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2 Ben Yeroushalmi (SBN 232540)  
3 Peter T. Sato (SBN 238486)  
4 **YEROUSHALMI & YEROUSHALMI**  
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10 Attorneys for Plaintiffs,  
11 Consumer Advocacy Group, Inc.

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF LOS ANGELES – CENTRA DISTRICT

14 CONSUMER ADVOCACY GROUP, INC.,  
15 in the public interest,

16 Plaintiff,

17 v.

18 BIG LOTS STORES, INC., an Ohio  
19 corporation, AND DOES 1-50;

20 Defendants.

CASE NO. BC479969

**CONSENT JUDGMENT [PROPOSED]**

Health & Safety Code § 25249.5 *et seq.*

Dept. 61

Judge: Hon. Gregory Keosian

Complaint filed: March 1, 2012

21 **1. INTRODUCTION**

22 1.1 This Consent Judgment is entered into by and between plaintiff, Consumer  
23 Advocacy Group, Inc. (referred to as “CAG”) acting on behalf of itself and in the interest of the  
24 public, and defendants, BIG LOTS STORES, INC. (referred to as “Defendant” collectively) with  
25 each a Party to the action and collectively referred to as the “Parties.”

26 **1.2 Defendant and Products**

27 1.2.1 Defendant is an Ohio corporation which employs ten or more persons.  
28 Defendant sells or distributes Gossi, Inc., Grip-Rite, Steering Wheel Cover (“Covers”); Lazer  
Light 3-LED Flashlight (“Flashlight”); and Steering Wheel Covers, including but not limited to

1 Gossi Inc. Two Tone Black w/ W/O 220014020 Grip-Rite Steering Wheel Cover “SWC-136”  
2 UPC 8 13334 01008 5 “MADE IN CHINA” (“Steering Wheel Covers”). For purposes of this  
3 Consent Judgment, Defendant is deemed a person in the course of doing business in California  
4 and is subject to the provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986,  
5 California Health & Safety Code §§ 25249.6 et seq. (“Proposition 65”).

6 **1.3 Listed Chemicals**

7 1.3.1 Lead and Lead Compounds (“Lead”) are known to the State of California  
8 to cause cancer and/or birth defects or other reproductive harm.

9 1.3.2 Diethyl hexyl phthalate (“DEHP”) is known to the State of California to  
10 cause cancer and/or birth defects or other reproductive harm.

11 1.3.3 Di-Butyl Phthalate (“DBP”) is known to the State of California to cause  
12 birth defects or other reproductive harm.

13 **1.4 Notices of Violation.**

14 1.4.1 On April 29, 2011, CAG served Defendant, Big Lots, Inc., and various  
15 public enforcement agencies with a document entitled “Sixty-Day Notice of Intent to Sue”  
16 (“April 29, 2011 Notice”) that provided the recipients with notice of alleged violations of Health  
17 & Safety Code § 25249.6 for failing to warn individuals in California of exposures to lead  
18 contained in the Covers sold by Defendants. No public enforcer has commenced or diligently  
19 prosecuted the allegations set forth in the April 29, 2011 Notice.

20 1.4.2 On October 6, 2011, CAG served Defendant, Big Lots, Inc., Gossi, Inc.  
21 and various public enforcement agencies with a document entitled “Sixty-Day Notice of Intent to  
22 Sue” (“October 6, 2011 Notice”) that provided the recipients with notice of alleged violations of  
23 Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to  
24 DBP and DEHP contained in Flashlights sold by Defendant. No public enforcer has commenced  
25 or diligently prosecuted the allegations set forth in the October 6, 2011 Notice.  
26

1           1.4.3 On September 27, 2013, CAG served Defendant, Big Lots, Inc., Gossi,  
2 Inc., Big Lots Store #4065, and various public enforcement agencies with a document entitled  
3 “Sixty-Day Notice of Intent to Sue” (“September 27, 2013 Notice”) that provided the recipients  
4 with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn  
5 individuals in California of exposures to DEHP and lead contained in Steering Wheel Covers  
6 sold by Defendant. No public enforcer has commenced or diligently prosecuted the allegations  
7 set forth in the September 27, 2013 Notice.

