

FILED
Superior Court of California
County of Los Angeles

NOV 06 2018

Sherril R. Carter, Executive Officer/Clerk
By Mansa Ventura Deputy

Received

SEP 18 2018

Filing Window

1 Reuben Yeroushalmi (SBN 193981)
2 Ben Yeroushalmi (SBN 232540)
3 Peter T. Sato (SBN 238486)
4 YEROUSHALMI & YEROUSHALMI
5 An Association of Independent Law Corporations
6 9100 Wilshire Boulevard, Suite 240W
7 Beverly Hills, California 90212
8 Telephone: 310.623.1926
9 Facsimile: 310.623.1930

10 Attorneys for Plaintiffs,
11 Consumer Advocacy Group, Inc.

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

14 CONSUMER ADVOCACY GROUP, INC.,
15 in the public interest,

16 Plaintiff,

17 v.

18 TAK SHING HONG, INC., AKA T.S.
19 EMPORIUM, a California Corporation;
20 FOUR SEAS MERCANTILE LIMITED, a
21 business entity form unknown; FOUR SEAS
22 GROUP, a business entity form unknown;
23 FOUR SEAS MERCANTILE HOLDINGS
24 LIMITED, a business entity form unknown;
25 NICO-NICO FOODS (S) PTE LTD, a
26 business entity form unknown; NICO-NICO
27 NORI INC., a business entity form unknown;
28 NICO-NICO NORI, a business entity form
unknown; AKITA TRADING CO., LTD., a
business entity form unknown; WELL LUCK
CO., INC., a New Jersey Corporation; ROM
AMERICA, INC., a California Corporation;
and DOES 1-30

Defendants.

CASE NO. BC640058

CONSENT JUDGMENT [REDACTED]

Health & Safety Code § 25249.5 et seq.

Dept. 14
Judge: Hon. Terry Green
Complaint filed: November 7, 2016

Handwritten initials and signature: 31, [Signature], HM

1 **1. INTRODUCTION**

2 1.1 This Consent Judgment is entered into by and between plaintiff, Consumer
3 Advocacy Group, Inc. (referred to as "CAG") acting on behalf of itself and in the interest of the
4 public, and defendant, ROM AMERICA, INC. (referred to as "Defendant") with each a Party to
5 the action and collectively referred to as "Parties."

6 1.2 CAG is a California corporation that serves as a private enforcer of the Safe
7 Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.6
8 et seq. ("Proposition 65"), as described in Proposition 65 and the regulations of the Attorney
9 General of California at 11 Cal. Code Regs. § 3000 et seq.

10 1.3 Defendant is a California corporation which employ ten or more persons. For
11 purposes of this Consent Judgment, Defendants are deemed a person in the course of doing
12 business in California and are subject to the provisions of the Safe Drinking Water and Toxic
13 Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq. ("Proposition
14 65").

15 **1.4 Chemicals Of Concern**

16 1.4.1 Lead and Lead Compounds ("Lead") are known to the State of California
17 to cause cancer and birth defects or other reproductive harm.

18 **1.5 Notices of Violation.**

19 1.5.1 On December 31, 2015, CAG served Tak Shing Hong, Inc., Four Seas
20 Mercantile Limited, Four Seas Group, Four Seas Mercantile Holdings Limited, Nico-Nico Foods
21 (S) PTE LTD, Nico-Nico Nori Inc, Nico-Nico Nori, and various public enforcement agencies
22 with a document entitled dated December 31, 2015 "60-Day Notice of Violation" ("December
23 31, 2015 Notice"), Attorney General number AG2015-01349, that provided the recipients with
24 notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in
25 California of exposures to Lead contained in dried seaweed. No public enforcer has commenced
26 or diligently prosecuted the allegations set forth in the December 31, 2015 Notice.
27
28

Handwritten initials and marks on the right margin, including a circled '31', a signature, and the letters 'MM'.

