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Attorneys for Defendants

10 **SOFITEL NORTH AMERICA CORP.; LOS ANGELES MAISON, INC.;**

**FRENCH REDWOOD, INC.; ACCOR NORTH AMERICA, INC; and**

**ACCOR BUSINESS AND LEISURE NORTH AMERICA, INC.**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14

**FOR THE COUNTY OF LOS ANGELES**

15

16 Coordination Proceeding  
17 Special Title Rule 1550(b)  
SECONDHAND SMOKE CASES

JUDICIAL COUNCIL COORDINATION  
PROCEEDING NO. 4182  
**[PROPOSED] STIPULATED**  
CONSENT JUDGMENT

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This Document Relates to Defendants in the  
19 following case:

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*Consumer Advocacy Group, Inc. v.*  
21 *Hotel Sofitel, et al.*  
Los Angeles County Superior Court  
22 Case No. BC 215056

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[PROPOSED] STIPULATED CONSENT JUDGMENT

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1 **1. INTRODUCTION**

1.1 Plaintiff. Consumer Advocacy Group, Inc. is a non-profit public  
interest corporation (hereinafter referred to as "Plaintiff" or "CAG").

4 1.2 Defendants. Accor Business and Leisure North America, Inc.; Sofitel  
5 North America Corp., Los Angeles Maison, Inc. and French Redwood, Inc., improperly  
6 named as "Hotel Sofitel" (hereinafter "Sofitel") and Accor North America, Inc. (formerly  
7 known as Accor Economy Lodging, Inc.) (hereinafter "Accor") (collectively "Defendants")  
8 own, operate and/or manage two hotels under the Sofitel brand in the State of California.  
9 (Plaintiff and Defendants may collectively be referred to as "the Parties".)

10 1.3 Covered Properties. The properties owned, operated or managed by  
11 Defendants are referred to collectively as the "Covered Properties." The Covered Properties  
12 are identified in Exhibit A to this Consent Judgment.

13 1.4 Proposition 65. Health and Safety Code Sections 25249.5 et seq.  
14 ("Proposition 65") prohibits, among other things, a company consisting of ten or more  
15 employees from knowingly and intentionally exposing an individual to chemicals that are  
16 known to the State of California to cause cancer and/or birth defects or other reproductive  
17 harm without first providing a clear and reasonable warning to such individuals. Exposures  
18 can occur as a result of a consumer product exposure, an occupational exposure or an  
19 environmental exposure.

20 1.5 Proposition 65 Chemicals. The State of California has officially listed  
21 various chemicals pursuant to Health and Safety Code section 25249.8 as chemicals known  
22 to the State of California to cause cancer and/or reproductive toxicity.

23 1.6 The Present Dispute. The Consent Judgment pertains to *Consumer*

24 *Advocacy Group, Inc. v. Hotel Sofitel, et al.*, Los Angeles County Superior Court Case No.  
25BC 215056, filed August 11, 1999 and which is part of Judicial Council Coordination  
26 Proceeding 4182 (the "CAG lawsuit").

27 Other Proposition 65 lawsuits among the parties are:  
28 (1) *Consumer Advocacy Group, Inc. v. 7-Eleven, et al.*, Los Angeles

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County Superior Court Case No. BC 200808, filed November 16, 1998. This matter was not part of JCCP 4182. This case was dismissed, and the dismissal was affirmed by the Court of Appeal.

(2) *Consumer Advocacy Group, Inc. v. Hilton Corporation*, Los Angeles Superior Court Case No. BC 276355, filed June 21, 2002. This matter was not part of JCCP 4182; it was dismissed without prejudice June 28, 2002, per plaintiff's request.

1.7 Procedural Backaround. The CAG lawsuit alleges violations of both Proposition 65 and the Unfair Competition Act, Cal. Bus. & Prof. Code § 17200, et seq. On March 20, 2002, the Court granted a motion for judgment on the pleadings filed by Sofitel and Accor, dismissing the environmental and occupational exposure allegations due to an inadequate 60-day notice. Subsequently, the Court granted the motion for judgment on the pleadings as to the consumer product exposures. The Court of Appeal affirmed the ruling regarding the environmental and occupational exposures; the Court reversed the consumer product exposure ruling. *Consumer Advocacy Group, Inc., et al. v. Kintetsu Enterprises of America, et al.*, Case No. B158840. The matter is currently pending before the California Supreme Court, Case No. S 13 5 5 87.

