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5 Attorneys for Plaintiff  
6 RUSSELL BRIMER

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9 Los Angeles, California 90071-2007  
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11 Attorneys for Defendant  
DELIVERY AGENT, INC.

12  
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 FOR THE CITY AND COUNTY OF SAN FRANCISCO  
15 UNLIMITED CIVIL JURISDICTION  
16

17 RUSSELL BRIMER

18 Plaintiff,

19 v.

20 DELIVERY AGENT, INC.; and DOES 1  
through 150, inclusive,

21 Defendants.  
22

CASE NO. CGC-05-447546

**STIPULATION AND [PROPOSED] ORDER  
RE: CONSENT JUDGMENT**

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1 **1. INTRODUCTION**

2 **1.1 Russell Brimer And Delivery Agent, Inc.**

3 This Consent Judgment is entered into by and between plaintiff Russell Brimer  
4 (hereinafter “Brimer” or “Plaintiff”) and defendant Delivery Agent, Inc., (hereafter “Delivery  
5 Agent” or “Defendant”), with Brimer and Delivery Agent collectively referred to as the  
6 “Parties.”

7 **1.2 Plaintiff**

8 Brimer is an individual residing in California who seeks to promote awareness of  
9 exposures to toxic chemicals and improve human health by reducing or eliminating hazardous  
10 substances contained in consumer products.

11 **1.3 Defendant**

12 Delivery Agent is a corporation that currently employs 10 or more persons and is a  
13 person in the course of doing business in the State of California, as that term is defined in  
14 California Health & Safety Code §§ 25249.5, et seq. (“Proposition 65”).

15 **1.4 General Allegations**

16 Brimer alleges that Delivery Agent has manufactured, distributed, and/or sold in the State  
17 of California certain mugs and other ceramic containers intended for the consumption of food or  
18 beverages with colored artwork or designs on the exterior containing lead and/or cadmium. Lead  
19 and cadmium are listed pursuant to Proposition 65, as a chemical known to the State of  
20 California to cause birth defects and other reproductive harm. Lead and cadmium shall be  
21 referred to herein as the “Listed Chemicals.”

22 **1.5 Product Description**

23 The products that are covered by this Consent Judgment are defined as follows: mugs and  
24 other ceramic containers intended for the consumption of food or beverages with colored artwork  
25 or designs on the exterior including, but not limited to, the ceramic products identified in Exhibit  
26 A to this Consent Judgment. All such mugs and other ceramic containers intended for the  
27 consumption of food or beverages with colored artwork or designs on the exterior shall be  
28 referred to herein as the “Products.”

1           **1.6 Notices of Violation**

2           On or about September 27, 2005, Brimer served Delivery Agent and various public  
3 enforcement agencies with a document entitled “60-Day Notice of Violation” (the “Notice”) that  
4 provided Delivery Agent and such public enforcers with notice that alleged that Delivery Agent  
5 was in violation of California Health & Safety Code §25249.6 for failing to warn consumers and  
6 customers that Products sold by Delivery Agent exposed users in California to the Listed  
7 Chemicals.

8           **1.7 Complaint**

9           On December 12, 2005, Brimer, who is acting in the interest of the general public in  
10 California, filed a complaint (hereafter referred to as the “Complaint” or the “Action”) in the  
11 Superior Court of the City and County of San Francisco against Delivery Agent, Inc. and Does 1  
12 through 150, (Brimer v. Delivery Agent, Inc., CGC-05-447546) alleging violations of Health &  
13 Safety Code §25249.6 based on the alleged exposures to the Listed Chemicals contained in the  
14 Products sold by Delivery Agent.

15           **1.8 No Admission**

16           Delivery Agent denies the material factual and legal allegations contained in Brimer’s  
17 Notice and Complaint and maintains that all products that it has sold and distributed in  
18 California, including the Products, have been and are in compliance with all laws. Nothing in  
19 this Consent Judgment shall be construed as an admission by Delivery Agent of any fact,  
20 finding, issue of law, or violation of law, nor shall compliance with this Consent Judgment  
21 constitute or be construed as an admission by Delivery Agent of any fact, finding, conclusion,  
22 issue of law or violation of law, such being specifically denied by Delivery Agent. However,  
23 this Section shall not diminish or otherwise affect the obligations, responsibilities and duties of  
24 Delivery Agent under this Consent Judgment.

