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Christopher Martin, State Bar No. 186021
THE CHANLER GROUP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565
Telephone: (312) 473-8423
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Attorneys for Plaintiff
ANTHONY E. HELD, Ph.D., P.E.

FILED
LOS ANGELES SUPERIOR COURT

AUG 19 2010
JOHN A. CLARKE, CLERK
BY J. CITRON, DEPUTY

BEVERLY HILLS COUNTY
JUN 22 2010
RECEIVED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
UNLIMITED CIVIL JURISDICTION

ANTHONY E. HELD, Ph.D., P.E.,

Plaintiff,

v.

COSRICH GROUP, INC.; PMC GLOBAL,
INC.; CWC INVENTORIES, INC.; and
DOES 1 through 150, inclusive,

Defendants.

Case No. SC102684

**[PROPOSED] JUDGMENT PURSUANT
TO TERMS OF CONSENT JUDGMENT**

Date: August 19, 2010
Time: 8:30 A.M.
Dept.: WEX
Judge: Hon. Richard A. Stone

CY FAX

1 In the above-entitled action, Plaintiff ANTHONY E. HELD, Ph.D., P.E. and Defendants
2 COSRICH GROUP, INC., PMC GLOBAL, INC.; and CWC INVENTORIES, INC., having agreed
3 through their respective counsel that judgment be entered pursuant to the terms of the Consent
4 Judgment entered into by the parties, and after issuing an order approving this Proposition 65
5 settlement agreement and entering the Consent Judgment on March 5, 2010.

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant to Code of Civil
7 Procedure §664.6, judgment is entered in accordance with the terms of the Consent Judgment
8 attached hereto as **Exhibit 1** and lodged concurrently herewith.

9
10 **IT IS SO ORDERED.**

11
12 Dated: 8/19/10

13 
14 JUDGE OF THE SUPERIOR COURT

15 RICHARD A. STONE
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Exhibit 1

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Christopher M. Marlin, State Bar No. 186021
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Attorneys for Plaintiff
Anthony E. Held, Ph.D., P.E.

Kurt Weissmuller, State Bar No. 117187
Megan K. Hey, State Bar No. 232345
ALSTON + BIRD, LLP
333 S. Hope St. 16th Fl.
Los Angeles, CA 90071
Telephone: (213) 576-1000
Facsimile: (213) 576-1100

Attorneys for Defendants
COSRICH GROUP, INC.; PMC GLOBAL, INC.; and
CWC INVENTORIES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF LOS ANGELES
UNLIMITED CIVIL JURISDICTION

ANTHONY HELD, Ph.D., P.E.,) Case No. SC102684
)
Plaintiff,)
)
v.) STIPULATION AND [PROPOSED]
) ORDER RE: CONSENT JUDGMENT
)
COSRICH GROUP, INC.; PMC GLOBAL,)
INC.; CWC INVENTORIES, INC, and DOES)
1 through 150, inclusive,)
)
Defendants.)

1 **1. INTRODUCTION**

2 **1.1 Anthony E. Held, Ph.D., P.E., Cosrich Group, Inc.; PMC Global, Inc.; and**
3 **CWC Inventories, Inc.**

4 This Consent Judgment is entered into by and between plaintiff Anthony E. Held, Ph.D.,
5 P.E. ("Dr. Held" or "Plaintiff") and Cosrich Group, Inc.; PMC Global, Inc.; and CWC Inventories,
6 Inc. ("Defendants"), with Plaintiff and Defendants collectively referred to as the "Parties."

7 **1.2 Plaintiff**

8 Dr. Held is an individual residing in the State of California who seeks to promote awareness
9 of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous
10 substances contained in consumer products.

11 **1.3 Cosrich Group, Inc.; PMC Global, Inc.; and CWC Inventories, Inc.**

12 Plaintiff alleges that Defendants employ ten or more persons who are each a person in the
13 course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of
14 1986, California Health & Safety Code §25249.6, *et seq.* (Proposition 65).

15 **1.4 General Allegations**

16 Dr. Held alleges that Defendants have manufactured, distributed and/or sold soft vinyl zipper
17 pulls which contain phthalates, including di(2-ethylhexyl)phthalate (hereinafter the "Listed
18 Chemical"), without the requisite Proposition 65 warnings. The Listed Chemical is on the
19 Proposition 65 list as known to cause cancer as well as birth defects and other reproductive harm.

