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6 GROUP, INC.

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REC'D

JUL 31 2009
FLING WINDOW

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OF ORIGINAL FILED
Los Angeles Superior Court

JUL 31 2009

John A. Clarke, Executive Officer/Clerk
By SHARVA WESLEY Deputy

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

SEP 15 2009

John A. Clarke, Executive Officer/Clerk
By C. Wright Deputy

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

15 CONSUMER ADVOCACY GROUP,
a California corporation,

16 Plaintiff,

17 v.

18 INTERNATIONAL COFFEE & TEA, LLC,
19 a Delaware Limited Liability Company, and
20 DOES 1-50;

21 Defendants.

No. BC404051

[PROPOSED] STIPULATED
CONSENT JUDGMENT

Complaint filed: December 18, 2008

ORIGINAL

1 **1.0 INTRODUCTION**

2 1.1 Plaintiff. Plaintiff Consumer Advocacy Group, Inc. (“Plaintiff” or “CAG”), on
3 its own behalf and as a representative of the People of the State of California, is a non-profit
4 public interest corporation.

5 1.2 Defendant. International Coffee & Tea, LLC (“Coffee Bean”) owns and operates
6 coffee houses (“Stores”) throughout California.

7 1.3 Parties. CAG and the Coffee Bean are collectively referred to herein as the
8 “Parties.”

9 1.4 Covered Properties. Certain of Coffee Bean’s Stores have outdoor areas adjacent
10 to the Store, wherein the smoking of tobacco and tobacco products is not expressly prohibited.
11 Those Coffee Bean Stores with outdoor areas subject to Coffee Bean’s ownership or control are
12 collectively referred to as the “Covered Properties.”

13 1.5 Proposition 65. Health & Safety Code sections 25249.5 *et seq.* (“Proposition
14 65”) prohibits, among other things, a company consisting of ten or more employees from
15 knowingly and intentionally exposing an individual to chemicals that are known to the State of
16 California to cause cancer and/or birth defects or other reproductive harm without first providing
17 a clear and reasonable warning to such individuals. Exposures can occur as a result of a
18 consumer product exposure, an occupational exposure or an environmental exposure.

19 1.6 Proposition 65 Chemicals. The State of California has officially listed various
20 chemicals pursuant to Health & Safety Code section 25249.8 as chemicals known to the State of
21 California to cause cancer and/or reproductive toxicity.

22 1.7 The Present Dispute. This Consent Judgment pertains to *Consumer Advocacy*
23 *Group, Inc. v. International Coffee & Bean, LLC, et al.*, Los Angeles County Superior Court
24 Case No. BC404051, which was filed on December 18, 2009

25 1.8 Plaintiff’s 60-day Notice. More than sixty days prior to filing the Action, CAG
26 served on Coffee Bean a document entitled “60-day Notice of Intent to Sue Under Health &
27 Safety Code Section 25249.6 (the “Notice”). A true and correct copy of the Notice is attached
28 hereto as Exhibit “A.” The Notice stated, among other things, that Plaintiff believed that Coffee

1 Bean violated Proposition 65 by knowingly and intentionally exposing consumers, and
2 employees, as well as the public, to certain Proposition 65 listed chemicals at its Covered
3 Properties. Among those Proposition 65 noticed chemicals were tobacco products, tobacco
4 smoke and secondhand tobacco smoke (and their constituent chemicals), (collectively “Noticed
5 Chemicals”). This Consent Judgment covers only those specified Noticed Chemicals. CAG
6 subsequently filed the instant action against Coffee Bean (“Action”). The Action asserts the
7 Proposition 65 violation alleged in the Notice.

8 1.9 Purpose of Consent Judgment.

9 The parties enter into this Consent Judgment pursuant to a settlement of certain
10 disputed claims as alleged in the Complaint for the purpose of avoiding prolonged and costly
11 litigation . Parties wish to resolve completely and finally the issues raised by the Notice and the
12 Action pursuant to the terms and conditions described herein. In entering into this Consent
13 Judgment, the Parties recognize that this Consent Judgment is a full and final settlement of all
14 claims related to tobacco products, tobacco smoke, and secondhand tobacco smoke (and their
15 constituent chemicals) that were raised or that could have been raised in the Notice and the
16 Action. CAG and Coffee Bean also intend for this Consent Judgment to provide, to the
17 maximum extent permitted by law, *res judicata* and/or collateral estoppel protection for Coffee
18 Bean, against any and all other claims based upon the same or similar allegations as to the
19 Noticed Chemicals.

