

JAN 15 2007

GORDON PARK-LI, Clerk
BY: LINDA K. ESPY
Deputy Clerk

1 REUBEN YEROUSHALMI (SBN 193981)
2 DANIEL D. CHO (SBN 105409)
3 BEN YEROUSHALMI (SBN 232540)
4 YEROUSHALMI & ASSOCIATES
5 3700 WILSHIRE BLVD., SUITE 480
6 LOS ANGELES, CA 90010
7 Telephone: 213-382-3183

8 Attorney for Plaintiff,
9 Consumer Advocacy Group, Inc.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO--UNLIMITED

12 CONSUMER ADVOCACY)
13 GROUP, INC., in the public interest,)

14 Plaintiff,)

15 v.)

16 THE SWATCH GROUP (U.S.))
17 INC., and DOES 1-100,)

18 Defendants.)

Case No. CGC 05-438118

[PROPOSED] JUDGMENT BETWEEN
CONSUMER ADVOCACY GROUP, INC.
AND THE SWATCH GROUP (U.S.) INC.

Action Filed: January 25, 2005

Discovery Cut-Off: March 3, 2006

Trial Date: April 3, 2006

Judge: The Honorable Ronald E. Quidachay

Date: November 21, 2006

Time: 9:30 a.m.

Dept: 302

21 The Court finds that Consumer Advocacy Group, Inc. and The Swatch Group (U.S.) Inc.
22 have stipulated to the entry of this Judgment. The Court, having considered the matter, the
23 pleadings, and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND
24 DECREED as follows:
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- 1 1. The Court approves the Settlement Agreement, an executed copy of which is attached as
- 2 Exhibit A, as the Judgment of this Court resolving this action between Consumer
- 3 Advocacy Group, Inc. and The Swatch Group (U.S.) Inc.
- 4
- 5 2. The Court Clerk is to enter this Judgment as the Judgment of the Court as to defendant,
- 6 The Swatch Group (U.S.) Inc.
- 7
- 8 3. The Swatch Group (U.S.) Inc. is dismissed with prejudice from this action.
- 9
- 10 4. Except as otherwise set forth in the Settlement Agreement, all parties shall bear their own
- 11 attorney fees and costs.
- 12

13 REVIEWED AND APPROVED AS A JUDGMENT OF THE SUPERIOR COURT. IT IS SO
14 ORDERED.

15
16 JAN 04 2007

17 Dated: _____, 2007

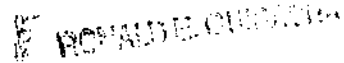
18 
19 _____
20 JUDGE OF THE SUPERIOR COURT
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EXHIBIT A

SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

THE SWATCH GROUP (U.S.) INC.

Consumer Advocacy Group, Inc., on behalf of itself and suing in the public interest pursuant to Health and Safety Code section 25249.7, subdivision (d) (hereinafter "CAG") and The Swatch Group (U.S.) Inc. (hereinafter "Swatch") enter into this agreement (hereinafter "Settlement Agreement") to settle the case entitled *Consumer Advocacy Group, Inc. v. The Swatch Group (U.S.), et al.*, filed on January 25, 2005, and pending in the Superior Court of California for the County of San Francisco, Case No. CDG 05-438118 (hereinafter the "Lawsuit"), as follows:

1.0 Introduction

1.1 CAG and Swatch (hereinafter "Parties") enter into this Settlement Agreement to settle disputed claims between the Parties as set forth hereafter.

1.2 The Lawsuit alleges, *inter alia*, violations of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code sections 25249.5, et seq. ("Proposition 65"). Swatch denies the material allegations of the Lawsuit, and denies liability for the cause of action alleged in the complaint, and in connection with the Lawsuit.

1.3 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, including, but not limited to, any admission concerning the meaning of the terms "knowingly and intentionally expose" or "clear and reasonable warning" as used in Health and Safety Code section 25249.6. Nothing in this Settlement Agreement, nor compliance with the terms of this Settlement Agreement, shall constitute or be construed, considered, offered or admitted, in whole or in part, as evidence of an admission or evidence of fault, wrongdoing, or liability by Swatch, its officers, directors, employees, or parent, subsidiary or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency or forum whatsoever. Except for the cause of action and allegations settled and compromised, nothing in this

Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG and Swatch may have against one another in any other pending legal proceeding.

