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Attorneys for Plaintiff
Russell Brimer

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

RUSSELL BRIMER, Plaintiff, v. THE BOELTER COMPANIES, et al., Defendants.	Case No. CGC-05-440811 **STIPULATION FOR ENTRY OF JUDGMENT**

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

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

☑ **Glassware Food/Beverage Products** ("Category A Products")

☑ **Glassware Non-Food/Beverage Products** ("Category C Products")

☑ **Ceramicware Food/Beverage Products** ("Category B Products")

☑ **Ceramicware Non-Food/Beverage Products** ("Category D Products")

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

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

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

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

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

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

[1] Any entity which has conducted activities which comprise more than one of the categories of business listed in (a)-(d) below shall be deemed to be a Manufacturer if 15% or more of its sales of Covered Products in California were the result of its Manufacturing of 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.

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.

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

IT IS HEREBY STIPULATED AND AGREED TO:

By: _____
Christopher J. Klein
SVP, Strategy and Business Development
On Behalf of: Fortune Brands, Inc.

By: _____
LAURACEL S. PARAS
On Behalf of Plaintiff Russell Brimer

Opt-In Defendant

Dated: March 23, 2006

Dated: 5-5-2006

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

Opt-In Party Name:	Fortune Brands, Inc.
Contact Person:	Susan C. Cagann
Mailing address:	Nixon Peabody LLP Two Embarcadero Center, Suite 2700 San Francisco, California 94111
Direct Telephone:	(415) 984-8350
Main Telephone:	(415) 984-8200
Fax number:	(415) 984-8300
Email address:	scagann@nixonpeabody.com