1 1.5.2 On May 13, 2016 CAG served Rom America, Inc., Tak Shing Hong, Inc.,
2 and various public enforcement agencies with a document entitled "60-Day Notice of Violation"
3 ("May 13, 2016 Notice"), Attorney General number AG2016-00452, that provided the recipients
4 with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn
5 individuals in California of exposures to Lead contained in seaweed. No public enforcer has
6 commenced or diligently prosecuted the allegations set forth in the May 13, 2016 Notice.

7 1.5.3 On March 14, 2017 CAG served Tak Shing Hong, Inc., Four Seas
8 Mercantile Limited, Four Seas Group, Four Seas Mercantile Holdings Limited, Nico-Nico Foods
9 (S) Pte Ltd, Nico-Nico Nori Inc, Nico-Nico Nori, Kowa Trading Company, Inc., and various
10 public enforcement agencies with a document entitled "60-Day Notice of Violation" ("March 14,
11 2017 Notice"), Attorney General number AG2017-00330, that provided the recipients with
12 notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in
13 California of exposures to Lead contained in dried seaweed. No public enforcer has commenced
14 or diligently prosecuted the allegations set forth in the March 14, 2017 Notice.

15 1.5.4 On May 10, 2018 CAG served Tak Shing Hong, Inc., Four Seas
16 Mercantile Limited, Four Seas Group, Four Seas Mercantile Holdings Limited, Nico-Nico Foods
17 (S) Pte Ltd, Nico-Nico Nori Inc, Nico-Nico Nori, Kowa Trading Co., Kowa Trading Company,
18 Inc., Khong Guan Corporation, King Wai Trading, and various public enforcement agencies with
19 a document entitled "60-Day Notice of Violation" ("May 10, 2018 Notice"). Attorney General
20 number AG2018-00732, that provided the recipients with notice of alleged violations of Health
21 & Safety Code § 25249.6 for failing to warn individuals in California of exposures to Lead
22 contained in dried seaweed. No public enforcer has commenced or diligently prosecuted the
23 allegations set forth in the May 10, 2018 Notice.

24 1.5.5 On May 25, 2016 CAG served Rom America, Inc., Hannam Chain USA,
25 Inc., and various public enforcement agencies with a document entitled "60-Day Notice of
26 Violation" ("May 25, 2016 Notice"), Attorney General number AG2016-00484, that provided
27 the recipients with notice of alleged violations of Health & Safety Code § 25249.6 for failing to
28

Handwritten signature and initials in the right margin, including a circled '21' and the initials 'AM' at the bottom.

1 warn individuals in California of exposures to Lead contained in whole cinnamon. No public
2 enforcer has commenced or diligently prosecuted the allegations set forth in the May 25, 2016
3 Notice.

4 **1.6 Complaints.**

5 1.6.1 On November 7, 2016, CAG filed a Complaint for civil penalties and
6 injunctive relief ("BC640058 Complaint") in Los Angeles Superior Court, Case No.
7 BC640058, against Defendant. The Complaint among other things, that Defendant
8 violated Proposition 65 by failing to give clear and reasonable warnings of exposure to
9 Lead from the Seaweed Covered Products.

10 1.6.2 On October 20, 2016, CAG filed a Complaint for civil penalties and
11 injunctive relief ("BC638122 Complaint") in Los Angeles Superior Court, Case No.
12 BC638122, against Defendant. The Complaint among other things, that Defendant
13 violated Proposition 65 by failing to give clear and reasonable warnings of exposure to
14 Lead from the Whole Cinnamon Covered Products.

15 1.6.3 As of the Effective Date, the BC640058 Complaint is deemed to be
16 amended to include the allegations of violations contained in the BC638122 Complaint,
17 the March 14, 2017 and the May 1, 2018 Notice. The BC640058 Complaint and
18 BC638122 Complaint herein referred to as the "Complaints."

19 **1.7 Consent to Jurisdiction**

20 For purposes of this Consent Judgment, the Parties stipulate that this Court has
21 jurisdiction over the allegations of violations contained in the Complaints and personal
22 jurisdiction over Defendant as to the acts alleged in the Complaints, that venue is proper in the
23 County of Los Angeles and that this Court has jurisdiction to enter this Consent Judgment as a
24 full settlement and resolution of the allegations contained in the Complaints and of all claims
25 which were or could have been raised by any person or entity based in whole or in part, directly
26 or indirectly, on the facts alleged therein or arising therefrom or related thereto.

