

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

FEB 27 2017

RECEIVED

JAN 10 2017

FILING WINDOW

Sherri R. Carter, Executive Officer/Clerk  
By: Maria Frances Lopez, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

(Unlimited Jurisdiction)

ECOLOGICAL ALLIANCE, LLC, a  
California limited liability company,

Plaintiff,

v.

DRAGONMARTS COMPANY LIMITED,  
a Hong Kong company; and DOES 1  
through 10, inclusive,

Defendants.

Case No. BC628397

~~PROPOSED~~ JUDGMENT

~~PROPOSED~~ JUDGMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Plaintiffs ECOLOGICAL ALLIANCE, LLC ("Plaintiff"), and Defendant  
DRAGONMARTS COMPANY LIMITED ("Defendant") have agreed through their respective  
counsel that judgment be entered in this Proposition 65 action pursuant to the terms of the  
Stipulated Consent Judgment executed by the parties and attached to this Judgment as **Exhibit 1**.  
After consideration of the papers submitted and arguments presented, the Court finds that the  
Stipulated Consent Judgment meets the criteria established by California Health & Safety Code §  
25249.7, in that:

1. Any injunctive relief required by the Stipulated Consent Judgment complies with  
Proposition 65;
2. Any reimbursement of attorneys' fees and costs pursuant to the Stipulated Consent  
Judgment is reasonable under California law; and
3. Based on the criteria set forth in Health & Safety Code § 25249.7(b)(2), any civil  
penalty required by the Stipulated Consent Judgment is reasonable.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to Health &  
Safety Code § 25249.7(f)(4) and Code of Civil Procedure § 664.6, judgment is hereby entered in  
accordance with the terms of the Consent Judgment attached hereto as Exhibit 1.

Dated: 2/27/17

**Susan Bryant-Deason**  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

1 MIGUEL A. CUSTODIO, JR., STATE BAR NO. 248744  
2 VINEET DUBEY, STATE BAR NO. 243208  
3 CUSTODIO & DUBEY LLP  
4 448 S. Hill St., Suite 612  
5 Los Angeles, CA 90013  
6 Telephone: (213) 785-2909  
7 Facsimile: (213) 785-2899

8 Attorneys for Plaintiff Ecological Alliance, LLC

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES  
11 (Unlimited Jurisdiction)

12 ECOLOGICAL ALLIANCE, LLC, a California  
13 limited liability company,

14 Plaintiff,

15 v.

16 DRAGONMARTS COMPANY LIMITED, a  
17 Hong Kong company; and DOES 1 through 10,  
18 inclusive,

19 Defendants.

Case No.: BC628397

**[PROPOSED] STIPULATED  
CONSENT JUDGMENT**

20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Plaintiff Ecological Alliance, LLC (“Plaintiff”), and Defendant Dragonmarts Company Limited (“Defendant”) hereby enter into this Stipulated Consent Judgment (“Consent Judgment”) as follows:

WHEREAS: On or about March 24, 2016, Plaintiff, through Plaintiff’s counsel, served a 60 Day Notice to Defendant, the California Attorney General, the District Attorneys of every County in the State of California, and the City Attorneys for every City in the State of California with a population greater than 750,000 (collectively, “Public Prosecutor(s)”) alleging that Defendant violated California Health & Safety Code §§ 25249.6 *et seq.*, entitled Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), and that Plaintiff intended to file an enforcement action in the public interest; and

WHEREAS: Plaintiff alleges that Defendant manufactured and/or distributed padlocks sold or distributed for sale in California (collectively the “Covered Products”) that expose consumers in the State of California to chemicals including lead, chemicals that are listed by the State of California pursuant to California Health and Safety Code § 25249.8; and

WHEREAS: Plaintiff further alleges that persons in the State of California were exposed to listed chemicals, including lead, in Covered Products without being provided the Proposition 65 warning set out at California Health and Safety Code § 25249.6 and its implementing regulations (“Proposition 65 Warning”); and

WHEREAS: Defendant denies Plaintiff’s claims and allegations and maintains that its products, including the Covered Products, are distributed in full compliance with applicable laws; and

WHEREAS: Plaintiff and Defendant acknowledge that this matter involves disputed claims and wish to resolve their differences without incurring the time and expense of litigation, and with no admission of liability or the validity of any claim or defense.