20 1.10 No Admission.

21 Nothing in this Consent Judgment shall be construed as an admission by the
22 Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance with
23 the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
24 conclusion of law, issue of law, or violation of law.

25 1.11 Effective Upon Final Determination. Coffee Bean’s willingness to enter into this
26 Consent Judgment is based upon the understanding that this Consent Judgment will fully and
27 finally resolve all claims related to tobacco products, tobacco smoke and secondhand tobacco
28 smoke (and their constituent chemicals), brought by CAG, and that this Consent Judgment will

1 have *res judicata* and/or collateral estoppel effect to the extent allowed by law with regard to any
2 alleged violations of Proposition 65 by Coffee Bean.

3 **2.0 JURISDICTION**

4 2.1 Subject Matter Jurisdiction. For purposes of this Consent Judgment only, the
5 Parties stipulate that this Court has jurisdiction over the allegations and claims alleged in the
6 Action.

7 2.2 Personal Jurisdiction. For purposes of this Consent Judgment only, the Parties
8 stipulate that this Court has personal jurisdiction over Coffee Bean as to the acts and claims
9 alleged in the Action.

10 2.3 Venue. For purposes of this Consent Judgment only, the Parties stipulate that
11 venue for resolution of the allegations and claims asserted in the Action is proper in the County
12 of Los Angeles.

13 2.4 Jurisdiction to Enter Consent Judgment. The Parties stipulate and agree that this
14 Court has jurisdiction to enter this Consent Judgment as a full and final settlement and resolution
15 of the allegations contained in the Notice, the Action, and of all claims that were or that could
16 have been raised based on the facts alleged therein or arising therefrom.

17 **3.0 COMPLIANCE: CLEAR AND REASONABLE WARNINGS**

18 3.1 Consumer Product Warning. As to all Covered Properties, Coffee Bean agrees
19 as follows:

20 3.1.1 Coffee Bean agrees, promises, represents, and warrants that within 120
21 days from the date of approval of the Consent Judgment, to ban smoking at 60% of its stores
22 with outdoor areas under its ownership or control in less urbanized and suburban areas (67
23 locations) and to post warnings at the remaining 40% of its stores (39 locations primarily in Los
24 Angeles and Hollywood).

25 3.1.2 At those 67 locations where smoking will be banned, Coffee Bean agrees,
26 subject to landlord approval, to post a placard stating "NO SMOKING" on the wall of each patio
27 at each of these locations within 120 days from the date of approval of this Consent Judgment
28

1 3.1.3 As to the 39 store locations where warnings are to be posted, provided
2 Coffee Bean is able to obtain landlord approval, Coffee Bean agrees to post Proposition 65-
3 compliant warnings on the walls of the outdoor areas within 120 days of the date of approval of
4 this Consent Judgment. These warnings shall state:

5
6 **“WARNING: This area contains tobacco smoke, which is a chemical**
7 **known to the State of California to cause cancer, birth defects or**
8 **other reproductive harm.”**

9
10 3.1.4 The warnings set forth in this Section 3.1.3 shall be displayed at the Store
11 with such conspicuousness, as compared with other words, statements, designs, or devices as to
12 render the warnings likely to be read and understood by an ordinary individual under customary
13 conditions of purchase or use. If Coffee Bean is unable to obtain landlord approval despite its
14 commercially reasonable efforts it will not be obligated to enforce the requirements of Sections
15 3.1.1 through 3.1.4 at the respective locations for which approval is denied.

16 3.1.5 Coffee Bean agrees to make five of its locations listed below smoke-free
17 on or before March 1, 2009, by banning smoking and placing a placard, subject to landlord
18 approval, stating “NO SMOKING” on the wall of each patio at each of these locations. These
19 five locations are to be considered within the 67 locations at which smoking will be banned.

