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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED CIVIL JURISDICTION

RUSSELL BRIMER, Plaintiff, v. CHRONICLE BOOKS LLC, PAUL FRANK INDUSTRIES, INC. and DOES 1-600, inclusive, Defendants.	Case No. CGC-10-501868 **CONSENT TO JUDGMENT AS TO DEFENDANTS CHRONICLE BOOKS LLC AND PAUL FRANK INDUSTRIES, INC.** Trial Date: December 5, 2011 Action Filed: July 23, 2010

1. INTRODUCTION

1.1 The Parties

This Consent To Judgment is entered into by and between Plaintiff Russell Brimer ("Brimer" or "Plaintiff"), Defendant Chronicle Books LLC ("Chronicle") and Defendant Paul Frank Industries, Inc. ("Paul Frank"), with Brimer, Chronicle and Paul Frank collectively referred to as the "Parties."

1.2 Plaintiff

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

1.3 Defendant

Chronicle and Paul Frank both employ 10 or more persons and each is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 *et seq*. ("Proposition 65").

1.4 General Allegations

Brimer alleges that Chronicle and Paul Frank designed, manufactured, distributed and/or sold, in the State of California, certain types of vinyl-covered character journals containing available lead on the exterior journal surfaces, such as the Paul Frank Julius Journal, ISBN No. 978-0-8118-6179-3, exposing users to lead, without first providing "clear and reasonable warning" under Proposition 65. Lead is listed as a reproductive and developmental toxicant pursuant to Proposition 65 and is referred to hereinafter as the "Listed Chemical."

1.5 Notice of Violation

On February 12, 2010, Brimer served Chronicle, Paul Frank and various public enforcement agencies with a document entitled "60-Day Notice of Violation" ("Notice") that provided public enforcers and these entities with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn consumers of the presence of lead, a toxic chemical found in their vinyl-covered character journals sold in California. To the best of the Parties' knowledge,

no public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notice.

1.6 **Complaint**

On July 23, 2010, Brimer, acting, in the interest of the general public in California, filed a Complaint in the Superior Court in and for the City and County of San Francisco, alleging violations by Defendant of Health & Safety Code § 25249.6 based, *inter alia*, on the alleged exposures to lead contained in certain character journals made with vinyl components containing lead, such as Paul Frank Julius Journal, ISBN No. 978-0-8118-6179-3) (the "Action").

1.7 **No Admission**

This Consent To Judgment resolves claims that are denied and disputed by Paul Frank and Chronicle. The Parties enter into this Consent To Judgment pursuant to a full and final settlement of any and all claims between the Parties for the purpose of avoiding prolonged litigation. Chronicle and Paul Frank each denies the material factual and legal allegations contained in the Notice and Action, maintains that it did not knowingly or intentionally expose California consumers to lead through the reasonably foreseeable use of its products and otherwise contends that all products it has manufactured, distributed and/or sold in California have been and are in compliance with all applicable laws. Nothing in this Consent To Judgment shall be construed as an admission by Chronicle and Paul Frank of any fact, finding, issue of law, or violation of law; nor shall compliance with this Consent To Judgment constitute or be construed as an admission by Chronicle and Paul Frank of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Chronicle and Paul Frank. However, notwithstanding the foregoing, this section shall not diminish or otherwise affect Chronicle's and Paul Frank's obligations, responsibilities, and duties under this Consent To Judgment.

1.8 **Consent to Jurisdiction**

For purposes of this Consent To Judgment only, the Parties stipulate that this Court has jurisdiction over Chronicle and Paul Frank as to the allegations contained in the Complaint, that venue is proper in the City and County of San Francisco, and that this Court has jurisdiction to

enter and enforce the provisions of this Consent To Judgment. As an express part of this Agreement, pursuant to C.C.P. §664.6 the Court in which this action was filed shall retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

2. DEFINITIONS

2.1 The term "Complaint" shall mean the July 23, 2010, Complaint filed by Brimer against Paul Frank and Chronicle.

2.2 The term "Covered Products" means any journals containing or comprised of any vinyl components containing Lead, which vinyl journals were manufactured, caused to be manufactured and distributed by Chronicle or Paul Frank and which journals either contain more than 300 parts per million ("ppm") of lead in or on any piece, portion or component part of the product or for which there is no certified laboratory digest test confirming such product does not contain more than 300 parts per million ("ppm") of lead in or on any piece, portion or component part of the product.