20 **1.5 Product Description**

21 The products that are covered by this Consent Judgment are defined as follows: soft vinyl
22 zipper pulls containing the Listed Chemical such as, but not limited to, *DreamWorks Over the*
23 *Hedge Lip Balm with Character Zipper Pull, Part #OH9829 (A-C) UPC 074213098291, CWC SKU*
24 *#1544908; My Little Pony Lip Balm with Character Zipper Pull, Part #MP1108 (A-C), UPC*
25 *074213011085, CWC SKU #1544907; Superman Lip Balm with Character Zipper Pull, Part*
26 *#SM6229 (A-C) UPC 074213062292, CWC SKU #1544909; Spiderman Lip Balm with Character*
27 *Zipper Pull Part # SP015 (A-C), UPC 074213060151, CWC SKU #1544910; Curious George Lip*
28 *Balm with Character Zipper Pull Part # CG6029 (A-C) UPC 074213060298, CWC SKU #1544906;*

1 *Strawberry Shortcake Lip Balm with Character Zipper Pull Part # SS1109 (A-C), UPC*
2 *074213011092, CWC SKU #1559903; Assorted Characters Lip Balm with Character Zipper Pull*
3 *(comprised of above Part #s and UPC #s), CWC SKU #1559904. All such soft vinyl zipper pulls*
4 *containing the Listed Chemical are referred to hereinafter as the "Products."*

5 **1.6 Notice of Violation**

6 On November 28, 2008, Dr. Held served PMC Global, Inc., and CWC Inventories, Inc., and
7 various public enforcement agencies with a document entitled "60-Day Notice of Violation" (the
8 "Notice") that provided Defendants and public enforcers with notice of alleged violations of
9 California Health & Safety Code § 25249.6 for failing to warn consumers that the Products that
10 Defendants sold exposed users in California to the Listed Chemical. On January 27, 2009, Dr. Held
11 also served Cosrich Group, Inc., and various public enforcement agencies with a document entitled
12 "60-Day Notice of Violation" (the "Second Notice") that provided Defendants and public enforcers
13 with notice of alleged violations of California Health & Safety Code § 25249.6 for failing to warn
14 consumers that the Products that Defendants sold exposed users in California to the Listed
15 Chemical. To the best of the parties' knowledge, no public enforcer has prosecuted the allegations
16 set forth in the Notice or the Second Notice.

17 **1.7 Complaint**

18 On April 17, 2009, Dr. Held, acting in the interest of the general public in California, filed a
19 complaint ("Complaint" or "Action") in the Superior Court in and for the County of Los Angeles
20 against Cosrich Group, Inc., PMC Global, Inc., CWC Inventories, Inc., and Does 1 through 150,
21 alleging violations of California Health & Safety Code § 25249.6 based on the alleged exposures to
22 the Listed Chemical contained in the Products sold by Defendants.

23 **1.8 Answer**

24 On June 24, 2009, Defendants responded to the Complaint by filing a general denial and
25 affirmative defenses, denying all claims alleged by Plaintiff.

26 **1.9 No Admission**

27 Defendants deny the material, factual and legal allegations contained in Dr. Held's Notice
28 and Complaint and maintain that all products that they have sold, manufactured and/or distributed in

1 California, including the Products, have been and are in compliance with all laws. Nothing in this
2 Consent Judgment shall be construed as an admission by Defendants of any fact, finding, issue of
3 law, or violation of law, nor shall compliance with this Consent Judgment constitute or be construed
4 as an admission by Defendants of any fact, finding, conclusion, issue of law, or violation of law,
5 such being specifically denied by Defendants. However, this section shall not diminish or otherwise
6 affect Defendants' obligations, responsibilities, and duties under this Consent Judgment.

7 **1.10 Consent to Jurisdiction**

8 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
9 jurisdiction over Defendants as to the allegations contained in the Complaint, that venue is proper in
10 the County of Los Angeles and that this Court has jurisdiction to enter and enforce the provisions of
11 this Consent Judgment.

12 **1.11 Purpose of Consent Judgment**

13 In order to avoid continued and protracted litigation, the Parties wish to resolve completely
14 and finally the issues raised by the Notice and the Complaint pursuant to the terms and conditions
15 described herein. By entering into this Consent Judgment, the Parties recognize that this Consent
16 Judgment is a full and final settlement of all claims related to the Products and the Listed Chemical
17 that were raised or could have been raised in the Complaint. The Parties also intend for this
18 Consent Judgment to provide, to the maximum extent permitted by law, *res judicata* and/or
19 collateral estoppel protection for Defendants, against any and all other claims based upon the same
20 or similar allegations to the Products and the Listed Chemical.

