 117, entitled “Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture,” dated March 2000.

2.13. “TB 117-2013” means the proposed Technical Bulletin 117-2013, entitled “Requirements, Test Procedures and Apparatus for Testing the Smolder Resistance of Materials Used in Upholstered Furniture,” released for review and public comment on February 8, 2013 (re-released on August 19, 2013) by the California Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation.

2.14. “TB 117-2013 Effective Date” means the date on which filling materials and cover fabrics in upholstered furniture are required to meet the fire retardant requirements in TB 117-2013 pursuant to the proposed amendments to Section 1374 of Article 2 of Title 4 of the California Code of Regulations.

2.15. “TDCPP Limit” means the maximum concentration of TDCPP by weight specified in Section 3.1.1.

2.16. “Treated” means the intentional addition or application of any Chemical Flame Retardant to any polyurethane foam, cushioning, or padding used as filling material in any Covered Foam-Cushioned Product.

2.17. “Untreated Foam” means polyurethane foam that has not been Treated with any Chemical Flame Retardant.

### **3. INJUNCTIVE RELIEF**

#### **3.1. TDCPP and Other Proposition 65-Listed Chemical Flame Retardants in Covered Foam-Cushioned Products**

3.1.1. **Reformulation of Covered Foam-Cushioned Products.** Defendants shall not manufacture, or distribute, sell, or offer for sale in California any Covered Foam-Cushioned Product with a production date after the Effective Date that has been Treated with any Listed Chemical Flame Retardant. Defendants agree to immediately work with their vendors

1 and/or other suppliers of Covered Foam-Cushioned Products to only manufacture for sale or  
2 purchase for sale in California Covered Foam-Cushioned Products that contain “No Detectable  
3 Amount” of any Listed Chemical Flame Retardant. “No Detectable Amount” is defined as  
4 containing no more than 25 parts per million (the equivalent of 0.0025%) each of any Listed  
5 Chemical Flame Retardant, when analyzed by an accredited laboratory pursuant to EPA testing  
6 methodologies 3545 and 8270C, or equivalent methodologies utilized by federal or state  
7 agencies to determine the presence or absence of, or to measure the amount of, a Listed  
8 Chemical Flame Retardant in a solid substance.

9 **3.1.2. Products Subject to TB 117 -- Warnings for Products in Inventory.**

10 Any Covered Foam-Cushioned Products that are subject to TB 117 in which the polyurethane  
11 foam has been Treated with any Listed Chemical Flame Retardant and which is manufactured  
12 prior to the Effective Date, but distributed, sold, or offered for sale by Defendants in California  
13 after the Effective Date, shall be accompanied by a Clear and Reasonable Warning that complies  
14 with Section 3.1.3.

15 **3.1.3. Proposition 65 Warnings.** A Clear and Reasonable Warning under this  
16 Consent Judgment shall state:

17 **WARNING:** This product contains tris(1,3-dichloro-2-propyl)  
18 phosphate (“TDCPP”) [and/or TCEP and/or TDBPP], a  
chemical[s] known to the State of California to cause  
cancer.<sup>1</sup>

19 A Clear and Reasonable Warning shall not be preceded by, surrounded by, or include any  
20 additional words or phrases that contradict, obfuscate, or otherwise undermine the warning. The  
21 warning statement shall be prominently displayed on the Covered Foam-Cushioned Product or  
22 the packaging of the Covered Foam-Cushioned Product with such conspicuousness, as compared  
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24 <sup>1</sup> The following warning may also be used if Defendants employed it prior to the Effective date:  
25 This Product contains chemicals known to the State of California to cause cancer, birth defects or  
26 other reproductive harm” Should Defendants seek to use alternative warning language, other than  
27 the language specified above or the safe harbor warning specified in 27 Cal. Code Regs §  
28 25603.2, or seek to use an alternate method of transmission of the warning, Defendants shall  
obtain the Court’s approval of their proposed alternative and provide CEH, Moore, and the Office  
of the Attorney General with timely notice and the opportunity to comment or object before the  
Court acts on the request.

