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PRACTICE CONCENTRATED IN TOXIC  
TORT & ENVIRONMENTAL LITIGATION  
OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

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A PROFESSIONAL LAW CORPORATION  
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KATHRYN A. SALDANA, ESQ., SBN 251364  
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ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

AUG 07 2012

John A. Clarke, Executive Officer/Clerk  
BY Kin Hilaire, Deputy

Attorneys for Plaintiff,  
Council for Education and  
Research on Toxics ("CERT")

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST

COUNCIL FOR EDUCATION AND )  
RESEARCH ON TOXICS, a California )  
corporation, acting as a private )  
attorney general in the public )  
interest; )

Plaintiff, )

vs. )

STARBUCKS CORPORATION, a )  
Washington corporation; )  
STARBUCKS HOLDING COMPANY, a )  
Washington corporation; 7- )  
ELEVEN, INC., a Texas )  
corporation; BP AMERICA INC., a )  
Delaware corporation; BP )  
PRODUCTS NORTH AMERICA INC., a )  
Maryland corporation; BP WEST )  
COAST PRODUCTS LLC, a Delaware )  
corporation; GLORIA JEAN'S )  
GOURMET COFFEES CORP., an )  
Illinois corporation; et al., )

Defendants. )

CASE NO. BC435759  
Related to Case No. BC461182  
Assigned to the Honorable Elihu  
Berle, Dept. 323

CONSENT JUDGMENT AS TO  
DEFENDANTS GLORIA JEAN'S  
GOURMET COFFEES CORP., GLORIA  
JEAN'S GOURMET COFFEES  
FRANCHISING CORP., IT'S A  
GRIND, INC., PRAISE  
INTERNATIONAL NORTH AMERICA,  
INC., PRAISE IAG STORES, LLC,  
AND PRAISE IAG FRANCHISOR, LLC

CONSENT JUDGMENT AS TO DEFENDANTS GLORIA JEAN'S GOURMET COFFEES CORP.,  
GLORIA JEAN'S GOURMET COFFEES FRANCHISING CORP., IT'S A GRIND, INC.,  
PRAISE INTERNATIONAL NORTH AMERICA, INC., PRAISE IAG STORES, LLC,  
AND PRAISE IAG FRANCHISOR, LLC

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1                   **1. INTRODUCTION**

2                   1.1. On April 13, 2010, the Council for Education and Research on Toxics ("CERT") filed  
3 a complaint for civil penalties and injunctive relief for violations of Proposition 65 in the Superior  
4 Court for the County of Los Angeles. CERT's complaint alleges that the Defendants failed to provide  
5 clear and reasonable warnings that ingestion of the Covered Products (as defined in Paragraph 2.1),  
6 would result in exposure to acrylamide, a chemical known to the State of California to cause cancer.  
7 The complaint further alleges that under the Safe Drinking Water and Toxic Enforcement Act of 1986,  
8 Health and Safety Code section 25249.6, also known as "Proposition 65," businesses must provide  
9 persons with a "clear and reasonable warning" before exposing individuals to these chemicals, and that  
10 the Defendants failed to do so.

11                   1.2. Gloria Jean's Gourmet Coffees Corp., Gloria Jean's Gourmet Coffees Franchising  
12 Corp., It's a Grind, Inc., and Praise International North America, Inc., are among the defendants named  
13 in the complaint. Gloria Jean's Gourmet Coffees Corp., Gloria Jean's Gourmet Coffees Franchising  
14 Corp., It's a Grind, Inc., Praise International North America, Inc., Praise IAG Stores, LLC, and Praise  
15 IAG Franchisor, LLC together with their subsidiaries, are referred to below as "Settling Defendants."

16                   1.3. Settling Defendants are a group of corporations that employ more than 10 persons, or  
17 employed 10 or more persons at some time relevant to the allegations of the complaint, and which  
18 manufacture, distribute and/or sell Covered Products in the State of California or have done so in the  
19 past.

20                   1.4. For purposes of this Consent Judgment only, the parties stipulate that this Court has  
21 jurisdiction over the allegations of violations contained in CERT's complaint and personal jurisdiction  
22 over Settling Defendants as to the acts alleged in CERT's complaint, that venue is proper in the County  
23 of Los Angeles, and that this Court has jurisdiction to enter this Consent Judgment as a full and final  
24 resolution of all claims which were raised in the complaint based on the facts alleged therein.