25           **1.9 Consent to Jurisdiction**

26           For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
27 jurisdiction over Delivery Agent as to the allegations contained in the Complaint, that venue is  
28 proper in the County of San Francisco and that this Court has jurisdiction to enter and enforce

1 the provisions of this Consent Judgment.

2 **1.10 Effective Date**

3 For purposes of this Consent Judgment, the term "Effective Date" shall mean December  
4 15, 2006.

5 **2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

6 **2.1** After the Effective Date, Delivery Agent shall not sell, ship or offer to be shipped  
7 for sale in California Products containing the Listed Chemicals unless such Products are sold or  
8 shipped with the clear and reasonable warnings set out in Section 2.2 or comply with the  
9 Reformulation Standards set forth in Section 2.3.

10 Any warning issued for Products pursuant to Section 2.2 below shall be prominently  
11 placed with such conspicuousness as compared with other words, statements, designs, or devices  
12 as to render it likely to be read and understood by an ordinary individual under customary  
13 conditions either before purchase or use, depending on the manner of sale as defined therein.

14 **2.2 Product Warnings**

15 **2.2.1** Clear and Reasonable Warnings. This Section describes Delivery Agent's  
16 options for satisfying the warning obligations required by Section 2.1, depending on the manner  
17 of sale:

18 (a) Retail Store Sales

19 (i) **Product Labeling.** From the Effective Date, a warning  
20 will be affixed to the packaging, labeling or directly on the Product by Delivery Agent or its  
21 agent, that states:

22 **WARNING:** The colored artwork or designs used on this  
23 product contains lead and/or cadmium, a  
24 chemical known to the State of California to  
cause birth defects and other reproductive  
harm.

25 (ii) **Point-of-Sale Warnings.** Delivery Agent may perform  
26 its warning obligations by insuring to the greatest extent possible that signs are posted at retail  
27 outlets in the State of California where the Products are sold. Delivery Agent must receive a  
28 written commitment from each retailer to whom Delivery Agent sells Products directly that it

1 will post the warning signs. Point-of-sale warnings shall be provided through one or more signs  
2 posted in close proximity to the point of display of the Products that state:

3                   **WARNING:** The colored artwork or designs used on this  
4                                   product contains lead and/or cadmium, a  
5                                   chemical known to the State of California to  
                                  cause birth defects and other reproductive  
                                  harm.

6                   A point-of-sale warning shall be provided in a manner such that the consumer  
7 understands to which specific Products the warning applies.

8                                   **(b) Mail Order Catalog and Internet Sales.** Defendant shall  
9 satisfy its warning obligations for Products that are sold by mail order catalog or from the  
10 internet to California residents, by providing a warning: (a) in the mail order catalog and/or on  
11 the website; or (b) with the Product when it is shipped to an address in California. Warnings  
12 given in the mail order catalog or on the website shall identify the specific Product to which the  
13 warning applies as further specified in Sections 2.2.1(b)(i), (ii) and/or (iii) as applicable:

14   **(i) Mail Order Catalog.** Any warning provided in a mail  
15 order catalog must be in the same type size or larger as the product description text within the  
16 catalog. The following warning shall be provided on the same page and in the same location as  
17 the display and/or description of the Product:

18                   **WARNING:** The colored artwork or designs used on this  
19                                   product contains lead and/or cadmium, a  
20                                   chemical known to the State of California to  
                                  cause birth defects and other reproductive  
                                  harm.

