

03/16/2022

Clad Fluke, Executive Officer / Clerk of the Court
By: P. Greene Deputy

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Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

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

Plaintiff,

v.

FRY'S ELECTRONICS, INC., a California
Corporation;

FRY'S ELECTRONICS, STORE #5

Business Entity Form Unknown;

and DOES 1-50,

Defendants.

CASE NO. RG18916512

~~PROPOSED~~ CONSENT JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

[Assigned for all Purposes to the Hon.
James Reilly, Department 25]

Complaint filed: August 14, 2018

1. INTRODUCTION

1.1 This Consent Judgment is entered into by and between Plaintiff, Consumer Advocacy Group, Inc. (referred to as "CAG") acting on behalf of itself and in the public interest, and Defendant Sakar International, Inc. ("Defendant") with each a Party to the action and collectively referred to as "Parties."

1 **1.2 Settling Defendant**

2 1.2.1 CAG alleges that Defendant is a New York Corporation which employs ten or
3 more persons. For purposes of this Consent Judgment only, Defendant is deemed a person in the
4 course of doing business in California and subject to the provisions of the Safe Drinking Water
5 and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq.
6 (“Proposition 65”).

7 1.2.2 CAG alleges that Defendant manufactures, sells, and/or distributes consumer
8 products in California.

9 **1.3 Listed Chemical**

10 1.3.1 Di (2-ethylhexyl) Phthalate (“DEHP”), also known as Diethyl Hexyl Phthalate
11 and Bis (2-ethylhexyl) Phthalate, has been listed by the State of California under Proposition 65
12 as a chemical known to cause cancer and birth defects or other reproductive harm.

13 **1.4 Notices of Violation and Covered Products**

14 1.4.1 On or about December 26, 2017, CAG served a “60-Day Notice of Intent to Sue
15 for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (“AG# 2017-
16 02705”) (“December 26, 2017 Notice”) that provided Defendant with notice of alleged violations
17 of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to
18 DEHP contained in certain exercise accessories, including armbands and ankle bands sold,
19 manufactured, and/or distributed by Defendant in California. No public enforcer has
20 commenced or diligently prosecuted the allegations set forth in the December 26, 2017 Notice.

21 1.4.2 On or about December 21, 2017, CAG served a “60-Day Notice of Intent to Sue
22 for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (“AG# 2017-
23 02695”) (“December 21, 2017 Notice”) that provided Defendant with notice of alleged violations
24 of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to
25 DEHP contained in certain exercise accessories, including ankle bands, sold, manufactured,
26 and/or distributed by Defendant in California. No public enforcer has commenced or diligently
27 prosecuted the allegations set forth in the December 21, 2017 Notice.

1 1.4.3 On or about October 30, 2019, CAG served a “60-Day Notice of Intent to Sue for
2 Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (“AG# 2019-02055”)
3 (“October 30, 2019 Notice”) that provided Defendant with notice of alleged violations of Health
4 & Safety Code § 25249.6 for failing to warn individuals in California of exposures to DEHP
5 contained in certain headphones sold, manufactured, and/or distributed by Defendant in
6 California, including but not limited to headphones containing designs involving the Teenage
7 Mutant Ninja Turtles characters. No public enforcer has commenced or diligently prosecuted the
8 allegations set forth in the October 30, 2019 Notice.

9 1.4.4 On or about December 11, 2019, CAG served a “60-Day Notice of Intent to Sue
10 for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (“AG# 2019-
11 02303”) (“December 11, 2019 Notice”) that provided Defendant with notice of alleged violations
12 of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to
13 DEHP contained in certain headphones sold, manufactured, and/or distributed by Defendant in
14 California, including but not limited to headphones containing designs involving the L.O.L.
15 Surprise characters. No public enforcer has commenced or diligently prosecuted the allegations
16 set forth in the December 11, 2019 Notice.