20 These stores are located at

- 21
22 1. 950 Westwood Boulevard, Westwood, California 90024
23 2. 1500 Westwood Boulevard, Los Angeles, California 90024
24 3. 10401 Santa Monica Boulevard, Los Angeles, California 90025
25 4. 8793 Beverly Boulevard, West Hollywood, California 90048
26 5. 300 South La Cienega Boulevard, Los Angeles, California 90048

27 3.2 Compliance. Compliance with paragraphs 3.1.1, 3.1.2, 3.1.3, 3.1.4 and 3.1.5 is
28 deemed to fully satisfy Coffee Bean’s obligations under Proposition 65 with respect to any

1 exposures and potential exposures to the Noticed Chemicals in all respects and to all persons and
2 entities.

3 3.2.1 The provision of said warnings shall be deemed to satisfy all obligations
4 under Proposition 65 by all person(s) or entit(ies) with respect to all consumer exposure to the
5 constituent chemicals identified in the Notice. The warnings described in this section may be
6 combined with other information on a single sign and may be provided by the same media and in
7 the same or similar format in which other information is provided to the public.

8 3.3 Future Laws or Regulations. In lieu of complying with the requirements of
9 paragraph 3.2, should (a) any future federal law or regulation that governs the warnings provided
10 for herein preempt state authority with respect to said warning; (b) any future warning
11 requirement with respect to the subject matter of said paragraph be proposed by any industry
12 association and approved by the State of California; or (c) any future state law or regulation
13 specify a specific warning for consumer exposure with respect to the subject matter of said
14 paragraph, Coffee Bean may comply with the warning obligations set forth in paragraph 3.1.1,
15 3.1.2, 3.1.3, 3.1.4 and 3.1.5 by complying with such future federal or state law or regulation or
16 such future warning requirement upon notice to Plaintiff.

17 3.4 Statutory Amendment to Proposition 65. If a statutory, regulatory or other
18 amendment to Proposition 65 is adopted that would exempt Coffee Bean, the "Released Parties"
19 (as defined in paragraph 4.2 below), or the class to which Coffee Bean belongs, from providing
20 the warnings described herein, then upon the adoption of such statutory amendment or regulation
21 and to the extent authorized by such statutory amendment or regulation, Coffee Bean shall be
22 relieved from its obligation to provide the warnings set forth herein. In addition, should Coffee
23 Bean cease to own or operate and/or manage any of the Covered Properties, then Coffee Bean
24 shall be relieved of any obligation to provide warnings with respect to such Covered Properties.

25 **4.0 RELEASES AND CLAIMS COVERED**

26 4.1 Effect of Judgment. This Consent Judgment is a full and final judgment with
27 respect to any claims regarding the Noticed Chemicals that were asserted or that could have been
28 asserted in the Action and/or the Notice against the Released Parties (as defined in paragraph 4.2

1 below), including, but not limited to: (a) claims for any violation of Proposition 65 or Section
2 17200 by the Released Parties and each of them, including but not limited to, claims arising from
3 consumer product exposures to the Noticed Chemicals, wherever occurring and to whomever
4 occurring, through and including the date upon which this Consent Judgment becomes final,
5 including all appeals; and (b) the Released Parties' continuing responsibility to provide the
6 warnings mandated by Proposition 65 with respect to the Noticed Chemicals.