25                   1.5 CERT and Settling Defendants enter into this Consent Judgment as a full and final  
26 settlement of all claims that were raised in the complaint (except as specified in Paragraphs 9.1),  
27 arising out of the facts or conduct alleged therein. Settling Defendants have expressly waived their  
28 statute of limitations defenses with respect to the claims alleged in CERT's complaint. By execution

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1 of this Consent Judgment and agreeing to provide the relief and remedies specified herein, Settling  
2 Defendants do not admit any violations of Proposition 65, or any other law or legal duty. Except as  
3 expressly set forth herein, nothing in this Consent Judgment shall prejudice, waive or impair any right,  
4 remedy, or defense that CERT and Settling Defendants may have in any other or in future legal  
5 proceedings unrelated to these proceedings. However, this paragraph shall not diminish or otherwise  
6 affect the obligations, responsibilities, and duties of the parties under this Consent Judgment.

7 **2. DEFINITIONS**

8 2.1 "Covered Products" means all ready-to-drink coffee containing acrylamide, sold in  
9 restaurants, coffee houses, and retail speciality stores owned and/or operated by Settling Defendants  
10 ("Company Restaurants") or restaurants, coffee houses, and retail speciality stores, owned and operated  
11 by third parties pursuant to franchise or license agreements with Settling Defendants ("Franchise  
12 Restaurants"). "Covered Products" does not include coffee beans or grounds, flaked or instant coffee,  
13 or any other packaged coffee that is not sold as ready-to-drink and that is sold in any establishment in  
14 the State of California, including in Settling Defendants' Company Restaurants and Franchise  
15 Restaurants. "Covered Products" also does not include any claims that are the subject of *Council for*  
16 *Education and Research on Toxics v. Brad Berry Company, Ltd., et al.*, Los Angeles County Superior  
17 Court Case Number BC461182.

18 2.2 "Effective Date" means the date upon which this Court enters this Consent Judgment.  
19

20 **3. INJUNCTIVE RELIEF; CLEAR AND REASONABLE WARNINGS**

21 3.1. Settling Defendants shall provide warnings in the manner required by this Consent  
22 Judgment for all Covered Products.

23 3.2. Warning message. The warning message provided, under the permitted warning  
24 methods, shall be the following:

25 a. **WARNING**

26 "Chemicals known to the State of California to cause cancer and  
27 reproductive toxicity, including acrylamide, are present in coffee, baked  
28 goods, and other food or beverages sold here. Acrylamide is not added  
to our products, but results from cooking, such as when coffee beans are  
roasted or baked goods are baked. As a result, acrylamide is present in

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our brewed coffee, including coffee made at home or elsewhere from our beans, ground or instant coffee, baked goods or other foods sold here, in grocery stores or other retail locations. Your personal cancer risk is affected by a wide variety of factors. For more information regarding acrylamide see [www.fda.gov](http://www.fda.gov). For more information about acrylamide and Proposition 65, visit [www.oehha.ca.gov/prop65/acrylamide.html](http://www.oehha.ca.gov/prop65/acrylamide.html).”

b. Wherever the warning language in this Consent Judgment uses the phrase “chemical known to the State of California to cause cancer,” Settling Defendants, at their option, may use either the phrase “chemical known to cause cancer” or “chemical that causes cancer.”

3.3. Warning Method. The warning shall be provided on a warning sign at least 10 inches high by 10 inches wide, with the word “WARNING” centered three-quarters of an inch from the top of the sign in ITC Garamond bold condensed type face all in one-inch capital letters. Three-sixteenths of an inch from the base of the word “warning” shall be a line extending from left to right across the width of the sign one-sixteenth of an inch in thickness. Centered one-half inch below the line shall be the body of the warning message in ITC Garamond bold condensed type face. For the body of the warning message, left and right margins of at least one-half of an inch, and a bottom margin of at least one-half inch shall be observed. Larger signs shall bear substantially the same proportions of type size and spacing to sign dimension as the sign 10 inches high by 10 inches wide.

3.4. Warning Location. Any warning sign must be:

a. located at or on the counter where food and beverages are purchased, on a wall either adjacent and parallel to or clearly visible to (i.e., no more than two feet away from) consumers standing at the counter where food and beverages are purchased; or

b. located or at any other place that is reasonably likely to be seen and read by customers entering the restaurant to order food or beverages;

c. not located at any of the following locations: On an entrance or exit door, on a window, on a restroom door, in a restroom, in a hallway that leads only to restrooms, on a refuse container, or in a location where consumers cannot get within two feet of the sign.

3.5. Implementation of Warning.

3.5.1. Settling Defendants shall provide their own stores and all franchisees with sufficient supply of signs to meet the requirements of this Consent Judgment.