Plaintiffs 60-Day Notice. More than sixty days prior to filing suit in this action, Plaintiff served on each of the Defendants a document entitled "First Amended 60-Day Notice of Intent to Sue Under Safety Code Sections 25249.6" (the "Notice"). The Notice is attached hereto as Exhibit B. The Notices stated, among other things, that Plaintiffs believed that Defendants were in violation of Proposition 65 for knowingly and intentionally exposing consumers, customers, and employees of the Covered Properties, as well as the public, to certain Proposition 65 listed chemicals. Among those Proposition 65 noticed chemicals were tobacco, tobacco smoke (and its constituent chemicals). This Consent Judgment covers only those specified noticed chemicals (hereinafter "Noticed Chemicals").

1.9 PMose of Consent Judgment. In order to avoid continued and protracted litigation, Plaintiff and Defendants wish to resolve issues raised by the Notice and

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the CAG lawsuit, pursuant to the terms and conditions described herein. In entering into Consent Judgment, Plaintiff and Defendants recognize that this Consent Judgment is a full and final settlement of all claims related to tobacco products, tobacco smoke, and secondhand tobacco smoke (and their constituent chemicals). Plaintiff and Defendants intend for this Consent Judgment to provide, to the maximum extent permitted by law, *res judicata* protection for Defendants against all other claims based on the same or similar allegations as to the Notice and CAG lawsuit.

1.10 No Admission. Defendants dispute that they have violated Proposition 65 as described in the Notice and the CAG lawsuit. In particular, Defendants contend that warning is required for the exposures Plaintiff alleges. Plaintiff disputes the Defendants' defenses.

Based on the foregoing, nothing contained in this Consent Judgment shall construed as an admission by Plaintiff or Defendants that any action that Defendants may have taken, or failed to take, violates Proposition 65 or any other provision of any other statute, regulation or principal of common law, including without limitation the Unfair Competition Act. Defendants expressly deny any alleged violations of Proposition 65

the Unfair Competition Act.  
1. 11 Effective Upon Final Determination. Defendants' willingness to enter into this Consent Judgment is based upon the understanding that this Consent Judgment fully and finally resolve all claims related to tobacco products, tobacco smoke and secondhand tobacco smoke (and their constituent chemicals), brought by CAG, and that Consent Judgment will have *resjudicata* effect to the extent allowed by law with regards to both the Proposition 65 allegations and the Unfair Competition Act allegations.

**2. JURISDICTION**

2.1 Subject Matter Jurisdiction. For purposes of this Consent Judgment only, Plaintiff and Defendants stipulate that this Court has jurisdiction over the allegations violations contained in the CAG lawsuit.

2.2 Personal Jurisdiction. For purposes of this Consent Judgment only,

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Plaintiff and Defendants stipulate that this Court has personal jurisdiction over the Defendants as to the acts alleged in the CAG lawsuit.

2.3 Venue. Venue is proper in the County of Los Angeles for resolution of the allegations made in the CAG lawsuit.

Jurisdiction to Enter Consent Judgment. This Court has jurisdiction to enter this Consent Judgment as a full and final settlement and resolution of the allegations contained in the Notice, the CAG lawsuit and of all claims that were or could have been raised based on the facts alleged therein or arising therefrom. This includes allegations relating to both Proposition 65 and the Unfair Competition Act.

**3. INJUNCTIVE RELIEF:**

**CLEAR AND REASONABLE WARNINGS**

3.1 Environmental and Occupational Exposure Warnings. With regard to the alleged exposures to the Noticed Chemicals, Defendants agree to post within ninety (90) days following the entry of Judgment, a warning with substantially the following language at the primary points of entry at each of the Covered Properties and on the employees' bulletin board or inside of the employees' handbook:

WARNING:

*This Facility Contains Chemicals Known to the State of California to Cause Cancer and Birth Defects or Other Reproductive Harm.*

Defendants further agree to post a warning with substantially the following language at every location at each of the Covered Properties where smoking is permitted, including either inside of any guestroom that is designated for smokers or at the elevator landing or stairway area on each floor with designated smoking rooms:

WARNING:

*This Area is a Designated Smoking Area. Tobacco Smoke is Known to the State of California to Cause Cancer and Birth Defects or Other Reproductive Harm.*

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1                   The provision of said warnings shall be deemed to satisfy any and all  
2           obligations under Proposition 65 by any and all person(s) or entity(ies) with respect to any  
3                   and all environmental and occupational exposures to Noticed Chemicals.

4                   Each of the warnings set forth in this Section 3.1 shall conform to the  
5 regulations for alcoholic beverage warning signs in terms of size and print (22 Cal. Code  
6 Regs. § 12601(b)(1)(D) and shall be located where they can be easily seen. The warnings,  
7 described in this Section 3. 1, may be combined with other information on a single sign and  
8 may be provided by the same media and in the same or similar format in which other hotel  
9 information is provided to guests, employees and to the public.

10                   3.2                   Consumer Product Warning. Defendants agree to post, or take  
11 reasonable steps to assure that their gift shop operators/lessees post, a warning at those  
12 Covered Properties under Defendant's control where cigars, cigarettes or other tobacco  
13 products are sold. For those Covered Properties, the following warning shall continue to be  
14 prominently displayed at or near the point of sale of such products:

15                   WARNING:  
16                   *Tobacco Products Contain Produce Chemicals Known to the*  
17                   *State of California to Cause Cancer and Birth Defects or Other*  
18                   *Reproductive Harm.*  
19                   The warning set forth in this Section 3.2 shall be displayed at the retail outlet  
20           with such conspicuousness, as compared with other words, statements, designs, or devices,  
21           as to render the warnings likely to be read and understood by an ordinary individual under  
22           customary conditions of purchase or use, consistent with Title 22, California Code of  
23           Regulations, § 12601(b)(3).

24                   3.3 Alcoholic Beverages. Defendants' compliance with paragraphs 3.1 and  
25           3.2 is deemed to fully satisfy Defendants' obligations under Proposition 65 with respect to

26 any exposures and potential exposures to Noticed Chemicals. Defendants' compliance with  
27 paragraphs 3.1 and 3.2 will not relieve Defendants of any obligation to continue to provide  
28 the statutorily approved warnings for alcoholic beverages.

1                    3.4            Future Laws or Regulations. In lieu of complying with the requirements  
2 of paragraphs 3. 1, and 3.2 hereof, if- (a) any future federal law or regulation which governs  
3 the warning provided for herein preempts state authority with respect to said warning; or. (b)  
4 any future warning requirements with respect to the subject matter of said paragraphs is  
5 proposed by any industry association and approved by the State of California, or (c) any  
6 future new state law or regulation specifying a specific, warning for hotels with respect to the  
7 subject matter of said paragraphs, Defendants may comply with the warning obligations set  
8 forth in paragraphs 3.1 and 3.2 of this Judgment by complying with such future federal or  
9 state law or regulation or such future warning requirement upon notice to Plaintiffs.

10                    3.5            Statutory Amendment to Proposition 65. In the event that there is a  
11 statutory or other amendment to Proposition 65, or regulations are adopted pursuant to  
12                    Proposition 65, which would exempt Defendants, the "Released Parties," as defined at  
13                    paragraph 4.2 below, or the class to which Defendants belong, from providing the warnings  
14                    described herein, then, upon the adoption of such statutory amendment or regulation, and to  
15                    the extent provided for in such statutory amendment or regulation, Defendants shall be  
16                    relieved from its obligation to provide the warnings set forth herein.

#### 17                    **4. RELEASE AND CLAIMS COVERED**

18                    4.1            Effect of Judgment. The Judgment is a full and final judgment with  
19                    respect to any claims regarding the Noticed Chemicals asserted in the CAG lawsuit against  
20                    the Released Parties and each of them, and the Notice against Defendants regarding the  
21                    Covered Properties, including, but not limited to: (a) claims for any violations of Proposition  
22                    65 by the Released Parties and each of them including, but not limited to, claims arising from  
23                    consumer product, environmental and occupational exposures to the Noticed Chemicals,

24           wherever occurring and to whomever occurring, through and including the date upon which  
25           the Judgment becomes final, including any and all appeals; (b) claims for violation of the  
26           Unfair Competition Act (Cal. Bus. & Prof. Code § 17200, et seq.) arising from the foregoing  
27           circumstances, including, but not limited to, CAG's asserted right to injunctive and monetary  
28           relief, and (c) the Released Parties' continuing responsibility to provide the warnings

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I mandated by Proposition 65 with respect to the Noticed Chemicals.

2 4.2 Release. Except for such rights and obligations as have been created

3 under this Consent Judgment, Plaintiff, on its own behalf and bringing an action "in the

4 public interest" pursuant to California Health and Safety Code Section 25249.7(d), and

5 "acting for the general public" pursuant to California Business and Professions Code Section

6 17205, with respect to the matters regarding the Noticed Chemicals alleged in the CAG

7 lawsuit, does hereby fully, completely, finally and forever release, relinquish and discharge:

8 (a) Sofitel and Accor , (b) the past, present, and future owners, lessors, sublessors, managers

9 and operators of, and any others with any interest in, the Covered Properties, and (c) the

10 respective officers, directors, shareholders, affiliates, agents, employees, attorneys,

11 I I successors and assigns of the persons and entities described in (a) and (b) immediately above

12 (collectively (a), (b) and (c) are the "Released Parties") of and from any and all claims,

