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20 Attorneys for Plaintiff
21 Russell Brimer

22
23 SUPERIOR COURT OF THE STATE OF CALIFORNIA
24 COUNTY OF SAN FRANCISCO
25 UNLIMITED JURISDICTION
26

27 RUSSELL BRIMER,
28
29 Plaintiff,
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31 v.
32
33 THE BOELTER COMPANIES, et al.,
34
35 Defendants.

Case No. CGC-05-440811

**STIPULATION FOR ENTRY OF
JUDGMENT**

1 1. The following constitutes the knowing and voluntary election and stipulation of the
2 entity named below ("Company" or "Opt-In Defendant") to join as a Settling Defendant under
3 the Consent Judgment previously entered by the Court in *Brimer v. The Boelter Companies,*
4 *Inc.*, San Francisco Superior Court Case No. CGC 05 -440811 ("Action") and to be bound by
5 the terms of that Consent Judgment.

6 2. At any time during the one-year period prior to the filing of this Stipulation
7 ("Relevant Period"), the Company has employed ten (10) or more part-time or full-time
8 persons and has manufactured, distributed, offered for use or sold one or more items in each of
9 the following categories of Covered Products, as defined in the Consent Judgment (section 1.4)
10 (check all that apply):

- 11 **Glassware Food/Beverage Products** ("Category A Products")
12 **Glassware Non-Food/Beverage Products** ("Category C Products")
13 **Ceramicware Food/Beverage Products** ("Category B Products")
14 **Ceramicware Non-Food/Beverage Products** ("Category D Products")

15 3. The categories of products identified above are hereafter designated "Covered
16 Products" in the Action with respect to the Company.

17 4. At least one of the items in each of the categories checked above did not during the
18 Relevant Period or does not currently meet the Reformulation Standards set forth for that
19 category of Covered Products in section 2.3 of the Consent Judgment. The Company has not
20 provided compliant Proposition 65 warnings in conjunction with the sale or use of all such
21 Covered Products in California at all times during the Relevant Period.

22 5. The Company has not conducted a risk or exposure assessment for all Covered
23 Products within each separate category checked above firmly establishing that the use of such
24 Covered Products will result in an exposure in an amount less than that deemed permissible in
25 22 Cal. Code Regs. §12805(b) (i.e., less than 0.5 micrograms of lead per day and/or less than
26 4.1 micrograms of cadmium per day).

1 6. To the extent the Consent Judgment applies to the categories of Covered Products
2 checked above, the Company agrees to be bound by the injunctive relief provisions of the
3 Consent Judgment as it relates to each such category of Covered Products.

4 7. In conjunction with the execution of this Stipulation, the Company has provided the
5 payments applicable to it as set forth in Table 14.4 of the Consent Judgment in the manner
6 described in Exhibit E to the Consent Judgment. In this regard, the Company hereby
7 represents and warrants that under the criteria set forth in subsections 14.4(a), (b), and (c) of
8 the Consent Judgment, with respect to the Covered Products applicable to it pursuant to the
9 categories checked in Paragraph 2 of this Stipulation, it is a (check only one)¹:

- 10 **(a) Manufacturer** with combined sales in California of less than 350,000
11 consumer units in calendar year 2004
- 12 **(a.1) Low Volume Manufacturer** with combined sales in California of less
13 than 10,000 consumer units in calendar year 2004
- 14 **(b) Distributor and/or Importer** with combined sales in California of less than
15 350,000 consumer units in calendar year 2004
- 16 **(b.1) Low Volume Distributor and/or Importer** with combined sales in
17 California of less than 10,000 consumer units in calendar year 2004
- 18 **(c) Retailer and/or Amusement & Recreation Establishment**
- 19 **(d) Bar, Restaurant, Hotel, or Other Food/Beverage Service Defendant**
- 20 **(e) Opt-In Defendant with De Minimus Sales**, i.e., combined sales in
21 California of less than 500 consumer units in calendar year 2004 (attach to this
22 Stipulation a list of the names of all product lines (by narrative description and,
23
24

25 ¹ Any entity which has conducted activities which comprise more than one of the
26 categories of business listed in (a)-(d) below shall be deemed to be a Manufacturer if 15% or
27 more of its sales of Covered Products in California were the result of its Manufacturing of
28 Covered Products; any entity otherwise in categories (c) or (d) shall be deemed to be a
Distributor/Importer if 15% or more of its sales of Covered Products in California were the result
of its Distributing/Importing of Covered Products.

