

1 1. INTRODUCTION.

2 On or about March 12, 2003, Plaintiff MATEEL ENVIRONMENTAL JUSTICE
3 FOUNDATION ("Mateel") filed a complaint for civil penalties and injunctive relief ("Complaint")
4 against Defendant ROMAN, INC., ("Roman."). The Complaint alleges, among other things, that
5 Roman violated provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, Cal.
6 Health & Safety Code §24249.5 *et seq.* ("Proposition 65"), and the Unfair Competition Act, Cal.
7 Bus. and Professions Code §17200 *et seq.*, by knowingly and intentionally exposing persons to
8 products containing lead and/or lead compounds (collectively, "lead"), which are chemicals
9 known to the State of California to cause cancer and birth defects or other reproductive harm,
10 without first providing a clear and reasonable warning to such individuals. The Complaint was
11 based upon a 60-Day Notice Letter, dated January 13, 2002, sent by Mateel to Roman, the
12 California Attorney General, all District Attorneys, and all City Attorneys serving areas with
13 populations exceeding 750,000. Further, on March 14, 2003, Mateel served a Supplemental
14 Notice Letter covering additional Roman Inc., products and listed chemicals ("Supplemental
15 Notice Letter"). On the 66th day after the service of the Supplemental Notice Letter, all releases
16 provided by this Consent Judgment shall apply to any Proposition 65-related claim that could have
17 been asserted based on any failure to warn referenced in the Supplemental Notice Letter.

18 1.0. Roman is a business that employs ten or more persons. Roman distributes and/or
19 markets within the State of California holiday lights ("Lights") and artificial trees, wreaths,
20 garlands, topiaries and specialty lights. (Lights, artificial trees, decorative wreaths, garlands and
21 topiaries, may be hereinafter collectively referred to as "Covered Products." "Covered Products"
22 which do not include or incorporate lights may be hereinafter collectively referred to as "Green
23 Goods."). Parts of such Covered Products, including the cords of the Lights have been coated
24 with polyvinyl chloride containing lead. Such Covered Products may also contain methylene
25 chloride. Lead and methylene chloride are known to the State of California to cause reproductive
26 toxicity and/or cancer pursuant to Health and Safety Code Section 25249.9. Products which
27 contain lead and/or methylene chloride are, under specified circumstances, subject to the

1 Proposition 65 warning requirement set forth in Health and Safety Code Section 25249.6.

2 1.1 For the purposes of this Consent Judgment, the parties stipulate that this Court has
3 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
4 over Roman as to acts alleged in the Complaint, that venue is proper in the County of San
5 Francisco and that this Court has jurisdiction to enter this Consent Judgment as a full and final
6 settlement and resolution of the allegations contained in the Complaint and of all claims which
7 were or could have been raised based on the facts alleged therein or arising therefrom.

8 1.2 The parties enter into this Consent Judgment pursuant to a full and final settlement
9 of disputed claims between the parties for the purpose of avoiding prolonged litigation. This
10 Consent Judgment shall not constitute an admission with respect to any allegation made in the
11 Notice or the Complaint, each and every allegation of which Roman denies, nor may this Consent
12 Judgment or compliance with it be used as evidence of any wrongdoing, misconduct, culpability,
13 or liability on the part of Roman.

14 2. INJUNCTIVE RELIEF-CLEAR AND REASONABLE WARNINGS

15 2.0 Except as provided in Paragraphs 2.5 through 2.7 below, Roman shall insure that
16 all Covered Products manufactured or distributed for retail sale in California contain warnings as
17 described in Paragraphs 2.1 through 2.4 below:

18 2.1 The following Proposition 65 warning language shall be used for Lights not
19 containing methylene chloride:

20
21 **WARNING:** Handling the coated electrical wire on this product
22 exposes you to lead, a chemical known to the State of California to
23 cause birth defects or other reproductive harm. *Wash hands after use.*

24 2.2 The following Proposition 65 warning language shall be used for Green Goods
25 which incorporate Lights which do not satisfy the requirements of Paragraph 2.6(a):
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1 **WARNING:** The cord for the lights used in this product contains lead, a
2 chemical known to the State of California to cause birth defects and other
3 reproductive harm. *Wash hands after use.*

4 2.3 On Lights which contain methylene chloride and do not satisfy the requirements of
5 Paragraph 2.6(a), the following Proposition 65 warning language shall be used
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7 **WARNING:** This product contains chemicals known to the State
8 of California to cause cancer and birth defects or other reproductive
9 harm. Please follow important safety instructions found elsewhere
10 on and inside the package. *Wash hands after use.*

11 2.4 The warning language specified in Paragraphs 2.1 through 2.3 shall be affixed to or
12 printed on the product's packaging or on the product, with such conspicuousness, as compared
13 with other words, statements, designs or devices as to render it likely that prior to purchase the
14 warning is read and understood by an ordinary individual under customary conditions of purchase
15 or use. The word "warning" shall be in all capital letters and in bold print. If printed on the
16 package itself, the warning shall be contained in the same section that states other safety
17 warnings, if any, concerning the use of the product.
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19 2.5 Roman may employ a warning method other than that specified in Paragraph 2.4
20 above upon obtaining the advanced written consent of the California Attorney General's office
21 and providing a copy of such consent to all parties in accordance with the notice provision set
22 forth in Section 10 of this Consent Judgment.

23 2.6 Settling Defendant shall not be required to provide Proposition 65 warnings in the
24 manner set forth in Paragraphs 2.1 through 2.4 in conjunction with the sale of Covered Products
25 which do not contain methylene chloride if one of the following conditions is met:

26 (a) Covered Products shall meet all of the following criteria:

27 (1) the plastic coating material used for the Covered Product has no
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1 intentionally added lead;

2 (2) a representative sample of the product has shown lead content by
3 weight of less than 0.03%, or 300 parts per million ("ppm"), using a test
4 method of sufficient sensitivity to establish a limit of qualification (as
5 distinguished from detection) of less than 300 ppm.

6 (b) The plastic coating material used for the Covered Product satisfies any less
7 restrictive standard that is:

8 (1) agreed to in writing to by the California Attorney General; or

9 (2) contained in a Judgment or settlement in which Mateel is a party
10 involving an actual or potential claim concerning lead in the PVC coating
11 on the holiday lights ("Lights") and artificial trees, decorative wreaths,
12 garlands and topiaries. Roman shall mail Mateel a copy of any
13 request that it submits to the California Attorney General for such
14 alternative reformulation standard, and allow Mateel an opportunity to
15 comment on that request. Mateel or its attorneys shall provide written
16 notification to Roman of their agreement with any other person to
17 such a less restrictive standard within thirty (30) days of entry of any
18 consent judgment which concerns the issue. Mateel or its attorneys shall
19 mail Roman and Roman shall likewise mail Mateel, written
20 notice, within thirty (30) days, of their acquisition of knowledge of any
21 other Judgment which establishes such a less restrictive standard.

22 2.7. If Covered Products containing methylene chloride satisfy the requirements
23 established in Paragraph 2.6, the warning language provided in Paragraph 2.3 may be used if
24 modified to eliminate the words "and birth defects or other reproductive harm."

25 3. MONETARY RELIEF

26 3.0. Within 30 days after entry of this Consent Judgment, Roman shall pay \$11,250 to
27 the Ecological Rights Foundation for use in research and public education regarding exposure by
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1 members of the public to chemicals listed by the State of California as causing cancer or other
2 reproductive harm. These payments shall not be used for to pay attorneys' fees to prosecute
3 Proposition 65 enforcement litigation.

4 3.1. Eighteen months after the entry of this Consent Judgment, Roman shall do one of
5 the following:

6 (a) Provide counsel for Mateel a declaration stating, under penalty of perjury,
7 that all Covered Products are in compliance with Paragraph 2.6. This declaration may be based
8 upon reliance of information obtained from a supplier of Covered Products provided such reliance
9 is in good faith. A copy of the declaration shall be served upon the California Attorney General.

10 (b) Pay \$1,875 to the Office of California Attorney General and \$625 to
11 Mateel Environmental Justice Foundation. Any payment or correspondence directed to Mateel or
12 counsel for Mateel shall be mailed to the attention of William Verick, Esq., Klamath
13 Environmental Law Center, 424 First Street, Eureka, California 95501.

14 4. ATTORNEYS' FEES

15 4.0. Within thirty (30) days after this Consent Judgment has been entered by the Court,
16 Roman shall pay the sum of thirteen thousand five hundred dollars (\$13,500) to the "Klamath
17 Environmental Law Center" as reimbursement for costs, investigation, testing, and attorneys' fees
18 incurred by Mateel. The attorneys' fees payment shall be mailed to the attention of William
19 Verick, Esq., Klamath Environmental Law Center, 424 First Street, Eureka, California 95501,
20 who shall be responsible for its distribution to Mateel's attorneys.

21 5. ENFORCEMENT OF JUDGMENT/STIPULATED REMEDIES

22 5.0 The terms of this Consent Judgment are enforceable by and among parties hereto
23 or, with respect to the injunctive relief provided for herein, by the California Attorney General.

24 6. MATTERS COVERED BY THIS CONSENT JUDGMENT

25 6.0. This Consent Judgment is a full, final and binding resolution between the Plaintiff,
26 acting on its own behalf and as to those matters included in the Notice, acting on behalf of the
27 public interest pursuant to Health and Safety code section 25249.7(d) and the general public
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1 pursuant to Business and Professions Code section 17204, and Roman concerning any violation
2 of Proposition 65 and/or the Unfair Competition Act regarding any claims made or which could
3 have been made in the Notice and/or the Complaint, or any other statutory or common law claim
4 that could have been made in the Notice and/or the Complaint, or any other statutory or common
5 law claim that could have been asserted against Roman and/or its affiliates, subsidiaries, divisions,
6 successors, assigns, distributors, retailers, and/or customers ("Covered Parties") for failure to
7 provide clear, reasonable, and lawful warnings of exposure to lead and/or methylene chloride
8 contained in or otherwise associated with Covered Products manufactured, sold or distributed by,
9 for, or on behalf of, Roman. For the purposes of this Consent Judgment, Covered Products
10 include those manufactured, imported, or distributed by Roman, including, but not limited to,
11 those Covered Products supplied by Roman which are sold by a Covered Party under its own
12 private label and/or any other brand name, provided that those Covered Products comply with
13 Paragraphs 2.1-2.7 of this Consent Judgment. Compliance with the terms of this Consent
14 Judgment resolves any issue, now, and in the future concerning compliance by Roman and/or its
15 affiliates, subsidiaries, divisions, successors, assigns with the requirements of Proposition 65 and
16 the Unfair Competition Act with respect to Covered Products.

17 7. SERVICE ON THE CALIFORNIA ATTORNEY GENERAL

18 Mateel shall serve a copy of this Consent Judgment, signed by both parties, on the
19 California Attorney General on behalf of the parties so that the Attorney General may review this
20 Consent Judgment prior to its submittal to the Court for approval. No sooner than fourteen (14)
21 days after the Attorney General has received the aforementioned copy of this Consent Judgment,
22 and in the absence of any written objection by the Attorney General to the terms of this Consent
23 Judgment, the parties may then submit it to the Court for approval.

24 8. APPLICATION OF JUDGMENT

25 The obligations of this Consent Judgment shall apply to and be binding upon all plaintiffs,
26 acting in the public interest pursuant to Health and Safety Code section 25249.7(d) and on behalf
27 of the general public pursuant to Business and Professions Code section 17204, and Roman and
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1 the successors or assigns of any of them.

2 9. MODIFICATION OF JUDGMENT

3 9.0. This Consent Judgment may be modified only upon written agreement of the parties
4 and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of any
5 party as provided by law and upon entry of a modified Consent Judgment by the Court.

6 10. NOTICE

7 10.0. When any Party is entitled to receive any notice or report under this Consent
8 Judgment, the notice or report shall be sent by U.S. mail or overnight courier service to:

9 (a) For Mateel:

10 William Verick, Esq.
11 Klamath Environmental Law Center
12 424 First Street
13 Eureka, California 95501

14 (b) For Roman:

15 Michael A. Orloff, Chief Operating Officer
16 Roman, Inc.,
17 555 Lawrence Avenue
18 Roselle, Illinois 60172

19 with copies to:

20 Steven C. Filipowski, Esq.
21 Shaheen, Novolselsky, Staat & Filipowski, P.C.
22 20 North Wacker Drive - Suite 2900
23 Chicago, Illinois 60606

24 10.1 Any Party may modify the person and address to whom notice is to be sent by
25 sending each other Party notice in accordance with this Paragraph.

26 11. AUTHORITY TO STIPULATE

27 11.0. Each signatory to this Consent Judgment certifies that he or she is fully authorized
28 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf
of the party represented and legally to bind that party.

12. RETENTION OF JURISDICTION

1 12.0. This Court shall retain jurisdiction over the matters covered herein and the
2 enforcement and/or application of this Consent Judgment.

3 13. ENTIRE AGREEMENT

4 13.0. This Consent Judgment contains the sole and entire agreement and understanding
5 of the parties with respect to the entire subject matter hereof, and any and all prior discussions,
6 negotiations, commitments and understandings related hereto. No representations, oral or
7 otherwise, express or implied, other than those contained herein have been made by any party
8 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed
9 to exist or to bind any of the parties.

10 14. GOVERNING LAW

11 14.0. The validity, construction and performance of this Consent Judgment shall be
12 governed by the laws of the State of California.

13 COURT APPROVAL


14 14.1. If this Consent Judgment is not approved by the Court, it shall be of no force or
15 effect, and cannot be used in any proceeding for any purpose.

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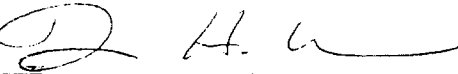
APPROVED AS TO FORM:

DATED: _____

SHAHEEN, NOVOSELSKY, STAAT &
FILIPOWSKI, P C.

By: 
Steven C. Filipowski
Attorneys for Defendant
ROMAN, INC

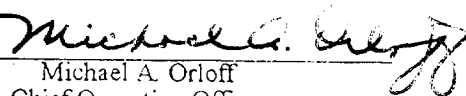
DATED: _____

By: 
David H. Williams
Attorney for Plaintiff
MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

IT IS SO STIPULATED:

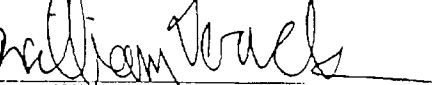
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ROMAN, INC.

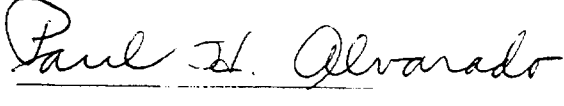
By: 
Michael A. Orloff
Chief Operating Officer

DATED: 7/28/03

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

By: 
William Verick
Chief Executive Officer

IT IS SO ORDERED, ADJUDGED, AND DECREED:

Dated: June 16, 2003. 

JUDGE OF THE SUPERIOR COURT
PAUL H. ALVARADO