NOW THEREFORE BE IT RESOLVED AND AGREED UPON AS BETWEEN PLAINTIFF ACTING IN THE PUBLIC INTEREST AND DEFENDANT AS FOLLOWS:

1  
2 **1. INTRODUCTION**

3 1.1. On March 24, 2016, Plaintiff served the 60-Day Notice upon Defendant and on  
4 Public Prosecutors. No Public Prosecutors commenced an enforcement action. No  
5 Public Prosecutor having commenced an enforcement action, Plaintiff filed its Complaint  
6 against Defendant in the present action.

7 1.2. Defendant employs ten (10) or more persons.

8 1.3. For purposes of this Consent Judgment only, Plaintiff and Defendant (the  
9 “Parties,”) stipulate that: (1) this Court has jurisdiction over Defendant as to the  
10 allegations of violation contained in the Complaint; (2) venue is proper in the County of  
11 Los Angeles; and (3) this Court has jurisdiction to enter this Consent Judgment as a full  
12 and final resolution of all claims which were or could have been raised in the Complaint  
13 and of all claims which were or could have been raised by any person or entity based in  
14 whole or in part, directly or indirectly, on the facts alleged in the 60-Day Notices, in the  
15 present action, or arising therefrom or related thereto, with respect to Covered Products,  
16 including any Proposition 65 claim arising out of an exposure to Covered Products  
17 (collectively, “Proposition 65 Claims”).

18 1.4. The Parties enter into this Consent Judgment as a full and final settlement of the  
19 Proposition 65 Claims, and release of all of Defendants’ customers, including all retail  
20 outlets for the Covered Products, including but not limited to, Amazon.com, Inc., for the  
21 purpose of avoiding prolonged and costly litigation and resolving the issues raised  
22 therein, both as to past and future conduct. By execution of this Consent Judgment, the  
23 Parties do not admit any fact, conclusion of law, or violation of law, nor shall  
24 Defendant’s compliance with the Consent Judgment constitute or be construed as an  
25 admission by Defendant of any fact, conclusion of law or violation of law. Defendant  
26 denies the material, factual, and legal allegations in the 60-Day Notice and the Complaint  
27 and expressly deny any wrongdoing whatsoever.

28 **2. DEFINITIONS**

1  
2 2.1. "Effective Date" shall mean, with respect to this Consent Judgment, the date on  
3 which the Consent Judgment is approved and entered by the Court.

4 **3. INJUNCTIVE RELIEF**

5 3.1. Defendant agrees to either undertake, or cause to be undertaken on its behalf, the  
6 measures identified in 3.2-3.5 below, compliance with which will constitute compliance  
7 by Defendant with all requirements of Proposition 65, California Health and Safety Code  
8 § 25249.6, *et seq.*, and its implementing regulations (collectively, "Proposition 65")  
9 relating to the Covered Products:

10 3.2. Proposition 65 Exemption for the Covered Products

11 Any Covered Product that is distributed sold, or offered for sale in the State of  
12 California commencing 90 days after the Effective Date, shall be deemed to comply with  
13 Proposition 65 with regard to lead if no Accessible Component Part of such Covered  
14 Product contains more than 100 parts per million ("ppm") of lead. For purposes of this  
15 Consent Judgment, "Accessible Component Part" shall mean components of the Covered  
16 Products to which a person would be exposed to lead by direct contact during normal use  
17 of the Covered Product.

18 3.3. Warning Option

19 Covered Products that do not meet the warning exemption standard set forth in  
20 Section 3.2 above shall be accompanied by a warning as described in Section 3.4 below.  
21 This warning requirement shall only be required as to Covered Products that are  
22 manufactured, imported, distributed, sold and/or shipped for sale in the State of  
23 California, commencing 90 days after the Effective Date. No Proposition 65 warning for  
24 lead shall be required as to any Covered Products that are already in the stream of  
25 commerce as of the Effective Date, and all such Covered Products are hereby deemed to  
26 be exempt from Proposition 65 warning requirements with respect to lead.

27 3.4. Warning Language

28 Where required to meet the criteria set forth in Section 3.3, Defendant shall provide the  
following warning statement on or within the unit packaging of the Covered Products, or

1  
2 affixed to the Covered Products, displayed in such a manner as to be reasonably  
3 calculated to be seen by the ordinary consumer:

4 **WARNING: This product contains chemicals known to the state of**  
5 **California to cause cancer and birth defects or other reproductive harm.**

6 **4. MONETARY RELIEF**

7 4.1. Within ten (10) days of the Effective Date, Defendants shall pay to Plaintiff the  
8 total sum of \$32,000.00, which includes \$6,000.00 in civil penalties and \$26,000.00 in  
9 payment of Plaintiff's costs and reasonable attorney's fees. The \$6,000.00 civil penalty  
10 shall be apportioned pursuant to Health and Safety Code section 25249.12 (d), with 75%  
11 paid to the State of California's Office of Environmental Health Hazard Assessment, and  
12 25% paid to Plaintiff.

