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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF LOS ANGELES
9 (Unlimited Jurisdiction)

10 ECOLOGICAL ALLIANCE, LLC, a California
11 limited liability company,

12 Plaintiff,

13 v.

14 GREAT EASTERN ENTERTAINMENT CO.,
15 a California corporation,

16 Defendant.

Case No.: 22STCV04963

~~PROPOSED~~ STIPULATED
CONSENT JUDGMENT

FILED
Superior Court of California
County of Los Angeles

05/24/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: _____ M. Mort Deputy

1
2 Plaintiff Ecological Alliance, LLC ("Plaintiff"), and Defendant Great Eastern
3 Entertainment Co. ("Defendant") hereby enter into this Stipulated Consent Judgment ("Consent
4 Judgment") as follows:

5 WHEREAS: On or about August 5, 2021, Plaintiff, through Plaintiff's counsel, served a
6 60 Day Notice (the "Notice") to Defendant, the California Attorney General, the District
7 Attorneys of every County in the State of California, and the City Attorneys for every City in the
8 State of California with a population greater than 750,000 (collectively, "Public Prosecutor(s)")
9 alleging that Defendant violated California's Safe Drinking Water and Toxic Enforcement Act of
10 1986, California Health and Safety Code § 25249.6, et seq., and its implementing regulations
11 (collectively, "Proposition 65") and that Plaintiff intended to file an enforcement action in the
12 public interest; and

13 WHEREAS: Plaintiff alleges that Defendant manufactured and/or distributed cosmetics
14 bags containing Di(2-ethylhexy)phthalate ("DEHP"), (collectively the "Covered Products") that
15 were sold or distributed for sale in California and further alleges that those Covered Products
16 expose consumers in the State of California to DEHP, which is listed by the State of California
17 pursuant to California Health and Safety Code § 25249.8; and

18 WHEREAS: Plaintiff further alleges that persons in the State of California were exposed
19 to DEHP in Covered Products without being provided the Proposition 65 warning set out at
20 California Health and Safety Code § 25249.6 and its implementing regulations ("Proposition 65
21 Warning");

22 WHEREAS: Defendant denies the allegations of the Notice, and denies that it has violated
23 Proposition 65 and expressly denies that it has engaged in any wrongdoing whatsoever,

24 WHEREAS: Plaintiff seeks to provide the public with Proposition 65 warnings and
25 believes that this objective is achieved by the actions described in this Consent Judgment; and

26 WHEREAS: Plaintiff and Defendant wish to resolve their differences without the delay
27 and expense of litigation.
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2 NOW THEREFORE BE IT RESOLVED AND AGREED UPON AS BETWEEN
3 PLAINTIFF ACTING IN THE PUBLIC INTEREST AND DEFENDANT AS FOLLOWS:

4 **INTRODUCTION**

5 1.1. On August 5, 2021, Plaintiff served the Notice upon Defendant and on Public
6 Prosecutors. No Public Prosecutors commenced an enforcement action. No Public
7 Prosecutor having commenced an enforcement action, Plaintiff proceeded to file its
8 Complaint against Defendant in the present action.

9 1.2. Defendant employs ten (10) or more persons.

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

21 1.4. The Parties enter into this Consent Judgment as a full and final settlement of the
22 Proposition 65 Claims, for the purpose of avoiding prolonged and costly litigation and of
23 resolving the issues raised therein both as to past and future conduct. By execution of
24 this Consent Judgment and agreeing to comply with its terms, the Parties do not admit
25 any fact, conclusion of law, or violation of law, nor shall Defendant’s compliance with
26 the Consent Judgment constitute or be construed as an admission by Defendant of any
27 fact, conclusion of law, or violation of law. Defendant denies the material, factual, and
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2 legal allegations in the Notice and the Complaint and expressly denies any wrongdoing
3 whatsoever.

4 **2. DEFINITIONS**

- 5 2.1. "Effective Date" shall mean, with respect to this Consent Judgment, the date the
6 Consent Judgment has been approved and entered by the Court.

7 **3. INJUNCTIVE RELIEF**

- 8 3.1. Commencing 90 days after the Effective Date, Defendant shall not sell or
9 distribute for sale to consumers in California, or sell directly to consumers in California
10 any Covered Product unless, either (a) the Covered Product complies with the
11 Proposition 65 exemption identified in Section 3.2 below, or (b) the Covered Product is
12 labeled with a warning as prescribed in Sections 3.3-3.4 below. Compliance with this
13 Section 3.1 will constitute compliance by Defendant with all requirements of Proposition
14 65 relating to DEHP exposure in the Covered Products.

15 3.2. Proposition 65 Exemption for the Covered Products

16 Covered Products shall be deemed to comply with Proposition 65, and be exempt from
17 any Proposition 65 warning requirements with respect to DEHP, if such Covered Product
18 contains no more than 0.1 percent (1,000 parts per million) of DEHP.

19 3.3. Warning Option

20 Covered Products that do not meet the warning exemption standard set forth in Section 3.2
21 above, shall be accompanied by a warning as described in Section 3.4 below.

22 3.4. Warning Language

23 Where required to meet the criteria set forth in Section 3.3, Defendant shall provide one of
24 the following warning statements on or within the unit packaging of the Covered
25 Products, or affixed to the Covered Products, displayed in a reasonably conspicuous
26 manner:

- 27 (1) **WARNING:** This product can expose you to chemicals including
28 di(2-ethylhexyl) phthalate (DEHP), which are known to the State of

California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.

(2) **WARNING:** Cancer and Reproductive Harm –
www.P65Warnings.ca.gov.

The warnings set forth in (1) or (2) above shall also include a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline. Where the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the text of the warning, in a size no smaller than the height of the word "WARNING".

4. MONETARY RELIEF

4.1. Within ten (10) days of the Effective Date, Defendant shall pay the total sum of ~~Ag fees~~ which includes \$8,000 in civil penalties and ~~Att fees~~ in payment of Plaintiff's costs and reasonable attorney's fees. The \$8,000 civil penalty shall be apportioned pursuant to Health and Safety Code section 25249.12 (d), with 75%, or \$6,000, paid to the State of California's Office of Environmental Health Hazard Assessment and 25%, or \$2,000, payable to Plaintiff.

4.2. The payments specified in Section 4.1. shall be made by wire transfer to Plaintiff's counsel Custodio & Dubey LLP as set forth below. Plaintiffs' counsel will remit the portions due to the State of California Office of Environmental Health Hazard Assessment and to Plaintiff.

Bank: Bank of America, N.A.

Routing Transit No.: 026009593

Account No.: 325132729125

Beneficiary: Custodio & Dubey LLP

5. CLAIMS COVERED AND RELEASE

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2 5.1. This Consent Judgment is a full, final, and binding resolution between Plaintiff, on
3 behalf of itself, and acting on behalf of the public interest, and Defendant, and all of
4 Defendant's officers, directors, members, shareholders, employees, representatives,
5 attorneys, agents, parent companies, subsidiaries, divisions, affiliates, and the
6 predecessors, successors, and assigns of any of them (collectively the "Defendant
7 Releasees"), as well as all other upstream and downstream entities in the distribution
8 chain for the Covered Products, including but not limited to manufacturers, retailers,
9 suppliers, distributors, marketplace hosts, wholesalers, customers, private label
10 customers, franchisees, licensees, licensors, and cooperative members, and all of their
11 officers, directors, members, shareholders, employees, representatives, attorneys, agents,
12 parent companies, subsidiaries, divisions, affiliates, predecessors, successors, and assigns
13 (collectively, the "Released Parties"), for any alleged violation of Proposition 65, and its
14 implementing regulations, for failure to provide Proposition 65 warnings for the Covered
15 Products with respect to DEHP, and fully resolves all claims that have been brought, or
16 which could have been brought in this action up to and including the Effective Date.
17 Plaintiff on behalf of itself, and in the public interest, hereby discharges the Defendant
18 Releasees and Released Parties from any and all claims, actions, causes of action, suits,
19 demands, liabilities, damages, penalties, obligations, debts, losses, fees, costs and
20 expenses asserted with respect to any alleged violation of Proposition 65 arising from the
21 failure to provide Proposition 65 warnings about exposures to DEHP for any or all of the
22 Covered Products sold through ninety (90) days after the Effective Date of the Consent
23 Judgment. Compliance with the terms of this Consent Judgment constitutes compliance
24 with Proposition 65 by Defendant with respect to any alleged failure to warn about DEHP
25 in Covered Products sold or distributed by Defendant after the Effective Date.

26 5.2. Plaintiff, acting in its individual capacity only, and in consideration of the
27 promises and monetary payments contained herein, hereby releases Defendant Releasees
28 and Released Parties from any alleged claim of failure to provide Proposition 65

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2 warnings for the Covered Products that Defendant has sold or caused to be sold in
3 California up to and including the Effective Date.

4 5.3. It is possible that other claims not known to the Parties arising out of the facts contained
5 in the Notice, or alleged in the Complaint, relating to the Covered Products, will
6 hereafter be discovered or developed. Plaintiff, on behalf of itself only, on the one hand,
7 and Defendant, on the other hand, acknowledge that this Consent Judgment is expressly
8 intended to cover and include all such claims through and including the Effective Date,
9 including all rights of action thereon. Plaintiff and Defendant acknowledge that the
10 claims released in Sections 5.1 and 5.2 may include unknown claims, and nevertheless
11 intend to release such claims, and in doing so waive California Civil Code § 1542 which
12 reads as follows:
13

14 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
15 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
16 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
17 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
18 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
19 DEBTOR OR RELEASED PARTY.

20 5.4. Plaintiff understands and acknowledges that the significance and consequence of
21 this waiver of California Civil Code § 1542 is that even if Plaintiff suffers future damages
22 arising out of or resulting from, or related directly or indirectly to, in whole or in part, the
23 Covered Products, including but not limited to any exposure to, or failure to warn with
24 respect to exposure to, chemicals in or from the Covered Products, Plaintiff will not be
25 able to make any claim for those damages against any of the Defendant Releasees or the
26 Released Parties.

27 5.5. Compliance by Defendant with the terms of this Consent Judgment shall constitute
28 compliance with Proposition 65 with respect to exposure to DEHP in the Covered

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2 Products as set forth in the Notice and/or the Complaint. If the California Office of
3 Environmental Health Hazard Assessment promulgates regulations affecting the warning
4 provisions set forth in Section 3 herein, Defendant may comply with those regulations
5 without being deemed in breach of this Consent Judgment.

6 **6. COMPLIANCE WITH HEALTH AND SAFETY CODE SECTION 25249.7(F)**

- 7 6.1. Plaintiff and its attorneys agree to comply with the reporting form requirements
8 referenced in California Health and Safety Code § 25249.7(f).

9 **7. PROVISION OF NOTICE**

- 10 7.1. When any Party is entitled to receive any notice or writing under this Consent
11 Judgment, the notice or writing shall be sent by first class certified mail with return
12 receipt requested, or by electronic mail, as follows:

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14 To Defendant:

15 President
16 Great Eastern Entertainment Co.
17 610 W. Carob St.
Compton, CA 90220

18 Will Troutman, Esq.
19 Norton Rose Fulbright US LLP
20 555 South Flower Street, Forty-First Floor
Los Angeles, CA 90071
william.troutman@nortonrosefulbright.com

21
22 To Plaintiff:

23 Vineet Dubey, Esq.
24 Custodio & Dubey LLP
25 445 S. Figueroa St., Ste 2520
Los Angeles, CA 90071
dubey@cd-lawyers.com

- 26 7.2. Any party may modify the person and address to whom the notice is to be sent by
27 sending the other Party notice that is transmitted in the manner set forth in section 7.1.
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8. COURT APPROVAL

8.1. Upon execution of his Consent Judgment by all Parties, Plaintiff shall prepare and file, at its sole cost and expense, a Motion for Approval of this Consent Judgment that Defendant shall not oppose. This Consent Judgment shall not become effective until approved and entered by the Court. If this Consent Judgment is not entered by the Court, it shall be of no force or effect, and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

9. GOVERNING LAW AND CONSTRUCTION

9.1. The terms of this Consent Judgment shall be governed by the laws of the State of California, and shall apply only to Covered Products sold in California.

10. ENTIRE AGREEMENT

10.1. This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein.

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

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

10.4. No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby, and approved and ordered by the Court.

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2 10.5. No waiver of any of the provisions of this Consent Judgment shall be deemed or
3 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor
4 shall such waiver constitute a continuing waiver.

5 **11. RETENTION OF JURISDICTION**

6 11.1. This Court shall retain jurisdiction of this matter to implement or modify the
7 Consent Judgment.

8 **12. NO EFFECT ON OTHER SETTLEMENTS**

9 12.1. Nothing in this Consent Judgment shall preclude Plaintiff from resolving any
10 claim against another entity on terms that are different from those contained in this
11 Consent Judgment.

12 **13. EXECUTION IN COUNTERPARTS**

13 13.1. This Consent Judgment may be executed in counterparts, each of which shall be
14 deemed to be an original, and all of which, taken together, shall constitute the same
15 document. Execution of the Consent Judgment by e-mail, facsimile, or other electronic
16 means, shall constitute legal and binding execution and delivery. Any photocopy of the
17 executed Consent Judgment shall have the same force and effect as the original.

18 **14. AUTHORIZATION**

19 14.1. The undersigned are authorized to stipulate to, enter into, and execute this Consent
20 Judgment on behalf of their respective parties, and have read, understood, and agree to all
21 of the terms and conditions of this Consent Judgment.

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23 **15. SEVERABILITY**

24 15.1. If subsequent to Court approval of this Consent Judgment, any part or provision is
25 declared by a Court to be invalid, void, or unenforceable, the remaining portions or
26 provisions shall continue in full force and effect to the extent they implement the Parties'
27 intent.
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2 **AGREED TO:**

3 **Ecological Alliance LLC**

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5 Date: February 8 2022

6 By: [Signature]

7 Harmony Welsh, Managing Member

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9 **AGREED TO:**

10 **Great Eastern Entertainment Co.**

11 Date: February 3 2022

12 By: [Signature]

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14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to Health &
15 Safety Code § 25249.7(f)(4) and Code of Civil Procedure § 664.6, judgment is hereby entered.

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17 Dated: 05/24/2022



18 [Signature]

19 JUDGE OF THE SUPERIOR COURT
20 Curtis A. Kin / Judge