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12 MARTIN WEYRICH WINERY, LLC

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN LUIS OBISPO**
16 **UNLIMITED CIVIL JURISDICTION**
17

18
19 RUSSELL BRIMER
20 Plaintiff,
21 v.
22 MARTIN & WEYRICH WINERY, LLC; and
DOES 1 through 150, inclusive,
23 Defendants.

Case No. CV060786
**STIPULATION AND [PROPOSED]
ORDER RE: CONSENT JUDGMENT**

1 **1. INTRODUCTION**

2 **1.1 Russell Brimer And Martin Weyrich Winery, LLC**

3 This Consent Judgment is entered into by and between plaintiff Russell Brimer (“Brimer”
4 or “plaintiff”) and defendant Martin Weyrich Winery, LLC, a California limited liability company
5 (“Martin Weyrich” or “defendant”), erroneously named as MARTIN & WEYRICH WINERY,
6 LLC, with Brimer and Martin Weyrich collectively referred to as the "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 Martin Weyrich employs ten or more persons and is a person in the course of doing
13 business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California
14 Health & Safety Code §§25249.5 et seq. (“Proposition 65”).

15 **1.4 General Allegations**

16 Brimer alleges that Martin Weyrich has manufactured, distributed and/or sold in the State
17 of California certain wine glasses and other glass beverageware intended for the consumption of
18 beverages with artwork or designs containing lead on the exterior and crystal beverageware
19 containing lead, with or without decoration. Lead is listed pursuant to Proposition 65 as a
20 chemical known to the State of California to cause birth defects and other reproductive harm.
21 Lead shall be referred to hereinafter as the "listed chemical."

22 **1.5 Product Description**

23 The products that are covered by this Consent Judgment are defined as follows: wine
24 glasses and other glass beverageware intended for the consumption of beverages with artwork or
25 designs containing lead on the exterior, including, but not limited to, *Glasses with Logo Crystal*
26 (*#2851*); and crystal beverageware containing lead, with or without decoration, identified in
27 Exhibit A to this Consent Judgment. All such beverageware shall be referred to hereinafter as the
28 "products."

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1.6 Notices of Violation

On November 23, 2005, Brimer served Martin Weyrich and various public enforcement agencies with a document entitled "60-Day Notice of Violation" (hereinafter "Notice") that provided Martin Weyrich and such public enforcers with notice that alleged that Martin Weyrich was in violation of California Health & Safety Code §25249.6 for failing to warn consumers and customers that the products that Martin Weyrich sold exposed users in California to the listed chemical. By October 15, 2007, Brimer will have served defendant and various public enforcement agencies with documents entitled "Supplemental Notice of Violation" ("Supplemental Notice") that will provide defendant and the public enforcers with notice that defendant was allegedly in violation of California Health & Safety Code §25249.6 for failing to warn individuals, on at least one occasion, that crystal beverageware containing lead, with or without decoration, that defendant sold, which was not within the categories identified in the Notice, exposes individuals in California to the listed chemical.

1.7 Complaint

On February 15, 2006, Brimer, who is acting in the interest of the general public in California, filed a complaint ("Complaint" or "Action") in the Superior Court in and for the City and County of San Francisco against Martin Weyrich and Does 1 through 150, (*Brimer v. Martin & Weyrich Winery, LLC, San Francisco Superior Court Case No. CGC- 06-449468*) alleging violations of Health & Safety Code §25249.6 based on the alleged exposures to the listed chemical contained in the products sold by Martin Weyrich. The action was transferred to the Superior Court for the County of San Luis Obispo on September 6, 2006, and was received by that court on September 15, 2006. The Complaint shall be deemed amended to allege exposure to lead as described in the Supplemental Notice, as of the sixty-sixth (66th) day following the date of the Supplemental Notice, provided that no public enforcement authority designated under Health & Safety Code §25249.7 has filed a complaint against defendant on behalf of the public interest with respect to those new allegations set forth in the Supplemental Notice.