13 actions, causes of action, demands, rights, debts, agreements, promises, liabilities, damages,

14 accountings, costs and expenses, whether known or unknown, suspected or unsuspected, of

15 every nature whatsoever which Plaintiff has or may have against the Released Parties, arising

16 directly or indirectly out of any fact or circumstance occurring prior to the date upon which

17 the Judgment becomes final, including any and all appeals, relating to alleged violations of

18 the Unfair Competition Act and/or Proposition 65 by the Defendants and their respective

19 agents, servants and employees at the Covered Properties, being hereinafter referred to as the

20 "Released Claims." In sum, the Released Claims include any and all allegations made, or

21 that could have been made, by Plaintiff with respect to the Noticed Chemicals relating to

22 Proposition 65 and the Unfair Competition Act, pertaining to the Covered Properties.

23 4.3 Intent of Parties. It is the intention of the Parties to this release that,

24 upon entry of judgment and conclusion of any and all appeals or litigation relating to (i) this

25 Consent Judgment itself and (ii) the CAG lawsuit itself, that this Consent Judgment shall be

26 effective as a full and final accord and satisfaction and release of each and every Released  
27 Claim. In furtherance of this intention, Plaintiff acknowledges that it is familiar with  
28 California Civil Code section 1542, which provides as follows:

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[PROPOSED] STIPULATED CONSENT JUDGMENT

1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
2 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT  
3 TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING  
4 THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE  
5 MATERIALLY AFFECTED HIS SETTLEMENT WITH THE  
6 DEBTOR.

7 Plaintiff hereby waives and relinquishes all of the rights and benefits that

8 Plaintiff has, or may have, under California Civil Code section 1542 (as well as any similar

9 rights and benefits which they may have by virtue of any statute or rule of law in any other

10 state or territory of the United States). Plaintiff hereby acknowledges that it may hereafter

11 discover facts in addition to, or different from, those which it now knows or believes to be

12 true with respect to the subject matter of this Consent Judgment and the Released Claims, but

13 that notwithstanding the foregoing, it is Plaintiffs intention hereby to fully, finally,

14 completely and forever settle and release each, every and all Released Claims, and that in

15 furtherance of such intention, the release herein given shall be and remain in effect as a full

16 and complete general release, notwithstanding the discovery or existence of any such

17 additional or different facts.

18 4.4 Plaintiffs Ability to Represent Public. Plaintiff hereby warrants and

19 represents to Defendants and the Released Parties that (a) Plaintiff has not previously

20 assigned any Released Claim, and (b) Plaintiff has the right, ability and power to release

21 each Released Claim.

22 4.5 No Further Force and Effect. Plaintiff and Defendants hereby request

23 that this Court enter judgment pursuant to this Consent Judgment. In connection therewith,

24 Plaintiff and Defendants waive their right, if any, to a hearing with respect to the entry of

25 said judgment.

26 **5. RESTITUTION AND RELIEF**

27 5.1 Defendants' Payment in Lieu of Civil Penalties. Within 10 days

28 following the latter of (i) entry of a final judgment, including any and all appeals, approving



I this Consent Judgment and (ii) entry of a final judgment, including any and all appeals,  
2 either dismissing the CAG lawsuit as against all Defendants and/or entering a judgment in  
3 favor of all Defendants in the CAG lawsuit, Defendants shall pay to Plaintiff, which is  
4 incorporated for the purpose of furthering environmental causes, the sum of \$2,500.00.

5 Payment shall be made to "Consumer Advocacy Group, Inc."

6 5.2 Consumer Advocacy Group, Inc. will use the payment for such projects  
7 and purposes related to environmental protection, worker health and safety, or reduction of  
8 human exposure to hazardous substances (including administrative and litigation costs  
9 arising from such projects), as CAG may choose. If CAG seeks reimbursement of any  
10 incurred administrative costs in investigating, prosecuting, settling, and/or enforcing of this  
11 matter, CAG would disclose to the Court such costs.

12 5.3 Plaintiffs Representations. Plaintiff expressly represents and warrants  
13 that it is incorporated for the specific purposes of (a) protecting and educating the public as  
14 to dangerous and harmful products and activities, (b) encouraging members of the public to  
15 become involved in issues effecting the environ ment and the enforcement of environmental  
16 statutes and regulations including, but not limited to, Proposition 65 and (c) instituting  
17 litigation to enforce the provisions of Proposition 65.

## 18 **6. ATTORNEY'S FEES AND COSTS**

19 6.1 PayMent to Yeroushalmi & Associates. In an effort to defray CAG's  
20 expert fees and costs, costs of investigation, attorney's fees, or other costs incurred relating  
21 to this matter, Defendants shall pay to the firm of Yeroushalmi & Associates the sum of  
22 \$22,500.00. This amount shall be paid within ten (10) days following the latter of (i) entry  
23 of a final judgment, including any and all appeals, approving this Consent Judgment and (ii)

24 entry of a final judgment, including any and all appeals, either dismissing the CAG lawsuit  
25 as against all Defendants and/or entering a judgment in favor of all Defendants in the CAG  
26 lawsuit.

27 7. **PRECLUSIVE EFFECT OF CONSENT JUDGMENT**

28 7.1 Entry of Judgment. Entry of judgment by the Court pursuant to this

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[PROPOSED] STIPULATED CONSENT JUDGMENT

1 Consent Judgment, *inter alia*:  
2 (i) Constitutes full and fair adjudication of all claims against Defendants,  
3 including, but not limited to, all claims set forth in the CAG lawsuit, based upon alleged  
4 violations of Proposition 65 and the Unfair Competition Act, as well as any other statute,  
5 provision of common law or any theory or issue which arose from the alleged failure to  
6 provide warning of exposure to tobacco products, tobacco smoke and secondhand tobacco  
7 smoke (and their constituent chemicals), which may be present on the Covered Properties  
8 identified in Exhibit A and referred to in paragraph 1.5 and which are known to the State of  
9 California to cause cancer and/or birth defects or other reproductive harm; and  
10 (ii) Bars any and all other persons, on the basis of *resjudicata*, the doctrine  
11 of mootness and/or the doctrine of collateral estoppel from prosecuting against any Released  
12 Party any claim with respect to the Noticed Chemicals alleged in the CAG lawsuit, based  
13 upon alleged violations of (a) Proposition 65, (b) the Unfair Competition Act which arose or  
14 arises from the alleged failure to provide warning of exposure to tobacco products, tobacco  
15 smoke and secondhand tobacco smoke (and their constituent chemicals), which may be  
16 present on the Covered Properties identified in Exhibit A and referred to in paragraph 1.5  
17 and Exhibit B and which are known to the State of California to cause cancer and/or birth  
18 defects or other reproductive harm.

19 **S. DISPUTES UNDER THE CONSENT JUDGMENT**

20 8.1 Disputes. In the event that a dispute arises with respect to either party's  
21 compliance with the terms of this Consent Judgment, the Parties shall meet, either in person  
22 or by telephone, and endeavor to resolve the dispute in an amicable manner. No action may  
23 be taken to enforce the provisions of the Judgment in the absence of such a good faith effort  
24 to resolve the dispute prior to the taking of such action. In the event that legal proceedings  
25 are initiated to enforce the provisions of the Judgment, however, the prevailing party in such  
26 proceeding may seek to recover its costs and reasonable attorney's fees. As used in the  
27 preceding sentence, the term "Prevailing party" means a party who is successful in obtaining  
28 relief more favorable to it than the relief that the other party was amenable to providing

[PROPOSED] STIPULATED CONSENT JUDGMENT

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or to such other place as may from time to time be specified in a notice to each of the Parties hereto given pursuant to this paragraph as the address for service of notice on such party.

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**INTEGRATION**

10.1 Integrated Writing. This Consent Judgment constitutes the final and complete agreement of the Parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous negotiations, promises, covenants, agreements or representations concerning any matters directly, indirectly or collaterally related to the subject matter of this Consent Judgment. The Parties hereto have expressly and intentionally included in this Consent, Judgment all collateral or additional agreements which may, in any manner, touch or relate to any of the subject matter of this Consent Judgment and, therefore, all promises, covenants and agreements, collateral or otherwise, are included herein and therein. It is the intention of the parties to this Consent Judgment that it shall constitute an integration of all their agreements, and each understands that in the event of any subsequent litigation, controversy or dispute concerning any of its terms, conditions or provisions, no party hereto shall be permitted to offer or introduce any oral or extrinsic evidence concerning any other collateral or oral agreement between the Parties not included herein.

11. **TIMING**

11.1 Time of Essence. Time is of the essence in the performance of the terms hereof.

12. **COMPLIANCE WITH REPORTING REQUIREMENTS**

12.1 Reporting Forms; Presentation to Attorney General. The Parties agree to comply with the reporting form requirements referenced in Health & Safety Code §25249.7(f). Pursuant to the regulations promulgated under Health & Safety Code §25249.7(f), Plaintiff presented this Consent Judgment to the California Attorney General's office upon receiving all necessary signatures. It was then presented to the Superior Court for the County of Los Angeles.

13. **COUNTERPARTS**

13.1 Counterparts. This Consent Judgment may be signed in counterparts 12

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1 and shall be binding upon the Parties hereto as if all of said Parties executed the original  
2 hereof.

3 **14. WAIVER**

4 14.1 No Waiver. No waiver by any party hereto of any provision hereof  
5 shall be deemed to be a waiver of any other provision hereof or of any subsequent breach of  
6 the same or any other provision hereof.

7 **15. AMENDMENT**

8 15.1 In Writing. This Consent Judgment cannot be amended or modified  
9 except by a writing executed by the Parties hereto that expresses, by its terms, an intention to  
10 modify this Consent Judgment.

11 **16. SUCCESSORS**

12 16.1 Binding UDon Successors. This Consent Judgment shall be binding  
13 upon and inure to the benefit of, and be enforceable by, the Parties hereto and their  
14 respective administrators, trustees, executors, personal representatives, successors and  
15 permitted assigns.

16 **17. CHOICE OF LAWS**

17 17.1 California Law Applies. Any dispute regarding the interpretation of this  
18 Consent Judgment, the performance of the Parties pursuant to the terms of this Consent  
19 Judgment, or the damages accruing to a party by reason of any breach of this Consent  
20 Judgment shall be determined under the laws of the State of California, without reference to  
21 principles of choice of laws.

22 **18. NO ADMISSIONS**

23 18.1 Settlement Cannot Be Used as Evidence. This Consent Judgment has  
24 been reached by the Parties to avoid the costs of prolonged litigation. By entering into this  
25 Consent Judgment, neither Plaintiff nor Defendants admit any issue of fact or law, including

26 any violations of Proposition 65 or the Unfair Competition Act. The settlement of claims  
27 herein shall not be deemed to be an admission or concession of liability or culpability by any  
28 party, at any time, for any purpose. Neither this Consent Judgment, nor any document

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I referred to herein, nor any action taken to carry out this Consent Judgment, shall be  
2 construed as giving rise to any presumption or inference of admission or concession by  
3 Defendants as to any fault, wrongdoing or liability whatsoever. Neither this Consent  
4 Judgment, nor any of its terms or provisions, nor any of the negotiations or other proceedings  
5 connected with it, nor any other action taken to carry out this Consent Judgment, by any of  
6 the Parties hereto, shall be referred to, offered as evidence, or received in evidence in any  
7 pending or future civil, criminal or administrative action or proceeding, except in a  
8 proceeding to enforce this Consent Judgment, to defend against the assertion of the Released  
9 Claims or as otherwise required by law.

#### 10 19. REPRESENTATION

11 19.1 Construction of Consent Judgment. Plaintiff and Defendants each  
12 acknowledge and warrant that they have been represented by independent counsel of their  
13 own selection in connection with the prosecution and defense of the CAG lawsuit, the  
14 negotiations leading to this Consent Judgment and the drafting of this Consent Judgment;  
15 and that in interpreting this Consent Judgment, the terms of this Consent Judgment will not  
16 be construed either in favor of or against any party hereto.

#### 17 20. AUTHORIZATION

18 20.1 Authority to Enter Consent Judgment. Each of the signatories hereto  
19 certifies that he or she is authorized by the party he or she represents to enter into this  
20 Consent Judgment, to stipulate to the Judgment, and to execute and approve the Judgment on  
21 behalf of the party represented.

22 DATED: 2006

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DATED: 1/11/2006

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Approved as to form:

DATED: 1 ~ , 2006

DATED: 2006

SOFITEL NORTH AMERICA CORP.; LOS ANGELES MAISON, INC.; FRENCH REDWOOD, INC.; ACCOR NORTH AMERICA, INC.; and ACCOR BUSINESS AND LEISURE NORTH AMERICA, INC.

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`~ "AXp J. inowitz

Authorized Representive P,

ACCOR NORTH ERICA, INC.

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Authorized RepresegAtive

YERO ASSOCIATES -

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Reuben Yerous halmi

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Kurt Weissmuller

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IT IS SO ORDERED.

DATED:

Superior Court Judge



EXHIBIT A

- 2 List of Covered Properties
- 3
- 1 Sofitel - San Francisco Bay 4 223 Twin Dolphin Drive
- 5 Redwood City, CA 94065
2. Sofitel Los Angeles - Beverly Hills 6 8555 Beverly Boulevard

Los Angeles, CA 90048

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[PROPOSED] STIPULATED CONS

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EXHIBIT B  
60-Day Notice

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[PROPOSED] STIPULATED CONSENT JUDGMENT

First Amended 60-Day Notice of Intent to Sue Under Flenith & Safery Code Section 25249.6

This notice is given by Consumer Cause, Inc. PO Box 7-52143, Los Angeles, CA 90025. The noticinz parr~ must be contacted through the following enciry: Afor-s~ Liffibrbanj Esq., and/or Kjrnrar Gbalchi, Esq.; INEEHJUAIN & GHLLCM 3700 Wilshire Slvd. Ste. 430 Los Angeles CA 90010; 213

332-3133. This lecterconsti cures norl Ficacion cha . 71-. "M o rp.