8           **1.5 Complaint.**

9           On March 1, 2012, CAG filed a Complaint for civil penalties and injunctive relief  
10 (“Complaint”) in Los Angeles Superior Court, Case No. BC479969, against Defendant. CAG  
11 filed a First Amended Complaint (“FAC”) against Defendant on or about July 29, 2014. The  
12 Complaint and FAC allege, among other things, that Defendant violated Proposition 65 by  
13 failing to give clear and reasonable warnings of exposure to Lead, DEHP, and DBP from the  
14 Covers, Flashlight, and Steering Wheel Covers.

15           **1.6 Consent to Jurisdiction**

16           For purposes of this Consent Judgment, the Parties stipulate that this Court has  
17 jurisdiction over the allegations of violations contained in the Complaint and FAC and personal  
18 jurisdiction over Defendant as to the acts alleged in the Complaint and FAC, that venue is proper  
19 in the County of Los Angeles and that this Court has jurisdiction to enter this Consent Judgment  
20 as a full settlement and resolution of the allegations contained in the Complaint and FAC and of  
21 all claims which were or could have been raised by any person or entity based in whole or in  
22 part, directly or indirectly, on the facts alleged therein or arising therefrom or related thereto.

23           **1.7 No Admission**

24           This Consent Judgment resolves claims that are denied and disputed. The Parties enter  
25 into this Consent Judgment pursuant to a full and final settlement of any and all claims between  
26 the Parties for the purpose of avoiding prolonged litigation.  
27

1           The Parties acknowledge that resolution of this action was inhibited by certain actions by  
2 Defendant's former counsel, Mr. Hany Fangary, which includes but is not limited to (1) failing to  
3 notify Defendant about CAG's CCP § 998 Offer to Compromise served on or about October 16,  
4 2012, (b) failing to respond to CAG's set one discovery resulting in the court granting four  
5 motions to compel further responses on February 4, 2013 and imposing monetary sanctions, (c)  
6 failing to comply with the court's order pursuant to the motions to compel heard February 4,  
7 2013, resulting in the court ordering further amended responses and issuing additional monetary  
8 sanctions pursuant to CAG's motions for terminating/issue sanctions on November 18, 2013, and  
9 (d) failing to notify Defendant of CAG's second set of discovery requests, resulting in the court  
10 granting CAG's motions to compel further responses as to the second set of discovery on  
11 January 5, 2017 and issuing monetary sanctions for the 3<sup>rd</sup> time.

12           Notwithstanding, nothing in this Consent Judgment shall be construed as an admission by  
13 the Parties of any material allegation of the Complaint (each and every allegation of which  
14 Defendant denies), any fact, conclusion of law, issue of law or violation of law, including  
15 without limitation, any admission concerning any violation of Proposition 65 or any other  
16 statutory, regulatory, common law, or equitable doctrine, or the meaning of the terms  
17 "knowingly and intentionally expose" or "clear and reasonable warning" as used in Health and  
18 Safety Code section 25249.6. Nothing in this Consent Judgment, nor compliance with its terms,  
19 shall constitute or be construed as an admission by the Parties of any fact, conclusion of law,  
20 issue of law, or violation of law, or of fault, wrongdoing, or liability by any Defendant, its  
21 officers, directors, employees, or parent, subsidiary or affiliated corporations, or be offered or  
22 admitted as evidence in any administrative or judicial proceeding or litigation in any court,  
23 agency, or forum. Furthermore, nothing in this Consent Judgment shall prejudice, waive or  
24 impair any right, remedy, argument, or defense the Parties may have in any other or future legal  
25 proceeding, except as expressly provided in this Consent Judgment.  
26

1 **2. DEFINITIONS**

2 2.1 "Covered Products" means and is limited to Covers, Flashlights, and Steering  
3 Wheel Covers supplied by Gossi, Inc.

4 2.2 "Effective Date" means the date that this Consent Judgment is approved by the  
5 Court.

6 2.3 "Lead" means lead and lead compounds.

7 2.4 "DEHP" means Diethyl hexyl phthalate.

8 2.5 "DBP" means Di-Butyl phthalate

9 2.6 "Notices" means the April 29, 2011, October 6, 2011, and September 27, 2013  
10 Sixty-Day Notices of Violation sent by CAG.

11 **3. INJUNCTIVE RELIEF / REFORMULATION / CLEAR AND REASONABLE**  
12 **WARNINGS.**

13 3.1 Within 30 days of the Effective Date, Defendant shall not sell Covers in  
14 California unless they are reformulated to contain less than 100 ppm of Lead.