17 1.4.5 On or about May 14, 2020, CAG served a “60-Day Notice of Intent to Sue for
18 Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (“AG# 2020-01222”)
19 (“May 14, 2020 Notice”) that provided Defendant with notice of alleged violations of Health &
20 Safety Code § 25249.6 for failing to warn individuals in California of exposures to DEHP
21 contained in certain headphones sold, manufactured, and/or distributed by Defendant in
22 California, including but not limited to headphones containing designs involving DC Comics
23 characters. No public enforcer has commenced or diligently prosecuted the allegations set forth
24 in the May 14, 2020 Notice.

25 **1.5 Complaints**

26 1.5.1 On August 14, 2018, CAG filed the complaint in this action, seeking civil
27 penalties and injunctive relief (“Complaint 1”). Complaint 1 alleges, among other things, that
28

1 Proposition 65 was violated by the alleged failure to give clear and reasonable warnings of
2 alleged exposure to DEHP in certain consumer products Defendant distributed and/or sold in
3 California, as set forth in the December 21, 2017 Notice and the December 26, 2017 Notice.

4 1.5.2 On April 24, 2020 CAG filed a Complaint seeking civil penalties and injunctive
5 relief in Los Angeles County Superior Court, Case No. 20STCV15821, against Defendant and
6 others (“Complaint 2”). Complaint 2 alleges, among other things, that Defendant violated
7 Proposition 65 by the alleged failure to give clear and reasonable warnings of alleged exposure
8 to DEHP in certain consumer products Defendant distributed and/or sold in California, as set
9 forth in the October 30, 2019 Notice.

10 1.5.3 On September 4, 2020 CAG filed a Complaint seeking civil penalties and
11 injunctive relief in Los Angeles County Superior Court, Case No. 20STCV34003, against
12 Defendant and others (“Complaint 3”). Complaint 3 alleges, among other things, that Defendant
13 violated Proposition 65 by the alleged failure to give clear and reasonable warnings of alleged
14 exposure to DEHP in certain consumer products Defendant distributed and/or sold in California,
15 as set forth in the December 11, 2019 Notice and the May 14, 2020 Notice.

16 1.6 **Consent to Jurisdiction**

17 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
18 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction
19 over the parties as to the matters alleged in the Complaints, that venue is proper in the County of
20 Alameda, and that this Court has jurisdiction to enter this Consent Judgment as a full settlement
21 and resolution of the allegations against Defendant contained in Complaint 1, Complaint 2 and
22 Complaint 3, and of all claims which were or could have been raised by any person or entity based
23 in whole or in part, directly or indirectly, on the facts alleged therein or arising therefrom or related
24 thereto.

25 1.7 **No Admission**

26 This Consent Judgment resolves claims that are denied and disputed. The Parties enter
27 into this Consent Judgment pursuant to a full and final settlement of any and all claims between
28

1 them for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment shall
2 be construed as an admission by the Parties of any allegation in the Notices or the Complaints, or
3 of any fact, conclusion of law, issue of law or violation of law of any kind, including without
4 limitation, any admission concerning any alleged or actual violation of Proposition 65 or any
5 other statutory, regulatory, common law, or equitable doctrine, including but not limited to the
6 meaning of the terms “knowingly and intentionally expose” or “clear and reasonable warning” as
7 used in Health and Safety Code section 25249.6. Nothing in this Consent Judgment, nor
8 compliance with its terms, shall constitute or be construed as an admission of any fact,
9 conclusion of law, issue of law, or violation of law, or of fault, wrongdoing, or liability by
10 Defendant, its officers, directors, employees, or parent, subsidiary or affiliated corporations, or
11 be offered or admitted as evidence in any administrative or judicial proceeding or litigation in
12 any court, agency, or forum. Furthermore, nothing in this Consent Judgment shall prejudice,
13 waive or impair any right, remedy, argument, or defense the Parties may have in any other or
14 future legal proceeding, except as expressly provided in this Consent Judgment.