2.3 The term "Effective Date" shall mean February 18, 2011.

2.4 The term "Lead Free" Products shall mean Covered Products containing components that may be handled, touched or mouthed by a consumer, and which yield less than 300 parts per million ("ppm") lead when analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance.

3. INJUNCTIVE RELIEF

3.1 **Formulation Commitment**

3.1.1 As of the Effective Date, Chronicle and Paul Frank shall not order, cause to be ordered, manufacture or cause to be manufactured any Covered Product for distribution to or sale in California that is not Lead Free.

3.1.2 For every Covered Product ordered, caused to be ordered, manufactured or caused to be manufactured for distribution to or sale in California after the Effective Date, Defendants

Paul Frank and Chronicle shall maintain copies of all testing of such products demonstrating compliance with this section.

3.2 Previously Obtained or Distributed Products.

3.2.1 **Customer Notification**

Within twenty (20) days of the Effective Date, each Chronicle and Paul Frank shall issue a written letter (electronic or otherwise) notice to (1) each California retail store or establishment to which it supplied any Covered Products within one year prior to the Effective Date (for any chain stores, such notice shall be sent to each individual store), (2) any California store or establishment from which such defendant sold any Covered Products and (3) any other California store or establishment that the party reasonably is aware of having sold any Covered Product within one year prior to the Effective Date, that identifies each such Covered Product (by brand and trade name, SKU, ISB and any other identifying name or number utilized by such defendant in the sale of the Covered Product), advises the recipient that each such Covered Product "contains LEAD, a chemical known to the State of California to cause birth defects and other reproductive harm", and requests such recipient to either label the Covered Product with the product label identified in Section 3.2.2(a)(i) or to return the Covered Product to either such defendant at that defendant's sole expense. Paul Frank and Chronicle shall maintain records of all compliance correspondence or other communication generated pursuant to this Section for two (2) years from the Effective Date and shall produce copies of such records upon written request by Brimer.

3.2.2 **Product Warnings**

Commencing on the Effective Date neither Chronicle nor Paul Frank shall sell, ship, or offer to be sold or shipped for sale in California any Covered Products unless such Covered Products are sold or shipped with one of the clear and reasonable warnings set forth hereafter.

Each warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions *before* purchase or use. Each warning shall be

provided in a manner such that the consumer or user understands to which *specific* Covered Product the warning applies, so as to minimize the risk of consumer confusion.

(a) **Retail Store Sales.**

(i) **Product Labeling.** Chronicle and Paul Frank may affix a warning to the packaging, labeling, or directly on any Covered Products sold at a Paul Frank or Chronicle retail outlet in California that states:

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.** Alternatively, Chronicle and Paul Frank may provide warning signs in the form below to Paul Frank or Chronicle retail outlets in California with instructions to post the signs in close proximity to the point of display of any and all such Covered Products for the benefit of its customers.

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

Where any such Covered Products are sold in proximity to other like items or to those that do not require a warning (*e.g.,* Lead Free products as defined in Section 2.4), the following statement must be used:[1]

WARNING: The following product(s) contain LEAD, a chemical known to the State of California to cause birth defects and other reproductive harm:

[*list product(s) for which warning is required*]

(b) **Mail Order Catalog and Internet Sales.** In the event that Paul Frank or Chronicle sells any Covered Products via mail order catalog or the Internet to customers located

[1]For purposes of this Consent To Judgment, "sold in proximity" shall mean that the Product and another similar product are offered for sale close enough to each other that the consumer, under customary conditions of purchase, could not reasonably determine which of the two products is subject to the warning sign.

in California any such catalog or Internet site offering any Covered Product for sale shall include a warning in the catalog or within the website, identifying the specific Covered Product to which the warning applies, as specified in Sections 3.2.2(b)(i) and (ii).