15 3.2 Within 30 days of the Effective Date, Defendant shall not sell Flashlights in  
16 California unless they are reformulated to contain less than 1,000 ppm DEHP and DBP.

17 3.3 Within 30 days of the Effective Date, Defendant shall not sell Steering Wheel  
18 Covers in California unless they are reformulated to contain less than 1,000 ppm DEHP and less  
19 than 100 ppm of Lead.

20 3.4 For any Covered Products still existing in Defendant's inventory as of the  
21 Effective Date, Defendant shall place a Proposition 65 compliant warning. Any warning  
22 provided pursuant to this section shall be affixed to the packaging of, or directly on, the Covered  
23 Products, and be prominently placed with such conspicuousness as compared with other words,  
24 statements, designs, or devices as to render it likely to be read and understood by an ordinary  
25 individual under customary conditions before purchase or use. The warning shall state:  
26

1 **WARNING:** This product contains a chemical known to the State of California  
2 to cause cancer and birth defects or other reproductive harm.

3 **4. SETTLEMENT PAYMENT**

4 4.1 **Payment:** Defendant shall pay a total of one-hundred seventy-five thousand  
5 dollars and zero cents (\$175,000) in full and complete settlement of all monetary claims by CAG  
6 related to the Notices, as follows:

7 4.1.1 **Civil Penalty:** Defendant shall issue separate checks totaling six-  
8 thousand dollars (\$6,000) as penalties pursuant to Health & Safety Code § 25249.12:

9 (a) Defendant will issue a check made payable to the State of California's  
10 Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of four-thousand  
11 and five hundred dollars (\$4,500) representing 75% of the total penalty and Defendant will issue  
12 a check to CAG in the amount of one-thousand and five hundred dollars (\$1,500 representing  
13 25% of the total penalty; and

14 (b) Separate 1099s shall be issued for each of the above payments:  
15 Defendants will issue a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-  
16 0284486) in the amount of \$4,500 Defendants will also issue a 1099 in the amount of \$1,500 to  
17 CAG c/o Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills,  
18 California 90212.

19 4.1.2 **Additional Settlement Payments:** Defendant shall pay four-thousand  
20 and five hundred dollars (\$4,500) as additional settlement payments to "Consumer Advocacy  
21 Group, Inc." pursuant to Health & Safety Code § 25249.7(b) and California Code of Regulations,  
22 Title 11 § 3203(d). CAG will use this payment as follows, seventy percent (70%) for fees of  
23 investigation, purchasing and testing for Proposition 65 listed chemicals in various products  
24 including those suspected of containing lead, DEHP, and/or DBP, and for expert fees for  
25 evaluating exposures through various mediums, including but not limited to consumer product,  
26 occupational, and environmental exposures to Proposition 65 listed chemicals, and the cost of  
27

1 hiring consulting and retained experts who assist with the extensive scientific analysis necessary  
2 for those files in litigation; twenty percent (20%)<sup>1</sup> for administrative costs incurred during the  
3 investigation and litigation to reduce the public's exposure to Proposition 65 listed chemicals by  
4 notifying those persons and/or entities believed to be responsible for such exposures and  
5 attempting to persuade those persons and/or entities to reformulate their products or the source of  
6 exposure to completely eliminate or lower the level of Proposition 65 listed chemicals including  
7 but not limited to costs of documentation and tracking of products investigated, storage of  
8 products, website enhancement and maintenance, computer and software maintenance,  
9 investigative equipment, CAG's member's time for work done on investigations, office supplies,  
10 mailing supplies and postage; and ten percent (10%) to offset the costs of future litigation  
11 enforcing Proposition 65 but excluding attorney fees, thereby addressing the same public harm as  
12 allegedly in the instant Action. Within 30 days of a request from the Attorney General, CAG  
13 shall provide to the Attorney General copies of documentation demonstrating how the above  
14 funds have been spent.

15  
16 **4.1.3 Reimbursement of Attorneys Fees and Costs:** Defendant shall pay one-  
17 hundred and sixty-four thousand and five hundred dollars (\$164,500) to "Yeroushalmi &  
18 Associates" as reimbursement for reasonable investigation fees and costs, attorneys' fees, and  
19 any other costs incurred as a result of investigating, bringing this matter to Defendant's attention,  
20 litigating, and negotiating a settlement in the public interest. The check shall be made payable to  
21 "Yeroushalmi & Associates" and delivered to Reuben Yeroushalmi, Yeroushalmi &  
22 Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

23 **4.2 Delivery of Payments:**  
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25  
26

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27 <sup>1</sup> This is subject to any further and future discussion and comments from the California Attorney General's office.  
28

1 4.2.1 OEHHA's check shall be delivered directly to: Office of Environmental  
2 Health Hazard Assessment, Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento,  
3 California 95812.

4 4.2.2 All payments to CAG and Yeroushalmi & Associates shall be delivered  
5 to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W,  
6 Beverly Hills, California 90212.

7 **5. MATTERS COVERED BY THIS CONSENT JUDGMENT**

8 5.1 This Consent Judgment is a full, final, and binding resolution between CAG, on  
9 behalf of itself and in the public interest, as well as on behalf of its past and current owners,  
10 parents, subsidiaries, affiliates, sister and related companies, employees, agents, representatives,  
11 shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (the  
12 "Releasing Parties"), on the one hand, and Defendant and its owners, officers, directors, insurers,  
13 employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister  
14 and related companies, franchisees, licensees, agents, and their predecessors, successors and  
15 assigns, and the supplier of the Covered Products, Gossi, Inc. (collectively, the "Released  
16 Settling Parties"), and any other person in the course of doing business, and the successors and  
17 assigns of any of them, who may or have used, maintained, distributed, sold or otherwise  
18 provided Covered Products, including but not limited to distributors, wholesalers, customers,  
19 direct and indirect retailers, franchisees, corporate affiliates, downstream suppliers, cooperative  
20 members, and licensees (collectively, the "Downstream Releasees"), on the other hand, for all  
21 claims for violations of Proposition 65 or any statutory or common law claim that has been,  
22 could have been or may in the future be asserted against the Released Settling Parties and  
23 Downstream Releasees based on exposure to Lead from the Covers, DBP and DEHP from the  
24 Flashlights, and Lead and DEHP from the Steering Wheel Covers as set forth in the Notices,  
25 through the Effective Date. Defendant's and Released Settling Parties' compliance with this  
26 Consent Judgment shall constitute compliance with Proposition 65 with respect to exposure to  
27



1 Lead, DBP, and DEHP from the Covered Products. Nothing in this Section affects CAG's right  
2 to commence or prosecute an action under Proposition 65 against any person other than the  
3 Released Settling Parties or Downstream Releasees. (The Defendant, Released Settling Parties,  
4 and Downstream Releasees are herein referred to as "Released Parties").

5         5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,  
6 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or  
7 indirectly, any form of legal action and releases all claims, including, without limitation, all  
8 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations,  
9 damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation  
10 fees, expert fees, and attorneys' fees) of any nature whatsoever, whether known or unknown,  
11 fixed or contingent (collectively "Claims"), against the Released Parties arising from any  
12 violation of Proposition 65 or any other statutory or common law regarding the failure to warn  
13 about exposure to Lead from the Covers, DBP and DEHP from the Flashlights, and Lead and  
14 DEHP from the Steering Wheel Covers as set forth in the Notices. In furtherance of the  
15 foregoing, as to alleged exposures to Lead from the Covers, DBP and DEHP from the  
16 Flashlights, and Lead and DEHP from the Steering Wheel Covers as set forth in the Notices,  
17 CAG on behalf of itself only, hereby waives any and all rights and benefits which it now has, or  
18 in the future may have, conferred upon it with respect to Claims arising from any violation of  
19 Proposition 65 or any other statutory or common law regarding the failure to warn about  
20 exposure to Lead from the Covers, DBP and DEHP from the Flashlights, and Lead and DEHP  
21 from the Steering Wheel Covers as set forth in the Notices by virtue of the provisions of section  
22 1542 of the California Civil Code, which provides as follows:

24             A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
25             CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
26             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.