13 4.2. The payment specified in Section 4.1. shall be made by wire transfer to Plaintiff's  
14 counsel Custodio & Dubey LLP:

15 Bank: Bank of America, N.A.  
16 Routing Transit No.: 026009593  
17 Account No.: 325054144600  
Beneficiary: Custodio & Dubey LLP

18 **5. CLAIMS COVERED AND RELEASE**

19 5.1. This Consent Judgment is a full, final, and binding resolution between Plaintiff, on  
20 behalf of itself, and acting in the public interest, and Defendant for any alleged violation  
21 of Proposition 65 and its implementing regulations, for failure to provide Proposition 65  
22 warnings for the Covered Products with respect to lead, and fully resolves all claims that  
23 have been brought, or which could have been brought in this action, or in any other  
24 action, up to and including the Effective Date. Plaintiff on behalf of itself, and in the  
25 public interest, hereby releases and discharges Defendant, and its current and former  
26 parent companies, subsidiaries, divisions, suppliers, affiliates, importers, distributors and  
27 retailers (including, without limitation, Amazon.com, and its current and former parent  
28 companies, subsidiaries, divisions, suppliers, affiliates, importers, distributors and  
retailers licensees and related entities), licensees and related entities, together with their

1  
2 current and former officers, directors, shareholders, employees, representatives,  
3 contractors, agents, divisions, insurers, successors, assigns and attorneys, as well as all  
4 other upstream and downstream entities in the distribution chain for any of the Covered  
5 Products, and the predecessors, successors, and assigns of each of them (all of the  
6 foregoing entities and individuals being referred to collectively herein as the "Released  
7 Parties"), from any and all claims, actions, causes of action, suits, demands, liabilities,  
8 damages, penalties, fees, costs and expenses asserted, or that could have been asserted,  
9 with respect to any alleged violation of Proposition 65 arising from the failure to provide  
10 Proposition 65 warnings about exposures to lead for any or all of the Covered Products,  
11 through and including the Effective Date.

12 5.2. Plaintiff, acting on its own behalf, and in the public interest pursuant to California  
13 Health and Safety Code § 25249.7(d), releases, waives, and forever discharges any and  
14 all claims against the Released Parties arising from any violation of Proposition 65 that  
15 has been or could have been asserted in the public interest regarding the failure to warn  
16 under Proposition 65 arising in connection with exposure to lead in the Covered Products,  
17 manufactured, imported, distributed, offered for sale, sold and/or distributed in the State  
18 of California by Released Parties prior to the Effective Date.

19 5.3. It is possible that other claims not known to the Parties arising out of the facts  
20 alleged in the 60-Day Notice and/or in the Complaint, relating to the Covered Products,  
21 will hereafter be discovered or developed. Plaintiff, on behalf of itself only, on the one  
22 hand, and Defendant, on the other hand, acknowledge that this Consent Judgment is  
23 expressly intended to cover and include all such claims through and including the  
24 Effective Date, including all rights of action therefore. Plaintiff and Defendant  
25 acknowledge that the claims released in Sections 5.1 and 5.2 may include unknown  
26 claims, and nevertheless intend to release such claims, and in doing so waive California  
27 Civil Code § 1542 which reads as follows:

28  
A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT



1  
2 EXIST IN HIS OR HER FAVOR AT THE TIME OF  
3 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR  
4 HER MUST HAVE MATERIALLY AFFECTED HIS OR HER  
5 SETTLEMENT WITH THE DEBTOR.

6 5.4. Plaintiff understands and acknowledges that the significance and consequence of  
7 this waiver of California Civil Code § 1542 is that even if Plaintiff suffers future damages  
8 arising out of or resulting from, or related directly or indirectly to, in whole or in part, the  
9 Covered Products, including but not limited to any exposure to, or failure to warn with  
10 respect to exposure to, the Covered Products, Plaintiff will not be able to make any claim  
11 for those damages against any of the Released Parties.