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

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

Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Covered Product, Paul Frank and Chronicle may utilize a designated symbol to cross reference the applicable warning and shall define the term "designated symbol" with the following language on the inside of the front or back cover of the catalog or on the same page as any order form for the Covered Product(s):

> **WARNING:** Certain products identified with this symbol ▼ and offered for sale in this catalog contain LEAD, a chemical known to the State of California to cause birth defects and other reproductive harm.

The designated symbol 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, Paul Frank and Chronicle must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

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

(ii) **Internet Website Warning.** A warning must be given in conjunction with the sale of any Covered Products via the Internet, provided it appears either: (a) on the same web page on which a Product is displayed; (b) on the same web page as the order

form for a 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 than the Product description text:

> **WARNING:** This product contains LEAD, 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, as follows:

> **WARNING:** Products identified on this page with the following symbol ▼ contain LEAD, a chemical known to the State of California to cause birth defects and other reproductive harm.

3.2.3 No later than forty-five (45) days of the Effective Date, Chronicle and Paul Frank shall provide to Plaintiff, care of his attorneys, a letter certification, signed by a director or officer of each, confirming that as of the date of the letter certification, said party has destroyed any Covered Products, with the sole exception of the Wanderlust Address Book (ISBN 9780811838900), in the custody, control or possession of said party, and shall continue to do so in the event additional such journals are returned after the date of the certification.

3.2.3 Commencing six (6) months after the Effective Date, each of Chronicle and Paul Frank shall discontinue all sales of any Covered Product that are not Lead Free in California, regardless of compliance with Section 3.2.2, with the exception of the Wanderlust Address Book (ISBN 9780811838900), which Chronicle may continue sell in compliance with Section 3.2.2.

3.2.4 Commencing nine (9) months after the Effective Date, each of Chronicle and Paul Frank shall destroy, in a manner compliant with any environmental or other waste disposal

regulations, all Covered Products that are not Lead Free remaining in its possession, custody or control , with the exception of the Wanderlust Address Book (ISBN 9780811838900), which Chronicle may continue sell in compliance with Section 3.2.2.

3.2.5 Paul Frank and Chronicle shall maintain records of all compliance correspondence, inventory reports or other communication generated pursuant to §3.2.3 and §3.2.4 for three (3) years from the Effective Date and shall produce copies of such records upon written request by Brimer.

4. MONETARY PAYMENTS

4.1 **Payments Pursuant to Health & Safety Code § 25249.7(b)**

Subject to the potential offsets described in Section 4.2 below, Chronicle shall pay a total of $13,000.00 in civil penalties to be apportioned in accordance with California Health & Safety Code §25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies remitted to Brimer as provided by California Health & Safety Code §25249.12(d).

Subject to the potential offsets described in Section 4.2 below, Paul Frank shall pay a total of $5,600.00 in civil penalties to be apportioned in accordance with California Health & Safety Code §25192, with 75% of these funds remitted to the State of California's Office of Environmental Health Hazard Assessment and the remaining 25% of these penalty monies remitted to Brimer as provided by California Health & Safety Code §25249.12(d).

Each Chronicle and Paul Frank shall issue two separate checks for their respective penalty payment: (a) one check made payable to The Chanler Group in Trust for the State of California's Office of Environmental Health Hazard Assessment ("The Chanler Group in Trust for OEHHA") for 75% of the total penalty required and (b) one check to "The Chanler Group in Trust for Russell Brimer" for the remaining 25% of the total penalty required. Two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95814 (EIN: 68-0284486). The second 1099 shall be issued to Brimer, whose address and tax identification number shall be furnished, upon request, at least five calendar days

before payment is due. The payments shall be delivered on or before forty-five (45) days after the Effective Date, at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

4.2 Reduction in Penalty Payments

Chronicle and Paul Frank may reduce the total penalty payment due pursuant to section 4.1 above by satisfying the following penalty offset options (in which event the division of remaining total penalties due shall be proportioned between OEHHA and Brimer in the same ratio as set forth in section 4.1 above):

(a) Chronicle may realize a $1,000.00 reduction in the total penalty amount due under section 4.1 above if, no later than sixty (60) days of the Effective Date, Chronicle provide to Plaintiff, care of his attorneys, a letter certification, signed by a director or officer, confirming that as of the date of the letter certification, said party has destroyed any Covered Products in the custody, control or possession of said party and is in possession of letters, inventory reports or other individual written store confirmation, demonstrating there are no Covered Products remaining in the possession of any retail store or internet distribution warehouse controlled, owned or operated by Chronicle.

(b) Paul Frank may realize a $800.00 reduction in the total penalty amount due under section 4.1 above if, no later than sixty (60) days of the Effective Date, Paul Frank provide to Plaintiff, care of his attorneys, a letter certification, signed by a director or officer, confirming that as of the date of the letter certification, said party has destroyed any Covered Products in the custody, control or possession of said party and is in possession of letters, inventory reports or other individual written store confirmation, demonstrating there are no Covered Products remaining in the possession of any retail store or internet distribution warehouse controlled, owned or operated by Paul Frank.

(c) Chronicle may realize a $1,500.00 reduction in the total penalty amount due under

section 4.1 above if, no later than forty-five (45) days after the Effective Date, that party certifies, in a writing to counsel for plaintiff that is signed by the Chief Operating Officer and/or Chairman of said company, that, as of the Effective Date, that party has implemented a testing protocol for all journal products incorporating any vinyl components, which protocol mandates that the manufacturer of any such product test each vinyl components for the presence and concentration of the Listed Chemical prior to the assembly of those components into Covered Product and further agrees to continue such testing protocol for a period of one year after the Effective Date.

(d) Chronicle may realize a $1,500.00 reduction in the total penalty amount due under section 4.1 above if that party agrees, by express, written confirmation to counsel for plaintiff, that, no later than forty-five (45) days after the Effective Date, the term "in California" in section 3.1 above shall be deemed to have been replaced by the term "within the United States."

(e) Paul Frank may realize a $800.00 reduction in the total penalty amount due under section 4.1 above if that party agrees, by express, written confirmation to counsel for plaintiff, that, no later than forty-five (45) days after the Effective Date, the term "in California" in section 3.1 above shall be deemed to have been replaced by the term "within the United States."

(f) Chronicle may realize a $1,000 reduction in total penalty amount due under section 4.1 above if it agrees, by express, written confirmation to counsel for plaintiff, that, no later than forty-five (45) days after the Effective Date, that the term "Lead Free" Products in Section 2.4 shall mean Products containing components that may be handled, touched or mouthed by a consumer, and which components yield less than 1.0 microgram of lead when using a wipe test pursuant to NIOSH Test Method 9100 <u>and</u> yield less than 300 parts per million ("ppm") lead when analyzed pursuant to EPA testing methodologies 3050B and 6010B, or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance.

(g) Either Paul Frank or Chronicle may realize an additional $1,500.00 reduction in the total penalty amount due under section 4.1 above if that party, for a minimum of one year after the Effective Date, includes a product exemplar image and description, in the same manner and

appearance as prior to plaintiff's issuance of the 60-Day Notice, and in the same location of products similar to Covered Products, of each Covered Product, on any party owned, operated or controlled internet website or on-line store that ever offered any Covered Product for sale in the past and provides as part of the description of each such Covered Product, on the same web page on which an image of the Covered Product is displayed, in the same type size as the Covered Product description, the warning statement of Section 3.2.2(a)(1) and an express offer of retail or on-line store credit in the amount of $10.00 to any customer who returns any Covered Product to Chronicle.