27 **1.8 No Admission**

1 This Consent Judgment resolves claims that are denied and disputed. The Parties enter
2 into this Consent Judgment pursuant to a full and final settlement of any and all claims between
3 the Parties for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment
4 shall be construed as an admission by the Parties of any material allegation of the Complaints
5 (each and every allegation of which Defendant denies), any fact, conclusion of law, issue of law
6 or violation of law, including without limitation, any admission concerning any violation of
7 Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, or the
8 meaning of the terms "knowingly and intentionally expose" or "clear and reasonable warning" as
9 used in Health and Safety Code section 25249.6. Nothing in this Consent Judgment, nor
10 compliance with its terms, shall constitute or be construed as an admission by the Parties of any
11 fact, conclusion of law, issue of law, or violation of law, or of fault, wrongdoing, or liability by
12 any Defendant, its officers, directors, employees, or parent, subsidiary or affiliated corporations,
13 or be offered or admitted as evidence in any administrative or judicial proceeding or litigation in
14 any court, agency, or forum. Furthermore, nothing in this Consent Judgment shall prejudice,
15 waive or impair any right, remedy, argument, or defense the Parties may have in any other or
16 future legal proceeding, except as expressly provided in this Consent Judgment.

17 **2. DEFINITIONS**

18 2.1 "Covered Products" means Seaweed Covered Products and Whole Cinnamon
19 Covered Products sold by Defendant. "Covered Products" are limited to those products which
20 were subject to the "Notices" served by CAG, and distributed by Defendant, Rom America, Inc
21

22 2.2 "Effective Date" means the date that this Consent Judgment is approved by the
23 Court.

24 2.3 "Lead" means lead and lead compounds.

25 2.4 "Notices" means the December 31, 2015 Notice, February 19, 2016 Notice, April
26 12, 2016 Notice, May 13, 2016 Notice, March 14, 2017 Notice, May 10, 2018 Notice, and May
27 25, 2016 Notice sent by CAG.

h
MM
R.Y.
h
MM
21

1 2.5 "Seaweed Covered Products" means seaweed sold by the Defendant which were
2 subject to the December 31, 2015 Notice, February 19, 2016 Notice, April 12, 2016 Notice, May
3 13, 2016 Notice, March 14, 2017 Notice, and May 10, 2018 Notice served by CAG.

4 2.6 "Whole Cinnamon Covered Products" means whole cinnamon sold by the
5 Defendant which were subject to the May 25, 2016 served by CAG.

6 **3. INJUNCTIVE RELIEF / REFORMULATION / CLEAR AND REASONABLE**
7 **WARNINGS.**

8 3.1 After the Effective Date, Defendant shall provide a clear and reasonable
9 Proposition 65 warning for Seaweed Covered Products sold, offered for sale, or distributed for
10 sale by Defendant in California that contain more than 75 parts per billion of Lead.

11 3.2 After the Effective Date, Defendant shall provide a clear and reasonable
12 Proposition 65 warning for Whole Cinnamon Covered Products sold, offered for sale, or
13 distributed for sale by Defendant in California that contain more than 600 parts per billion of
14 Lead.

15 3.3 Any warning provided pursuant to Section 3.1 or 3.2 shall be affixed to the
16 packaging of, or directly on, the Covered Products, and be prominently placed with such
17 conspicuousness as compared with other words, statements, designs, or devices as to render it
18 likely to be read and understood by an ordinary individual under customary conditions before
19 purchase or use. The warning shall state:
20

21 **WARNING:** This product contains a chemical known to the State of California
22 to cause cancer and birth defects or other reproductive harm.

23 3.4 For any Covered Products still existing in Defendant's inventory as of the
24 Effective Date, Defendant shall place a Proposition 65 compliant warning on them. Any
25 warning provided pursuant to this section shall be affixed to the packaging of, or directly on, the
26 Covered Products, and be prominently placed with such conspicuousness as compared with other
27 words, statements, designs, or devices as to render it likely to be read and understood by an
28

[Handwritten initials]
[Handwritten initials]
[Handwritten signature]

1 ordinary individual under customary conditions before purchase or use. The warning shall state:

2 **WARNING:** This product contains a chemical known to the State of California
3 to cause cancer and birth defects or other reproductive harm.

