

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter "Agreement") is entered into between the State of California Air Resources Board (hereinafter "ARB"), with its principal office at 1001 "I" Street, Sacramento, California, and Scepter Manufacturing, LLC dba Scepter USA, (hereinafter "SCEPTER") with its principal place of business at 404 26th Ave NW, Miami, Oklahoma 74354.

RECITALS

1. California Code of Regulations, title 13, section 2467, subdivision (b) provides "Except as provided by Section 2467.3, no person shall sell, supply, offer for sale, advertise, or manufacture for sale in California a portable fuel container or spout or both portable fuel container and spout on or after July 1, 2007 unless said portable fuel container or spout or both portable fuel container and spout is covered by an Executive Order issued pursuant to this article."
2. California Code of Regulations, title 13, section 2467.9, subdivision (a) provides, "If the Executive Officer finds any manufacturer, distributor, or retailer manufacturing for sale, advertising for sale, selling, or offering for sale in the State of California a portable fuel container or spout or both portable fuel container and spout that does not comply with the requirements set forth in this article, he or she may enjoin said manufacturer, distributor, or retailer from any further manufacture, advertisement, sales, offers for sale, or distribution of such noncompliant portable fuel containers or spouts or both portable fuel containers and spouts, in the State of California pursuant to Section 43017 of the Health and Safety Code. The Executive Officer may also assess penalties to the extent permissible under Part 5, Division 26 of the Health and Safety Code and/or revoke any Executive Order(s) issued for the noncompliant portable fuel container, spout or both portable fuel container and spout."
3. Health and Safety Code section 43016 states, in pertinent part, "Any person who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, and for which violation there is not provided in this part any other specific civil penalty or fine, shall be subject to a civil penalty not to exceed five hundred dollars (\$500) per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under this part, as these terms are defined in this division or state board regulations."
4. On October 4, 2013, SCEPTER discovered the sale of non-CARB certified Portable Fuel Containers into California retail stores ("subject units").
5. On October 24, 2013, SCEPTER self-disclosed to ARB that between August 1, 2013 and October 2013, SCEPTER sold these subject units into California.
6. A total of 302 subject units were inadvertently shipped into California.

7. ARB alleges that the sale, supply, offer for sale, advertisement, and/or manufacture for sale in California of the subject units were unlawful and in violation of California Code of Regulations, title 13, section 2467, subdivision (b).
8. SCEPTER recently developed a new version of the portable fuel container spout, which received approval by the U.S. Environmental Protection Agency, for use on approved containers. This new spout was submitted to ARB for evaluation and was subsequently certified for sale in California under Executive Order G-14-021, signed March 26, 2014. Unfortunately, some of the early production of the new system was accidentally introduced into the supply chain to California, before the spouts were certified by ARB.
9. SCEPTER exercised due diligence in preventing, detecting, and then correcting violations.
10. The violations were identified by SCEPTER voluntarily, and not through a legally mandated auditing, monitoring, or sampling requirement prescribed by statute, regulation, permit, variance, judicial or administrative order, or consent agreement.
11. SCEPTER fully and promptly disclosed in writing to ARB that violations involving the sales of the subject units occurred.
12. SCEPTER took the initiative to find violations and promptly report them, rather than reacting to knowledge of a pending enforcement action or third party complaint.
13. SCEPTER corrected the violations immediately by warehouse holds, shelf removals and re-working the portable fuel containers with compliant spouts, certified in writing that the violations have been corrected, and took appropriate measures as determined by ARB to remedy any environmental or human harm resulting from the violation.
14. SCEPTER agrees in writing to take steps to prevent a recurrence of the violation.
15. No violations have occurred at the same facility within the past three years.
16. The violations did not (1) result in actual harm, or present an imminent or substantial endangerment to, human health or the environment, or (2) violate the specific terms of any judicial or administrative order, or consent agreement.
17. SCEPTER promptly and fully cooperated with ARB in the investigation of this matter.
18. ARB alleges that if the facts described in recital paragraphs 1-7 were proven, civil penalties could be imposed against SCEPTER as provided in Health and Safety Code section 43016.
19. SCEPTER admits the facts as alleged in recital paragraphs 1-7, but denies any liability arising therefrom.

20. SCEPTER is willing to enter into this Agreement solely for the purpose of settlement and resolution of this matter with ARB. ARB accepts this Agreement in termination of this matter. Accordingly, the parties agree to resolve this matter completely by means of this Agreement, without the need for formal litigation.