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3.5.2. Company Restaurants. Within 60 days of the Effective Date, Settling Defendants shall send a letter, in substantially the form and content set forth in Exhibit "A", to its Company Restaurants within the State of California, directing them to post the warning in the manner described above. In addition, Settling Defendants shall include inspection for compliance with these requirements in its existing inspection programs. Settling Defendants currently maintains inspection, reporting and follow up programs that result in inspection of each of its Company Restaurants in California at least every 6 months. Where inspection shows that a Company Restaurant has not complied, Settling Defendants shall take all reasonably available steps to assure compliance within 75 days.

3.5.3. Franchise Restaurants. Within 60 days of entry of the Effective Date, Settling Defendants shall send a letter, in substantially the form and content set forth in Exhibit "B", to their Franchise Restaurants within the State of California, instructing them to post the warning in the manner described above. This letter shall state that the franchisee is released from liability for past violations and it is in compliance with future requirements with respect to sale of the Covered Products only if the franchisee complies with the warning requirements. In addition, Settling Defendants shall include inspection for compliance with these requirements in its existing inspection, reporting and follow-up programs.

3.6. Nothing in this Consent Judgment requires that warnings be given for Covered Products sold outside the State of California.

**4. CIVIL PENALTIES**

4.1. Calculation of Civil Penalties

4.1.1. A company who violates Proposition 65 shall be liable for civil penalties not to exceed two thousand five hundred dollars (\$2,500) per day *for each violation* in addition to any other penalty established by law pursuant to Health and Safety Code section 25249.7(b)(1).

4.1.2. In assessing the amount of civil penalties for violations of Proposition 65, all of the following factors must be considered pursuant to Health and Safety Code section 25249.7(b)(2):

- a. The nature and extent of the violation.
- b. The number of, and severity of, the violations.
- c. The economic effect of the penalty on the violator.

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1 d. Whether the violator took good faith measures to comply with this chapter and  
2 the time these measures were taken.

3 e. The willfulness of the violator's misconduct.

4 f. The deterrent effect that the imposition of the penalty would have on both the  
5 violator and the regulated community as a whole.

6 g. Any other factor that justice may require.

7 4.2. Settling Defendants have provided proof to CERT's counsel, in the form of financial  
8 statements verified under penalty of perjury, that they are impecunious, i.e., that the companies have  
9 been operating at a loss, such that payment of a full penalty would jeopardize their ability to stay in  
10 business. As a result, the parties have agreed upon a modified (extraordinarily low) settlement amount  
11 for civil penalties in this case. This low settlement amount is based on consideration of all the penalty  
12 factors set forth in Health and Safety Code Section 25249.7(b)(2), taking into account the Settling  
13 Defendants' impecuniousness.

14 **5. PAYMENTS**

15 5.1. Settling Defendants shall pay the total amount identified below in settlement of both  
16 this case and the related case, *Council for Education and Research on Toxics v. Brad Barry Company*,  
17 Case No. BC461182.

18 Settling Defendants shall pay the total amount of \$20,000 ("Settlement Proceeds"), within thirty  
19 days of entry of this Consent Judgment. Settlement Proceeds shall be made payable to the Metzger  
20 Law Group Attorney-Client Trust Account, and to no other persons, and delivered to CERT's counsel,  
21 Metzger Law Group, 401 E. Ocean Blvd., Suite 800, Long Beach, California 90802-4966. The  
22 Settlement Proceeds shall be applied as follows:

23 a. Civil Penalty: Settling Defendants shall pay civil penalties pursuant to Health  
24 and Safety Code section 25249.7(b) in the amount of \$10,000, allocated between CERT and the State  
25 of California as directed by Health & Safety Code section 25249.12(c)-(d).

26 b. Attorneys' Fees and Costs: Settling Defendants shall pay \$10,000 to reimburse  
27 CERT for its attorneys' fees and costs incurred in investigating and litigating this matter, and  
28 negotiating this Consent Judgment on behalf of itself and in the public interest.

6. MODIFICATION OF CONSENT JUDGMENT

6.1. This Consent Judgment may be modified by written agreement of CERT and Settling Defendants, after noticed motion, and upon entry of a modified consent judgment by the court thereon, or upon motion of CERT or Settling Defendants as provided by law and upon entry of a modified consent judgment by the court. Before filing an application with the court for a modification to this Consent Judgment, Settling Defendants may meet and confer with CERT to determine whether CERT will consent to the proposed modification. If a proposed modification is agreed, then Settling Defendants and CERT will present the modification to the court by means of a stipulated modification to the Consent Judgment.