7 4.2 Release. Except for such rights and obligations as have been created under this
8 Consent Judgment, Plaintiff, on its own behalf and in the interests of the public pursuant to
9 Health & Safety Code section 25249.7(d), and Plaintiff's counsel, Yeroushalmi & Associates,
10 with respect to the matters regarding the Noticed Chemicals alleged in the Notice and the Action,
11 do hereby fully, completely, finally and forever release, relinquish and discharge: (a)
12 International Coffee & Tea, LLC; (b) the past, present, and future owners, lessors, sublessors,
13 managers, franchisors, franchisees, wholesalers, distributors and operators of (and any others
14 with any interest in) the sites identified in the Notice, all Covered Properties, and all Stores
15 affiliated with the parties identified in (a) above; and (c) the respective past, present, and future
16 officers, directors, shareholders, affiliates, members, joint venturers, partners, agents, principals,
17 employees, attorneys, parents, subsidiaries, owners, sisters or other related entities, successors,
18 and assigns of the persons and entities described in (a) and (b) above (the parties identified in (a),
19 (b), and (c) above are collectively referred to as the "Released Parties") of and from all claims,
20 actions, causes of action, suits, demands, rights, debts, agreements, promises, liabilities,
21 damages, penalties, royalties, fees, accountings, costs and expenses, whether known or unknown,
22 suspected or unsuspected, of any nature whatsoever that Plaintiff has or may have against the
23 Released Parties, arising directly or indirectly out of any fact or circumstance occurring prior to
24 the date upon which this Consent Judgment becomes final (including all appeals), relating to any
25 actual or alleged violation of Proposition 65 by the Released Parties and their respective agents,
26 servants and employees that were or could have been raised in the Notice and/or the Action (the
27 "Released Claims"). In sum, the Released Claims include all allegations made, or that could
28 have been made, by Plaintiff with respect to the Noticed Chemicals relating to Proposition 65.

1 4.3 Intent of Parties. It is the intention of the Parties to this Release that, upon entry
2 of judgment and conclusion of any and all appeals or litigation relating to this Consent Judgment,
3 that this Consent Judgment shall be effective as a full and final accord and satisfaction and
4 release of each and every Released Claim. In furtherance of this intention, Plaintiff
5 acknowledges that it is familiar with California Civil Code section 1542, which provides as
6 follows:

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

13 Plaintiff waives and relinquishes all of the rights and benefits that Plaintiff has or may
14 have under Civil Code section 1542 (as well as any similar rights and benefits which it may have
15 by virtue of any statute or rule of law in any other state or territory of the United States). Plaintiff
16 acknowledges that it may hereafter discover facts in addition to, or different from, those which it
17 now knows or believes to be true with respect to the subject matter of this Consent Judgment and
18 the Released Claims, and that notwithstanding the foregoing, it is Plaintiff's intention to fully,
19 finally, completely and forever settle and release all Released Claims, and that in furtherance of
20 such intention, the release here given shall be and remain in effect as a full and complete general
21 release, notwithstanding the discovery or existence of any such additional or different facts.

22 4.4 Plaintiff's Ability to Represent the Public. Plaintiff hereby warrants and
23 represents to Defendant and the Released Parties that (a) Plaintiff has not previously assigned any
24 Released Claim; and (b) Plaintiff has the right, ability and power to release each Released Claim.

25 Plaintiff further represents and warrants that it is a public benefit corporation formed for
26 the specific purposes of (a) protecting and educating the public as to harmful products and
27 activities; (b) encouraging members of the public to become involved in issues affecting the
28 environment and the enforcement of environmental statutes and regulations including, but not

1 limited to, Proposition 65; and (c) instituting litigation to enforce the provisions of Proposition
2 65.

3 4.5 No Further Force and Effect. In the event that (a) the Court denies the Parties'
4 Joint Motion to Approve the Consent Judgment pursuant to Health & Safety Code section
5 25249.7(f)(4) as amended; or (b) a decision by the Court to approve the Consent Judgment is
6 appealed and overturned by another Court, then upon notice by any Party hereto to any other
7 Party hereto, this Consent Judgment shall be of no further force or effect and the Parties shall be
8 restored to their respective rights and obligations as though this Consent Judgment had not been
9 executed by the Parties.

10 **5.0 ATTORNEY FEES AND COSTS**

11 5.1 Payment in Lieu of Civil Penalties. Coffee Bean shall pay CAG,
12 incorporated for the purpose of furthering environmental causes, \$12,000.00. Payment shall be
13 to "Consumer Advocacy Group, Inc." CAG will use the payment for such projects and purposes
14 related to environmental protection, worker health and safety, or reduction of human exposure to
15 hazardous substances (including administrative and product testing costs arising from such
16 projects), as CAG may choose. CAG shall provide its address and federal tax identification
17 number to Coffee Bean prior to such payment.