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where available, UPC code) comprising these consumer units of Covered Products).

8. At least 65 days prior to the submissions of this Stipulation to the Court for entry, provided that it has been mailed to the address shown in Exhibit C attached hereto, the Company agrees to be deemed to have accepted service of a 60-day notice letter from Russell Brimer ("Brimer") alleging certain violations of Proposition 65 with respect to sales of the Covered Products identified herein.

9. The Company hereby stipulates to be deemed to have voluntarily accepted service of the summons and complaint in this Action upon the filing of this Stipulation and agrees to be subject to the jurisdiction of the Court for purposes of the Consent Judgment.


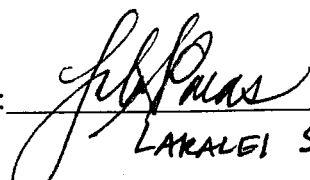
10. Future notices concerning this Stipulation and the Consent Judgment shall be provided to the Company at the address shown in Exhibit C as attached hereto. If the Company desires to change the individual and/or address designated to receive notice on its behalf, the Company shall provide notice to Brimer and Boelter's counsel at the addresses for them listed in Exhibit C to the Consent Judgment.

11. The undersigned have read, and the person and/or entity named below knowingly and voluntarily agree to be bound by, all terms and conditions of this Stipulation and the Consent Judgment as previously approved and entered by the San Francisco County Superior Court in this Action.

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1 12. The undersigned have full authority to make the written representations above
2 and to enter into this Stipulation for the person/entity on behalf of which he/she is signing.

3 IT IS HEREBY STIPULATED AND AGREED TO:

4
5 By:  By: 
6 (signature) LARALEI S. PARAS

On Behalf of Plaintiff Russell Brimer

7
8 TONIKO
9 Name (printed/typed)
10 President
11 Title (printed/typed)

12 On Behalf of:
13 NYX, Los Angeles Inc
14 (Insert Company Name)

15 Opt-In Defendant

16 Dated: 12/23/05 Dated: 2/6/06

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Bar Code Numbers

Nail Polish

(Item # NP)

Item Number	Description	Bar Code Number
NP118	Sheer Lavender	800897-11109
NP119	Sheer Cotton Candy	800897-111106
NP120	Sheer Cream Frost	800897-111113
NP121	Sheer Shell	800897-111120
NP122	Sheer Nude	800897-111137
NP123	Sheer White Cream	800897-111144
NP124	Sheer Pink	800897-111151
NP125	Cancun Pink	800897-111168
NP126	Ultimate Deep Red	800897-111175
NP127	NYX	800897-111182
NP128	Orange	800897-111199
NP129	Hot Pink	800897-111205
NP130	Midnight Dream	800897-111212
NP01	Carnation	800897-111229
NP02	Ocean	800897-111236
NP03	Sweetie	800897-111243
NP04	Maroon	800897-111250
NP05	Pretty	800897-111267
NP06	Shandora	800897-111274
NP07	Red Pearl	800897-111281
NP08	Princess	800897-111298
NP09	Titanic	800897-111304
NP10	Ice Queen	800897-111311
NP11	Snow White	800897-111328

NP12	Margarita	800897-111335
NP13	Salsa	800897-111342
NP14	Lavender	800897-111359
NP15	Silver Plum	800897-111366
NP16	Gold	800897-111373
NP17	French Nude	800897-111380
NP18	Sheer White Frost	800897-111397
NP19	Angel	800897-111403
NP20	Foxy	800897-111410
NP21	Flash	800897-111427
NP22	Antique	800897-111434
NP23	Dream	800897-111441
NP24	Vamp	800897-111458
NP25	French White	800897-111465
NP26	Silver	800897-111472
NP27	Black	800897-111489
NP28	Clear	800897-111496
NP29	White	800897-111502
NP30	Jungle	800897-111519
NP31	Graffiti	800897-111526
NP32	South Sea	800897-111533
NP33	Hawaii	800897-111540
NP34	Wild	800897-111557
NP35	Apple	800897-111564
NP36	Shapiro	800897-111571
NP37	Pink Avenue	800897-111588
NP38	Peach Avenue	800897-111595
NP39	Purple Avenue	800897-111601
NP40	Blue Avenue	800897-111618
NP41	Annie	800897-111625
NP42	Red Red	800897-111632
NP43	Natural	800897-111649