2.0 Release

2.1 Upon judicial approval of the settlement between the parties and the expiration of time for which any person or entity could appeal the same, CAG hereby fully releases and forever discharges Swatch, its affiliates, subsidiary and parent corporations, and/or their affiliated companies, and each of their officers, directors, agents, servants, partners, stockholders, attorneys, employees, representatives, and each of their respective successors and assigns (hereafter collectively "the Released Parties") from all known and unknown rights, claims, causes of action, damages, suits, penalties, liabilities, injunctive relief, declaratory relief, and attorneys' fees, costs and expenses related to or arising out of the facts and claims alleged in the Lawsuit. Without limiting the foregoing, the Parties intend the scope of this release to cover all Claims Covered (as defined in Section 3.0 below) as to the Released Parties put in controversy by the Lawsuit.

2.2 CAG has been fully advised of the contents of Section 1542 of the Civil Code of California. CAG acknowledges that the claims released in section 2.1 above may include unknown claims and waives Section 1542 as to any such unknown claims. Section 1542 reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

CAG acknowledges and understands the significance and consequences of this specific waiver of Civil Code Section 1542.

3.0 Claims Covered

3.1 This Settlement Agreement is a final and binding resolution between the CAG and the Released Parties of the following claims and causes of action:

3.2 All Proposition 65 claims that were or could have been asserted in the Lawsuit arising out of allegations that the Released Parties knowingly and intentionally exposed wearers and other users of a wristwatch type consumer product known as Swatch Skin Red Illusion SUYR 100 and by other names similar to Swatch Skin Red Illusion SUYR 100 to lead and lead compounds, chemicals designated by the State of California to cause cancer or developmental

toxicity, without first giving clear and reasonable warning of such to the persons exposed up to the Effective Date of this Settlement Agreement.

4.0 Defendant's Duties

4.1 Swatch hereby agrees, promises, and represents that upon execution of this Settlement Agreement it will not knowingly expose wearers or other California users of any painted wristwatch band consumer product known as Swatch Skin Red Illusion SUYR 100 (or known by other names similar to Swatch Skin Red Illusion SUYR 100) to lead and lead compounds, nor expose wearers or other California users of any other painted wristwatch band under the Swatch brand name and/or Swatch trademark having paint that contains lead and lead compounds, chemicals designated by the State of California to cause cancer or developmental toxicity. In order to assure compliance with these duties, Swatch hereby represents that it has specified that no lead whatsoever can be contained in any of the paints or dyes used for any painted wristwatch bands to be sold in California under the Swatch brand name and/or Swatch trademark. Swatch further represents that it assures compliance with this specification through the use of one or more spectrophotometer scanners that can detect lead. Samples of every lot from every supplier of the painted leather that is used to produce such painted watchbands will be scanned to assure that no lead is contained in the paint or dye applied to that lot before any wristwatch band produced from any such lot is sold in California.

5.0 Payments

5.1 Defendants' Payment in Lieu of Civil Penalties. Within fifteen days following entry of judgment in the Lawsuit as based on this Settlement Agreement, Swatch shall pay to CAG, which is incorporated for the purpose of furthering environmental causes, the sum of \$2,500.00. Payment shall be made to "Consumer Advocacy Group, Inc." CAG will use the payment for such projects and purposes related to environmental protection, worker health and safety, or reduction of human exposure to hazardous substances (including administrative and litigation costs arising from such projects), as CAG may choose. CAG agrees to provide its address and federal tax identification number to Swatch prior to such payment.

5.2 Payment to Yeroushalmi & Associates. Within fifteen days following entry of judgment in the Lawsuit as based on this Settlement Agreement, Swatch will pay \$35,500.00 to CAG for attorney fees and costs. The check shall be made payable to "Yeroushalmi & Associates." CAG represents and warrants that CAG has authorized the payment of attorney fees and costs, and that the payment and any application and/or distribution of such payment will not violate any agreement between CAG and/or its attorneys with any other person or entity. CAG releases and agrees to hold harmless the Released Parties with regard to any

issue concerning the allocation and/or distribution of the amount paid under this section. Yeroushalmi & Associates agrees to provide its address and federal tax identification number to Swatch prior to such payment.

6.0 Authority To Enter Into Settlement Agreement

6.1 CAG represents that the signatory to this Settlement Agreement is fully authorized to enter into this Settlement Agreement on behalf of CAG and to bind legally CAG. Swatch represents that the signatories to this Settlement Agreement are fully authorized to enter into this Settlement Agreement on behalf of Swatch and to bind legally Swatch.