1 with other words, statements, or designs as to render it likely to be read and understood by an  
2 ordinary individual prior to sale. Any warning displayed on the bottom of an unpackaged  
3 Covered Foam-Cushioned Product offered for sale to California consumers shall not be  
4 considered a Clear and Reasonable Warning for purposes of this Section. Notwithstanding the  
5 foregoing, the Parties agree that warnings displayed on the underside of unpackaged folding  
6 chairs shall be considered a Clear and Reasonable Warning. For internet, catalog, or any other  
7 sale where the consumer is not physically present and cannot see a warning displayed on the  
8 Covered Foam-Cushioned Product or the packaging of the Covered Foam-Cushioned Product  
9 prior to purchase or payment, the warning statement shall be displayed in such a manner that it is  
10 likely to be read and understood prior to the authorization of or actual payment.

11               **3.1.5. Specification To and Certification From Suppliers.** To ensure  
12 compliance with the product reformulation provisions of this Consent Judgment, Defendants  
13 shall issue specifications to their suppliers of polyurethane foam requiring that the polyurethane  
14 foam has not been Treated with any Listed Chemical Flame Retardant. Defendants shall obtain  
15 and maintain a minimum of one written certification from their suppliers of polyurethane foam  
16 confirming that all such foam received by Defendants for distribution in California after the  
17 Effective Date has not been Treated with any Listed Chemical Flame Retardant.

18               **3.2. Lead in Covered Faux Leather Products**

19               **3.2.1. Specification Compliance Date.** To the extent it has not already done so,  
20 no more than thirty (30) days after the Effective Date, Defendants shall provide the Lead Limits  
21 to their then-current suppliers of Covered Faux Leather Products and shall instruct each supplier  
22 to use reasonable efforts to provide Covered Faux Leather Products that comply with the Lead  
23 Limits on a nationwide basis.

24               **3.2.2. Lead Limits.** Commencing on the Effective Date, Defendants shall not  
25 purchase, import, or manufacture any Covered Faux Leather Product that will be sold or offered  
26 for sale to California consumers with an Accessible Component that exceeds the following Lead  
27 Limits:  
28



1 3.2.2.1. Paint or other Surface Coatings: 90 parts per million (“ppm”).

2 3.2.2.2. Polyvinyl chloride (“PVC”): 200 ppm.

3 **3.3. DEHP in Covered Faux Leather Products**

4 3.3.1. **Specification Compliance Date.** To the extent it has not already done so,  
5 no more than thirty (30) days after the Effective Date, Defendants shall provide the DEHP Limits  
6 to their then-current suppliers of Covered Faux Leather Products and shall instruct each supplier  
7 to use reasonable efforts to provide Covered Faux Leather Products that comply with the DEHP  
8 Limits on a nationwide basis.

9 3.3.2. **DEHP Limits.** Commencing on the Effective Date, Defendants shall not  
10 purchase, import, or manufacture for sale in California any Covered Faux Leather Product that  
11 will be sold or offered for sale to California consumers that contains more than 1,000 ppm DEHP  
12 content by weight in any Accessible Component analyzed pursuant to EPA testing  
13 methodologies 3580A and 8270C, or equivalent methodologies utilized by state or federal  
14 agencies for the purpose of determining DEHP content in a solid substance.

15 **4. PENALTIES AND PAYMENTS**

16 4.1. **Payments to CEH.** Defendants shall make an initial payment to CEH in the total  
17 sum of eighty five thousand dollars (\$85,000), which shall be allocated as follows:

18 4.1.1. \$10,000 shall constitute a penalty pursuant to Cal. Health & Safety Code §  
19 25249.7(b), such money to be apportioned by CEH in accordance with Cal. Health & Safety  
20 Code § 25249.12.

21 4.1.2. \$15,000 shall constitute a payment in lieu of civil penalty pursuant to Cal.  
22 Health & Safety Code § 25249.7(b) and 11 Cal. Code Regs § 3203(b). CEH will use such funds  
23 to continue its work of educating and protecting the public from exposures to toxic chemicals,  
24 including Chemical Flame Retardants and Lead. CEH may also use a portion of such funds to  
25 monitor compliance with this Consent Judgment and to purchase and test Defendants’ products  
26 to confirm compliance. In addition, as part of its Community Environmental Action and Justice  
27 Fund, CEH will use four percent (4%) of such funds to award grants to grassroots environmental  
28

1 justice groups working to educate and protect the public from exposures to toxic chemicals. The  
2 method of selection of such groups can be found at the CEH website at  
3 [www.ceph.org/justicefund](http://www.ceph.org/justicefund).

4 4.1.3. \$60,000 shall constitute reimbursement of CEH's reasonable attorneys'  
5 fees and costs.

6 4.1.4. The payment required under this Section shall be made in three separate  
7 checks. All of the payments shall be sent within 10 days following the Effective Date, or on  
8 January 5, 2015, whichever is later. The payments required pursuant to Section 4.1.1 and 4.1.2  
9 shall each be made payable to CEH and mailed to CEH at the address set forth in Section 9  
10 below. The payment required pursuant to Section 4.1.3 shall be made payable to Lexington Law  
11 Group and mailed to Lexington Law Group at the address set forth in Section 9 below.

12 4.1.5. **Additional Payment.** In the event that Defendants do not certify  
13 compliance with Section 5.2, Defendants shall make an additional payment of \$15,000 to CEH  
14 30 days following the TB 117-2013 Effective Date. This additional payment shall be allocated  
15 as follows:

16 4.1.5.1. \$6,000 shall constitute a penalty pursuant to Cal. Health &  
17 Safety Code § 25249.7(b), such money to be apportioned by CEH in accordance with Cal. Health  
18 & Safety Code § 25249.12.

19 4.1.5.2. \$9,000 shall constitute a payment in lieu of civil penalty  
20 pursuant to Cal. Health & Safety Code § 25249.7(b) and 11 Cal. Code Regs § 3203(b). CEH  
21 will use such funds as set forth in Section 4.1.2.

22 4.2. **Payments to Moore.** Defendants shall pay to Moore the total sum of eighty  
23 seven thousand five hundred dollars (\$87,500), which shall be allocated as follows:

24 4.2.1. \$15,000 shall constitute a penalty pursuant to Cal. Health & Safety Code §  
25 25249.7(b), such money to be apportioned by Moore in accordance with Cal. Health & Safety  
26 Code § 25249.12.

1                   4.2.2. \$72,500 shall constitute reimbursement of Moore's reasonable attorneys'  
2 fees and costs.

3                   4.2.3.     **Additional Payment.** In the event that Defendants do not certify  
4 compliance with Section 5.1 on or before the Effective Date, Defendants shall make an  
5 additional civil penalty payment of \$15,000 to Moore that will be due within ten (10) days of the  
6 Effective Date or on January 5, 2015, whichever is later. This additional civil penalty payment  
7 shall be allocated in accordance with Cal. Health & Safety Code § 25249.12.

8                   4.2.4.     The payments required under this Section shall be made in three  
9 separate checks. All of the payments shall be sent within 10 days following the Effective Date,  
10 or on January 5, 2015, whichever is later. The payments required pursuant to Section 4.2.1 and  
11 4.2.2 shall each be made payable to "The Chanler Group" and mailed to The Chanler Group at  
12 the address set forth in Section 9 below. The payment required pursuant to Section 4.2.3 shall  
13 also be made payable to The Chanler Group and mailed to address set forth in Section 9 below.

## 14                   **5. OPTIONAL PENALTY REDUCTION CREDITS AND WAIVERS**

15                   5.1.     **Accelerated Reformulation Waiver.** The additional payment to Moore  
16 set forth in Section 4.2.3 in the amount of \$15,000 shall be waived, if Defendants agree that, as  
17 of the Effective Date, and continuing thereafter, Defendants will only manufacture for sale or  
18 purchase for sale in California, Reformulated Products as defined in Section 2.11 above. To  
19 qualify for this waiver of additional payment to Moore, an officer of Defendants' organization  
20 must provide Moore with a written certification confirming timely compliance with the above  
21 reformulation standards on or before the Effective Date. The option to certify early  
22 reformulation in lieu of making an additional payment to Moore constitutes a material term of  
23 this Consent Judgment, and with regard to such term, time is of the essence.