4.3 Penalty Payment Terms

Payment of the amount due pursuant to sections 4.1 and 4.2 shall be delivered to Brimer's counsel on or before forty five (45) days after the Effective Date, at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

5. REIMBURSEMENT OF FEES AND COSTS

5.1 **Attorney Fees and Costs**

5.1.1 The Parties reached an accord on the compensation due to Brimer and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure (CCP) §1021.5, for all work performed through the mutual execution of this agreement and approval of the Consent To Judgment by the trial court, excluding any fees on appeal. Chronicle and Paul Frank shall be jointly and severally obligated to pay Brimer and his counsel a total of $41,500.00 as compromise reimbursement of a portion of the fees and costs incurred by Brimer and his counsel as a result of investigating, bringing this matter to Chronicle and Paul Frank's attention, litigating, negotiating and proposing the entry of a consent judgment in the public interest. It is expressly understood that the sum of $41,500.00 shall include compensation for Brimer and his counsel as reimbursement for a portion of the

additional attorney fees and costs that Brimer's counsel will expend in drafting, filing and appearing for hearing(s) on a motion for Court approval of this Consent to Judgment and for all statutory reporting and other activities reasonably necessary to secure conclusion of the statutory and legal procedures in the case.

5.1.2 Payment of the amount due pursuant to section 5.1.1 shall be delivered to Brimer's counsel on or before forty-five (45) days after the Effective Date, at the following address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

6. CLAIMS COVERED AND RELEASE

6.1 **Brimer's Releases of Chronicle and Paul Frank and Related Entities**

6.1.1 This Consent To Judgment is a full, final, and binding resolution between Brimer, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and in the interest of the general public, and Chronicle and Paul Frank, and Chronicle and Paul Frank's owners, subsidiaries, affiliates, sister and related companies (including those overseas entities held by its owners which manufactured or supplied the Covered Products to Chronicle and Paul Frank), employees, shareholders, directors, insurers, attorneys, successors, and assigns ("Defendant Releasees"), and all entities to whom Chronicle and Paul Frank directly or indirectly distributes or sells Covered Products, including but not limited to distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees ("Downstream Defendant Releasees") of any violation of Proposition 65 that has been or could have been asserted against Defendant Releasees and Downstream Defendant Releasees regarding the failure to warn about exposures to the Listed Chemical arising in connection with any Covered Products manufactured, sourced, distributed, or sold by Defendant Releasees prior to the Effective Date. Chronicle and Paul Frank's compliance with this Consent To Judgment shall constitute

compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products after the Effective Date.

6.1.2 Brimer on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees, and in the interest of the general public, hereby waives with respect to Covered Products all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "claims"), against Defendant Releasees and Downstream Defendant Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in the public interest, as such claims relate to Defendant Releasees' and Downstream Defendant Releasees' alleged failure to warn about exposures to the Listed Chemical contained in the Covered Products.

6.1.3 Brimer, also, in his individual capacity only and *not* in his representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of Brimer of any nature, character or kind, known or unknown, suspected or unsuspected, arising out of the subject matter of the Complaint as to Covered Products manufactured, distributed or sold by Defendant Releasees. Brimer acknowledges that he is familiar with Section 1542 of the California Civil Code, which provides as follows:

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

Brimer, in his individual capacity only and *not* in his representative capacity, expressly waives and relinquishes any and all rights and benefits which he may have under, or which may

be conferred on him by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters of the Covered Products.

6.1.4 Upon court approval of the Consent To Judgment, the Parties waive their respective rights to a hearing or trial on the allegations of the Complaint.

6.2 **Chronicle and Paul Frank's Release of Brimer**

6.2.1 Chronicle and Paul Frank waives any and all claims against Brimer, his attorneys, and other representatives for any and all actions taken or statements made (or those that could have been taken or made) by Brimer and his attorneys and other representatives, whether in the course of investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Covered Products.

6.2.2 Chronicle and Paul Frank also provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of Chronicle and Paul Frank of any nature, character or kind, known or unknown, suspected or unsuspected, arising out of the subject matter of the Action. Chronicle and Paul Frank acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

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

Chronicle and Paul Frank expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of Section 1542 of the California Civil Code as well as under any other state or federal

statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such intention, the release hereby given shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different claims or facts arising out of the released matters.

7. SEVERABILITY

If, subsequent to court approval of this Consent To Judgment, any of the provisions of this Consent To Judgment are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected, unless the Court finds that any unenforceable provision is not severable from the remainder of the Consent To Judgment.

8. COURT APPROVAL

This Consent To Judgment is not effective until it is approved and entered by the Court and shall be null and void if, for any reason, it is not approved and entered by the Court within nine months after it has been fully executed by all Parties.

9. GOVERNING LAW

The terms of this Consent To Judgment shall be governed by the laws of the State of California.

10. NOTICES

When any Party is entitled to receive any notice under this Consent To Judgment, the notice shall be sent by certified mail and electronic mail to the following:

For Chronicle Books LLC to:

Tom Fernald, Chief Operating Officer
Chronicle Books LLC
85 Second Street 6th Floor
San Francisco, CA 94105

For Paul Frank Industries, Inc.

Rami S. Yanni
Senior Vice President, Business & Legal Affairs
Saban Brands LLC
10100 Santa Monica Blvd., Suite 600

Los Angeles, California 90067

With copy to their counsel at

Kathleen H. Goodhart
Cooley LLP
101 California Street, 5th Floor
San Francisco, CA 94111-5800

and

For Brimer to:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

Any Party may modify the person and address to whom the notice is to be sent by sending each other Party notice by certified mail and/or other verifiable form of written communication.

11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)

Brimer agrees to comply with the reporting form requirements referenced, in California Health & Safety Code §25249.7(f) and to file a motion for approval of this Consent To Judgment.

12. MODIFICATION

This Consent To Judgment may be modified only: (1) by written agreement of the Parties; or (2) upon a successful motion of any party and entry of a modified Consent To Judgment by the Court.

13. ADDITIONAL POST-EXECUTION ACTIVITIES

The parties acknowledge that, pursuant to Health & Safety Code §25249.7, a noticed motion is required to obtain judicial approval of this Consent To Judgment. In furtherance of obtaining such approval, Brimer and Chronicle and Paul Frank and their respective counsel agree to mutually employ their best efforts to support the entry of this agreement as a Consent To Judgment and obtain approval of the Consent To Judgment - sufficient to render a formal judgment approving this agreement - by the Court in a timely manner. Any effort by Chronicle and Paul Frank to impede judicial approval of this Consent To Judgment shall subject Chronicle

and Paul Frank to liability for attorney fees and costs incurred by plaintiff or his counsel in their efforts to meet or oppose Chronicle and Paul Frank' impeding conduct.

14. ENTIRE AGREEMENT

This Consent To Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

15. ATTORNEY'S FEES

15.1 A Party who unsuccessfully brings or contests an action arising out of this Consent To Judgment shall be required to pay the prevailing Party's reasonable attorneys' fees and costs unless the unsuccessful Party has acted with substantial justification. For purposes of this Consent To Judgment, the term substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure §§ 2016, et seq.

15.2 Except as specifically provided in the above paragraph and in Section 5.1, each Party shall bear its own costs and attorney's fees in connection with this action.

15.3 Nothing in this Section 15 shall preclude a Party from seeking an award of sanctions pursuant to law.

16. COUNTERPARTS, FACSIMILE SIGNATURES

This Consent To Judgment may be executed in counterparts and by facsimile or portable document format (PDF), each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same documents.

17. AUTHORIZATION

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

IT IS SO AGREED

Dated: March ___, 2011 Russell Brimer Digitally signed by Russell Brimer DN: cn=Russell Brimer, o, ou, email=russbrimer@yahoo.com, c=US Date: 2011.04.05 15:03:57 -07'00' _____ Plaintiff Russell Brimer	Dated: March ___, 2011 _____ Paul Frank Industries, Inc. By:
Dated: March ___, 2011 _____ Chronicle Books LLC By:	