4 **4. SETTLEMENT PAYMENT**

5 4.1 **Payment:** Defendants shall pay a total of two hundred and twenty-five thousand
6 dollars and zero cents (\$225,000.00) in full and complete settlement of all monetary claims by
7 CAG related to the Notices, as follows:

8 4.1.1 **Civil Penalty:** Defendants shall issue separate checks totaling twenty-five
9 thousand seven hundred and twenty dollars and zero cents (\$25,720.00) as penalties pursuant to
10 Health & Safety Code § 25249.12:

11 (a) Defendants will issue a check made payable to the State of California's
12 Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of nineteen
13 thousand two hundred and ninety dollars (\$19,290.00) representing 75% of the total penalty and
14 Defendants will issue a check to CAG in the amount of six thousand four hundred and thirty
15 dollars (\$6,430.00) representing 25% of the total penalty; and

16 (b) Separate 1099s shall be issued for each of the above payments:
17 Defendants will issue a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-
18 0284486) in the amount of \$19,290.00. Defendants will also issue a 1099 to CAG c/o
19 Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California
20 90212 in the amount of \$6,430.00.

21 4.1.2 **Additional Settlement Payment:** Defendants shall pay nineteen
22 thousand two hundred and eighty dollars (\$19,280.00) in additional settlement payment to
23 "Consumer Advocacy Group, Inc." pursuant to Health & Safety Code § 25249.7(b) and
24 California Code of Regulations, Title 11 § 3203(d). CAG will use this payment as follows.
25 eighty five percent (85%) for fees of investigation, purchasing and testing for Proposition 65
26 Listed Chemicals in various products, and for expert fees for evaluating exposures through
27

Handwritten initials 'J' at the top, 'mn' in the middle, and a large signature 'J' at the bottom right of the page.

1 various mediums, including but not limited to consumer product, occupational, and
2 environmental exposures to Proposition 65 Listed Chemicals, and the cost of hiring consulting
3 and retaining experts who assist with the extensive scientific analysis necessary for those files in
4 litigation and to offset the costs of future litigation enforcing Proposition 65 but excluding
5 attorney fees: fifteen percent (15%) for administrative costs incurred during investigation and
6 litigation to reduce the public's exposure to Proposition 65 Listed Chemicals by notifying those
7 persons and/or entities believed to be responsible for such exposures and attempting to persuade
8 those persons and/or entities to reformulate their products or the source of exposure to
9 completely eliminate or lower the level of Proposition 65 Listed Chemicals including but not
10 limited to costs of documentation and tracking of products investigated, storage of products,
11 website enhancement and maintenance, computer and software maintenance, investigative
12 equipment, CAG's member's time for work done on investigations, office supplies, mailing
13 supplies and postage. Within 30 days of a request from the Attorney General, CAG shall provide
14 to the Attorney General copies of documentation demonstrating how the above funds have been
15 spent. CAG shall be solely responsible for ensuring the proper expenditure of such additional
16 settlement payment.

17
18 **4.1.3 Reimbursement of Attorneys Fees and Costs:** Defendant shall pay one
19 hundred and eighty thousand dollars (\$180,000.00) to "Yeroushalmi & Yeroushalmi" as
20 reimbursement for reasonable investigation fees and costs, attorneys' fees, and any other costs
21 incurred as a result of investigating, bringing this matter to Defendant's attention, litigating, and
22 negotiating a settlement in the public interest. The check shall be made payable to "Yeroushalmi
23 & Yeroushalmi" and delivered to Reuben Yeroushalmi, Yeroushalmi & Associates, 9100
24 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

25 **4.2 Delivery of Payments:**

26 **4.2.1** All payments to OEHHA shall be delivered to: Office of Environmental
27 Health Hazard Assessment, Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento.
28

Handwritten initials and signature:
A
MM
[Signature]

1 California 95812. Defendant shall provide written confirmation to CAG concurrently with
2 payment to OEHHA.

3 4.2.2 All payments to CAG and Yeroushalmi & Yeroushalmi, shall be delivered
4 to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W,
5 Beverly Hills, CA 90212.