1 **1.8 No Admission**

2 Martin Weyrich denies the material factual and legal allegations contained in the Notice,
3 Supplemental Notice and Complaint, and maintains that all products that it has sold and
4 distributed in California, including the products as defined in Section 1.5, have been and are in
5 compliance with all laws. Nothing in this Consent Judgment shall be construed as an admission
6 by Martin Weyrich of any fact, finding, issue of law, or violation of law, nor shall compliance with
7 this Consent Judgment constitute or be construed as an admission by Martin Weyrich of any fact,
8 finding, conclusion, issue of law or violation of law, such being specifically denied by Martin
9 Weyrich. However, this Section shall not diminish or otherwise affect the obligations,
10 responsibilities and duties of Martin Weyrich under this Consent Judgment.
11

12 **1.9 Consent to Jurisdiction**

13 For purposes of this Consent Judgment only, the parties stipulate that this Court has
14 jurisdiction over Martin Weyrich as to the allegations contained in the Complaint, that venue is
15 proper in the County of San Luis Obispo and that this Court has jurisdiction to enter and enforce
16 the provisions of this Consent Judgment.
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20 **1.10 Effective Date**

21 For purposes of this Consent Judgment, the term "effective date" shall mean October 5,
22 2007.
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24 **2. INJUNCTIVE RELIEF: WARNINGS AND REFORMULATION**

25 **2.1 Product Warnings**

26 After the effective date, Martin Weyrich shall not sell, ship or offer to be shipped for sale
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1 in California products containing the listed chemical unless such products are sold or shipped with
2 the clear and reasonable warnings set out in this Section 2.1, comply with the reformulation
3 standards set forth in Section 2.3 or are otherwise exempt pursuant to Section 2.2.
4

5 Any warning issued for products pursuant to this Section 2.1 shall be prominently placed
6 with such conspicuousness as compared with other words, statements, designs, or devices as to
7 render it likely to be read and understood by an ordinary individual under customary conditions
8 before purchase or, for products shipped directly to an individual in California or in the workplace,
9 before use. Any warning issued pursuant to this Section 2.1 shall be provided in a manner such
10 that the consumer or user understands to which *specific* product the warning applies, so as to
11 minimize if not eliminate the chance that an overwarning situation will arise.
12

13 Sections 2.1(a)-(b) describe Martin Weyrich's options for satisfying its warning obligations
14 depending, in part, on the manner of sale. The following warnings will be applicable when the
15 product is sold either to consumers or in a business-to-business transaction.
16

17 (a) **Retail Store Sales.** Martin Weyrich may satisfy its retail store sale
18 warning options through either (i) product labeling or (ii) point-of-sale warnings, as described
19 below.
20

21 (i) **Product Labeling.** From the effective date, a warning may
22 be affixed to the packaging, labeling or directly on the product sold in retail outlets by Martin
23 Weyrich or its agent. For glass beverageware with artwork or designs on the exterior, the warning
24 shall state:
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WARNING: The materials used as decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects and other reproductive harm.

For crystal beverageware containing lead, with or without decoration, the warning shall state:

WARNING: This product contains lead, a chemical known to the State of California to cause birth defects and other reproductive harm.

(ii) Point-of-Sale Warnings. Martin Weyrich may perform its warning obligations by ensuring that signs are posted in retail outlets owned and operated by Martin Weyrich in the State of California where the products are sold. Point-of-sale warnings shall be provided through one or more signs posted in close proximity to the point of display of the products. For glass beverageware with artwork or designs on the exterior, the warning shall state:

WARNING: The materials used as decorations on the exterior of this product contain lead, a chemical known to the State of California to cause birth defects and other reproductive harm.

For crystal beverageware containing lead, with or without decoration, the warning shall state:

WARNING: This product contains lead, a chemical known to the State of California to cause birth defects and other reproductive harm.