15 **2. DEFINITIONS**

16 Unless defined elsewhere in this Consent Judgment, the following terms shall have the
17 following meaning as used in this Consent Judgment:

18 2.1 “Action” or “Actions” shall mean, collectively, the following lawsuits: (1) the
19 matter initiated by Complaint 1 and entitled *Consumer Advocacy Group, Inc. v. Fry’s*
20 *Electronics, Inc., et al.*, Alameda County Superior Court Case No. RG18916512 (*i.e.*, this
21 matter); (2) the matter initiated by Complaint 2 and entitled *Consumer Advocacy Group, Inc. v.*
22 *Fry’s Electronics, Inc., et al.*, Los Angeles County Superior Court Case No. 20STCV15821; and
23 (3) the matter initiated by Complaint 3 and entitled *Consumer Advocacy Group, Inc. v. Ross*
24 *Stores, Inc., et al.*, Los Angeles County Superior Court Case No. 20STCV34003.

25 2.2 “Complaint” or “Complaints” means Complaint 1, Complaint 2 and Complaint 3,
26 collectively.

27 2.3 “Covered Products” mean, collectively: (1) Ankle Bands, which includes but is
28 not limited to: (i) “VIVI•LIFE FITNESS”, “©2015 Sakar International”, “Sakar/Vivitar UK”,

1 “REFLECTIVE ANKLEBANDS DESIGNED FOR AN ACTIVE LIFESTYLE”, “2 PACK”,
2 The package itself measures about 8 in x 4.25, “Features: Great For Runners, Walkers, And
3 Cyclists”, “Reflective Surface Make You Visible To Motorists”, “PF-V9120-YEL”, “Made in
4 China”, “MID#1940515”, UPC: 681066404874, and (ii) “VIVI•LIFE FITNESS”,
5 “REFLECTIVE ANKLEBANDS”, “DESIGNED FOR AN ACTIVE LIFESTYLE”, “©2015
6 Sakar International”, “Sakar/Vivitar UK”, “2 PACK”, “Features: Great For Runners, Walkers,
7 And Cyclists”, “Reflective Surface Make You Visible To Motorists”, “RF-V9120-ORG”, “Made
8 in China”, “MID#1940515”, UPC: 681066333457; (2) Arm Bands, which includes but is not
9 limited to: “VIVI•LIFE FITNESS”, “REFLECTIVE ARMBANDS”, “DESIGNED FOR AN
10 ACTIVE LIFESTYLE”, “©2015 Sakar International”, “Sakar/Vivitar UK”, “2 PACK”, The
11 package itself measures about 8 in x 4.25, “Features: Great For Runners, Walkers, And
12 Cyclists”, “Reflective Surface Make You Visible To Motorists”, “RF-V9110-ORG”, “Made in
13 China”, “MID#1940515”, UPC: 681066822722; and (3) all Headphones, which includes but is
14 not limited to: (i) “nickelodeon;” “TEENAGE MUTANT NINJA;” “TURTLES;” “VOLUME-
15 LIMITING HEADPHONES;” “SAKAR;” “Sakar International 195 Carter Dr. Edison, NJ
16 08817;” “www.sakar.com;” “MID#2340618;” “Made in China;” “Item # 30365-AMZ;” “0
17 21331 80881 3;” (ii) “L.O.L Surprise!™ Kid-Safe Headphones”; “Features: Kids-Safe
18 technology; Built-in volume limiter controls how loud your child’s music is in their ears”;
19 “Ages 3-9”; “Let’s be friends! #collectlol”; “Surprise stickers inside”; “© MGA”; “© 2019 Sakar
20 International”; “MGA Entertainment, Inc.©”; “lolsurprise.com] mgae.com”; “MID #2340619;
21 Item # HP2-03136”; “Made in China”; “UPC 0 21331 93969 2”, and (iii) “DC;” “KID-SAFE
22 HEADPHONES;” “3-9;” “\$7.99;” “dd’s DISCOUNTS;” “COMPARABLE VALUE \$10.00;”
23 “K 400205838130 D5171 C4210;” “SAKAR;” “Sakar International 195 Carter Drive Edison, NJ
24 08817;” “www.sakar.com;” “Item# HP2-03082-BEALLS;” “Made in China;” “MID#2340919;”
25 “0 21331 57132 8;”. The Covered Products are limited to those sold by or supplied by
26 Defendant, including those resold by distributors, wholesalers, retailers or others.