12 5.5. Compliance by Defendant with the terms of this Consent Judgment shall constitute  
13 compliance with Proposition 65 with respect to exposure to lead in the Covered Products.

#### 14 6. PROVISION OF NOTICE

15 6.1. When any Party is entitled to receive any notice or writing under this Consent  
16 Judgment, the notice or writing shall be sent by first class certified mail with return  
17 receipt requested, or by electronic mail, as follows:

18 To Defendant:

19 Ivan Posey, Esq.  
20 Leech Tishman  
21 100 Corson St., Third Floor  
22 Pasadena, CA 91103  
23 Email: iposey@leechtishman.com

24 To Plaintiff:

25 Vineet Dubey  
26 Custodio & Dubey LLP  
27 448 S. Hill St., Ste 612  
28 Los Angeles, CA 90013  
Email: dubey@cd-lawyers.com

6.2. Any Party may modify the person and address to whom the notice is to be sent by  
sending the other Party notice that is transmitted in the manner set forth in section 6.1.

#### 7. COURT APPROVAL

7.1. Upon execution of his Consent Judgment by all Parties, Plaintiff shall prepare and

1  
2 file, at its sole cost and expense, a Motion for Approval of this Consent Judgment that  
3 Defendant shall support. This Consent Judgment shall not become effective until  
4 approved and entered by the Court. If this Consent Judgment is not approved and entered  
5 by the Court, it shall be of no force or effect, and shall not be introduced into evidence or  
6 otherwise used in any proceeding for any purpose.

7 **8. GOVERNING LAW AND CONSTRUCTION**

8 8.1. The terms of this Consent Judgment shall be governed by the laws of the State of  
9 California.

10 **9. ENTIRE AGREEMENT**

11 9.1. This Consent Judgment contains the sole and entire agreement and understanding  
12 of the Parties with respect to the entire subject matter herein.

13 9.2. There are no warranties, representations, or other agreements between the Parties  
14 except as expressly set forth herein. No representations, oral or otherwise, express or  
15 implied, other than those specifically referred to in this Consent Judgment have been  
16 made by any Party hereto.

17 9.3. No other agreements not specifically contained or referenced herein, oral or  
18 otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements  
19 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or  
20 to bind any of the Parties hereto only to the extent that they are expressly incorporated  
21 herein.

22 9.4. No amendment, supplementation, modification, waiver, or termination of this  
23 Consent Judgment shall be binding unless executed in writing by an authorized  
24 representative of each Party and approved by the Court.

25 9.5. No waiver of any of the provisions of this Consent Judgment shall be deemed or  
26 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor  
27 shall such waiver constitute a continuing waiver.

28 **10. RETENTION OF JURISDICTION**

10.1. This Court shall retain jurisdiction of this matter to implement, enforce or modify

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

the Consent Judgment

**11. NO EFFECT ON OTHER SETTLEMENTS**

11.1. Nothing in this Consent Judgment shall preclude Plaintiffs from resolving any claim against another entity on terms that are different from those contained in this Consent Judgment.

**12. EXECUTION IN COUNTERPARTS**

12.1. This Consent Judgment may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute the same document. Execution of the Consent Judgment by e-mail, facsimile, or other electronic means, shall constitute legal and binding execution and delivery. Any photocopy of the executed Consent Judgment shall have the same force and effect as the original.

**13. AUTHORIZATION**

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

**14. SEVERABILITY**

14.1. If subsequent to Court approval of this Consent Judgment, any part or provision is declared by a Court to be invalid, void, or unenforceable, the remaining portions of provisions shall continue in full force and effect.

**AGREED TO :**

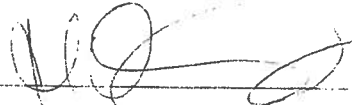
**AGREED TO:**


**Ecological Alliance, LLC**

**Dragonmarts Company Limited**

Date: 1/9/17

Date: January 6, 2017

By: 

By: 

Harmony Welsh, Managing Member

Chan King, Director

///

///

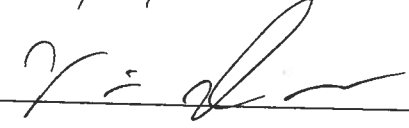
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Custodio & Dubey LLP**

**Leech Tischman**

Date: 1/9/17

Date: 1/9/2017

By: 

By: 

Vineet Dubey, Counsel for Plaintiff

Ivan Posey, Counsel for Defendant