21 **1.12 Effective Date**

22 For purposes of this Consent Judgment, the term "Effective Date" shall mean March 1,
23 2010.

1 **2. INJUNCTIVE RELIEF: REFORMULATION AND RECALL**

2 **2.1 Reformulation Standards**

3 Reformulated Products are defined as those Products containing less than or equal to 1,000
4 parts per million ("ppm" or "mg/kg") of the Listed Chemical.

5 **2.2 Past and Future Reformulation Steps**

6 Defendants hereby commit that one hundred percent (100%) of the Products that they
7 manufacture, sell or ship after the Effective Date for sale in California, shall qualify as
8 Reformulated Products. Defendants also represent that, as a result of the notices issued on
9 November 28, 2008, and January 27, 2009, Defendants began to implement steps to come into
10 compliance with the statute.

11 **3. MONETARY PAYMENTS**

12 **3.1 Penalties Pursuant to Health & Safety Code §25249.7(b)**

13 In settlement of all the claims referred to in this Consent Judgment, Defendants shall
14 collectively pay \$6,000 in civil penalties to be apportioned in accordance with California Health &
15 Safety Code §25192, with 75% of these funds remitted to the State of California's Office of
16 Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty
17 remitted to Anthony Held as provided by California Health & Safety Code §25249.12(d).
18 Defendants shall issue two separate checks for the penalty payment: (a) one check made payable to
19 "Chanler Law Group in Trust For OEHHA" in the amount of \$4,500, representing 75% of the total
20 penalty; and (b) one check to "Chanler Law Group in Trust for Anthony Held" in the amount of
21 \$1,500, representing 25% of the total penalty.

22 Within five (5) business days after the execution and delivery of this Consent Judgment by
23 both parties, the penalty payment shall be made by Defendants to the following address:

24 Chanler Law Group
25 Attn: Proposition 65 Coordinator
26 2560 Ninth Street
27 Parker Plaza, Suite 214
28 Berkeley, CA 94710

29 Two separate 1099s shall be issued for the above payments: (a) OEHHA, P.O. Box 4010,
30 Sacramento, CA, 95814 (EIN: 68-0284486); and (b) Anthony Held, whose information shall be

1 provided within two (2) calendar days of payment delivery.

2 **4. REIMBURSEMENT OF FEES AND COSTS**

3 **4.1 Attorney Fees and Costs**

4 The Parties reached an accord on the compensation due to Dr. Held and his counsel under
5 general contract principles and the private attorney general doctrine codified at California Code of
6 Civil Procedure (CCP) §1021.5. Defendants shall reimburse Dr. Held and his counsel \$44,000 for
7 fees and costs incurred as a result of investigating, bringing this matter to their attention, and
8 negotiating a settlement in the public interest. This figure includes Dr. Held's future fees and costs
9 including attorney's fees to be incurred in seeking judicial approval of this Consent Judgment as
10 well as any other legal work performed after the execution of this Consent Judgment incurred in an
11 effort to obtain finality of the case.

12 The payment for reimbursement of fees and costs shall be made payable to "Chanler Law
13 Group" and in three installments of \$14,666 on March 9, 2010; \$14,666 on April 20, 2010; and
14 \$14,668 on May 20, 2010 and shall be delivered to the following address:

15 Chanler Law Group
16 Attn: Proposition 65 Coordinator
17 2560 Ninth Street
18 Parker Plaza, Suite 214
19 Berkeley, CA 94710

20 A separate 1099 shall be issued to "Chanler Law Group" (EIN: 94-3171522) for the amount
21 of the reimbursement of Plaintiff's fees and costs.

22 **5. RELEASE OF ALL CLAIMS**

23 **5.1 Dr. Held's Release of Defendants**

24 In further consideration of the promises and agreements herein contained, and for the
25 payments to be made pursuant to Sections 3 and 4, Dr. Held on behalf of himself, his past and
26 current agents, representatives, attorneys, successors, and/or assignees, and in the interest of the
27 general public pursuant to Health & Safety Code Section 25249.7(d), hereby waives all rights to
28 institute or participate in, directly or indirectly, any form of legal action and releases all claims,
including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities,
demands, obligations, agreements, promises, royalties, accountings, damages, costs, fines, penalties,

1 losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorney's fees)
2 of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "claims"),
3 against Defendants and each of their wholesalers, licensors, licensees, auctioneers, retailers,
4 distributors, franchisees, dealers, customers, owners, purchasers, users, parent companies, corporate
5 affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives,
6 shareholders, agents, and employees, and sister and parent entities, (collectively "Releasees") that
7 arise under Proposition 65, as such claims relate to Defendants' alleged failure to warn about
8 exposures to the Listed Chemical contained in the Products.