Although, as of the effective date, Martin Weyrich does not sell products via retailers or distributors not owned or operated by Martin Weyrich, should it do so in the future, Martin Weyrich may avail itself of the point-of-sale option by providing a written notice (via certified mail in the first quarter of each calendar year) to each retailer or distributor to whom Martin

1 Weyrich sells or transfers the products directly, which informs such retailers or distributors that
2 point-of-sale warnings are required at each retail location in the State of California. Martin
3 Weyrich shall include a copy of the warning signs and posting instructions with such notice.
4 Further, Martin Weyrich must receive and make available for Brimer's inspection, upon request, a
5 written commitment: (a) from each retailer to whom Martin Weyrich sells products directly that
6 said retailer will post the point-of-sale warnings provided in this Section 2.1(a)(ii); and (b) from
7 each distributor to whom Martin Weyrich sells products directly that the distributor will transmit
8 the point-of-sale warnings as provided in this Section 2.1(a)(ii).
9
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11 **(b) Mail Order Catalog, Internet, and Other Sales.** Although, as of the
12 effective date, Martin Weyrich does not sell products via mail order catalog or the Internet, should
13 it do so in the future, Martin Weyrich shall satisfy its warning obligations by providing a warning:
14 (i) in the mail order catalog; (ii) on the website; and/or (iii) with the product when it is shipped to
15 an address in California. Warnings given in the mail order catalog or on the website shall identify
16 the specific product to which the warning applies as further specified in Section 2.1(b)(i) and/or
17 (ii), as applicable. For products ordered from Martin Weyrich via telephone or other methods, or
18 for products purchased by and shipped to consumers in the State of California where Martin
19 Weyrich does not have the opportunity to transmit the warning prior to purchase and delivery,
20 Martin Weyrich shall satisfy its warning obligations by providing a warning pursuant to Section
21 2.1(b)(iii).
22
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24 **(i) Mail Order Catalog.** Any warning provided in a mail order
25 catalog must be in the same type size or larger as the product description text within the catalog.
26 The following warning shall be provided on the same page and in the same location as the display
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1 and/or description of the product. For glass beverageware with artwork or designs on the exterior,
2 the warning shall state:

3
4 **WARNING:** The materials used as decorations on the
5 exterior of this product contain lead, a
6 chemical known to the State of California to
7 cause birth defects and other reproductive
8 harm.

9 For crystal beverageware containing lead, with or without decoration, the warning shall state:

10 **WARNING:** This product contains lead, a chemical known
11 to the State of California to cause birth defects
12 and other reproductive harm.

13 Where it is impracticable to provide the warning on the same page and in the same location
14 as the display and/or description of the product, Martin Weyrich may utilize a designated symbol
15 to cross reference the applicable warning and shall define the designated symbol with the
16 following language on the inside of the front cover of the catalog or on the same page as any order
17 form for the product(s). For glass beverageware with artwork or designs on the exterior, the
18 warning shall state:

19 **WARNING:** The materials used as decorations on the
20 exterior of the products identified with this
21 symbol ▼ and offered for sale in this catalog
22 contain lead, a chemical known to the State of
23 California to cause birth defects and other
24 reproductive harm.

25 For crystal beverageware containing lead, with or without decoration, the warning shall state:

26 **WARNING:** Products identified with this symbol ■ and
27 offered for sale in this catalog contain lead, a
28 chemical known to the State of California to
cause birth defects and other reproductive
harm.

The applicable designated symbol (shown on Exhibit B attached hereto) must appear on the

1 same page and in close proximity to the display and/or description of the product. On each page
2 where the designated symbol appears, Martin Weyrich must provide a header or footer directing
3 the consumer to the warning language and definition of the designated symbol.
4

5 If defendant elects to provide warnings in the mail order catalog, then the warnings must be
6 included in all catalogs offering to sell one or more products printed after October 8, 2007.
7

8 **(ii) Internet Web Sites and Pages.** A warning may be given in
9 conjunction with the sale of the product via the Internet, provided it appears either: (a) on the
10 same web page on which the product is displayed; (b) on the same web page as the order form for
11 the product; (c) on the same page as the price for any product; or (d) on one or more web pages
12 displayed to a purchaser during the checkout process. The following warning statement shall be
13 used and shall appear in any of the above instances adjacent to or immediately following the
14 display, description, or price of the product for which it is given in the same type size or larger as
15 the product description text. For glass beverageware with artwork or designs on the exterior, the
16 warning shall state:
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19 **WARNING:** The materials used as decorations on the
20 exterior of this product contain lead, a
21 chemical known to the State of California to
cause birth defects and other reproductive
harm.