24                   5.2.     **Additional Reformulation Waiver – Use of Untreated Foam.** The additional  
25 payment to CEH set forth in Section 4.1.5 in the amount of \$15,000 shall be waived, if  
26 Defendants agree that, as of the TB 117-2013 Effective Date, Defendants will not manufacture,  
27 import, sell, or distribute for sale in California any Covered Foam-Cushioned Product that has  
28

1 been Treated with any Chemical Flame Retardant. To qualify for this waiver of additional  
2 payment to CEH, Defendants must provide written certification to CEH of their use of only  
3 Untreated Foam within 30 days following the TB 117-2013 Effective Date.

4           **5.2.1. Specification To and Certification From Suppliers.** To ensure  
5 compliance with the provisions of Section 5.2, to the extent that Defendants opt for additional  
6 reformulation, Defendants shall directly or through their supply chain issue specifications to their  
7 suppliers of polyurethane foam, cushioning, or padding used as filling material in any Covered  
8 Foam-Cushioned Product requiring that such components shall use only Untreated Foam.  
9 Defendants shall not be deemed in violation of the requirements of this Section 5.2 for any  
10 Covered Foam-Cushioned Product to the extent: (a) they have relied on a written certification  
11 from their vendor that supplied a Covered Foam-Cushioned Product or the polyurethane foam,  
12 cushioning, or padding used as filling material in the Covered Foam-Cushioned Product is made  
13 with only Untreated Foam, and/or (b) they have obtained a test result from a certified laboratory  
14 reporting that the Covered Foam-Cushioned Product's polyurethane foam, cushioning, or  
15 padding used as filling material has been made with Untreated Foam. Defendants shall obtain  
16 and maintain written certification(s) from their suppliers of polyurethane foam, cushioning, or  
17 padding confirming that all such foam received by Defendants for distribution in California is  
18 Untreated Foam.

19           **6. PENALTIES FOR CERTAIN VIOLATIONS OF THE REFORMULATION STANDARD**

20           **6.1 Stipulated Penalties.** If, after the Effective Date, Moore and/or CEH provide  
21 Defendants with a Notice of Violation and a copy of any test results which purportedly support  
22 CEH's and/or Moore's allegations that levels of TDCPP in excess of the TDCPP Limit have  
23 been detected in one or more Covered Foam-Cushioned Products with a production date code  
24 after the Effective Date, then Defendants may elect to pay a stipulated penalty to the plaintiff that  
25 provides the Notice of Violation and supporting information referenced above to relieve any  
26 further potential liability under Proposition 65 or sanction under this Consent Judgment, as to  
27 Products in question, or Products sourced from the particular vendor in question.

1           **6.2 Amount of Stipulated Penalties.**   The stipulated penalty shall be \$1,500 if the  
2 violation level is below 100 ppm<sup>2</sup> and \$3,000 if the violation level is between 100 ppm and 249  
3 ppm, this being applicable for any amount in excess of the Reformulation Standards but under  
4 250 ppm. The stipulated penalty amounts set forth above shall be the maximum amount paid by  
5 Defendants per Product in question or Products sourced from the particular vendor, regardless of  
6 the number of individual units tested by Moore and/or CEH, or sold by Defendants. If the  
7 Parties proceed under this Section, Defendants must provide notice and appropriate supporting  
8 information relating to the purchase (e.g. vendor name and contact information including  
9 representative, purchase order, certification (if any) received from vendor for the exemplar or  
10 subcategory of products), test results, and a letter from a company representative or counsel  
11 attesting to the information provided to Moore and/or CEH within 30 calendar days of receiving  
12 test results and supporting information from the plaintiff(s). Any violation at or above 250 ppm  
13 shall be subject to the full remedies provided in Section 7 below.