9 Dr. Held in his individual capacity on behalf of himself, his past and current agents,
10 representatives, attorneys, and successors and/or assigns, and *not* his representative capacity, hereby
11 waives all rights to institute or participate in, directly or indirectly, any form of legal action and
12 releases all claims which he now has or may have in the future against Defendants, irrespective of
13 the subject matter, of all character, kind and nature, whether said claims are known or unknown or
14 are suspected or unsuspected and Dr. Held expressly waives any and all rights and benefits which he
15 now has, or in the future may have, under California Civil Code § 1542, which provides as follows:

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

22 It is expressly agreed and understood that the general release by Dr. Held of Defendants is a
23 determinative consideration of Defendants' willingness and decision to enter into this Consent
24 Judgment.

25 **5.2 Defendants' Release of Dr. Held**

26 Defendants, on behalf of themselves and their Releasees, waive any and all claims against
27 Dr. Held, his attorneys, and other representatives for any and all actions taken by Dr. Held and his
28 attorneys and other representatives, whether in the course of investigating claims or otherwise
seeking enforcement of Proposition 65 against them in this matter, and/or with respect to the
Products.

1 **6. COURT APPROVAL**

2 This Consent Judgment is not effective until it is approved and entered by the Court and
3 shall be null and void if, for any reason, it is not approved and entered by the Court within one year
4 after it has been fully executed by all parties.

5 **7. SEVERABILITY**

6 If, subsequent to the execution of this Consent Judgment, any of the provisions of this
7 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable provisions
8 remaining shall not be adversely affected.

9 **8. GOVERNING LAW**

10 The terms of this Consent Judgment shall be governed by the laws of the State of California
11 and apply within the State of California. In the event that Proposition 65 is repealed, preempted or
12 is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this
13 Consent Judgment are rendered inapplicable or no longer require as a result of any such repeal or
14 preemption or rendered inapplicable by reason of law generally as to the Products, then Defendants
15 shall have no further obligations pursuant to this Consent Judgment with respect to, and to the
16 extent that, the Products are so affected.

17 **9. NOTICES**

18 Unless specified herein, all correspondence and notices required to be provided pursuant to
19 this consent judgment shall be in writing and personally delivered or sent by: (i) first-class,
20 (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the
21 other party at the following addresses:

22 To Defendants:

23 Cosrich Group, Inc.
24 C/o Legal Department
25 12243 Branford Street
26 Sun Valley, CA 91352

27 With Copy to:
28 Kurt Weissmuller, Esq.
 Alston + Bird, LLP
 333 S. Hope St.
 16th Floor
 Los Angeles, CA 90071

 To Dr. Held:

 Proposition 65 Coordinator
 Chanler Law Group
 2560 Ninth Street
 Parker Plaza, Suite 214
 Berkeley, CA 94710-2565

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Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent. Should Dr. Held become aware of any soft vinyl zipper pulls manufactured, distributed or sold after the Effective Date by Defendants in California that Dr. Held believes violates Section 2 of this Consent Judgment, Dr. Held agrees to provide Defendants with written notice which identifies the products at issue by model and style number and shall include relevant test data showing the presence of DEHP. Within 30 days following Defendants' receipt of such notice, Defendants shall have the option to provide Dr. Held, at the addresses listed in this Section, with testing information demonstrating its compliance with Section 2. If such testing information is satisfactory to Dr. Held, no further action shall be taken by Dr. Held.

10. COUNTERPARTS; FACSIMILE SIGNATURES

This Consent Judgment may be executed in counterparts and by facsimile or pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. A facsimile or pdf signature shall be as valid as the original.

11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(I)

Dr. Held and his attorneys agree to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(I).