22 For crystal beverageware containing lead, with or without decoration, the warning shall state:

23
24 **WARNING:** This product contains lead, a chemical known
25 to the State of California to cause birth defects
and other reproductive harm.

26 Alternatively, the applicable designated symbol may appear adjacent to or immediately
27 following the display, description or price of the product for which a warning is being given,
28 provided that the following warning statement also appears elsewhere on the same web page. For

1 glass beverageware with artwork or designs on the exterior, the warning shall state:

2 **WARNING:** Products identified on this page with the
3 following symbol use materials in their
4 exterior decorations that contain lead, a
5 chemical known to the State of California to
6 cause birth defects and other reproductive
7 harm: ▼

8 For crystal beverageware containing lead, with or without decoration, the warning shall state:

9 **WARNING:** Products identified on this page with the
10 following symbol contain lead, a chemical
11 known to the State of California to cause birth
12 defects and other reproductive harm: ■

13 **(iii) Package Insert or Label.** For all products sold by mail
14 order catalog, via the Internet, or for products otherwise purchased by and shipped to consumers in
15 the State of California, where Martin Weyrich does not have the opportunity to otherwise transmit
16 the warning prior to purchase and delivery, a warning may be provided with the product when it is
17 shipped directly to an individual in California, by either: (a) affixing the following warning
18 language to the packaging, labeling or directly to a specific product; (b) inserting a warning card
19 measuring at least 4" x 6" in the shipping carton which contains the following warning language;
20 or (c) by placing the following warning statement on the packing slip or customer invoice on the
21 line directly below the description of the product. For glass beverageware with artwork or designs
22 on the exterior, the warning shall state:

23 **WARNING:** The materials used as decorations on the
24 exterior of this product contain lead, a
25 chemical known to the State of California to
26 cause birth defects and other reproductive
27 harm.

1 For crystal beverageware containing lead, with or without decoration, the warning shall state:

2 **WARNING:** This product contains lead, a chemical known
3 to the State of California to cause birth defects
4 and other reproductive harm.

5 Alternatively, Martin Weyrich may place the following language on the packing slip or
6 invoice and specifically identify the product in lettering of the same size or larger as the
7 description of the product. For glass beverageware with artwork or designs on the exterior, the
8 warning shall state:

9 **WARNING:** The materials used as decorations on the
10 exterior of the following product(s) contain
11 lead, a chemical known to the State of
12 California to cause birth defects or other
13 reproductive harm: [*list products for which
14 warning is given*].

15 For crystal beverageware containing lead, with or without decoration, the warning shall state:

16 **WARNING:** The following product(s) contain lead, a
17 chemical known to the State of California to
18 cause birth defects or other reproductive
19 harm: [*list products for which warning is
20 given*].

21 When Martin Weyrich does not have the opportunity to provide the warning prior to
22 purchase and delivery, defendant shall, in any of these instances identified this Section 2.1(b)(iii),
23 in conjunction with providing the warning, also inform the consumer, in a conspicuous manner,
24 that he or she may return the product for a full refund (including shipping costs for both the receipt
25 and the return of the product) within thirty (30) days of his or her receipt of the product.

26 **2.2 Exceptions To Warning Requirements**

27 The warning requirements set forth in Section 2.1 shall not apply to:

- 28 (i) Any products shipped to a third party before the effective date; or

1 (ii) Reformulated products (as defined in Section 2.3 below).

2
3 **2.3 Reformulation Standards**

4 The following products shall be deemed "reformulated products" and to comply with
5 Proposition 65 and be exempt from any Proposition 65 warning requirements under Sections 2.1:
6 Products utilizing decorating materials, that contain six one-hundredths of one percent (0.06%) or
7 less of lead by weight and that have no detectable lead in the Lip-and-Rim Area¹.
8

9 **2.4 Reformulation Commitment**

10 Martin Weyrich hereby commits that all glass beverageware with artwork or designs on the
11 exterior that it offers for sale in California after February 1, 2008, shall qualify as reformulated
12 products. Reformulated products do not require Proposition 65 warnings set forth in Section 2.1.
13 Crystal beverageware containing lead, with or without decoration, is hereby excluded from the
14 reformulation commitment of this Section 2.4, and will continue to be subject to the warning
15 requirements provided in Section 2.1.
16