18 5.2 Payment to Yeroushalmi & Associates. Coffee Bean shall pay CAG
19 \$38,000.00 for its attorney fees and costs incurred in this matter. The check shall be to
20 "Yeroushalmi & Associates." CAG represents and warrants that CAG has authorized the
21 payment of attorney fees and costs, and that the payment and any application or distribution of
22 such payment will not violate any agreement between CAG and its attorneys with any other
23 person or entity. CAG releases and agrees to hold harmless the Released Parties with regard to
24 any issue concerning the allocation or distribution of the amount paid under this section.
25 Yeroushalmi & Associates shall provide its address and federal tax identification number to
26 International prior to such payment.

1 5.3 Timing of Payments. The payments described above shall be made in full
2 to their respective recipients within five (5) business days of the Court-ordered approval of this
3 Consent Judgment.

4 **6.0 PRECLUSIVE EFFECT OF CONSENT JUDGMENT**

5 6.1 Entry of Judgment. Entry of judgment by the Court pursuant to this Consent
6 Judgment shall, *inter alia*:

7 6.1.1 Constitute full and fair adjudication of all claims against Coffee Bean,
8 including, but not limited to, all claims set forth in the Action based upon alleged violations of
9 Proposition 65, as well as any other statute, provision of common law or any theory or issue
10 which arose from Coffee Bean's actual or alleged failure to provide warnings regarding
11 consumer exposure to tobacco products, tobacco smoke and secondhand tobacco smoke (and its
12 constituent chemicals) which are known to the State of California to cause cancer, birth defects
13 and/or other reproductive harm;

14 6.1.2 Bar all other persons, on the basis of *res judicata*, collateral estoppel
15 and/or the doctrine of mootness, from prosecuting against any Released Party any claim with
16 respect to the Noticed Chemicals alleged in the Notice and the Action, and based upon alleged
17 violations of (a) Proposition 65; or (b) any other statute, provision of common law or any theory
18 or issue which arose or may arise from the alleged failure to provide warnings of exposure to
19 tobacco products, tobacco smoke, and secondhand tobacco smoke (and its constituent
20 chemicals), which are known to the State of California to cause cancer, birth defects, and/or other
21 reproductive harm.

22 **7.0 DISPUTES UNDER THE CONSENT JUDGMENT**

23 7.1 Disputes. In the event that a dispute arises with respect to either Party's
24 compliance with the terms of this Consent Judgment, the Parties shall meet, either in person or
25 by telephone, and endeavor to resolve the dispute in an amicable manner. No action may be
26 taken to enforce the provisions of this Consent Judgment absent such a good faith effort to
27 resolve the dispute prior to the taking of such action. In the event that legal proceedings are
28 initiated to enforce the provisions of this Consent Judgment, however, the prevailing party in

1 such proceeding may seek to recover its costs and reasonable attorneys' fees. As used herein, the
2 term "prevailing party" means a party that is successful in obtaining relief more favorable to it
3 than the relief that the other party was amenable to providing during the parties' good faith
4 attempt to resolve the dispute that is the subject of such enforcement action.

5 **8.0 NOTICES**

6 8.1 Written Notice Required. All notices between the Parties provided for or
7 permitted under this Consent Judgment or by law shall be in writing and shall be deemed duly
8 served: (a) when personally delivered to a party, on the date of such delivery; or (b) when sent
9 via facsimile to a party at the facsimile number set forth below, or to such other or further
10 facsimile number provided in any notice sent under the terms of this paragraph, on the date of the
11 transmission of that facsimile; or (c) when deposited in the United States mail, certified, postage
12 prepaid, addressed to such party at the address set forth below, or to such other or further address
13 provided in a notice sent under the terms of this paragraph, three days following the deposit of
14 such notice in the mails.