21  
22 Where it is impracticable to provide the warning on the same page and in the same location as  
23 the display and/or description of the Product, Delivery Agent may utilize a designated symbol to  
24 cross reference the applicable warning (“Designated Symbol”) and shall provide the following  
25 language on the inside of the front cover of the catalog or on the same page as any order form for  
26 the Product(s):

27                   **WARNING:** The colored artwork or designs used on  
28                                   certain products identified with this symbol  
                                  –and offered for sale in this catalog contain

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lead and/or cadmium, a chemical known to the State of California to cause birth defects and other reproductive harm.

The Designated Symbol (shown on Exhibit A attached hereto) must appear on the same page and in close proximity to the display and/or description of the Product. On each page where the Designated Symbol appears, Delivery Agent must provide a header or footer directing the consumer to the warning language and definition of the Designated Symbol.

If Defendant elects to provide warnings in the mail order catalog, then the warnings must be included in all catalogs offering to sell one or more Products printed after the Effective Date.

**(ii) Internet Web Sites and Pages.** A warning may be given in conjunction with the sale of the Product via the internet, provided it appears either: (a) on the same web page on which the Product is displayed; (b) on the same web page as the order form for the Product; (c) on the same page as the price for any Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The following warning statement shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Product for which it is given in the same type size or larger as the product description text:

**WARNING:** The colored artwork or designs used on this product contains lead and/or cadmium, a chemical known to the State of California to cause birth defects and other reproductive harm.

Alternatively, the Designated Symbol may appear adjacent to or immediately following the display, description or price of the Product for which a warning is being given, provided that the following warning statement also appears elsewhere on the same web page:

**WARNING:** Products identified on this page with the following symbol use colored artwork or designs that contains lead and/or cadmium, a chemical known to the State of California to cause birth defects and other reproductive harm: *[provide Designated Symbol]*

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(iii) **Package Insert or Label.** For all Products sold by catalog or via the internet, a warning may be provided with the Product when it is shipped directly to an individual in California, by either: (a) affixing the following warning language to the packaging, labeling or directly to a specific Product; (b) inserting a warning card measuring at least 4" x 6" in the shipping carton which contains the following warning language; or (c) by placing the following warning statement on the packing slip or customer invoice on the line directly below the description of the Product on the packing slip or customer invoice:

**WARNING:** The colored artwork or designs used on this product contains lead and/or cadmium, a chemical known to the State of California to cause birth defects and other reproductive harm.

Alternatively, Delivery Agent may place the following language on the packing slip or invoice and specifically identifying the Product in lettering of the same size or larger as the description of the Product:

**WARNING:** The colored artwork or designs used in the following product(s) contains lead and/or cadmium, a chemical known to the State of California to cause birth defects or other reproductive harm: *[list products for which warning is given]*.

The Defendant shall, in any of these instances set forth in this Section 2.2.1(b)(iii), in conjunction with providing the warning, also inform the consumer, in a conspicuous manner, that he or she may return the Product for a full refund (including shipping costs for both the receipt and the return of the Product) within thirty (30) days of his or her receipt of the Product.

**2.2.2 Exceptions**

The warning requirements set forth in Section 2.2.1 shall not apply to:

- (a) Any Products shipped to a third party before the Effective Date;
- or
- (b) Reformulated Products (as defined in Section 2.3 below).

1           **2.3    Reformulation**

2                   **2.3.1** Testing. Testing pursuant to this section shall be conducted pursuant to  
3 ASTM C927-99 test method, modified for total immersion with results corrected for internal  
4 volume (the "Test Protocol"), or any more current industry accepted testing protocol that is at  
5 least as accurate and reliable as the Test Protocol.

6                   **2.3.2** Reformulation Standards. The following Reformulated Products shall be  
7 deemed to comply with Proposition 65 and be exempt from any Proposition 65 warning  
8 requirements under Sections 2.2:

9                           **(a)** Any Product producing a test result of 0.99 parts per million  
10 ("ppm") or less for lead as determined pursuant to the Test Protocol; or

11                           **(b)** Any Product producing a test result of 7.92 ppm or less for  
12 cadmium as determined pursuant to the Test Protocol.