## 14           **7. ENFORCEMENT OF CONSENT JUDGMENT**

15           **7.1** CEH and/or Moore may, by motion, application for an order to show cause before  
16 the Superior Court of Alameda County, or any other procedure available at law, enforce the  
17 terms and conditions contained in this Consent Judgment. Prior to bringing any motion or  
18 application to enforce the requirements of Sections 3 or 5 above, CEH and/or Moore shall  
19 provide Defendants with a Notice of Violation and a copy of any test results which purportedly  
20 support CEH's and/or Moore's Notice of Violation. The Parties shall then meet and confer  
21 regarding the basis for CEH's and/or Moore's anticipated motion or application in an attempt to  
22 resolve it informally, including providing Defendants a reasonable opportunity of at least thirty  
23 (30) days to cure any alleged violation. Should such attempts at informal resolution fail, CEH  
24 and/or Moore may file its/his enforcement motion or application. The prevailing Party on any  
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26           <sup>2</sup> For violations that do not exceed 50 ppm, there shall be no stipulated penalty payment required  
27 if the violation is identified by a Party during the one-year period after the Effective Date, or the  
28 Product alleged to contain a Listed Chemical Flame Retardant in excess of 25 ppm was  
manufactured or imported by Defendants during the one-year period following the Effective Date.

1 motion to enforce this Consent Judgment shall be entitled to its/his reasonable attorney's fees  
2 and costs incurred as a result of such motion or application. This Consent Judgment may only be  
3 enforced by the Parties.

#### 4 **8. MODIFICATION OF CONSENT JUDGMENT**

5 8.1. This Consent Judgment may only be modified by a written agreement of the  
6 Parties and the subsequent entry of an order by the Court approving such modification, or upon  
7 motion brought by CEH, Moore, or Defendants, as provided by law, and the subsequent entry of  
8 a modified judgment by the Court thereon. The Parties agree and understand that the Office of  
9 the Attorney General of the State of California shall receive notice of any effort by any Party or  
10 the Parties to seek any modification of the terms of this Consent Judgment.

#### 11 **9. CLAIMS COVERED AND RELEASED**

12 9.1 This Consent Judgment is a full, final, and binding resolution between CEH and  
13 Moore acting in the public interest, and Defendants and Defendants' parents, officers, directors,  
14 shareholders, divisions, subdivisions, subsidiaries, partners, affiliated companies, licensors and  
15 their successors, assigns, employees and attorneys ("Defendant Releasees") and all entities to  
16 whom any of the Defendants has distributed, has sold, is distributing, and/or is selling Covered  
17 Products including, but not limited to, distributors, wholesalers, customers, retailers (including,  
18 but not limited to Wal-Mart Stores, Inc., and its affiliates and subsidiaries), franchisees,  
19 cooperative members, and licensees ("Downstream Defendant Releasees") of all claims alleged in  
20 the Actions, or either complaint filed therein, arising from any violation of Proposition 65 that has  
21 been or could have been asserted in the public interest against Defendants and Downstream  
22 Defendant Releasees, regarding the failure to warn about exposures to TDCPP, DEHP, and/or  
23 Lead in the Covered Products manufactured, distributed, or sold by Defendants prior to the  
24 Effective Date, as alleged in the Notices.

25 9.2 CEH and Moore, for themselves release, waive, and forever discharge any and all  
26 claims alleged in the in the Actions, or either complaint filed therein, against Defendants and  
27 Downstream Defendant Releasees arising from any violation of Proposition 65 that has been or  
28

1 could have been asserted regarding the failure to warn about exposures to TDCPP, TCEP,  
2 TDBPP, DEHP, and/or Lead in connection with Covered Products manufactured, distributed, or  
3 sold by Defendants prior to the Effective Date, as alleged in the Notices.