2.4 “Effective Date” means the date that this Consent Judgment is approved by the Court.

2.5 “DEHP” means Di (2-ethylhexyl) Phthalate, also known as Diethyl Hexyl Phthalate and Bis (2-ethylhexyl) Phthalate

2.6 “Listed Chemical” means DEHP.

2.7 “Notice” and “Notices” means, collectively, the December 26, 2017 Notice; December 21, 2017 Notice; October 30, 2019 Notice; December 11, 2019 Notice; and May 14, 2020 Notice.

3. INJUNCTIVE RELIEF/REFORMULATION

3.1 After the Effective Date, Defendant shall not distribute for sale or offer for sale in the United States of America any Covered Products unless the levels of DEHP in the Covered Products do not exceed more than 0.1% (1,000 parts per million) by weight.

3.2 For any Covered Products ordered for manufacture prior to the Effective Date, Defendant shall place a Proposition 65 compliant warning consistent with 27 CCR section 25600 et seq on them.

4. SETTLEMENT PAYMENT

4.1 **Payment and Due Date:** Within ten (10) days of the Effective Date, Defendant shall pay a total of three hundred and fifty thousand dollars and zero cents (\$350,000.00) in full and complete settlement of any and all claims for civil penalties, damages, attorney’s fees, expert fees or any other claim for costs, fees, expenses or monetary relief of any kind for claims that were or could have been asserted in the Notices or Complaints, as follows:

4.1.1 **Civil Penalty:** Defendant shall issue two separate checks totaling twenty-eight thousand six hundred dollars (\$28,600.00) as follows for alleged civil penalties pursuant to Health & Safety Code §§ 25249.7 and 25249.12:

(a) Defendant will issue one check made payable to the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”) in the amount of twenty-one thousand four hundred and fifty dollars (\$21,450.00) representing 75% of the total civil penalty and

1 Defendant will issue a second check to CAG in the amount of seven thousand one hundred and
2 fifty dollars (\$7,150.00) representing 25% of the total civil penalty;

3 (b) Separate 1099s shall be issued for each of the above payments: Defendant will issue a
4 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of
5 \$21,450.00. Defendant will also issue a 1099 to CAG in the amount of \$7,150.00 and deliver it
6 to CAG c/o Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills,
7 California 90212.

8 **4.1.2 Additional Settlement Payments:** Defendant shall issue one check for twenty-
9 one thousand four hundred dollars (\$21,400.00) to “Consumer Advocacy Group, Inc.” pursuant
10 to Health & Safety Code § 25249.7(b) and California Code of Regulations, Title 11 § 3203(d).
11 CAG will use this portion of the Total Settlement Payment as follows, eighty five percent (85%)
12 for fees of investigation, purchasing and testing for the Proposition 65 Listed Chemical in
13 various products, and for expert fees for evaluating exposures through various mediums,
14 including but not limited to consumer product, occupational, and environmental exposures to the
15 Proposition 65 Listed Chemical, and the cost of hiring consulting and retaining experts who
16 assist with the extensive scientific analysis necessary for those files in litigation and to offset the
17 costs of future litigation enforcing Proposition 65 but excluding attorney fees; fifteen percent
18 (15%) for administrative costs incurred during investigation and litigation to reduce the public’s
19 exposure to the Proposition 65 Listed Chemical by notifying those persons and/or entities
20 believed to be responsible for such exposures and attempting to persuade those persons and/or
21 entities to reformulate their products or the source of exposure to completely eliminate or lower
22 the level of the Proposition 65 Listed Chemical including but not limited to costs of
23 documentation and tracking of products investigated, storage of products, website enhancement
24 and maintenance, computer and software maintenance, investigative equipment, CAG’s
25 member’s time for work done on investigations, office supplies, mailing supplies and postage
26 Within 30 days of a request from the Attorney General, CAG shall provide to the Attorney
27 General copies of documentation demonstrating how the above funds have been spent. CAG
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shall be solely responsible for ensuring the proper expenditure of such additional settlement payment.