(hereinafter, ""the violators-\*) have violated Proposition ~5c 11,T-01-rinkinL7 Water and I oxic EnforcementAcc (commencing -irh Health d' Safd-,- Code Sdc,ion 25:49.3). Consumer Product Exposures

While in the course of doing business. from 9/10/94 chrou-zh 614199. the violators have been and are knoNvIn21v and incericionally selling c:qars ac:

3-; 8t:yerlv Blvd- Los A CA 9004,~  
223 Twin Dolphin Dr., Redwood Cir~. CA 04065

and e.xposing consumers and the publi;c cc robucco smnke and ocher chemicals.desiumared byjbe State of California to cause cancer . and reproducrive coXIC117-y IVIChOLI t.ir:,, III,-, -kzu Und reasonable %"Urminu, of chac.fac. cc such persons t Healch - ~\_ Safer.-\_ Code Set:~Ion The sourcts of exposures are cicrar5. A "consumer product exposurc is an exposure which reSUICS (rom a perscn~s acquisic:on.

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Environmental E:cpo5urLs

While in che -course of doing business. at:

Beveriv Blvd\_ Los Angeles, CA 90043

223 Twin Dolphin Dr., Redwood Cirv, CA 9-4065

from 9110194 through 6/4/99, the violators ha,..e bet-n and are knowingly and inentionally\*dxposirig their customers and che public to robacco and tobacco smoke and ocher chemicals listed below and designated by the Scare of California to cause cancer and reproductive coxicit-Y wichour first giving clear and reasonable warning of that fact co che exposed persons (Health & Safety Code Section 25-149.6). The locations of che exposures are the lobbies. smoking rooms.and guest rooms designated for smoking at:

8555 Beverly Blvd., Los AnEeles, CA.90043

223 Twin Dolphin Dr., Redwood Cirv, CA 94065

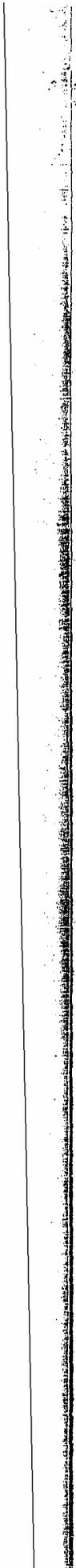
Occupational Exposures

While in the course ofdoing business, from 9110194 through 6/4/99, the violators have been and are knowingly and intentionally exposing employees ofche violators in the lobbies. smoking rooms, and auest rooms designated for smoking at:

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Prop 65 Scrice

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3555 Be-erfy Blvd., Los Ancreles, CA 90043  
223 Twin Dolphin Dr., Redwood Cit-Y, CA 9406:5

Employets include but are nor limited to bar-renders, cashiers, maids, waiters, security personnel, rriaincenance workers, service personnel, and en.rerrainment providers.

Tlie route of exposure for Consumer Product Exposures. Occupational ExpOSILres and Environmental Exposures to the chemicals listed below, has been in tLzllarvin. inLzescion and dermal concacr. For ezich such type and means OCCXPOSLe, rhe violacors nave c.-posea and are axPOS11712 Lile above referenced persons co:

CARCLNOGENS

A --ecaldehyde

Ace-'arrilde

(4-.Aminodiphenvi  
i OrTho-A.nisidine  
i Senzfalanchracene  
Senzo(b1fluoranchene

Aniline  
Arsenic (mor\*2anic arsenic comcounds)  
Benzene  
Senzol"

jlflooranchene

.S.cnzo(k-]fluoranrhene.  
1,"-Busadiene  
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C.11 r-, sen e

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Cadmium  
Chromium ( ht.%avalenc comr:nunds)  
Dic.~lorodiphen%-Itriciilorocilizint: DDT)

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I DlbenzfzLhlanthrac~ne  
Dibenzora.elpvverie