12. ADDITIONAL POST EXECUTION ACTIVITIES

Dr. Held and Defendants agree to mutually employ their and their counsel's best efforts to support the entry of this agreement as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely manner and defend any appellate review of the Court's approval. The parties acknowledge that, pursuant to California Health & Safety Code § 25249.7, a noticed motion is required to obtain judicial approval of this Consent Judgment which Dr. Held shall draft and file, and Defendants shall join. If any third party objection to the noticed motion is filed, Dr. Held and Defendants shall work together to file a joint reply and appear at any hearing before the Court. This provision is a material component of the Consent Judgment and shall be treated as such

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in the event of a breach. If the Superior Court does not approve the motion to approve this Consent Judgment, all payments made by Defendants shall be immediately returned to counsel for Defendants. Should the Superior Court approve this Consent Judgment and any person successfully appeals that approval, upon remittitur, all payments made pursuant to this Consent Judgment will be returned to counsel for Defendants.

13. MODIFICATION

This Consent Judgment may be modified only: (1) by written agreement of the Parties and upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion of any party and entry of a modified consent judgment by the Court.

14. AUTHORIZATION

The undersigned are authorized to execute this Consent Judgment on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

AGREED TO:

AGREED TO:

Date: 02/26/2010

Date: _____

By: *Anthony E. Held*
Plaintiff, Anthony E. Held, Ph.D., P.E.

By: _____
Defendant, Cosrich Group, Inc.

Date: _____

By: _____
Defendant, PMC Global, Inc.

Date: _____

By: _____
Defendant, CWC Inventories, Inc.

1 in the event of a breach. If the Superior Court does not approve the motion to approve this Consent
2 Judgment, all payments made by Defendants shall be immediately returned to counsel for
3 Defendants. Should the Superior Court approve this Consent Judgment and any person successfully
4 appeals that approval, upon remittitur, all payments made pursuant to this Consent Judgment will be
5 returned to counsel for Defendants.

6 13. **MODIFICATION**

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8 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion
9 of any party and entry of a modified consent judgment by the Court.

10 14. **AUTHORIZATION**

11 The undersigned are authorized to execute this Consent Judgment on behalf of their
12 respective parties and have read, understood, and agree to all of the terms and conditions of this
13 Consent Judgment.

14 AGREED TO:

AGREED TO:

15
16 Date: _____
17
18 By: _____
19 Plaintiff, Anthony E. Hfeld, Ph.D., P.E.

Date: 5/1/10
By: [Signature]
Defendant, Cosrich Group, Inc.

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Date: 3/1/10
By: [Signature]
Defendant, PMC Global, Inc.

Date: _____
By: _____
Defendant, CWC Inventories, Inc.

1 in the event of a breach. If the Superior Court does not approve the motion to approve this Consent
 2 Judgment, all payments made by Defendants shall be immediately returned to counsel for
 3 Defendants. Should the Superior Court approve this Consent Judgment and any person successfully
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 8 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion
 9 of any party and entry of a modified consent judgment by the Court.

10 **14. AUTHORIZATION**

11 The undersigned are authorized to execute this Consent Judgment on behalf of their
 12 respective parties and have read, understood, and agree to all of the terms and conditions of this
 13 Consent Judgment.

14 **AGREED TO:**

AGREED TO:

15 Date: _____

Date: _____

16 By: _____
 17 Plaintiff, Anthony E. Held, Ph.D., P.E.

18 By: _____
 Defendant, Cosrich Group, Inc.

19 Date: _____

20 By: _____
 21 Defendant, PMC Global, Inc.

22 Date: 03/03/10

23 By: [Signature]
 24 Defendant, CWC Inventories, Inc.

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APPROVED AS TO FORM:

APPROVED AS TO FORM:


Date: _____

Date: 3/1/10

CHANLER LAW GROUP

ALSTON & BIRD LLP

By: _____

By: 

Christopher Martin
Attorneys for Plaintiff
ANTHONY E. HFIELD, Ph.D., P.E.

Kurt Weissmuller
Attorneys for Defendants
COSRICH GROUP, INC., PMC GLOBAL,
INC., and CWC INVENTORIES, INC.

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT

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APPROVED AS TO FORM:

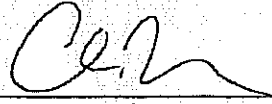
APPROVED AS TO FORM:

Date: 3/5/10

Date: _____

CHANLER LAW GROUP


ALSTON & BIRD LLP

By: 
Christopher Martin
Attorneys for Plaintiff
ANTHONY E. HELD, Ph.D., P.E.

By: _____
Kurt Weissmuller
Attorneys for Defendants
COSRICH GROUP, INC., PMC GLOBAL,
INC., and CWC INVENTORIES, INC.

IT IS SO ORDERED.

Date: 8/19/10



JUDGE OF THE SUPERIOR COURT