4.1.3 Reimbursement of Attorney Fees and Costs: Defendant shall issue a check in the amount of three hundred thousand dollars (\$300,000.00) payable to “Yeroushalmi & Yeroushalmi” as complete reimbursement for any and all reasonable investigation fees and costs, attorneys’ fees, expert fees, and any and all other costs and expenses incurred as a result of investigating, bringing the allegations in the Notices to the Defendant’s attention, and in litigating and negotiating a settlement in the public interest of the Notices and Complaints, and in seeking and obtaining court approval of this Consent Judgment.

4.2 Other than the payment to OEHHA described above, all payments referenced in paragraphs 4.1.1, 4.1.2, and 4.1.3 above, shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212. The payment to OEHHA shall be delivered directly to Office of Environmental Health Hazard Assessment, OEHHA, 1001 I Street, Mail Stop 12-B Sacramento, California 95812, Attn: Mike Gyurics. Defendant shall provide written confirmation to CAG concurrently with payment to OEHHA.

5. MATTERS COVERED BY THIS CONSENT JUDGMENT

5.1 This Consent Judgment is a full, final, and binding resolution between, on the one hand, CAG, on behalf of itself and its owners, officers, directors, employees, principals, agents, parents, shareholders, divisions, subsidiaries, partners, affiliates, sister companies, successors, assigns investigators and attorneys (“CAG Releasers”), and in the public interest, and on the other hand, Defendant and its owners, officers, directors, insurers, employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister companies, predecessors, and their successors and assigns (“Defendant Releasees”), and each entity to whom Defendant or any Defendant Releasee directly or indirectly distributes or sells Covered Products, including, but not limited to, distributors, wholesalers, customers, retailers (including but not limited to Ross Stores, Inc., Ross Dress for Less, Inc., Ross Procurement, Inc., dd’s discounts,

1 Fry's Electronics, Inc., and Fry's, LLC), marketplace hosts, franchisees, cooperative members,
2 licensees, and the successors and assigns of each of them ("Downstream Defendant Releasees"),
3 of all claims that were or could have been asserted for alleged or actual violations of Proposition
4 65 or its implementing regulations for alleged exposures to the Listed Chemical from Covered
5 Products manufactured, sold or distributed by Defendant up to and including the Effective Date.
6 Defendant's compliance with this Consent Judgment shall constitute compliance with
7 Proposition 65 with respect to alleged exposures to the Listed Chemical from the Covered
8 Products sold by Defendant, Defendant Releasees or Downstream Defendant Releasees after the
9 Effective Date. Nothing in this Section affects CAG's right to commence or prosecute an action
10 under Proposition 65 against any person other than Defendant, Defendant Releasees, or
11 Downstream Defendant Releasees.

12 5.2 CAG, on behalf of itself, the CAG Releasors, and suing in the public interest,
13 waives all rights to institute or participate in, directly or indirectly, any form of legal action, and
14 discharges and releases all claims, actions, causes of action (whether in law or equity), suits,
15 liabilities, demands, obligations, damages, costs, fines, penalties, losses, fees (including, but not
16 limited to, investigation fees, expert fees, and attorney's fees), and expenses (collectively,
17 "Claims") against Defendant, the Defendant Releasees, and Downstream Defendant Releasees,
18 for actual or alleged violations of Proposition 65 related to exposure to the Listed Chemical from
19 or in Covered Products that were manufactured, distributed, or sold by Defendant on or before
20 the Effective Date.

21 5.3 CAG, on behalf of itself and the CAG Releasors, waives all rights to institute or
22 participate in, directly or indirectly, any form of legal action, and discharges and releases all
23 claims, actions, causes of action (whether in law or equity), suits, liabilities, demands,
24 obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to,
25 investigation fees, expert fees, and attorneys' fees) of any kind or nature whatsoever, whether
26 known or unknown, fixed or contingent, against Defendant, the Defendant Releasees, and
27 Downstream Defendant Releasees arising from or related to any actual or alleged violation of
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1 Proposition 65 or any other statutory or common law claim regarding Covered Products sold by
2 Defendant. In furtherance of the foregoing, CAG on behalf of itself and the CAG Releasors
3 only, hereby waives any and all rights and benefits which it now has, or in the future may have,
4 conferred upon it by virtue of the provisions of section 1542 of the California Civil Code (or
5 other similar state or federal statutory or common law), which provides as follows:

6 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
7 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
8 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
9 RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
10 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
11 DEBTOR OR RELEASED PARTY.

12 CAG understands and acknowledges that the significance and consequence of this waiver of
13 California Civil Code section 1542.

14 **6. ENTRY OF CONSENT JUDGMENT**

15 6.1 CAG shall promptly prepare and file a motion seeking approval of this Consent
16 Judgment pursuant to California Health & Safety Code § 25249.7(f). The Parties agree to
17 cooperate in good faith concerning CAG's efforts to obtain Court approval of the Consent
18 Judgment. Upon entry of the Consent Judgment, CAG and Defendant waive their respective
19 rights to a hearing and trial on the allegations in the Notices and Complaint.

20 6.2 If this Consent Judgment is not approved in full by the Court: (a) this Consent
21 Judgment and any and all prior agreements between the Parties merged herein shall terminate
22 and become null and void, and the status of the Actions shall revert to the status that existed prior
23 to the execution date of this Consent Judgment; (b) no term of this Consent Judgment or any
24 draft thereof, or of the negotiation, documentation, or other part or aspect of the Parties'
25 settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence
26 for any purpose in the Actions, or in any other proceeding between the parties; and (c) the Parties
27 agree to meet and confer in good faith to determine whether to modify the terms of the Consent
28 Judgment and to resubmit it for approval.

1 6.3 Upon entry of an order approving this Consent Judgment, Complaint 1 on file in
2 this matter shall be deemed amended to include the claims alleged in each of the Proposition 65
3 Sixty-Day Notices of Intent to Sue listed in Section 1.4. In other words, this lawsuit shall be
4 deemed amended to include the products identified in, and claims asserted in, the October 30,
5 2019 Notice, the December 11, 2019 Notice and the May 14, 2020 Notice.

6 6.4 Within five (5) days of the signing of this Consent Judgment by both CAG and
7 Defendant, CAG shall file a notice with the courts presiding over Complaint 2 and Complaint 3
8 about the conditional settlement of the claims involved in those matters related to the Covered
9 Products and the anticipated filing in this matter of a motion to approve this Consent Judgment.

10 6.5 Within five (5) days of the entry of an order approving this Consent Judgment,
11 CAG shall file dismissals without prejudice of all claims involving any Covered Product in the
12 lawsuits initiated by Complaint 2 or Complaint 3 (*i.e.*, a complete dismissal without prejudice of
13 *Consumer Advocacy Group, Inc. v. Fry's Electronics, Inc., et al.*, Los Angeles County Superior
14 Court Case No. 20STCV15821, and a dismissal without prejudice of the Third and Fourteenth
15 Causes of Action in *Consumer Advocacy Group, Inc. v. Ross Stores, Inc., et al.*, Los Angeles
16 County Superior Court Case No. 20STCV34003).

17 **7. MODIFICATION OF JUDGMENT**

18 7.1 This Consent Judgment may be modified only upon written agreement of the
19 Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of
20 any Party as provided by law and upon entry of a modified Consent Judgment by the Court, or
21 by the Court in accordance with the law.

22 7.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
23 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

24 **8. RETENTION OF JURISDICTION**

25 8.1 This Court shall retain jurisdiction of this matter to implement and enforce the
26 terms of this Consent Judgment under Code of Civil Procedure section 664.6.
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1 8.2 CAG may bring an action to enforce any breach of the monetary settlement terms
2 in Section 4.0, above, upon five (5) days written notice by CAG to Defendant of the alleged
3 breach in accordance with the notification requirements set forth in Section 14.0, below.

4 8.3 In any proceeding brought by either Party to enforce this Consent Judgment, the
5 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

6 **9. SERVICE ON THE ATTORNEY GENERAL**

7 9.1 CAG shall promptly serve a copy of this Consent Judgment, signed by both
8 parties, on the California Attorney General so that the Attorney General may review this Consent
9 Judgment prior to its submittal to the Court for approval. No sooner than forty-five (45) days
10 after the Attorney General has received the aforementioned copy of this Consent Judgment, CAG
11 may then submit it to the Court for approval.