Dibenz(::i.hjacridine  
7H-Qibenzo(c.g-]carbazole

Oibenz(a.jjacridine

I D.1berizofa-ilpyrene

Dibe-rizo[a.11pyrene

1.  
H~,draz.ine  
I -Nachchviamine

1'. 1 -Dimechvlhvdrazine (UDNIE)  
1  
2-N'aohchVfaMine

1 Formaldehyde ('gas)  
Lead and lead-corntiounds

Nickel and certain nickel compounds

i 2 -N,i crop ropane

N-Mirosodi-n-burviamine

N-Mirosodierhanolamine

N-N-icrosodlechviamine

N-N. icrosomech-. lethv lam ine

N-N-irrosmor-pholine  
N-Nitrosooeridine  
OrTho-Toluidine  
Urechane (Erhyl carbamare)

N-Nirrosonomicocine  
I NN-NNii.rosopvrrolidine  
I Tobacco Smoke

. R.F-FRODUC-rn-E-TOXLN~ '

Arsenic (inor2anic O-Ides)	I Cadmium
Carbon disulfide	Carbon monoxide
Lead	Nicotine
Toluene	Tobacco Smoke
J~ Urethane	

Proposition 65 requires that notice and intent to sue be given to the violators 66 days before the suit is filed. With this lener. Coasurner Cause, IDC. gives nocice.z3f the allezed violations to the violators

**DECO014**

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Acrylonitrile

4-Aminobiphenyl

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Page 3

and (he appropriate awerrimental authorities. This nurice covers all violations of Proposition 65 char ax currently known cc Consumer Cause, Inc. from inror-marion now a-yailable to it. With the **copy** of this notice submicred to the violators, a copy is provided of *The Safe DrinIcing Water and Toxic Enforcern nt 1986 (?roposirion 65): A Summary.*

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Dared:

NaHRBAN & CHALCHI

Kamral Ghal~rii,-fsq7  
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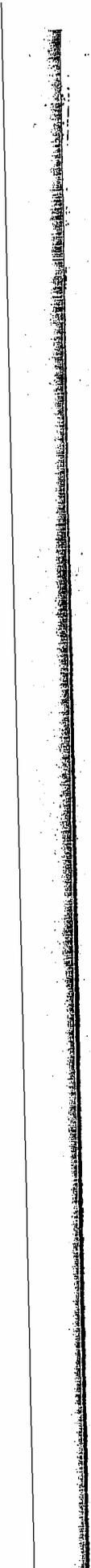
an, Esq.  
Consumer Cause. Inc.

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DECO015



CERTIFICATE OF SERVICE

I am over the age of 13 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3700 Wilshire Blvd., Suite 480, Los Angeles, CA 90010. I served the Following,

1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6

under the Safe Drinking Water and Toxic Enforcement Act of 1936 (Proposition 65): A Summary

The Safe Drinking

(Notice Sent to Violators)

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name

and address is shown below and depositing the envelope in the United States mail with the postage prepaid.

Date of Mailing:

Place of Mailing: Los Angeles, CA

John Lehoclev

Acco  
Park Ave.

of North American Corp.

New York, NY

John  
Humluficel

M. Beverly Blvd.

Los Angeles, CA 90044

John L. Hodey  
**Hotel** Satizel

23 Twin Dolphin Dr.

Redwood City, CA 94065

California  
PO Box 9442-11  
Sacramento CA 95844-2170

General

Los Angeles City Attorney  
200 N. Main St., Suite 1300  
Los Angeles, CA 90012

Los Angeles County District Attorney  
10 W. Temple St., 13th Floor  
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature is true and

Dated: 6, - 9 - ~ ~

C.

Gregory *Lewis*

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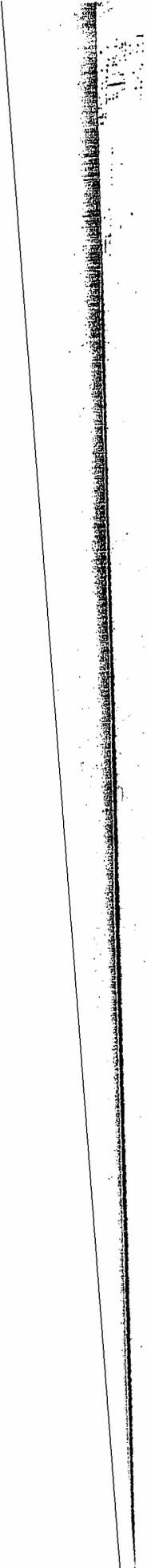
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ance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 15249.3 through 15249.12. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 18000 through 18000.

**WHAT DOES PROPOSITION 65 REQUIRE?**

The "Government's List" Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 350 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving these chemicals must comply with the following:

**Clear and reasonable warnings.** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

environmental effect

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permit requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no discernible effect" test if an individual were exposed to such an amount of drinking water.

**HOW IS PROPOSITION 65 ENFORCED?**

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city at-

may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified

A private party may not pursue an enforcement action directly under

ter systems, are exempt.

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