27 CAG understands and acknowledges that the significance and consequence of this waiver of

1 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or  
2 resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any  
3 violation of Proposition 65 or any other statutory or common law regarding the failure to warn  
4 about exposure to Lead from the Covers, DBP and DEHP from the Flashlights, and Lead and  
5 DEHP from the Steering Wheel Covers as set forth in the Notices, including but not limited to  
6 any exposure to, or failure to warn with respect to exposure to Lead from the Covers, DBP and  
7 DEHP from the Flashlights, and Lead and DEHP from the Steering Wheel Covers as set forth in  
8 the Notices, CAG will not be able to make any claim for those damages against Released Parties.  
9 Furthermore, CAG acknowledges that it intends these consequences for any such Claims arising  
10 from any violation of Proposition 65 or any other statutory or common law regarding the failure  
11 to warn about exposure to Lead from the Covers, DBP and DEHP from the Flashlights, and Lead  
12 and DEHP from the Steering Wheel Covers as set forth in the Notices as may exist as of the date  
13 of this release but which CAG does not know exist, and which, if known, would materially affect  
14 its decision to enter into this Consent Judgment, regardless of whether their lack of knowledge is  
15 the result of ignorance, oversight, error, negligence, or any other cause.

16  
17 **6. ENFORCEMENT OF JUDGMENT**

18 6.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties  
19 hereto. The Parties may, by noticed motion or order to show cause before the Superior Court of  
20 California, Los Angeles County, giving the notice required by law, enforce the terms and  
21 conditions contained herein. A Party may enforce any of the terms and conditions of this  
22 Consent Judgment only after that Party first provides 90 days notice to the Party allegedly failing  
23 to comply with the terms and conditions of this Consent Judgment and attempts to resolve such  
24 Party's failure to comply in an open and good faith manner.

25 6.2 **Notice of Violation.** Prior to bringing any motion, order to show cause, or other  
26 proceeding to enforce the terms of this Consent Judgment, CAG shall provide a Notice of  
27 Violation ("NOV") to Defendants. The NOV shall include for each of the Covered Products: the

1 date(s) the alleged violation(s) was observed and the location at which the Covered Products  
2 were offered for sale, and shall be accompanied by all test data obtained by CAG regarding the  
3 Covered Products, including an identification of the component(s) of the Covered Products that  
4 were tested.

5           **6.2.1 Non-Contested NOV.** CAG shall take no further action regarding the  
6 alleged violation if, within 60 days of receiving such NOV, Defendants serves a Notice of  
7 Election (“NOE”) that meets one of the following conditions:

8           (a) The Covered Products were shipped and/or received by Defendant  
9 for sale in California before the Effective Date, or

10           (b) Since receiving the NOV Defendant has taken corrective action by  
11 either (i) requesting that its customers or stores in California, as applicable, remove the  
12 Covered Products identified in the NOV from sale in California and destroy or return the  
13 Covered Products to Defendant or vendor, as applicable, or (ii) providing a clear and  
14 reasonable warning for the Covered Products identified in the NOV pursuant to 27 Cal.  
15 Code Regs. § 25603.

16           **6.2.2 Contested NOV.** Defendant may serve an NOE informing CAG of its  
17 election to contest the NOV within 30 days of receiving the NOV.

18           (a) In its election, Defendant may request that the sample(s) of  
19 Covered Products tested by CAG be subject to confirmatory testing at an EPA-accredited  
20 laboratory.

21           (b) If the confirmatory testing establishes that the Covered Products do  
22 not contain Lead, DBP, or DEHP in excess of the levels allowed in Section 3.1, 3.2, or  
23 3.3, above, CAG shall take no further action regarding the alleged violation. If the  
24 testing does not establish compliance with Section 3.1, 3.2, or 3.3, above, Defendant may  
25 withdraw its NOE to contest the violation and may serve a new NOE pursuant to Section  
26 6.2.1.  
27

1 (c) If Defendant does not withdraw an NOE to contest the NOV, the  
2 Parties shall meet and confer for a period of no less than 30 days before CAG may seek  
3 an order enforcing the terms of this Consent Judgment.

4 6.3 In any proceeding brought by either Party to enforce this Consent Judgment, the  
5 prevailing party shall be entitled to recover its attorney's fees and costs.

6 **7. ENTRY OF CONSENT JUDGMENT**

7 7.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to  
8 California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG,  
9 Defendant waive their respective rights to a hearing or trial on the allegations of the Complaint  
10 and FAC.