6.2 If Proposition 65 or its implementing regulations are changed from their terms as they exist on the date of entry of judgment, the parties may seek modifications in the Consent Judgment as follows:

a. If the change establishes that warnings for acrylamide in the Covered Products are not required, Settling Defendants may seek a modification of this Consent Judgment to conform to the judgment to the change in law.

b. If the change establishes that the warnings provided by this Consent Judgment would not comply with the law, either party may seek a modification of the Consent Judgment to conform the judgment to the change in law.

c. If the change would provide a new form or manner of an optional or safe-harbor warning, Settling Defendants may seek a modification to provide a warning in the newly permitted form, but the modification shall not be granted unless the court finds that the new warning would not be materially less informative or likely to be seen, read, and understood than the warnings provided under this Consent Judgment.

6.3 If Settling Defendants correspond in writing to an agency or branch of the United States Government in connection with the application of Proposition 65 to Acrylamide in ready-to-drink coffee, then, so long as such correspondence is not confidential and would be retrievable by CERT under the Freedom of Information Act, the Settling Defendant originating such communication shall provide CERT with a copy of such communication as soon as practicable, but not more than 10 days

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after sending or receiving the correspondence; provided, however, that this section shall not apply to correspondence to or from trade associations or other groups of which Settling Defendants are members.

**7. ENFORCEMENT**

7.1. CERT may, by motion or application for an order to show cause before this Court, enforce the terms and conditions contained in this Consent Judgment. In any such proceeding, CERT may seek whatever fines, costs, penalties, or remedies are provided by law for failure to comply with the Consent Judgment and where said violations of this Consent Judgment constitute subsequent violations of Proposition 65 or other laws independent of the Consent Judgment and/or those alleged in the complaint, CERT is not limited to enforcement of the Consent Judgment, but may seek in another action, whatever fines, costs, penalties, or remedies are provided for by law for failure to comply with Proposition 65 or other laws. In any action brought by CERT alleging subsequent violations of Proposition 65 or other laws, Settling Defendants may assert all available defenses.

**8. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

8.1. Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent Judgment on behalf of the party represented and legally to bind that party.

**9. CLAIMS COVERED**

9.1. This Consent Judgment is a full, final, and binding resolution between CERT and Settling Defendants, of any violation of Proposition 65 that has been asserted in the Notice of Violation dated February 2, 2010, up through the Effective Date, for failure to provide clear and reasonable warnings of exposure to acrylamide from the use of the Covered Products, whether based on actions committed by Settling Defendants or by an entity to whom it distributes or sells coffee products, and for any franchisee who sells or has sold Covered Products in the State of California. Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to acrylamide from Covered Products as set forth in the Notice of Violation dated February 2, 2010.

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**10. RETENTION OF JURISDICTION**

10.1. This Court shall retain jurisdiction of this matter to implement the Consent Judgment.

**11. PROVISION OF NOTICE**

11.1. When any party is entitled to receive any notice under this Consent Judgment, the notice shall be sent by overnight courier service to the person and address set forth in this Paragraph. 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, return receipt requested. Said change shall take effect for any notice mailed at least five days after the date the return receipt is signed by the party receiving the change.

11.2. Notices shall be sent to the following when required:

For CERT:

Raphael Metzger  
Metzger Law Group  
401 E. Ocean Boulevard, Suite 800  
Long Beach, CA 90802  
Telephone: (562) 437-4499  
Facsimile: (562) 436-1561

For Settling Defendants:

Richard W. Lasater II  
Foley & Lardner  
555 S. Flower St., Suite 3500  
Los Angeles, CA 90071  
Telephone: (213) 972-4500  
Facsimile: (213) 486-0065

**12. COURT APPROVAL**

12.1. This Consent Judgment shall be submitted to the Court for entry by noticed motion. If this Consent Judgment is not approved by the Court, it shall be of no force or effect and may not be used by CERT or Settling Defendants for any purpose.

**13. ENTIRE AGREEMENT**

13.1 This Consent 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

1 agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any  
2 of the parties.

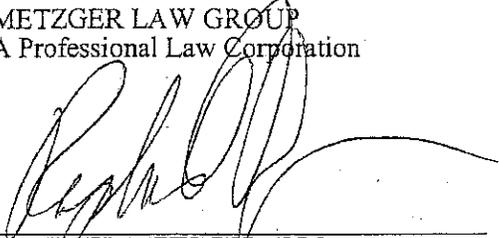
3 **14. EXECUTION IN COUNTERPARTS**

4 14.1. The stipulations to this Consent Judgment may be executed in counterparts and by  
5 means of facsimile, which taken together shall be deemed to constitute one document.