12 **10. ATTORNEY FEES**

13 10.1 Except as specifically provided in Sections 4.1.3 and 8, each Party shall bear its
14 own attorneys' fees and costs in connection with the claims resolved in this Consent Judgment.

15 **11. GOVERNING LAW**

16 11.1 The validity, construction, terms, and performance of this Consent Judgment shall
17 be governed by the laws of the State of California, without reference to any conflicts of law
18 provisions of California law.

19 11.2 In the event that Proposition 65 is repealed, preempted, or is otherwise rendered
20 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are
21 rendered inapplicable or are no longer required as a result of any such repeal or preemption, or
22 rendered inapplicable by reason of law generally as to the Covered Products, then Defendant
23 may provide written notice to CAG of any asserted change in the law, and shall have no further
24 obligations pursuant to this Consent Judgment with respect to, and to the extent that, the Covered
25 Products are so affected. Nothing in this Consent Judgment shall be interpreted to relieve
26 Defendant from any obligation to comply with any other pertinent state or federal law or
27 regulation.

11.3 The Parties, including their counsel, have participated in the preparation of this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This Consent Judgment was subject to revision and modification by the Parties and has been accepted and approved as to its final form by the Parties. Accordingly, any uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Consent Judgment and, in this regard, each of the Parties waives California Civil Code section 1654.

12. EXECUTION AND COUNTERPARTS

12.1 This Consent Judgment may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document and have the same force and effect as original signatures. Signatures by scanned and emailed image or facsimile transmission shall have the same force and effect as original signatures and as an electronic record executed and adopted by a Party with the intent to sign the electronic record pursuant to Civil Code §§ 1633.1 *et seq.*

13. NOTICES

13.1 Any notices under this Consent Judgment shall be by delivery of First-Class Mail.
If to CAG:

Reuben Yeroushalmi, Esq.
reuben@yeroushalmi.com
Yeroushalmi & Yeroushalmi
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212

If to Defendant SAKAR INTERNATIONAL, INC.:

Matthew Kaplan, Esq.
matthew.kaplan@tuckerellis.com
TUCKER ELLIS LLP
515 South Flower Street, Forty-Second Floor
Los Angeles, CA 90071

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2 **14. AUTHORITY TO STIPULATE**

3 14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
4 by the Party he or she represents to enter into this Consent Judgment and to execute it on behalf
5 of the Party represented and legally to bind that party.

6 AGREED TO:

7 AGREED TO:

8 Date: November 3, 2020

9 Date: October 26, 2020

10 Michael Marcus

11 Ralph Sasson

12 Name: Michael Marcus

13 Name: Ralph Sasson

14 Title: Director

15 Title: COO

16 CONSUMER ADVOCACY GROUP, INC. SAKAR INTERNATIONAL, INC.

17
18 **IT IS SO ORDERED.**

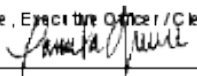
19 ~~HBT~~ ~~DEGG~~

20 Date: _____

21 James Reilly

22 JUDGE OF THE SUPERIOR COURT

23 **James Reilly / Judge**

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>	<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>	<p align="center">FILED Superior Court of California County of Alameda 03/18/2022</p>
<p>PLAINTIFF/PETITIONER: Consumer Advocacy Group, Inc.</p>	<p>Chad Finke, Executive Officer / Clerk of the Court By:  Deputy</p>
<p>DEFENDANT/RESPONDENT: Fry's Electronics, Inc. et al</p>	<p align="center">P. Greene</p>
<p align="center">CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6</p>	<p>CASE NUMBER: RG18916512</p>

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Judgment entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

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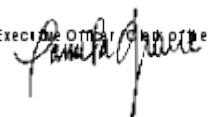
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Dated: 03/18/2022

Chad Finke, Executive Officer / Clerk of the Court

By:

Chad Finke, Executive Officer / Clerk of the Court

P. Greene, Deputy Clerk