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YEROUSHALMI & ASSOCIATES  
Reuben Yeroushalmi (SBN 193981)  
9100 Wilshire Boulevard, Suite 240W  
Beverly Hills, California 90212  
Telephone: 310) 623-1926  
Facsimile: (310) 623-1930

Attorneys for Plaintiff  
CONSUMER ADVOCACY GROUP, INC.

REC'D  
OCT 30 2014  
FILING WINDOW  
CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

DEC 23 2014  
Sherri R. Carter, Executive Officer/Clerk  
By Marisela Fregoso, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

CONSUMER ADVOCACY GROUP,  
Plaintiff,  
v.  
UKA'S BIG SAVER FOODS, INC., dba BIG  
SAVER FOODS, INC., a California  
Corporation; SMART COOK, INC., a  
California Corporation; SUPER-MAX  
CORPORATION, a Texas Corporation;  
BETTER HOME PLASTICS CORP., a New  
Jersey Corporation; and DOES 1-20,  
Defendant.

Case No. BC503799  
Assigned For All Purposes To The  
Honorable Ernest Hiroshige  
UNLIMITED JURISDICTION  
~~(PROPOSED)~~ CONSENT JUDGMENT

I. INTRODUCTION

1.1 This Consent Judgment is entered into by and between plaintiff Consumer Advocacy Group, Inc. ("CAG") acting on behalf of itself and in the interest of the public and defendant Super-max Corporation ("Supermax"), with each a Party and collectively referred to as "Parties."

1.2 Supermax is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq. ("Proposition 65") that distributes or sells razors and disposable razors

Do not set this matter  
on file with the Parties



1 2. DEFINITIONS

2 2.1 "Covered Products" means Razors manufactured, distributed or sold by Supermax  
3 Corporation and its affiliated companies

4 2.2 "Effective Date" means the date that Supermax receives written notice by CAG  
5 that this Consent Judgment is approved by the Court.

6 3. INJUNCTIVE RELIEF/REFORMULATION.

7 3.1 On or after the Effective Date, Supermax shall not purchase, import, manufacture,  
8 distribute, sell, or offer for sale Covered Products intended for sale to California consumers if the  
9 Covered Product contains more than 100 parts per million ("ppm") Lead. Supermax also agrees  
10 to have an EPA-approved laboratory perform semi-annual testing of a sample of the Covered  
11 Products destined for sale to consumers in California for a period of at least two years.

12 4. SETTLEMENT PAYMENT

13 4.1 Settlement Amount: Supermax shall pay the total sum of \$65,000 as a settlement  
14 payment in full and complete settlement of all monetary claims by CAG related to the Notice and  
15 Complaint, as follows.

16 4.1.1 Reimbursement of Attorney's Fees and Costs: Supermax shall pay  
17 \$50,000 to "Yeroushalmi & Associates" as reimbursement for the investigation fees and  
18 costs, testing costs, expert fees, attorney fees, and other litigation costs and expenses for  
19 all work performed relating to this matter.

20 4.1.2 Civil Penalty: Defendant shall issue two separate checks for a total  
21 amount of \$7,500 as penalties pursuant to Health & Safety Code § 25192: (a) one check  
22 made payable to the State of California's Office of Environmental Health Hazard  
23 Assessment (OEHHA) in the amount of \$5,625, representing 75% of the total penalty; and  
24 (b) one check to Consumer Advocacy Group, Inc. in the amount of \$1,875, representing  
25 25% of the total penalty. Two separate 1099s shall be issued for the above payments: The  
26 first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-  
27 0284486) in the amount of \$5,625. The second 1099 shall be issued in the amount of  
28

1 \$1,875 to CAG and delivered to: Yeroushalmi & Associates, 9100 Wilshire Boulevard,  
2 Suite 240W, Beverly Hills, California 90212.

3 4.1.3 Payment In Lieu of Civil Penalties: Supermax shall pay \$7,500 in lieu of  
4 civil penalties to "Consumer Advocacy Group, Inc." CAG will use the payments for such  
5 projects and purposes related to environmental protection, worker health and safety, or  
6 reduction of human exposure to hazardous substances, including but not limited to,  
7 administrative and litigation costs and fees (excluding attorneys' fees), laboratory fees for  
8 testing samples for Proposition 65 listed chemicals, expert fees for evaluating exposures  
9 and merit to each potential violation of Proposition 65, and the cost of hiring consulting  
10 and retained experts who assist with the scientific analysis necessary for those files in  
11 litigation.

12 4.2 Delivery of Payments: Payments shall be delivered to: Reuben Yeroushalmi,  
13 Yeroushalmi & Associates, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212.

14 **5. MATTERS COVERED BY THIS CONSENT JUDGMENT**

15 5.1 This Consent Judgment is a full, final, and binding resolution between CAG on  
16 behalf of itself and in the public interest and Supermax and its officers, directors, insurers,  
17 employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister  
18 companies and their predecessors, successors, and assigns ("Defendant Releasees") and each of  
19 their suppliers, customers, distributors, wholesalers, retailers, or any other person in the course of  
20 doing business, and the successors and assigns of any of them, who may use, maintain, distribute  
21 or sell Covered Products, including but not limited to Uka's Big Saver Foods, Inc. ("Downstream  
22 Defendant Releasees"), for all claims for violations of Proposition 65 up through the Effective  
23 Date based on exposure to Lead from Covered Products as set forth in the Notice. Supermax's  
24 and Defendant Releasees' compliance with this Consent Judgment shall constitute compliance  
25 with Proposition 65 with respect to Lead from the Covered Products as set forth in the Notice.

26 5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,  
27 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or  
28 indirectly, any form of legal action and releases all claims, including, without limitation, all

1 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages,  
2 costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert  
3 fees, and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or  
4 contingent (collectively "Claims"), against Supermax, Defendant Releasees, and Downstream  
5 Defendant Releasees arising from any violation of Proposition 65 or any other statutory or  
6 common law regarding the failure to warn about exposure to Lead in Covered Products.

7 5.3 In furtherance of the foregoing, as to alleged exposures to Covered Products, CAG  
8 hereby waives any and all rights and benefits which it now has, or in the future may have,  
9 conferred upon it with respect to the Claims by virtue of the provisions of section 1542 of the  
10 California Civil Code, which provides as follows:

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

16 CAG understands and acknowledges that the significance and consequence of this waiver of  
17 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or  
18 resulting from, or related directly or indirectly to, in whole or in part, the Covered Products,  
19 including but not limited to any exposure to, or failure to warn with respect to exposure to, Lead  
20 or Lead compounds from Covered Products, CAG will not be able to make any claim for those  
21 damages against Supermax, Defendant Releasees, or Downstream Defendant Releasees.  
22 Furthermore, CAG acknowledges that it intends these consequences for any such Claims as may  
23 exist as of the date of this release but which CAG does not know exist, and which, if known,  
24 would materially affect its decision to enter into this Consent Judgment, regardless of whether its  
25 lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

## 26 6. ENFORCEMENT OF JUDGMENT

27 6.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties  
28 hereto. The Parties may, by noticed motion or order to show cause before the Superior Court of  
California, Los Angeles County, giving the notice required by law, enforce the terms and  
conditions contained herein. A Party may enforce any of the terms and conditions of this Consent

1 Judgment only after that Party first provides 30 days' notice to the Party allegedly failing to  
2 comply with the terms and conditions of this Consent Judgment and attempts to resolve such  
3 Party's failure to comply in an open and good faith manner.

4       6.2 Notice of Violation. Prior to bringing any motion, order to show cause, or other  
5 proceeding to enforce Section 3 of this Consent Judgment, CAG shall provide a written notice of  
6 violation ("NOV") to Supermax. The NOV shall include for each Covered Product: the date(s)  
7 the alleged violation(s) was observed and the location at which the Covered Product was offered  
8 for sale, and shall be accompanied by all test data obtained by CAG regarding the Covered  
9 Product.

10       6.2.1 Non-Contested NOV. CAG shall take no further action regarding the  
11 alleged violation if, within 30 days of receiving such NOV, Supermax serves a Notice of  
12 Election ("NOE") that meets one of the following conditions:

13           (a) The Covered Product was manufactured or received by Supermax  
14 for sale in California before the Effective Date, or

15           (b) Since receiving the NOV Supermax has taken corrective action by  
16 removing the Covered Product identified in the NOV from sale in California, or (ii)  
17 providing a clear and reasonable warning for the Covered Product identified in the NOV  
18 pursuant to 27 Cal. Code Regs. § 25603.

19       6.2.2 Contested NOV. Supermax may serve an NOE informing CAG of its  
20 election to contest the NOV within 30 days of receiving the NOV.

21           (a) In its election, Supermax may request that the same sample(s) of  
22 Covered Product(s) tested by CAG be subject to confirmatory testing at an accredited  
23 laboratory.

24           (b) If the confirmatory testing establishes that the Covered Product  
25 does not contain lead in excess of the level allowed in Section 3.1, then CAG shall take no  
26 further action regarding the alleged violation. If the testing does not establish compliance  
27 with Section 3.1, Supermax may withdraw its NOE to contest the violation and may serve  
28 a new NOE pursuant to Section 6.2.1.

1 (c) If Supermax does not withdraw an NOE to contest the NOV, the  
2 Parties shall meet and confer for a period of no less than 30 days before CAG may seek an  
3 order enforcing the terms of this Consent Judgment.

4 6.3 In any proceeding brought by either Party to enforce this Consent Judgment, such  
5 Party may seek whatever fines, costs, penalties or remedies as may be provided by law for any  
6 violation of Proposition 65 or this Consent Judgment.

7 **7. ENTRY OF CONSENT JUDGMENT**

8 7.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to  
9 California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG and  
10 Supermax waive their respective rights to a hearing or trial on the allegations of the Complaint,  
11 and CAG shall dismiss Uka's Big Saver Foods, Inc. from the complaint without prejudice.

12 7.2 If this Consent Judgment is not approved by the Court within one year after it is  
13 executed by the Parties, (a) this Consent Judgment and any and all prior agreements between the  
14 parties merged herein shall terminate and become null and void, and the actions shall revert to the  
15 status that existed prior to the execution date of this Consent Judgment; (b) no term of this  
16 Consent Judgment or any draft thereof, or of the negotiation, documentation, or other part or  
17 aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be  
18 admissible in evidence for any purpose in this Action, or in any other proceeding; and (c) the  
19 Parties agree to meet and confer to determine whether to modify the terms of the Consent  
20 Judgment and to resubmit it for approval.

21 **8. MODIFICATION OF JUDGMENT**

22 8.1 This Consent Judgment may be modified only upon written agreement of the  
23 parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of  
24 any party as provided by law and upon entry of a modified Consent Judgment by the Court.

25 8.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to  
26 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

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1 9. RETENTION OF JURISDICTION

2 9.1 This Court shall retain jurisdiction of this matter to implement and enforce the  
3 terms of this Consent Judgment.

4 10. DUTIES LIMITED TO CALIFORNIA

5 10.1 This Consent Judgment shall have no effect on Covered Products sold by  
6 Supermax outside the State of California.

7 11. SERVICE ON THE ATTORNEY GENERAL

8 11.1 CAG shall serve a copy of this Consent Judgment, signed by both parties, and the  
9 motion for approval of this Consent Judgment on the California Attorney General in accordance  
10 with 11 C.C.R. § 3003.

11 12. ATTORNEY FEES

12 12.1 Except as specifically provided in Section 4.1.1, each Party shall bear its own costs  
13 and attorney fees in connection with this action.

14 13. ENTIRE AGREEMENT

15 13.1 This Consent Judgment contains the sole and entire agreement and understanding  
16 of the parties with respect to the entire subject matter hereof and any and all prior discussions,  
17 negotiations, commitments and understandings related hereto.

18 14. GOVERNING LAW

19 14.1 The validity, construction and performance of this Consent Judgment shall be  
20 governed by the laws of the State of California, without reference to any conflicts of law  
21 provisions of California law.

22 14.2 The Parties, including their counsel, have participated in the preparation of this  
23 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This  
24 Consent Judgment was subject to revision and modification by the Parties and has been accepted  
25 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or  
26 ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result  
27 of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment  
28 agrees that any statute or rule of construction providing that ambiguities are to be resolved against



1 the drafting Party should not be employed in the interpretation of this Consent Judgment and, in  
2 this regard, the Parties hereby waive California Civil Code § 1654.

3 **15. EXECUTION AND COUNTERPARTS**

4 15.1 This Consent Judgment may be executed in counterparts and by means of  
5 facsimile or portable document format (pdf), which taken together shall be deemed to constitute  
6 one document.

7 **16. NOTICES**

8 16.1 Any notices under this Consent Judgment shall be by personal delivery, overnight  
9 courier, or First Class Mail.

10 If to CAG:

11 Reuben Yeroushalmi  
12 Yeroushalmi & Associates  
13 9100 Wilshire Boulevard, Suite 240W  
14 Beverly Hills, CA 90212  
15 Tel: (310) 623-1926

16 If to Supermax:

17 SuperMax Corporation  
18 11911 San Vicente Blvd., Suite 385  
19 Los Angeles, CA 90049

20 With a copy to:

21 Malcolm Weiss, Esq.  
22 Hunton & Williams LLP  
23 555 South Hope Street, Suite 2000  
24 Los Angeles, CA 90071  
25 Tel: (213) 532-2000

26 **17. AUTHORITY TO STIPULATE**

27 17.1 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.

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AGREED TO:

Date: July \_\_, 2014


By: \_\_\_\_\_  
Plaintiff CONSUMER ADVOCACY  
GROUP, INC.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

AGREED TO:

Date: July \_\_, 2014

By:  \_\_\_\_\_  
Defendant Supermax Corporation

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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AGREED TO:

AGREED TO:

Date: July 26, 2014

Date: July \_\_, 2014

By:   
Plaintiff CONSUMER ADVOCACY  
GROUP, INC.

By: \_\_\_\_\_  
Defendant Supamax Corporation

IT IS SO ORDERED.

Date: \_\_\_\_\_

12-23-14

MITCHELL L. BECKLOFF, Judge

JUDGE OF THE SUPERIOR COURT