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18 **3. MONETARY PAYMENTS**

19 **3.1 Penalties Pursuant to Health & Safety Code §25249.7(b)**

20
21 The total settlement amount shall be \$4,000, which shall be paid by Martin Weyrich as set
22 forth herein. Martin Weyrich shall receive a credit of \$2,000 against the penalty amount in light of
23 its prompt cooperation with Brimer in resolving this matter. Pursuant to Health & Safety Code
24 §25249.7(b), Martin Weyrich shall pay the remaining \$2,000 in civil penalties in two installments.
25 The first payment of \$1,000 shall be made on or before October 5, 2007. The second payment of
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¹"Lip-and-Rim Area" is defined as the exterior top 20 millimeters of a hollowware food or
beverage product.

1 \$1,000 shall be payable March 1, 2008. The second payment shall be waived in the event that
2 Martin Weyrich certifies, in writing, under penalty of perjury, with supporting facts and
3 documentation, not later than February 1, 2008 that it has complied with the Reformulation
4 Commitment set forth in Section 2.4. Said payments shall be made payable to "HIRST &
5 CHANLER LLP in Trust For Russell Brimer" and shall be delivered to plaintiff's counsel at the
6 following address:
7

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

13 **3.2 Apportionment of Penalties Received**

14 All penalty monies received shall be apportioned by Brimer in accordance with Health &
15 Safety Code §25192, with 75% of these monies remitted by Brimer to the State of California's
16 Office of Environmental Health Hazard Assessment and the remaining 25% of these monies
17 retained by Brimer as provided by Health & Safety Code §25249.12(d). Brimer shall bear all
18 responsibility for apportioning and paying to the State of California the appropriate civil penalties
19 paid in accordance with this Section.
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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 leaving
25 that issue to be resolved after the material terms of the agreement had been settled. Martin
26 Weyrich then expressed a desire to resolve the fees and costs issue shortly after the other
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1 settlement terms had been finalized. The parties then attempted to (and did) reach an accord on
2 the compensation due to Brimer and his counsel under the private attorney general doctrine
3 codified at California Code of Civil Procedure §1021.5 for all work performed through the Court's
4 approval of this consent judgment. Under the private attorney general doctrine, Martin Weyrich
5 shall reimburse Brimer and his counsel for fees and costs incurred as a result of investigating,
6 bringing this matter to Martin Weyrich's attention, litigating and negotiating a settlement in the
7 public interest, and seeking the Court's approval of the settlement agreement. Martin Weyrich
8 shall pay Brimer and his counsel \$15,000 for all attorneys' fees, expert and investigation fees,
9 litigation and related costs. The payment shall be made payable to HIRST & CHANLER, LLP and
10 shall be delivered in three installments of \$5,000 each payable on October 5, 2007, November 5,
11 2007, and December 5, 2007, to the following address:

14 HIRST & CHANLER LLP
15 Attn: Proposition 65 Controller
16 2560 Ninth Street
17 Parker Plaza, Suite 214
18 Berkeley, CA 94710-2565

19 **5. RELEASE OF ALL CLAIMS**

20
21 **5.1 Release of Martin Weyrich and Downstream Customers**

22 In further consideration of the promises and agreements herein contained, and for the
23 payments to be made pursuant to Sections 3 and 4, Brimer, on behalf of himself, his past and
24 current agents, representatives, attorneys, successors and/or assignees, and in the interest of the
25 general public, hereby waives all rights to institute or participate in, directly or indirectly, any form
26 of legal action and releases all claims, including, without limitation, all actions, and causes of
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1 action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties,
2 losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees)
3 of any nature whatsoever, whether known or unknown, fixed or contingent (collectively claims),
4 against Martin Weyrich and each of its downstream distributors, wholesalers, licensors, licensees,
5 auctioneers, retailers, franchisees, dealers, customers, owners, purchasers, users, parent companies,
6 corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives,
7 shareholders, agents, and employees, and sister and parent entities (collectively releasees). This
8 release is limited to those claims that arise under Proposition 65, as such claims relate to Martin
9 Weyrich's alleged failure to warn about exposures to or identification of the listed chemical
10 contained in the products.
11