15 Notices pursuant to this paragraph shall be sent to the parties as follows:

16 (a) To Plaintiff:

17
18 Reuben Yeroushalmi
19 Yeroushalmi & Associates
20 3700 Wilshire Boulevard, Suite 480
21 Los Angeles, CA 90010
22 Facsimile Number: (213) 382-3430

23 (b) To Defendant:

24 Cori Lynn Connell, Esq.
25 The Coffee Bean & Tea Leaf
26 1945 So. La Cinega Blvd
27 Los Angeles, CA 90034

28 With copy to:
Mark E. Elliott, Esq.
Caroline L. Plant, Esq.
PILLSBURY WINTHROP SHAW PITTMAN LLP
725 South Figueroa Street
Suite 2800
Los Angeles, CA 90017-5406

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2
3 A Party may change the address to which notice shall be provided under this Consent Judgment
4 by serving a written notice to each of the Parties.

5 **9.0 INTEGRATION**

6 9.1 Integrated Writing. This Consent Judgment constitutes the final and complete
7 agreement of the Parties hereto with respect to the subject matter hereof and supersedes all prior
8 or contemporaneous negotiations, promises, covenants, agreements or representations concerning
9 any matters directly, indirectly or collaterally related to the subject matter of this Consent
10 Judgment. The Parties hereto have expressly and intentionally included in this Consent
11 Judgment all collateral or additional agreements that may, in any manner, touch or relate to any
12 of the subject matter of this Consent Judgment and therefore, all promises, covenants and
13 agreements, collateral or otherwise are included herein and therein. The Parties intend that this
14 Consent Judgment shall constitute an integration of all their agreements, and each understands
15 that in the event of any subsequent litigation, controversy or dispute concerning any of its terms,
16 conditions or provisions, no Party hereto shall be permitted to offer or introduce any oral or
17 extrinsic evidence concerning any other collateral or oral agreement between the Parties not
18 included herein.

19 **10.0 TIMING**

20 10.1 Time of Essence. Time is of the essence in the performance of the terms hereof.

21 **11.0 COMPLIANCE WITH REPORTING REQUIREMENTS**

22 11.1 Reporting Forms: Presentation to Attorney General. The Parties expressly
23 acknowledge and agree to comply with the reporting requirements referenced in Health & Safety
24 Code section 25249.7(f) and regulations promulgated thereunder. Upon receipt of all necessary
25 signatures hereto, Plaintiff shall present this Proposed Consent Judgment to the California
26 Attorney General's office.
27
28

1 **12.0 COUNTERPARTS**

2 12.1 Counterparts. This Consent Judgment may be signed in counterparts and shall be
3 binding upon the Parties hereto as if all of the Parties executed the original hereof. A facsimile
4 or pdf signature shall be valid as the original.

5 **13.0 WAIVER**

6 13.1 No waiver. No waiver by any Party hereto of any provision hereof shall be
7 deemed to be a waiver of any other provision hereof or of any subsequent breach of the same or
8 any other provision hereof.

9 **14.0 AMENDMENT**

10 14.1 In Writing. This Consent Judgment cannot be amended or modified except by a
11 writing executed by the parties hereto that expresses, by its terms, an intention to modify this
12 Consent Judgment.

13 **15.0 SUCCESSORS**

14 15.1 Binding Upon Successors. This Consent Judgment shall be binding upon and
15 inure to the benefit of, and be enforceable by, the Parties hereto and their respective
16 administrators, trustees, executors, personal representatives, successors and assigns.

17 **16.0 CHOICE OF LAWS**

18 16.1 California Law Applies. Any dispute regarding the interpretation of this Consent
19 Judgment, the performance of the Parties pursuant to the terms of this Consent Judgment, or the
20 damages accruing to a Party by reason of any breach of this Consent Judgment shall be
21 determined under the laws of the State of California, without reference to choice of law
22 principles.

23 **17.0 NO ADMISSIONS**

24 17.1 Settlement Cannot Be Used as Evidence. This Consent Judgment has been
25 reached by the Parties to avoid the costs of prolonged litigation. By entering into this Consent
26 Judgment, neither Plaintiff nor Defendant admits any issue of fact or law, including any violation
27 of Proposition 65 or any other law. The settlement of claims herein shall not be deemed to be an
28 admission or concession of liability or culpability by any Party, at any time, for any purpose.