TERMS AND RELEASE

In consideration of ARB not filing a legal action against SCEPTER for the violations alleged above, and in consideration of the other terms set out below, ARB and SCEPTER agree as follows:

1. As a condition of this Settlement Agreement, SCEPTER shall pay the total sum of ten thousand eight hundred seventy-two dollars (\$10,872) to the California Air Pollution Control Fund upon execution of this Settlement Agreement. Payment shall be made (with the attached Payment Transmittal Form) by certified check payable to the California Air Pollution Control Fund and addressed to:

Air Resources Board
Accounting Office
P.O. Box 1436
Sacramento, California 95812-1436

2. If the Attorney General files a civil action to enforce this settlement agreement, SCEPTER shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.
3. SCEPTER represents that it understands the legal requirements applicable to selling, supplying, offering for sale, advertising, and/or manufacturing for sale in California portable fuel containers or spouts or both portable fuel containers and spouts, and agrees that it will not sell, supply, offer for sale, advertise, or manufacture for sale in California such products unless ARB certification has first been obtained.
4. This Agreement shall apply to and be binding upon SCEPTER and its principals, officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and upon ARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.
5. Now, therefore, in consideration of the payment by SCEPTER to the California Air Pollution Control Fund in the amount specified above, ARB hereby releases SCEPTER and its principals, officers, directors, agents, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and predecessors from any and all claims that ARB may have based on the facts and allegations described in recital paragraphs 1-7, above. The undersigned represent that they have the authority to enter this Agreement.

6. This Agreement constitutes the entire agreement and understanding between ARB and SCEPTER concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between ARB and SCEPTER concerning these claims.
7. No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all parties to this Agreement.
8. Advice of Counsel. Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.
9. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules.
10. Severability. Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect to the extent necessary to fulfill the Agreement's purpose and the intent of the parties.
11. Waiver. The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Agreement or otherwise provided by law.
12. This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either party on the ground that said party drafted it.
13. This Agreement may be signed in counterparts, and its validity shall not be challenged on that basis. True and correct copies of signed counterparts shall be deemed effective as originals for all purposes.

14. SB 1402 Statement

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010, Health and Safety Code section 39619.7) requires the ARB to provide information on the basis for the penalties it seeks. This required information, which is provided throughout this settlement agreement, is summarized here.

The manner in which the penalty amount was determined, including a per unit or per vehicle penalty.

Penalties must be set at levels sufficient to discourage violations. The penalties in this matter were determined in consideration of all relevant circumstances, including the eight factors specified in Health and Safety Code section 43024.

The maximum per unit penalty in this case is \$500 per unit per strict liability violation. The penalty obtained in this case is \$36.00 per unit for 302 units. This reflects the facts that this was an unintentional, first time violation of this type; SCEPTER self-disclosed the violations; SCEPTER exercised due diligence to comply, to promptly and fully cooperate with the investigation, and to correct the violations; and there were no adverse environmental consequences because the portable fuel containers were subsequently certified by ARB.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

ARB alleges that the penalty provision being applied in this case, Health and Safety Code section 43016, is appropriate because SCEPTER sold, supplied, offered for sale, advertised, and/or manufactured for sale in California portable fuel containers that were not certified by ARB.

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

The provisions cited above do not prohibit emissions above a specified level. SCEPTER alleges that the subject units did not increase emissions, because the product was subsequently certified by ARB.

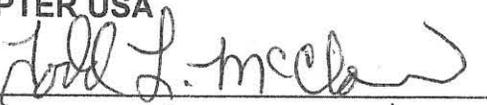
15. SCEPTER acknowledges that ARB has complied with SB 1402 in prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at Health and Safety Code section 43024, has explained the manner in which the penalty amount was calculated (including a per unit or per vehicle penalty, if appropriate), has identified the provision of law under which the penalty is being assessed, and has considered and determined that this penalty is not being assessed under a provision of law that prohibits the emission of pollutants at a specified level.
16. Penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar case negotiation, and the potential costs and risk associated with litigating these particular violations. The penalty reflects violations extending over a certain period of time, considered together with the complete circumstances of this case. Penalties in future cases might be smaller or larger on a per unit basis.
17. The penalty in this case was based in part on confidential business information provided by SCEPTER that is not retained by ARB in the ordinary course of business. The

penalty in this case was also based on confidential settlement communications between ARB and SCEPTER that ARB does not retain in the ordinary course of business either. The penalty also reflects ARB's assessment of the relative strength of its case against SCEPTER, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that SCEPTER may have secured from its alleged actions.

California Air Resources Board

By: 
Name: Ellen M. Peter
Title: Chief Counsel
Date: 6/9/2014

**SCEPTER MANUFACTURING, LLC dba
SCEPTER USA**

By: 
Name: Todd L. McClain
Title: General Manager
Date: 5-6-2014