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7 **IT IS SO STIPULATED:**

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9 DATED: 3/9/12

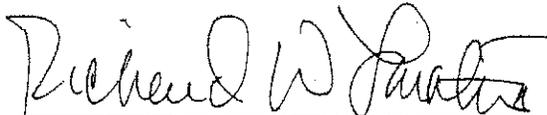
METZGER LAW GROUP  
A Professional Law Corporation



RAPHAEL METZGER, ESQ.  
Attorneys for Plaintiff  
COUNCIL ON EDUCATION AND RESEARCH ON  
TOXICS ("CERT")

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16 DATED:

FOLEY & LARDNER



RICHARD W. LASATER II, ESQ.  
Attorneys for Settling Defendants  
GLORIA JEAN'S GOURMET COFFEES CORP.,  
GLORIA JEAN'S GOURMET COFFEES FRANCHISING  
CORP., IT'S A GRIND, INC., PRAISE INTERNATIONAL  
NORTH AMERICA, INC., PRAISE IAG STORES, LLC,  
and PRAISE IAG FRANCHISOR, LLC

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24 **IT IS SO ORDERED, ADJUDGED, AND DECREED:**

**ELIHU M. BERLE**

25  
26 DATED: AUG 07 2012

HON. ELIHU M. BERLE  
Judge of the Superior Court

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**ELECTRONIC PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 401 E. Ocean Blvd., 8<sup>th</sup> Floor, Long Beach, CA 90802.

On April 5, 2012, I served the foregoing document, described as: **CONSENT JUDGMENT AS TO DEFENDANTS GLORIA JEAN'S GOURMET COFFEES CORP., GLORIA JEAN'S GOURMET COFFEES FRANCHISING CORP., IT'S A GRIND, INC., PRAISE INTERNATIONAL NORTH AMERICA, INC., PRAISE IAG STORES, LLC, AND PRAISE IAG FRANCHISOR, LLC** on the interested parties to this action by submitting an electronic version of the document via FTP upload to LexisNexis/FileAndServe pursuant to the Court's Order.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 5, 2012, at Long Beach, California.

\_\_\_\_\_  
Susan M. Simpson, Declarant

PROOF OF SERVICE  
(CERT vs. Starbucks, Case No. BC435759)

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(Gloria Jean's Gourmet Coffees Corp.,  
Gloria Jean's Gourmet Coffees  
Franchising Corp., It's a Grind Inc.,  
Praise International North America,  
Inc.)

Trenton H. Norris, Esq.  
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(7-Eleven, Inc. BP America Inc., BP  
Products North America Inc., BP West  
Coast Products LLC, International  
Coffee & Tee, LLC, Winchell's  
Franchising, LLC, Yum Yum Donut Shops,  
Inc.)

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Products North America Inc., BP West  
Coast Products LLC, International  
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Franchising, LLC, Yum Yum Donut Shops,  
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425 Market Street  
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(Starbucks Corporation, Starbucks  
Holding Company, Seattle Coffee  
Company, Peet's Operating Company, Inc.  
(incorrectly sued herein as Peet's  
Coffee and Tea, Inc.))

(Updated March 12, 2012 nsv)

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 401 East Ocean Blvd., #800, Long Beach, CA 90802.

On April 5, 2012, I served the foregoing document, described as: **CONSENT JUDGMENT AS TO DEFENDANTS GLORIA JEAN'S GOURMET COFFEES CORP., GLORIA JEAN'S GOURMET COFFEES FRANCHISING CORP., IT'S A GRIND, INC., PRAISE INTERNATIONAL NORTH AMERICA, INC., PRAISE IAG STORES, LLC, AND PRAISE IAG FRANCHISOR, LLC** as follows:

  X   (BY MAIL) I caused copies of such document, enclosed in sealed envelopes, to be deposited in the mail at Long Beach, California with postage thereon fully prepaid to the persons and addresses indicated on the attached list. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing set forth in this affidavit to:

Office of the Attorney General  
1515 Clay Street, 20th Floor  
Oakland, CA 94612-0550

  X   (BY E-MAIL) I delivered such document by electronic mail to: Laura J. Zuckerman, Deputy Attorney General, 1515 Clay Street, 20th Floor, Oakland, California 94612 at Laura.Zuckerman@doj.ca.gov, and Dennis A. Ragen, Deputy Attorney General, 110 West A Street, Suite 1100, San Diego, California 92186-5266 at Dennis.Ragen@doj.ca.gov. Said document was transmitted by email transmission, which was reported complete and without error.

  X   (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

           (FEDERAL) I declare that I am employed in the offices of a member of this court, at whose direction service was made.

Executed on April 5, 2012, at Long Beach, California.

\_\_\_\_\_  
Susan M. Simpson, Declarant