1 Neither this Consent Judgment, nor any document referred to herein, nor any action taken to
2 carry out this Consent Judgment, shall be construed as giving rise to any presumption or
3 inference of admission or concession by Defendant as to any fault, wrongdoing or liability
4 whatsoever. Neither this Consent Judgment, nor any of its terms or provisions, nor any of the
5 negotiations or other proceedings connected with it, nor any other action taken to carry out this
6 Consent Judgment, by any of the Parties hereto, shall be referred to, offered as evidence, or
7 received in evidence in any pending or future, civil, criminal or administrative action or
8 proceeding, except in a proceeding to enforce this Consent Judgment, to defend against the
9 assertion of any Released Claim or as otherwise required by law.

10 **18.0 REPRESENTATION**

11 18.1 Construction of Consent Judgment. The Parties each acknowledge and warrant
12 that they have been represented by independent counsel of their own selection in connection with
13 the prosecution and defense of the Action, the negotiations leading to this Consent Judgment and
14 the drafting of this Consent Judgment; and that in interpreting this Consent Judgment, the terms
15 of this Consent Judgment will not be construed in favor of or against any Party hereto.

16 **19.0 AUTHORIZATION**

17 19.1 Authority to Enter Consent Judgment. Each of the signatories hereto certifies
18 that he or she is authorized by the Party he or she represents to enter into this Consent Judgment,
19 to stipulate to this Consent Judgment, and to execute and approve this Consent Judgment on
20 behalf of the Party represented.

21 Dated: 7/15, 2009

CONSUMER ADVOCACY GROUP, INC.

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23
24 *Lyn H Marcus*
25 By: Lyn H Marcus
26 Its: President
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Dated: _____, 2009

INTERNATIONAL COFFEE & TEA, LLC

By: _____

Its: _____

Approved as to form:

Dated: July 15, 2009

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YEROUSHALMI AND ASSOCIATES
REUBEN YEROUSHALMI

By: 
REUBEN YEROUSHALMI
Attorneys for Plaintiff CONSUMER ACTION
GROUP, INC.

Dated: _____, 2009

PILLSBURY WINTHROP SHAW PITTMAN LLP
Mark E. Elliott, Esq.
Caroline L. Plant, Esq.

By _____
Mark E. Elliott, Esq.
Attorneys for Defendant INTERNATIONAL
COFFEE & TEA, LLC

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Dated: July 21, 2009

INTERNATIONAL COFFEE & TEA, LLC

By: Troy Maury
Its: Chief Administrative Officer and Senior Vice President

Approved as to form:

Dated: _____, 2009

YEROUSHALMI AND ASSOCIATES
REUBEN YEROUSHALMI

By _____
REUBEN YEROUSHALMI
Attorneys for Plaintiff CONSUMER ACTION GROUP, INC.

Dated: _____, 2009

PILLSBURY WINTHROP SHAW PITTMAN LLP
Mark E. Elliott, Esq.
Caroline L. Plant, Esq.

By _____
Mark E. Elliott, Esq.
Attorneys for Defendant INTERNATIONAL COFFEE & TEA, LLC

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Dated: _____, 2009

INTERNATIONAL COFFEE & TEA, LLC

By: _____

Its: _____

Approved as to form:


Dated: _____, 2009

YEROUSHALMI AND ASSOCIATES
REUBEN YEROUSHALMI

By _____
REUBEN YEROUSHALMI
Attorneys for Plaintiff CONSUMER ACTION
GROUP, INC.

Dated: July 29, 2009

PILLSBURY WINTHROP SHAW PITTMAN LLP
Mark E. Elliott, Esq.
Caroline L. Plant, Esq.

By 
Mark E. Elliott, Esq.
Attorneys for Defendant INTERNATIONAL
COFFEE & TEA, LLC

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ORDER AND JUDGMENT

Based upon the stipulated Consent Judgment between Consumer Advocacy Group, Inc. and International Coffee & Tea, LLC, the settlement is approved and judgment is hereby entered according to the terms herein.

Dated: Sept. 15, 2009

YVETTE M. PALAZUELOS

Honorable Yvette Palazuelos
Judge, Superior Court of the State of California