13           **2.4    Reformulation Commitment**

14           Delivery Agent hereby commits that it will use reasonable good faith efforts to ensure  
15 that Products that it offers for sale in California after March 1, 2007, shall qualify as  
16 Reformulated Products. After March 1, 2007, if no less than 80% of the Products offered for  
17 sale by Delivery Agent qualify as Reformulated Products, this will conclusively demonstrate  
18 Delivery Agent's reasonable good faith. If Delivery Agent fails to meet the 80% threshold  
19 described above, it will be deemed to have not used good faith efforts to reformulate its Products.

20           **2.5    Warnings and Reformulation Period**

21           The warning and reformulation requirements provided herein shall remain in full force  
22 and effect for a period of five years from the Effective Date, at which time the requirements of  
23 this Section 2 shall automatically expire and become unenforceable. After this date, Delivery  
24 Agent shall have a continuing obligation to comply with the requirements of Proposition 65 as it  
25 relates to the Products.

26   **3.    MONETARY PAYMENTS**

27           **3.1    Penalties Pursuant to Health & Safety Code §25249.7(b)**

28           The total settlement amount shall be \$20,000.00, which shall be paid by Delivery Agent

1 as set forth herein. Delivery Agent shall receive a credit of \$10,000.00 against the penalty  
2 amount in light of its prompt cooperation with Brimer in resolving this matter. Pursuant to  
3 Health & Safety Code §25249.7(b), Delivery Agent shall pay the remaining \$10,000.00 in civil  
4 penalties in two installments. The first payment of \$5,000.00 shall be made on or before  
5 December 15, 2006. The second payment of \$5,000.00 shall be payable April 1, 2007. The  
6 second payment shall be waived in the event that Delivery Agent certifies in writing under  
7 penalty of perjury with supporting facts and documentation, not later than March 1, 2007, that it  
8 has complied with the Reformulation Commitment set forth in Section 2.4. Said payments shall  
9 be made payable to the "HIRST & CHANLER LLP in Trust For Russell Brimer" and shall be  
10 delivered to plaintiff's counsel at the following address:

11 HIRST & CHANLER LLP  
12 Attn: Proposition 65 Controller  
13 2560 Ninth Street  
14 Parker Plaza, Suite 214  
15 Berkeley, CA 94710-2565

### 15 **3.2 Apportionment of Penalties Received**

16 All penalty monies received shall be apportioned by Brimer in accordance with Health &  
17 Safety Code §25192, with 75% of these funds remitted by Brimer to the State of California's  
18 Office of Environmental Health Hazard Assessment and the remaining 25% of these penalty  
19 monies retained by Brimer as provided by Health & Safety Code §25249.12(d). Brimer shall  
20 bear all responsibility for apportioning and paying to the State of California the appropriate civil  
21 penalties paid in accordance with this Section.

### 22 **4. REIMBURSEMENT OF FEES AND COSTS**

23 The Parties acknowledge that Brimer and his counsel offered to resolve this dispute  
24 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby  
25 leaving this fee issue to be resolved after the material terms of the agreement had been settled.  
26 Delivery Agent then expressed a desire to resolve the fee and cost issue shortly after the other  
27 settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on  
28 the compensation due to Brimer and his counsel under the private attorney general doctrine

1 codified at California Code of Civil Procedure §1021.5 for all work performed through the  
2 Court's approval of this agreement. Under the private attorney general doctrine, Delivery Agent  
3 shall reimburse Brimer and his counsel for fees and costs incurred as a result of investigating,  
4 bringing this matter to Delivery Agent's attention, litigating and negotiating a settlement in the  
5 public interest and seeking the Court's approval of the settlement agreement. Delivery Agent  
6 shall pay Brimer and his counsel \$32,000.00 for all attorneys' fees, expert and investigation fees,  
7 litigation and related costs. The payment shall be made payable to HIRST & CHANLER LLP  
8 and shall be delivered on or before December 15, 2006, at the following address:

9 HIRST & CHANLER LLP  
10 Attn: Proposition 65 Controller  
11 2560 Ninth Street  
12 Parker Plaza, Suite 214  
13 Berkeley, CA 94710-2565

12 **5. RELEASE OF ALL CLAIMS**

13 **5.1 Release of Delivery Agent and Downstream Customers**

14 In further consideration of the promises and agreements herein contained, and for the  
15 payments to be made pursuant to Sections 3 and 4, Brimer, on behalf of himself, his past and  
16 current agents, representatives, attorneys, successors and/or assignees, and in the interest of the  
17 general public, hereby waives all rights to institute or participate in, directly or indirectly, any  
18 form of legal action and releases all claims, including, without limitation, all actions, and causes  
19 of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines,  
20 penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and  
21 attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent  
22 (collectively "Claims"), against Delivery Agent and each of its downstream distributors,  
23 wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners,  
24 purchasers, users, parent companies, corporate affiliates, subsidiaries, and their respective  
25 officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and  
26 parent entities (collectively "Releasees"). This release is limited to those claims that arise under  
27 Proposition 65, as such claims relate to Delivery Agent's alleged failure to warn about exposures  
28 to or identification of the Listed Chemicals contained in the Products.

1 The Parties further understand and agree that this release shall not extend upstream to any  
2 entities that manufactured the Products or any component parts thereof, or any distributors or  
3 suppliers who sold the Products or any component parts thereof to Delivery Agent.

4 **5.2 Delivery Agent's Release of Brimer**

5 Delivery Agent waives any and all claims against Brimer, his attorneys and other  
6 representatives, for any and all actions taken or statements made (or those that could have been  
7 taken or made) by Brimer and his attorneys and other representatives, whether in the course of  
8 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,  
9 and/or with respect to the Products.

10 **6. COURT APPROVAL**

11 This Consent Judgment is not effective until it is approved and entered by the Court and  
12 shall be null and void and of no further force or effect if, for any reason, it is not approved and  
13 entered by the Court within one year after it has been fully executed by all Parties. If this  
14 Consent Judgment is not approved and any monies have been provided to Plaintiff or his counsel  
15 pursuant to Section 3 and/or Section 4 above, those monies shall be refunded to Defendant  
16 within fifteen (15) days after receiving written notice from Delivery Agent that the one-year  
17 period has expired.

18 **7. SEVERABILITY**

19 If, subsequent to court approval of this Consent Judgment, any of the provisions of this  
20 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable  
21 provisions remaining shall not be adversely affected.

22 **8. ATTORNEYS' FEES**

23 In the event that, after Court approval: (1) a dispute arises with respect to any provision  
24 of this Consent Judgment; (2) Delivery Agent or any third party seeks modification of this  
25 Consent Judgment pursuant to Section 14 below; or (3) Brimer takes reasonable and necessary  
26 steps to enforce the terms of this Consent Judgment, Brimer shall be entitled to his reasonable  
27 attorneys' fees and costs pursuant to Code of Civil Procedure §1021.5.

28

1 **9. GOVERNING LAW**

2 The terms of this Consent Judgment shall be governed by the laws of the State of  
3 California and apply within the State of California. In the event that Proposition 65 is repealed  
4 or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then  
5 Delivery Agent shall provide written notice to Brimer of any asserted change in the law, and  
6 shall have no further obligations pursuant to this Consent Judgment with respect to, and to the  
7 extent that, the Products are so affected.

8 **10. NOTICES**

9 Unless specified herein, all correspondence and notices required to be provided pursuant  
10 to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class,  
11 (registered or certified mail) return receipt requested; or (ii) overnight courier on any Party by  
12 the other party at the following addresses:

13 To Delivery Agent:

14 Mike Fitzsimmons, Chief Executive Officer  
15 Delivery Agent, Inc.  
16 350 Sansome Street, Suite 100  
San Francisco, CA 94104

17 James L. Arnone  
18 Duncan Joseph Moore  
19 Latham & Watkins LLP  
633 W. Fifth St., Suite 4000  
20 Los Angeles, CA 90071

21 To Brimer:

22 Proposition 65 Coordinator  
23 HIRST & CHANLER LLP  
2560 Ninth Street  
24 Parker Plaza, Suite 214  
Berkeley, CA 94710-2565

25 Any Party, from time to time, may specify in writing to the other Party a change of  
26 address to which all notices and other communications shall be sent.

27 **11. COUNTERPARTS; FACSIMILE SIGNATURES**

28 This Consent Judgment may be executed in counterparts and by facsimile, each of which

1 shall be deemed an original, and all of which, when taken together, shall constitute one and the  
2 same document.

3 **12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

4 Brimer agrees to comply with the reporting form requirements referenced in Health &  
5 Safety Code §25249.7(f).

6 **13. ADDITIONAL POST EXECUTION ACTIVITIES**

7 Brimer and Delivery Agent agree to mutually employ their best efforts to support the  
8 entry of this Agreement as a Consent Judgment and obtain approval of the Consent Judgment by  
9 the Court in a timely manner. The Parties acknowledge that, pursuant to Health & Safety Code §  
10 25249.7, a noticed motion is required to obtain judicial approval of this Consent Judgment.

11 Accordingly, the Parties agree to file a Joint Motion to Approve the Agreement (“Joint Motion”),  
12 the first draft of which Brimer’s counsel shall prepare, within a reasonable period of time after  
13 the Execution Date (i.e., not to exceed thirty (30) days unless otherwise agreed to by the Parties’  
14 counsel based on unanticipated circumstances). Delivery Agent shall have no additional  
15 responsibility to Plaintiff’s counsel pursuant to Code of Civil Procedure §1021.5 or otherwise  
16 with regard to reimbursement of any fees and costs incurred with respect to the preparation and  
17 filing of the Joint Motion and its supporting declaration or with regard to Plaintiff’s counsel  
18 appearing for a hearing thereon.

19 **14. MODIFICATION**

20 This Consent Judgment may be modified only: (1) by written agreement of the Parties  
21 and upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful  
22 motion of any Party and entry of a modified Consent Judgment by the Court. The Attorney  
23 General shall be served with notice of any proposed modification to this Consent Judgment at  
24 least fifteen (15) days in advance of its consideration by the Court.

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26 **15. AUTHORIZATION**

27 The undersigned are authorized to execute this Consent Judgment on behalf of their  
28 respective Parties and have read, understood and agree to all of the terms and conditions of this

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Consent Judgment.

**AGREED TO:**

**AGREED TO:**

Date: 12-15-06

Date: \_\_\_\_\_

By:   
Plaintiff Russell Brimer

By: \_\_\_\_\_  
Defendant Delivery Agent, Inc.

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

HIRST & CHANLER LLP

LATHAM & WATKINS LLP

By: \_\_\_\_\_  
Christopher M. Martin  
Attorneys for Plaintiff  
RUSSELL BRIMER

By: \_\_\_\_\_  
Duncan Joseph Moore  
Attorneys for Defendant  
DELIVERY AGENT, INC.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

1 Consent Judgment.

2 **AGREED TO:**

**AGREED TO:**

3 Date: \_\_\_\_\_

Date: \_\_\_\_\_

4  
5 By: \_\_\_\_\_  
6 Plaintiff Russell Brimer

By: \_\_\_\_\_  
Defendant Delivery Agent, Inc.

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8 **APPROVED AS TO FORM:**

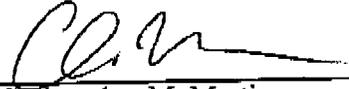
**APPROVED AS TO FORM:**

9 Date: 12/15/06

Date: \_\_\_\_\_

10 HIRST & CHANLER LLP

LATHAM & WATKINS LLP

11 By:   
12 Christopher M. Martin  
13 Attorneys for Plaintiff  
RUSSELL BRIMER

By: \_\_\_\_\_  
Duncan Joseph Moore  
Attorneys for Defendant  
DELIVERY AGENT, INC.

14  
15 **IT IS SO ORDERED.**

16 Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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Consent Judgment.

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Plaintiff Russell Brimer

**APPROVED AS TO FORM:**

Date: \_\_\_\_\_

HIRST & CHANLER LLP

By: \_\_\_\_\_  
Christopher M. Martin  
Attorneys for Plaintiff  
RUSSELL BRIMER

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

**AGREED TO:**

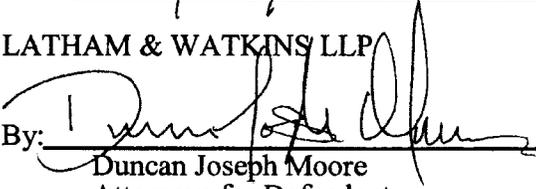
Date: 12/15/06

By:  \_\_\_\_\_  
Defendant Delivery Agent, Inc.

**APPROVED AS TO FORM:**

Date: 12/15/06

LATHAM & WATKINS LLP

By:  \_\_\_\_\_  
Duncan Joseph Moore  
Attorneys for Defendant  
DELIVERY AGENT, INC.

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

1 **EXHIBIT A**

2 **I. Product Description**

3 Pursuant to Section 1.5 of this Consent Judgment, the Products covered by this Consent  
4 Judgment include, but are not limited to, the following:

- 5 • Good Morning America Anchor Coffee Mug (ID 570);
- 6 • Kill Bill Ceramic Decal Mug (ID 644);
- 7 • General Hospital Mug (ID 678);
- 8 • All My Children Mug (ID 679);
- 9 • One Life to Live Mug (ID 680);
- 10 • General Hospital Carry-All Tote and Mug Set (ID 771);
- 11 • All My Children Carry-All Tote and Mug Set (ID 772);
- 12 • Mind Your Business Mug (ID 1111);
- 13 • All My Children Mug (ID 1141);
- 14 • One Life to Live Mug (ID 1150);
- 15 • I Wanna Be a Soap Star T-Shirt and Mug Set (ID 1152);
- 16 • Soap Opera Mug Set (ID 1180);
- 17 • The View Winter '04 Mug (ID 1392);
- 18 • Extreme Makeover: Home Edition Hammerhead Mug (ID 1735);
- 19 • Coffee Mug Set w/UFC Logo (ID 1938);
- 20 • The View Spring '05 Mug (ID 1972);
- 21 • The View 'On the Go' Spring '05 Mug Set (ID 1973);
- 22 • The View Spring '05 and Winter '04 Mug Set (ID 1974);
- 23 • The View Spring '05 Mug & Hot/Cold Sports Bottle (ID 1977);
- 24 • The VIEWer Spring Mug Club (ID 1985);
- 25 • Project Greenlight Glacier Mug (ID 2016);
- 26 • The View Summer '05 Mug (ID 2425);
- 27 • The View Summer '05 Mug & Hot/Cold Sports Bottle (ID 2426);
- 28 • The View Summer '05 Mug, Spring '05 Mug, and Winter '04 Mug (ID 2427);

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- The View ‘On the Go’ Summer ’05 Mug Set (ID 2428);
- The VIEWer Summer ’05 Mug Club (ID 2429);
- The View Summer ’05 Mug and Women’s Summer ’05 T-Shirt (ID 2432);
- The View Summer ’05 and Spring ’05 Mug Set (ID 2434);
- Lost Mug (ID 2718);
- The View Fall ’05 Mug (ID 3236);
- The View Fall ’05 and Summer ’05 Mug Set (ID 3269);
- The View ‘On the Go’ Fall ’05 Mug Set (ID 3270);
- The VIEWer Fall ’05 Mug Club (ID 3280);
- Commander in Chief Coffee Mug (ID 3476).

**II. Designated Symbol**

Pursuant to Section 2.2 of this Consent Judgment, the following symbol shall qualify as a Designated Symbol, as that term is defined, used and understood in this Consent Judgment: ♦ .