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

7 5.1 This Consent Judgment is a full, final, and binding resolution between CAG, on
8 behalf of itself and in the public interest, and Defendant and its officers, directors, insurers,
9 employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister
10 companies, and their successors and assigns ("Defendant Releasees"), and each entity to whom
11 Defendant directly or indirectly distributes or sells the Covered Products, including, but not
12 limited to, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative
13 members, licensees, and the successors and assigns of each of them, who may use, maintain,
14 distribute or sell Covered Products, including but not limited to Tak Shing Hong, Inc. and
15 Hannam Chain USA, Inc. ("Downstream Defendant Releasees"), for all claims for violations of
16 Proposition 65 up to the Effective Date based on alleged exposure to Lead from the Covered
17 Products as set forth in the Notices. Defendant's and Defendants Releasees' compliance with
18 this Consent Judgment shall constitute compliance with Proposition 65 for the Covered Products
19 with respect to exposure to Lead from the Covered Products. Nothing in this Section affects
20 CAG's right to commence or prosecute an action under Proposition 65 against any person other
21 than Defendant, Defendant Releasees or Downstream Defendant Releasees. Defendant,
22 Defendant Releasees, and Downstream Defendant Releasees shall collectively be referred to as
23 the "Released Parties."
24

25 5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,
26 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or
27 indirectly, any form of legal action and releases all claims, including, without limitation, all
28 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations.

A
MM
2

1 damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation
2 fees, expert fees, and attorneys' fees) of any nature whatsoever, whether known or unknown,
3 fixed or contingent (collectively "Claims"), against the Released Parties arising from any
4 violation of Proposition 65 or any other statutory or common law regarding the failure to warn
5 about exposure to Lead from the Covered Products. In furtherance of the foregoing, as to alleged
6 exposures to Lead from the Covered Products, CAG on behalf of itself only, hereby waives any
7 and all rights and benefits which it now has, or in the future may have, conferred upon it with
8 respect to Claims arising from any violation of Proposition 65 or any other statutory or common
9 law regarding the failure to warn about alleged exposure to Lead the Covered Products by virtue
10 of the provisions of section 1542 of the 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
OR HER SETTLEMENT WITH THE DEBTOR.

15 CAG understands and acknowledges that the significance and consequence of this waiver
16 of California Civil Code section 1542 is that even if CAG suffers future damages arising out of
17 or resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any
18 violation of Proposition 65 or any other statutory or common law regarding the failure to warn
19 about alleged exposure to Lead from the Covered Products, including but not limited to any
20 exposure to, or failure to warn with respect to exposure to Lead from the Covered Products,
21 CAG will not be able to make any claim for those damages or injunctive relief against the
22 Released Parties. Furthermore, CAG acknowledges that it intends these consequences for any
23 such Claims arising from any violation of Proposition 65 or any other statutory or common law
24 regarding the failure to warn about alleged exposure to Lead from the Covered Products as may
25 exist as of the date of this release but which CAG does not know exist, and which, if known,
26 would materially affect their decision to enter into this Consent Judgment, regardless of whether
27
28

Handwritten signature and initials in the bottom right corner of the page.

1 their lack of knowledge is the result of ignorance, oversight, error, negligence, or any other
2 cause.

3 **6. ENFORCEMENT OF JUDGMENT**

4 6.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties
5 hereto. The Parties may, by noticed motion or order to show cause before the Superior Court of
6 California, Los Angeles County, giving the notice required by law, enforce the terms and
7 conditions contained herein. A Party may enforce any of the terms and conditions of this
8 Consent Judgment only after that Party first provides 90 days notice to the Party allegedly failing
9 to comply with the terms and conditions of this Consent Judgment and attempts to resolve such
10 Party's failure to comply in an open and good faith manner.

11 6.2 **Notice of Violation.** Prior to bringing any motion, order to show cause, or other
12 proceeding to enforce the terms of this Consent Judgment, CAG shall provide a Notice of
13 Violation ("NOV") to Defendant. The NOV shall include for each of the Covered Products: the
14 date(s) the alleged violation(s) was observed and the location at which the Covered Products
15 were offered for sale, and shall be accompanied by all test data obtained by CAG regarding the
16 Covered Products, including an identification of the component(s) of the Covered Products that
17 were tested.

18
19 6.2.1 **Non-Contested NOV.** CAG shall take no further action regarding the
20 alleged violation if, within 60 days of receiving such NOV, Defendant serves a Notice of
21 Election ("NOE") that meets one of the following conditions:

22 (a) The Covered Products were shipped by Defendant for sale in
23 California before the Effective Date, or

24 (b) Since receiving the NOV Defendant have taken corrective action
25 by either (i) requesting that its customers or stores in California, as applicable, remove
26 the Covered Products identified in the NOV from sale in California and destroy or return
27 the Covered Products to Defendant or vendor, as applicable, or (ii) providing a clear and
28

Handwritten initials and a circled number 31.

1 reasonable warning for the Covered Products identified in the NOV pursuant to 27 Cal.
2 Code Regs. § 25603.

3 6.2.2 **Contested NOV.** Defendant may serve an NOE informing CAG of its
4 election to contest the NOV within 30 days of receiving the NOV.

5 (a) In its election, Defendant may request that the sample(s) Covered
6 Products tested by CAG be subject to confirmatory testing at an EPA-accredited
7 laboratory.

8 (b) If the confirmatory testing establishes that the Covered Products do
9 not contain Lead in excess of the levels allowed in Section 3.1 and 3.2, above, CAG shall
10 take no further action regarding the alleged violation. If the testing does not establish
11 compliance with Section 3.1 and 3.2, above, Defendants may withdraw its NOE to
12 contest the violation and may serve a new NOE pursuant to Section 6.2.1.

13 (c) If Defendants do not withdraw an NOE to contest the NOV, the
14 Parties shall meet and confer for a period of no less than 30 days before CAG may seek
15 an order enforcing the terms of this Consent Judgment.

16 6.3 In any proceeding brought by either Party to enforce this Consent Judgment, the
17 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

18 **7. ENTRY OF CONSENT JUDGMENT**

19 7.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to
20 California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG,
21 Defendants waive their respective rights to a hearing or trial on the allegations of the Complaint.

22 7.2 If this Consent Judgment is not approved in full by the Court, (a) this Consent
23 Judgment and any and all prior agreements between the parties merged herein shall terminate
24 and become null and void, and the actions shall revert to the status that existed prior to the
25 execution date of this Consent Judgment; (b) no term of this Consent Judgment or any draft
26 thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement
27 discussions, shall have any effect, nor shall any such matter be admissible in evidence for any
28

Handwritten signature and initials in the bottom right corner of the page.

1 purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to
2 determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.

3 **8. MODIFICATION OF JUDGMENT**

4 8.1 This Consent Judgment may be modified only upon written agreement of the
5 Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of
6 any party as provided by law and upon entry of a modified Consent Judgment by the Court.

7 8.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
8 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

9 **9. RETENTION OF JURISDICTION**

10 9.1 This Court shall retain jurisdiction of this matter to implement and enforce the
11 terms of this Consent Judgment under Code of Civil Procedure § 664.6.

12 **10. DUTIES LIMITED TO CALIFORNIA**

13 10.1 This Consent Judgment shall have no effect on Covered Products sold by
14 Defendants outside the State of California.

15 **11. SERVICE ON THE ATTORNEY GENERAL**

16 11.1 CAG shall serve a copy of this Consent Judgment, signed by both parties, on the
17 California Attorney General so that the Attorney General may review this Consent Judgment
18 prior to its submittal to the Court for approval. No sooner than forty five (45) days after the
19 Attorney General has received the aforementioned copy of this Consent Judgment, and in the
20 absence of any written objection by the Attorney General to the terms of this Consent Judgment,
21 the parties may then submit it to the Court for approval.

22 **12. ATTORNEY FEES**

23 12.1 Except as specifically provided in Section 4.1.3 and 6.3, each Party shall bear its
24 own costs and attorney fees in connection with this action.

25 **13. ENTIRE AGREEMENT**

26 13.1 This Consent Judgment contains the sole and entire agreement and understanding
27 of the Parties with respect to the entire subject matter hereof and any and all prior discussions.
28

Handwritten signature and initials in the bottom right corner of the page.

1 negotiations, commitments and understandings related hereto. No representations, oral or
2 otherwise, express or implied, other than those contained herein have been made by any party
3 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
4 deemed to exist or to bind any of the Parties.

5 **14. GOVERNING LAW**

6 14.1 The validity, construction and performance of this Consent Judgment shall be
7 governed by the laws of the State of California, without reference to any conflicts of law
8 provisions of California law.

9 14.2 The terms of this Consent Judgment shall be governed by the laws of the State of
10 California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered
11 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are
12 rendered inapplicable or are no longer required as a result of any such repeal or preemption, or
13 rendered inapplicable by reason of law generally as to the Covered Products, then any Defendant
14 subject to this Consent Judgment may provide written notice to CAG of any asserted change in
15 the law, and shall have no further obligations pursuant to this Consent Judgment with respect to,
16 and to the extent that, the Covered Products are so affected. Nothing in this Consent Judgment
17 shall be interpreted to relieve a Defendant from any obligation to comply with any pertinent state
18 or federal law or regulation.

19
20 14.3 The Parties, including their counsel, have participated in the preparation of this
21 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This
22 Consent Judgment was subject to revision and modification by the Parties and has been accepted
23 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty
24 or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a
25 result of the manner of the preparation of this Consent Judgment. Each Party to this Consent
26 Judgment agrees that any statute or rule of construction providing that ambiguities are to be
27 resolved against the drafting Party should not be employed in the interpretation of this Consent
28 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

J
MM
2

1 **15. EXECUTION AND COUNTERPARTS**

2 15.1 This Consent Judgment may be executed in counterparts and by means of
3 facsimile or portable document format (pdf), which taken together shall be deemed to constitute
4 one document and have the same force and effect as original signatures.

5 **16. NOTICES**

6 16.1 Any notices under this Consent Judgment shall be by personal delivery of First
7 Class Mail.

8 If to CAG:

9 Reuben Yeroushalmi
10 9100 Wilshire Boulevard, Suite 240W
11 Beverly Hills, CA 90212
(310) 623-1926

12 If to Rom America, Inc.:

13 (insert) Andrew M. Morrow III
14 Kolesky, Mancini, Feldman & Morrow
15 With a copy to: 3460 Wilshire Blvd 8th floor
LA CA 90010

16 (insert) N/A

17 **17. AUTHORITY TO STIPULATE**

18 17.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
19 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf
20 of the party represented and legally to bind that party.
21

Handwritten initials and signature: MM, a signature, and a circled number 3.

1 AGREED TO:

2 Date: 08/08, 2018

3 *Michael Marcus* MM

4 Name: Michael Marcus

5 Title: Director
6 CONSUMER ADVOCACY GROUP,
7 INC.

AGREED TO:

Date: 8/8/18, 2018

Doo Hwan Kim

Name: DOO HWAN KIM

Title: PRESIDENT
ROM AMERICA, INC.

8 IT IS SO ORDERED.

9
10 Date: 11/6/18

[Signature]
11 JUDGE OF THE SUPERIOR COURT
12 Judge Terry A. Green
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[Handwritten mark]

[Handwritten mark]

MM

[Handwritten mark]

1 AGREED TO:

2 Date: 08/08, 2018

3 *Michael Marcus* ^{MM}

4 Name: Michael Marcus

5 Title: Director
6 CONSUMER ADVOCACY GROUP,
7 INC.

AGREED TO:

Date: 8/8, 2018

[Signature]

Name: Andrew M. Morrow

Title: Counsel at Record
ROM AMERICA, INC.

8 **IT IS SO ORDERED.**

9 Date: _____

JUDGE OF THE SUPERIOR COURT

[Handwritten initials and signature]