11 7.2 If this Consent Judgment is not approved by the Court in its entirety, (a) this  
12 Consent Judgment and any and all prior agreements between the parties merged herein shall  
13 terminate and become null and void, and the actions shall revert to the status that existed prior to  
14 the execution date of this Consent Judgment; (b) no term of this Consent Judgment or any draft  
15 thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement  
16 discussions, shall have any effect, nor shall any such matter be admissible in evidence for any  
17 purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to  
18 determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.  
19

20 **8. MODIFICATION OF JUDGMENT**

21 8.1 This Consent Judgment may be modified only upon written agreement of the  
22 Parties, and if required by Health and Safety Code section 25249.7(f), upon entry of a modified  
23 Consent Judgment by the Court thereon, or upon motion of any party as provided by law and  
24 upon entry of a modified Consent Judgment by the Court.

25 8.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to  
26 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

1 **9. RETENTION OF JURISDICTION**

2 9.1 This Court shall retain jurisdiction of this matter to implement and enforce the  
3 terms of this Consent Judgment under Code of Civil Procedure § 664.6.

4 **10. DUTIES LIMITED TO CALIFORNIA**

5 10.1 This Consent Judgment shall have no effect on Covered Products sold by  
6 Defendant outside the State of California.

7 **11. SERVICE ON THE ATTORNEY GENERAL**

8 11.1 CAG shall serve a copy of this Consent Judgment, signed by both parties, on the  
9 California Attorney General so that the Attorney General may review this Consent Judgment  
10 prior to its submittal to the Court for approval. No sooner than forty five (45) days after the  
11 Attorney General has received the aforementioned copy of this Consent Judgment, and in the  
12 absence of any written objection by the Attorney General to the terms of this Consent Judgment,  
13 the parties may then submit it to the Court for approval.

14 **12. ATTORNEY FEES**

15 12.1 Except as specifically provided in Sections 4.1.3 and 6.3 above, each Party shall  
16 bear its own costs and attorney fees in connection with this action.

17 **13. GOVERNING LAW**

18 14.1 The validity, construction and performance of this Consent Judgment shall be  
19 governed by the laws of the State of California, without reference to any conflicts of law  
20 provisions of California law.

21 14.2 The terms of this Consent Judgment shall be governed by the laws of the State of  
22 California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered  
23 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are  
24 rendered inapplicable or are no longer required as a result of any such repeal or preemption, or  
25 rendered inapplicable by reason of law generally as to the Covered Products, then any Defendant  
26 subject to this Consent Judgment may provide written notice to CAG of any asserted change in  
27

1 the law, and shall have no further obligations pursuant to this Consent Judgment with respect to,  
2 and to the extent that, the Covered Products are so affected. Nothing in this Consent Judgment  
3 shall be interpreted to relieve Defendant from any obligation to comply with any pertinent state  
4 or federal law or regulation.

5 14.3 The Parties, including their counsel, have participated in the preparation of this  
6 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This  
7 Consent Judgment was subject to revision and modification by the Parties and has been accepted  
8 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty  
9 or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a  
10 result of the manner of the preparation of this Consent Judgment. Each Party to this Consent  
11 Judgment agrees that any statute or rule of construction providing that ambiguities are to be  
12 resolved against the drafting Party should not be employed in the interpretation of this Consent  
13 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

14 **15. EXECUTION AND COUNTERPARTS**

15 15.1 This Consent Judgment may be executed in counterparts and by means of  
16 facsimile or portable document format (pdf), which taken together shall be deemed to constitute  
17 one document and have the same force and effect as original signatures.

18 **16. NOTICES**

19 16.1 Any notices under this Consent Judgment shall be by personal delivery of First  
20 Class Mail.

21 If to CAG:

22 Reuben Yeroushalmi  
23 9100 Wilshire Boulevard, Suite 240W  
24 Beverly Hills, CA 90212  
25 (310) 623-1926

26 If to Defendant:  
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Monica M. Welt  
Director of Compliance  
Big Lots Stores, Inc.  
300 Phillipi Rd.,  
Columbus, Ohio 43228

With a copy to:

Jeffrey B. Margulies  
Norton Rose Fulbright US LLP  
555 South Flower Street  
41st Floor  
Los Angeles, California 90071

**17. AUTHORITY TO STIPULATE**

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

AGREED TO:

AGREED TO:

Date: 03/31/17, 2017

Date: 3/30/17, 2017

*Michael Marcus*

*Ronald A. Robins, Jr.*

Name: Michael Marcus

Name: Ronald A. Robins, Jr.

Title: Director  
CONSUMER ADVOCACY GROUP,  
INC.

Title: SVP, GC & Corp Secy  
BIG LOTS STORES, INC.

**IT IS SO ORDERED.**

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

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