NP44	Sorbet	800897-111656
NP45	Express	800897-111663
NP46	French Basic	800897-111670
NP47	Le Prive	800897-111687
NP48	Velfarre	800897-111694
NP49	Mango Café	800897-111700
NP50	Vitamin C	800897-111717
NP51	Karnak	800897-111724
NP52	Mega	800897-111731
NP53	Yuppies	800897-111748
NP54	Luzie	800897-111755
NP55	Rockin Robin	800897-111762
NP56	Sparks	800897-111779
NP57	Komma	800897-111786
NP58	Amazon	800897-111793
NP59	Lingerie	800897-111809
NP60	Juliana	800897-111816
NP61	Soft Sparkle	800897-111823
NP62	Gold Sparkle	800897-111830
NP63	Silver Blue	800897-111847
NP64	Sime Sparkle	800897-111854
NP65	Asphalt	800897-111861
NP66	Crystal	800897-111878
NP67	Silver Sparkle	800897-111885
NP68	Rainbow Sparkle	800897-111892
NP69	Frost White	800897-111908
NP70	Chestnut	800897-111915
NP71	Antique Sparkle	800897-111922
NP72	Africa	800897-111939
NP73	Lime	800897-111946
NP74	Cloud9	800897-111953
NP75	Roasted	800897-111960

NP76	Flame	800897-111977
NP77	Walnut Frost	800897-111984
NP78	Bronze	800897-111991
NP79	Voodoo	800897-112004
NP80	Grilled	800897-112011
NP81	Flamingo	800897-112028
NP82	French Oui	800897-112035
NP83	Blood	800897-112042
NP84	Dancing Queen	800897-112059
NP85	Strawberry	800897-112066
NP86	Secret	800897-112073
NP87	Juliette	800897-112080
NP88	Capuccino	800897-112097
NP89	French Touch	800897-112103
NP90	Hearth	800897-112110
NP91	Café Au Lait	800897-112127
NP92	Garnet	800897-112134
NP93	Iced Coffee	800897-112141
NP94	Dark Cherry	800897-112158
NP95	Champagne	800897-112165
NP96	Las Vegas	800897-112172
NP97	Nail Hardener	800897-112189
NP98	Nail Thickener	800897-112196
NP99	Top Coat	800897-112202
NP100	Cuticle Oil	800897-112219
NP101	Jillian	800897-112226
NP102	Sunset Boulevard	800897-112233
NP103	Carol	800897-112240
NP104	Orchid	800897-112257
NP105	Sue	800897-112264
NP106	Barbie Pink	800897-112271
NP107	Meeso	800897-112288

NP108	Aroma	800897-112295
NP109	Techno	800897-112301
NP110	Desert Rose	800897-112318
NP111	Shell	800897-112325
NP112	Love Letter	800897-112332
NP113	Shy	800897-112349
NP114	Jewel	800897-112356
NP115	Red Glitter	800897-112363
NP116	Dark Red Glitter	800897-112370
NP117	Whisper	800897-112387
NP131	Penny	800897-112394
NP132	Treasure	800897-112400
NP133	Hannah	800897-112417
NP134	Christine	800897-112424
NP135	Elaine	800897-112438
NP136	Fire	800897-112445
NP137	Sunshine	800897-112452
NP138	Pearl	800897-112469
NP139	Paradise	800897-112476
NP140	Laura	800897-112483
NP141	Aurora	800897-112499
NP142	Thaitian	800897-112506
NP143	Sun Rise	800897-112513
NP144	Thunder	800897-112526
NP145	Oyster	800897-119676

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EXHIBIT C (Supplement)
Contact Information for Purposes of Future Notice

Opt-In Party Name: NYX US Angeles Inc

Contact Person: TONI KO

Mailing address: 2230 S. Tubeway Avenue
Los Angeles CA 90040

Telephone: 323 869 9420

Fax number: 323 869 9430

Email address: toni@nyxcosmetics.com