4 9.3 Compliance with the terms of this Consent Judgment by Defendants and the  
5 Downstream Defendant Releasees shall constitute compliance with Proposition 65 by  
6 Defendants and Downstream Defendant Releasees with respect to any alleged failure to warn  
7 about TDCPP, DEHP, and/or Lead in Covered Products manufactured, distributed, or sold by  
8 Defendants after the Effective Date.

9 9.4 Defendants, on their own behalf, and on behalf of their past and current agents,  
10 representatives, attorneys, successors, and assignees, hereby waives any and all claims against  
11 CEH and Moore and their attorneys and other representatives, for any and all actions taken or  
12 statements made by CEH and Moore and their attorneys and other representatives, whether in the  
13 course of investigating claims, otherwise seeking to enforce Proposition 65 against them in the  
14 Actions, or with respect to the Covered Products.

## 15 **10.PROVISION OF NOTICE**

16 10.1 When any Party is entitled to receive any notice under this Consent Judgment, the  
17 notice shall be sent by first class and electronic mail as follows:

18 10.1.1. **Notices to Defendants.** The persons for Defendants to receive notices  
19 pursuant to this Consent Judgment shall be:

20 Barry Warren  
21 Dorel Industries Inc.  
22 1255 Greene Avenue, Suite 300  
23 Montreal, Quebec H3Z 2A4 CANADA

24 Silvio Gisondi  
25 Dorel Asia SRL  
26 12345 Albert-Hudon Blvd.  
27 Montreal-North, Quebec H1G 3L1 CANADA

28 Ira Goldstein  
Dorel Home Products  
12345 Albert-Hudon Blvd.

1 Montreal-North, Quebec H1G 3K9 CANADA

2 Mark Evanko  
3 Dorel Juvenile Group, Inc.  
4 2525 State Street  
5 Columbus, IN 47201-7494

6 Bruce P. Weisenthal  
7 Schiff Hardin LLP  
8 233 South Wacker Drive, Suite 6600  
9 Chicago, IL 60606

10 10.1.2. **Notices to Plaintiffs.** The persons for CEH and Moore to receive notices  
11 pursuant to this Consent Judgment shall be:

12 9.1.2(a) For CEH:

13 Mark Todzo  
14 Lexington Law Group  
15 503 Divisadero Street  
16 San Francisco, CA 94117  
17 mtodzo@lexlawgroup.com

18 9.1.2(b) For Moore:

19 The Chanler Group  
20 Attn: Proposition 65 Coordinator  
21 2560 Ninth Street  
22 Parker Plaza, Suite 214  
23 Berkeley, CA 94710

24 10.2. Any Party may modify the person and address to whom the notice is to be sent by  
25 sending the other Parties notice by first class and electronic mail.

26 **11. COURT APPROVAL**

27 11.1. This Consent Judgment shall become effective on the Effective Date, provided  
28 however, that CEH and Moore shall cooperate on the preparation and filing of a Motion for  
Approval of this Consent Judgment, and Defendants shall support approval of such Motion,  
including appearing at the hearing on the motion if so requested.

11.2. If this Consent Judgment is not entered by the Court, it shall be of no force or  
effect and shall not be introduced into evidence or otherwise used in any proceeding for any  
purpose.



1       **12. GOVERNING LAW AND CONSTRUCTION**

2           12.1. The terms and obligations arising from this Consent Judgment shall be construed  
3 and enforced in accordance with the laws of the State of California.

4       **13. ENTIRE AGREEMENT**

5           13.1. This Consent Judgment contains the sole and entire agreement and understanding  
6 of CEH, Moore, and Defendants with respect to the entire subject matter hereof, and any and all  
7 prior discussions, negotiations, commitments, or understandings related thereto, if any, are  
8 hereby merged herein and therein.

9           13.2. There are no warranties, representations, or other agreements between CEH,  
10 Moore, and Defendants except as expressly set forth herein. No representations, oral or  
11 otherwise, express or implied, other than those specifically referred to in this Consent Judgment  
12 have been made by any Party hereto.

13           13.3. No other agreements not specifically contained or referenced herein, oral or  
14 otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements  
15 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind  
16 any of the Parties hereto only to the extent that they are expressly incorporated herein.