12
13 The parties further understand and agree that this release shall not extend upstream to any
14 entities that manufactured the products or any component parts thereof, or any distributors or
15 suppliers who sold the products or any component parts thereof to Martin Weyrich.
16

17 **5.2 Martin Weyrich's Release of Brimer**

18 Martin Weyrich waives any and all claims against Brimer, his attorneys and other
19 representatives, for any and all actions taken or statements made by Brimer and his attorneys and
20 other representatives, whether in the course of investigating claims or otherwise seeking
21 enforcement of Proposition 65 against it in this matter, and/or with respect to the products.
22

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24 **6. COURT APPROVAL**

25 This Consent Judgment is not effective until it is approved and entered by the Court and
26 shall be null and void if, for any reason, it is not approved and entered by the Court within one
27 year after it has been fully executed by all parties, in which event any monies that have been
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1 provided to plaintiff or his counsel pursuant to Section 3 and/or Section 4 above, shall be refunded
2 within fifteen (15) days after receiving written notice from Martin Weyrich that the one-year
3 period has expired.
4

5 **7. SEVERABILITY**

6 If, subsequent to court approval of this Consent Judgment, any of the provisions of this
7 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable
8 provisions remaining shall not be adversely affected.
9

10 **8. ATTORNEYS' FEES**

11 In the event that a dispute arises with respect to any provision of this Consent Judgment,
12 the prevailing party shall, except as otherwise provided herein, be entitled to recover reasonable
13 costs and attorneys' fees incurred in connection with such dispute.
14

15 **9. GOVERNING LAW**

16 The terms of this Consent Judgment shall be governed by the laws of the State of
17 California and apply within the State of California. In the event that Proposition 65 is repealed or
18 is otherwise rendered inapplicable by reason of law generally, or as to the products, then Martin
19 Weyrich shall provide written notice to Brimer of any asserted change in the law, and shall have
20 no further obligations pursuant to this Consent Judgment to the extent that the products are so
21 affected.
22

23 **10. NOTICES**

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

3
4 To Martin Weyrich :

5 Lisa L. Toke
6 ANDRE, MORRIS & BUTTERY
7 1102 Laurel Lane
8 Post Office Box 730
9 San Luis Obispo, CA 93406-0730

10 To Brimer:

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

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

18 **11. COUNTERPARTS; FACSIMILE SIGNATURES**

19 This Consent Judgment may be executed in counterparts and by facsimile, each of which
20 shall be deemed an original, and all of which, when taken together, shall constitute one and the
21 same document.

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

23 Brimer agrees to comply with the reporting form requirements referenced in Health &
24 Safety Code §25249.7(f).
25

26 **13. ADDITIONAL POST EXECUTION ACTIVITIES**

27 Brimer and Martin Weyrich agree to mutually employ their best efforts to support the entry
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1 of this Agreement as a Consent Judgment and obtain approval of the Consent Judgment by the
2 Court in a timely manner. The parties acknowledge that, pursuant to Health & Safety Code
3 §25249.7, a noticed motion is required to obtain judicial approval of this Consent Judgment.
4 Accordingly, plaintiff agrees to file a Motion to Approve the Agreement (Motion). Martin
5 Weyrich shall have no additional responsibility to plaintiff's counsel pursuant to Code of Civil
6 Procedure §1021.5 or otherwise with regard to reimbursement of any fees and costs incurred with
7 respect to the preparation and filing of the Motion or with regard to plaintiff's counsel appearing
8 for a hearing thereon.
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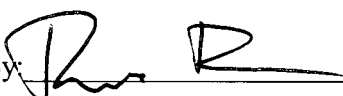
11 **14. MODIFICATION**

12 The parties may modify this Consent Judgment: (1) by written agreement of the parties and
13 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion
14 of any party and entry of a modified Consent Judgment by the Court. The Attorney General shall
15 be served with notice of any proposed modification to this Consent Judgment at least fifteen (15)
16 days in advance of its consideration by the Court.
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18 **15. AUTHORIZATION**