7.0 Attorney General Review

7.1 Consistent with section 3003(a) of Title 11 of the California Code of Regulations, CAG shall submit this Settlement Agreement to the Attorney General's Office for review within five days of the Parties' execution of this Settlement Agreement.

7.2 Following submittal to the Attorney General, the Parties shall proceed as set forth in this Settlement Agreement.

8.0 Execution in Counterparts and Facsimile

8.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile signature shall be as valid as the original.

9.0 Entry of Judgment Pursuant to Settlement Agreement Required

9.1 This Settlement Agreement shall be null and void, and be without any force or effect, in the event this Settlement Agreement is not submitted to the Court within sixty days of the date hereof, or in the event the Court does not later approve this settlement as required by Health and Safety Code section 25249.7, subdivision (f)(4)(A)-(C).

10.0 Entire Agreement

10.1 This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

11.0 Modification of Settlement Agreement

11.1 Any modification to this Settlement Agreement shall be in writing by all Parties hereto.

12.0 Application of Settlement Agreement

12.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, the CAG and the Released Parties identified in Section 2.1 above.

13.0 Notification Requirements

13.1 Any notice required or permitted hereunder shall be effective only if in writing and delivered in person or sent by telecopy, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi
Yeroushalmi & Associates
3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010
Fax: (213) 382-3430

For Swatch:

Peter B. Sandmann, Esq.
Tesler, Sandmann & Fishman
163 Miller Avenue, Suite 4
Mill Valley, CA 94941
Fax: (415) 383-5675

Any party may change its designee(s) for purposes of notification by providing notice of such change pursuant to this section.

Dated: ^{5/22/06}
~~September 14, 2006~~

By: 
CONSUMER ADVOCACY GROUP, INC.

Dated: September 14, 2006

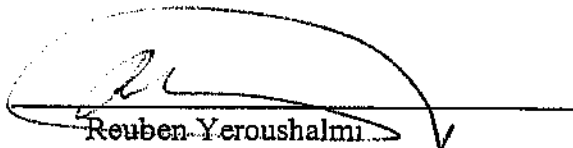
By: 
THE SWATCH GROUP (U.S.) INC.

And By: 
THE SWATCH GROUP (U.S.) INC.

As to form only:


YEROUSHALMI & ASSOCIATES

Dated: September 22/06

By: 
Reuben Yeroushalmi

TESLER, SANDMANN & FISHMAN

Dated: Sept. 19, 2006

By: 
Peter B. Sandmann

| | |
|---|--|
| <p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): REUBEN YEROUSHALMI (SBN 193981) YEROUSHALMI & ASSOCIATES 3700 WILSHIRE BLVD., SUITE 480 LOS ANGELES, CA 90010</p> <p>TELEPHONE NO.: 213-382-3183 FAX NO. (Optional): 213-382-3430 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): CONSUMER ADVOCACY GROUP, INC.</p> | <p style="text-align: center;">FOR COURT USE ONLY</p> |
| <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO</p> <p>STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: 400 McAllister Street CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civic Center Courthouse</p> | |
| <p>PETITIONER/PLAINTIFF: CONSUMER ADVOCACY GROUP, INC.</p> <p>RESPONDENT/DEFENDANT: SWATCH GROUP (U.S.), et al.</p> | |
| <p style="text-align: center;">PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL</p> | <p>CASE NUMBER: CGC 05-438118</p> |

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
 3700 WILSHIRE BLVD., SUITE 480
 LOS ANGELES, CA 90010
3. On (date): December 29, 2006 I mailed from (city and state): Los Angeles, California the following documents (specify):
[PROPOSED] JUDGMENT BETWEEN CONSUMER ADVOCACY GROUP, INC. AND THE SWATCH GROUP (U.S.) INC.

The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).

4. I served the documents by enclosing them in an envelope and (check one):
 - a. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 - a. Name of person served: Peter B. Sandmann, Esq. of Tesler, Sandmann & Fishman
 - b. Address of person served:
 163 Miller Avenue, Suite 4
 Mill Valley, CA 94941

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: December 29, 2006

Brian Keith Andrews
 (TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)


 (SIGNATURE OF PERSON COMPLETING THIS FORM)