17           13.4. No supplementation, modification, waiver, or termination of this Consent  
18 Judgment shall be binding unless executed in writing by the Party to be bound thereby.

19           13.5. No waiver of any of the provisions of this Consent Judgment shall be deemed or  
20 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall  
21 such waiver constitute a continuing waiver.

22       **14. RETENTION OF JURISDICTION**

23           14.1. This Court shall retain jurisdiction of this matter to implement or modify the  
24 Consent Judgment.

1       **15. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

2           15.1. Each signatory to this Consent Judgment certifies that he or she is fully authorized  
3 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and  
4 execute the Consent Judgment on behalf of the Party represented and to legally bind that Party.

5       **16. NO EFFECT ON OTHER SETTLEMENTS**

6           16.1. Nothing in this Consent Judgment shall preclude CEH and/or Moore from  
7 resolving any claim against another entity on terms that are different than those contained in this  
8 Consent Judgment.

9       **17. EXECUTION IN COUNTERPARTS**

10           17.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
11 means of facsimile, which taken together shall be deemed to constitute one document.

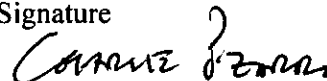
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13       **IT IS SO STIPULATED:**

14       Dated: October 23, 2014

**CENTER FOR ENVIRONMENTAL HEALTH**



Signature



Printed Name



Title

21       Dated: October \_\_, 2014

**JOHN MOORE**

Signature

25       Dated: October \_\_, 2014

**DOREL INDUSTRIES INC.**

Signature

1       **15. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

2           15.1. Each signatory to this Consent Judgment certifies that he or she is fully authorized  
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12  
13       **IT IS SO STIPULATED:**

14       Dated: October \_\_, 2014

**CENTER FOR ENVIRONMENTAL HEALTH**

16       \_\_\_\_\_  
Signature

18       \_\_\_\_\_  
Printed Name

20       \_\_\_\_\_  
Title

21       Dated: October 24, 2014

**JOHN MOORE**

23       \_\_\_\_\_  
Signature

25       Dated: October 20, 2014

**DOREL INDUSTRIES INC.**

27       \_\_\_\_\_  
Signature

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Dated: October \_\_, 2014

Printed Name: Frank Rana

Title: Vice-President, Finance

**AMERIWOOD INDUSTRIES, INC.**

Signature

Printed Name

Title

Dated: October \_\_, 2014

**DOREL ASIA INC.**

Signature

Printed Name

Title

Dated: October \_\_, 2014

**DOREL U.S.A., INC.**

Signature

Printed Name

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Dated: October 13, 2014

Printed Name

Title

AMERIWOOD INDUSTRIES, INC.

Signature

Jim Kimminau

Printed Name

VP Finance

Title

Dated: October 13, 2014.

DOREL ASIA INC.

Signature

Jim Kimminau

Printed Name

President

Title

Dated: October \_\_, 2014

DOREL U.S.A., INC.

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Dated: October \_\_, 2014

Printed Name

Title

AMERIWOOD INDUSTRIES, INC.

Signature

Printed Name

Title

Dated: October \_\_, 2014

DOREL ASIA INC.

Signature

Printed Name

Title

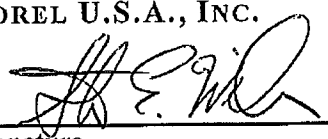
Dated: October 13, 2014

DOREL U.S.A., INC.

Signature

Printed Name

Title

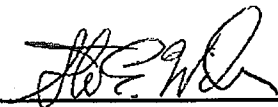


Steven E Willeke

Asst Treasurer

1 Dated: October 13, 2014

DOREL JUVENILE GROUP, INC.

2   
3 Signature

4 Steven E Willeke  
5 Printed Name

6 CFO  
7 Title

8 **IT IS SO ORDERED, ADJUDGED, AND DECREED:**

9 Dated: \_\_\_\_\_, 2014

10 Judge of the Superior Court of the State of  
11 California, County of Alameda