19 The undersigned are authorized to execute this Consent Judgment on behalf of their
20 respective parties and have read, understood and agree to all of the terms and conditions of this
21 Consent Judgment.
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<p style="text-align: center;">AGREED TO:</p> <p>Date: <u>10-4-07</u></p> <p>By:  _____ Plaintiff, RUSSELL BRIMER</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: _____</p> <p>By: _____ Defendant, MARTIN WEYRICH</p>
<p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>HIRST & CHANLER LLP</p> <p>By: _____ Christopher M. Martin, Esq. Attorney for Plaintiff RUSSELL BRIMER</p>	<p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>ANDRE, MORRIS & BUTTERY</p> <p>By: _____ Lisa L. Toke Attorney for Defendant MARTIN WEYRICH</p>

IT IS SO ORDERED.

Date: _____

Hon.
JUDGE OF THE SUPERIOR COURT

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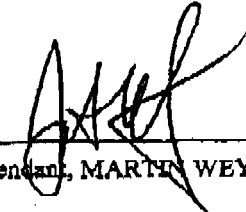
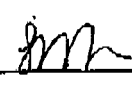
<p style="text-align: center;">AGREED TO:</p> <p>Date: _____</p> <p>By: _____</p> <p style="text-align: center;">Plaintiff, RUSSELL BRIMER</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: _____</p> <p>By: _____</p> <p style="text-align: center;">Defendant, MARTIN WEYRICH</p>
<p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: <u>9/26/07</u></p> <p>HIRST & CHANLER LLP</p> <p>By: </p> <p style="text-align: center;">Christopher M. Martin, Esq. Attorney for Plaintiff RUSSELL BRIMER</p>	<p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>ANDRE, MORRIS & BUTTERY</p> <p>By: _____</p> <p style="text-align: center;">Lisa L. Toke Attorney for Defendant MARTIN WEYRICH</p>

IT IS SO ORDERED.

Date: _____

Hon.
JUDGE OF THE SUPERIOR COURT

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<p style="text-align: center;">AGREED TO:</p> <p>Date: _____</p> <p>By: _____</p> <p style="text-align: center;">Plaintiff, RUSSELL BRIMER</p>	<p style="text-align: center;">AGREED TO:</p> <p>Date: <u>10/5/2007</u></p> <p>By: </p> <p style="text-align: center;">Defendant, MARTIN WEYRICH</p>
<p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: _____</p> <p>HIRST & CHANLER LLP</p> <p>By: _____</p> <p style="text-align: center;">Christopher M. Martin, Esq. Attorney for Plaintiff RUSSELL BRIMER</p>	<p style="text-align: center;">APPROVED AS TO FORM:</p> <p>Date: <u>9/26/07</u></p> <p>ANDRE, MORRIS & BUTTERY</p> <p>By: </p> <p style="text-align: center;">Lisa L. Toke Attorney for Defendant MARTIN WEYRICH</p>

IT IS SO ORDERED.

Date: _____

Hon.
JUDGE OF THE SUPERIOR COURT

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Exhibit A

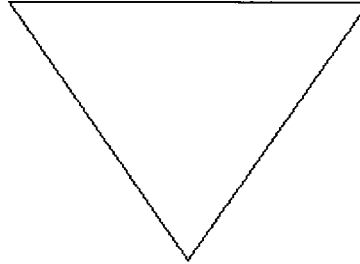
The products that are covered by this Consent Judgment are wine glasses and other glass
beverageware intended for the consumption of beverages with artwork or designs containing lead
on the exterior, and/or crystal beverageware containing lead, with or without decoration, including,
but not limited to:

1. *Glasses with Logo Crystal #2851*
2. *Riedel Vinum Leaded Crystal Glasses and similar crystal beverageware*

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Exhibit B

The designated symbol that Martin Weyrich will use to identify glass beverageware with artwork or designs on the exterior which are sold through its mail order catalogs, the Internet, or other methods where Martin Weyrich does not have the opportunity to transmit the warning prior to purchase and delivery, if it opts to use such symbol:



The designated symbol that Martin Weyrich will use to identify crystal beverageware containing lead, with or without decoration, which is sold through its mail order catalogs, the Internet, or other methods where Martin Weyrich does not have the opportunity to transmit the warning prior to purchase and delivery, if it opts to use such symbol: