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10 CONSUMER ADVOCACY GROUP, INC.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

13 CONSUMER ADVOCACY GROUP, INC., in
14 the interest of the Public,
15 Plaintiff,
16 v.
17 GREENBRIER INTERNATIONAL, INC., a
18 Delaware Corporation; DOLLAR TREE
19 STORES, INC., a Virginia Corporation, and
20 DOES 1-50;
21 Defendants.

22 CASE NO. BC486157
23 [PROPOSED] STIPULATED CONSENT
24 JUDGMENT AND [PROPOSED] ORDER
25 Health & Safety Code § 25249.5 *et seq.*
26 ACTION FILED: June 7, 2012
27 TRIAL DATE: October 7, 2013

28 1. INTRODUCTION

1.1 On June 7, 2012, Plaintiff, the Consumer Advocacy Group, Inc. ("CAG"), filed a complaint in the Los Angeles Superior Court entitled *Consumer Advocacy Group, Inc. v. Greenbrier International, Inc., et al.*, Case No. BC486157 (the "Action"), for civil penalties and injunctive relief pursuant to the provisions of California Health and Safety Code section 25249.5, *et seq.* ("Proposition 65") against Greenbrier International, Inc. ("Greenbrier") and Dollar Tree Stores, Inc. ("Dollar Tree") (collectively "Defendants"). CAG and Defendants are collectively referred to hereinafter as "Parties."

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1 1.2 Defendants are corporations that employ 10 or more persons. Defendants allegedly
2 have made available for distribution in the State of California the products set forth on Exhibits A,
3 B and C ("Products"). The Products listed on Exhibit A allegedly contain lead. The Products
4 listed on Exhibit B allegedly contain di(2-ethylhexyl)phthalate ("DEHP"). The Products listed on
5 Exhibit C allegedly contain di-n-butyl phthalate ("DBP"). Lead, DEHP and DBP are
6 Proposition 65 listed chemicals ("Noticed Chemicals"). The Products covered by this Consent
7 Judgment are only limited to those sold by Defendants.

8 1.3 On or about February 17, 2012, January 18, 2013 and March 25, 2013, CAG served
9 Defendants and the appropriate public enforcement agencies with Proposition 65 notices of
10 violation ("Notices") claiming that Defendants were in violation of Proposition 65 in regard to the
11 Products. CAG's Notices and the Second Amended Complaint in this Action allege that
12 Defendants exposed people who handle the Products to the Noticed Chemicals, without first
13 providing clear and reasonable warnings, in violation of California Health and Safety Code section
14 25249.6.

15 1.4 Defendants deny the material allegations of the Notices and the Second Amended
16 Complaint, and deny liability for the causes of action alleged in the Second Amended Complaint
17 and in connection with the Action.

18 1.5 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
19 jurisdiction over the allegations of violations contained in CAG's Second Amended Complaint
20 and personal jurisdiction over Defendants as to the acts alleged in CAG's Second Amended
21 Complaint, that venue is proper in the County of Los Angeles, and that this Court has jurisdiction
22 to enter this Consent Judgment as a full and final resolution of all claims which were or could
23 have been raised in the Second Amended Complaint based on the facts alleged therein.

24 1.6 The Parties enter into this Consent Judgment pursuant to a settlement of certain
25 disputed claims as alleged in the Second Amended Complaint for the purpose of avoiding
26 prolonged and costly litigation.

27 1.7 Nothing in this Consent Judgment shall be construed as an admission by the Parties
28 of any fact, conclusion of law, issue of law or violation of law, including without limitation, any

1 admission concerning any violation of Proposition 65 or any other statutory, regulatory, common
2 law, or equitable doctrine, or the meaning of the terms "knowingly and intentionally expose" or
3 "clear and reasonable warning" as used in California Health and Safety Code section 25249.6.
4 Nothing in this Consent Judgment, nor compliance with its terms, shall constitute or be construed
5 as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, or
6 of fault, wrongdoing, or liability by Defendants, their officers, directors, employees, or parent,
7 subsidiary or affiliated corporations, or be offered or admitted as evidence in any administrative or
8 judicial proceeding or litigation in any court, agency, or forum, except for purposes of issue or
9 claim preclusion or any other similar defense.

10 1.8 Nothing in this Consent Judgment shall prejudice, waive or impair any right,
11 remedy, argument, or defense the Parties may have in any other or future legal proceeding, except
12 as expressly provided in this Consent Judgment.

13 1.9 This Consent Judgment is the product of negotiation and compromise and is
14 accepted by the Parties, for purposes of settling, compromising, and resolving issues disputed in
15 this action, including future compliance by Defendants with Section 2 of this Consent Judgment.

16 1.10 The "Effective Date" of this Consent Judgment shall be the date the Court approves
17 the Consent Judgment.

18 **2. REFORMULATION**

19 2.1 Forty-five (45) days after the Effective Date, Defendants shall not sell, ship or offer
20 to be shipped for sale in California: (1) any Products on Exhibit A that contain more than 100
21 parts per million lead by weight; (2) any Products on Exhibit B that contain more than 1000 parts
22 per million DEHP; and (3) any products on Exhibit C that contain more than 1000 parts per
23 million DBP.

24 2.2 Within 45 days of the Effective Date, Defendants shall not sell the Products in
25 California unless they comply with the reformulation standards set forth in Paragraph 2.1. Any
26 existing Products remaining in Defendants inventory should have Proposition 65 compliant
27 warnings prior to sale in California. For Products on Exhibit A, the warning shall read as follows:
28 "WARNING: This product contains a chemical known to the State of California to cause cancer

1 and birth defects or other reproductive harm.” For Products on Exhibits B and C, the warning
2 shall read as follows: “**WARNING:** This product contains chemicals known to the State of
3 California to cause birth defects or other reproductive harm.”

4 **3. SETTLEMENT PAYMENT**

5 3.1 Within ten (10) days of the Effective Date, Defendants shall pay a total of
6 \$240,000.00 to Consumer Advocacy Group, Inc. and Yeroushalmi & Associates. The payment
7 shall be made as set forth below:

8 3.1.1 Civil Penalty: Defendants shall pay a civil penalty of \$40,000. Defendants
9 shall provide their payment of the civil penalty in two checks for the following amounts made
10 payable to: (a) “OEHHA” in the amount of \$30,000; and (b) “Consumer Advocacy Group” in the
11 amount of \$10,000, representing 25% of the civil penalty. The checks shall be delivered to
12 Reuben Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly
13 Hills, California 90212.

14 3.1.2 Monetary Payment in Lieu of Civil Penalty: Defendants shall pay \$20,000
15 to CAG in lieu of any civil penalty pursuant to California Health and Safety Code section
16 25249.7(b). CAG will use the payment for such projects and purposes related to environmental
17 protection, worker health and safety, or reduction of human exposure to hazardous substances
18 (including administrative and litigation costs arising from such projects), as CAG may choose.
19 The check shall be made payable to Consumer Advocacy Group, Inc. and delivered to Reuben
20 Yeroushalmi, Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills,
21 California 90212.

22 3.1.3 Attorneys’ Fees and Costs: Defendants shall pay \$180,000 to
23 Yeroushalmi & Associates, as CAG’s attorneys, for reasonable investigation fees and costs,
24 attorneys’ fees, and any other costs incurred as a result of investigating, bringing this matter to
25 Defendants’ attention, litigating, and negotiating a settlement in the public interest. The check
26 shall be made payable to Yeroushalmi & Associates and delivered to Reuben Yeroushalmi,
27 Yeroushalmi & Associates, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California
28 90212.

1 **4. MODIFICATION OF CONSENT JUDGMENT**

2 4.1 This Consent Judgment may only be modified by written agreement of CAG and
3 Defendants upon stipulation and order of the Court, or after noticed motion, and upon entry of a
4 Consent Judgment by the Court thereon, or upon motion of CAG or Defendants as provided by
5 law and upon entry of a modified Consent Judgment by the Court.

6 **5. ENFORCEMENT OF CONSENT JUDGMENT**

7 5.1 Either party may, by motion or application for an order to show cause before the
8 Superior Court of the County of Los Angeles, consistent with the terms and conditions set forth in
9 paragraphs 9.1 and 9.2 of this Consent Judgment, enforce the terms and conditions contained in
10 this Consent Judgment. The prevailing party shall be entitled to its reasonable attorneys' fees and
11 costs associated with such motion or application.

12 **6. APPLICATION OF CONSENT JUDGMENT**

13 6.1 This Consent Judgment shall apply to and be binding upon the Parties hereto, their
14 divisions, subdivisions and subsidiaries, officers, directors, employees, agents and their successors
15 or assigns, and to the extent allowed by law, on the general public.

16 **7. CLAIMS COVERED AND RELEASED**

17 7.1 CAG, on behalf of itself and in the public interest, hereby releases and discharges
18 Defendants, their related subsidiaries, affiliates, predecessors, successors and assigns, vendors,
19 suppliers, distributors, retailers, and customers and all officers, directors, employees, agents and
20 shareholders of them (collectively, "Released Parties") from any and all claims asserted, or that
21 could have been asserted, in this litigation arising from the alleged failure to provide
22 Proposition 65 warnings for the Products regarding the exposure of individuals to the Noticed
23 Chemicals in the Products. CAG, on behalf of itself only, hereby releases and discharges the
24 Released Parties from any and all known and unknown past, present, and future rights, claims,
25 causes of action, damages, suits, penalties, liabilities, injunctive relief, declaratory relief, and
26 attorney fees, costs, and expenses related to or arising out of the facts and claims asserted, or that
27 could have been asserted, under state or federal law or the facts alleged in Plaintiff's
28 Proposition 65 Notices relating to any and all claims concerning exposure of any person to the

1 Noticed Chemicals in the Products. Compliance with the terms of this Consent Judgment shall
2 constitute compliance by the Released Parties with Proposition 65 with respect to exposures to the
3 Noticed Chemicals contained in the Products. This release does not limit or affect the obligations
4 of any party created under this Consent Judgment.

5 7.2 Unknown Claims. It is possible that other injuries, damages, liability, or claims not
6 now known to the Parties arising out of the facts alleged in the Second Amended Complaint and
7 relating to the Products will develop or be discovered, and this Consent Judgment is expressly
8 intended to cover and include all such injuries, damages, liability, and claims, including all rights
9 of action therefor. CAG has full knowledge of the contents of California Civil Code section 1542.
10 CAG, on behalf of itself only, acknowledges that the claims released in section 7.1 above may
11 include unknown claims and waives section 1542 as to any such unknown claims. Section 1542
12 reads as follows:

13
14 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
15 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
16 **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.

17 CAG acknowledges and understands the significance and consequences of this specific waiver of
18 California Civil Code section 1542. CAG represents and warrants that, as of the date of
19 execution of this Consent Judgment, it has no knowledge or information regarding any other
20 alleged violation of Proposition 65 by Defendants.

21 8. **SEVERABILITY**

22 8.1 In the event that any of the provisions of this Consent Judgment are held by a court
23 to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

24 9. **NOTICE AND CURE**

25 9.1 No action to enforce this Consent Judgment may be commenced, and no notice of
26 violation related to the Products may be served or filed against Defendants by CAG, unless the
27 party seeking enforcement or alleging violation notifies the other party of the specific acts alleged
28 to breach this Consent Judgment at least ninety (90) days before serving or filing any motion,

1 action, or notice of violation. Any notice to Defendants must contain (a) the name of the product,
2 (b) specific dates when the product was sold in California, (c) the store or other place at which the
3 product was available for sale to consumers, and (d) any other evidence or other support for the
4 allegations in the notice.

5 9.2 Within 30 days of receiving the notice described in Section 9.1, Defendants shall
6 either (1) withdraw the product, or (3) refute the information provided under Section 9.1. Should
7 the Parties be unable to resolve the dispute, either party may seek relief under Section 5.

8 **10. GOVERNING LAW**

9 10.1 The terms of this Consent Judgment shall be governed by the laws of the State of
10 California and apply within the State of California.

11 **11. PROVISION OF NOTICE**

12 11.1 All notices required pursuant to this Consent Judgment and correspondence shall be
13 sent to the following:

14 For CAG:	For Greenbrier International, Inc. and Dollar Tree Stores, Inc.:
15 Reuben Yeroushalmi	
16 YEROUSHALMI & ASSOCIATES	Margaret Carew Toledo
17 9100 Wilshire Boulevard, Suite 240W	TOLEDO DON LLP
18 Beverly Hills, CA 90212	3001 Douglas Blvd., Suite 340
19 T: 310-623-1926	Roseville, CA 95661
F: 310-623-1930	T: 916-462-8951
	F: 916-791-0175

20 **12. COURT APPROVAL**

21 12.1 If this Consent Judgment is not approved by the Court, it shall be of no further
22 force or effect.

23 12.2 CAG shall comply with California Health and Safety Code section 25249.7(f) and
24 with Title 11 California Code of Regulations section 3003.

25 12.3 In the event that the California Attorney General, or any other person, files an
26 appeal challenging this Consent Judgment and the Consent Judgment is reversed or modified in
27 any way by the appellate court, CAG and its counsel shall refund all payments made by
28

1 Defendants pursuant to Section 3 of this Consent Judgment within 15 days of the appellate court
2 decision becoming final.

3 13. EXECUTION AND COUNTER PARTS

4 13.1 This Consent Judgment may be executed in counterparts and by means of
5 facsimile, which taken together shall be deemed to constitute one document. Facsimile or pdf
6 signatures shall be construed as valid as the original.

7 14. AUTHORIZATION

8 14.1 Each signer of this Consent Judgment certifies that he or she is fully authorized by
9 the party he or she represents to stipulate to the terms and conditions of this Consent Judgment and
10 to enter into and execute the Consent Judgment on behalf of the party represented and legally bind
11 that party. The undersigned have read, understand and agree to all of the terms and conditions of
12 this Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and
13 costs.

14 Dated: 12-27-13

CONSUMER ADVOCACY GROUP, INC.

15
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17
18 Name and Title: Michel Sasser - executive
director

19 Dated: _____

GREENBRIER INTERNATIONAL, INC.

20
21
22
23 Name and Title: _____

24 Dated: _____

DOLLAR TREE STORES, INC.

25
26
27
28 Name and Title: _____

1 Defendants pursuant to Section 3 of this Consent Judgment within 15 days of the appellate court
2 decision becoming final.

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10 to enter into and execute the Consent Judgment on behalf of the party represented and legally bind
11 that party. The undersigned have read, understand and agree to all of the terms and conditions of
12 this Consent Judgment. Except as explicitly provided herein, each party is to bear its own fees and
13 costs.

14 Dated: _____

CONSUMER ADVOCACY GROUP, INC.

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Name and Title: _____

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Dated: 12/30/13

GREENBRIER INTERNATIONAL, INC.

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21

Robert A. Rudman

22

Name and Title: Robert Rudman, President and CEO

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Dated: 12/30/13

DOLLAR TREE STORES, INC.

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Robert A. Rudman

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Name and Title: Robert Rudman, CMO

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ORDER AND JUDGMENT

Based upon the Consent Judgment between Consumer Advocacy Group, Inc. and Greenbrier International, Inc. and Dollar Tree Stores, Inc., the Consent Judgment is approved as it complies with *Cal. Health and Safety Code* § 25249.7 et seq. and judgment is hereby entered according to the terms herein.

Dated: _____

Judge, Superior Court of the State of California

EXHIBIT A

(LEAD)

1. Driver's Choice® Tire Scrubber, SKU 109749 UPC 639277097491
2. Driver's Choice® Wheel Brush, SKU 109749, UPC 639277097491
3. Driver's Choice® Automotive Sponge, SKU 109749 UPC 639277097491
4. Green eCIRCUIT™ Electronics Flashlight Easy Grip, SKU 848029, UPC 824610511103
5. Yellow eCIRCUIT™ Electronics Flashlight Easy Grip, SKU 848029, UPC 824610511103
6. Purple eCIRCUIT™ Electronics Flashlight Easy Grip, SKU 848029, UPC 824610511103
7. Red eCIRCUIT™ Electronics Flashlight Easy Grip, SKU 848029, UPC 824610511103
8. Small Black Flashlight with green band and metal plate on grip
9. Small Black Flashlight with orange band
10. Christmas House Garland, SKU 118941, UPC 639277189417

EXHIBIT B

(DEHP)

1. Sport Active® Adult Sunglass Nosepads, Item No. 000046
2. Forever Yesterday® Adult Sunglass Nosepads, Item No. 000046
3. Tool Bench® Goggles "Vented for Comfort", SKU 847381, UPC 639277473813 &
4. 837812021363
5. Tool Bench® Goggles, SKU 178206, UPC 639277982063
6. Tool Bench® Goggles, SKU 162627, UPC 639277626271
7. Cooking Concepts® 15in. Chrome Tong, SKU 18093, UPC 639277180933
8. Cooking Concepts® Turkey Lifter, 2-pk, SKU 100387, UPC 639277003874
9. Suction Cup/Hooks 12 Pack, SKU 25523, UPC 639277255235
10. Suction Cup/Hooks 9 Pack, SKU 25523, UPC 639277255235
11. Suction cup hooks, "6 count", "Christmas House", SKU 119875, UPC 639277198754
12. Suction cup hooks, "12 count", "Christmas House", SKU 119875, UPC 639277198754
13. ECircuit® LED Clip-On Book Light, SKU 865186, UPC 639277651860
14. LED Clip-on Book Light, SKU 144483, UPC 639277444837
15. LED Clip-on Book Light, SKU 161236, UPC 639277612366
16. LED Clip-on Book Light, SKU 865186, UPC 639277651860
17. The Home Store™ Printed Vinyl placemat, 100% vinyl, "12 in x 18 in", SKU 20811
18. The Home Store™ Printed Vinyl placemat, 100% vinyl, "12 in x 18 in", Herbs/Olive Oil
SKU 25690, UPC 639277248725
19. The Home Store™ Printed Vinyl placemat, 100% vinyl, "12 in x 18 in", Rooster SKU
25687, UPC 639277208118 & 639277246424
20. The Home Store™ Printed Vinyl placemat, 100% vinyl, "12 in x 18 in", Fruit SKU
25686, UPC 639277246431
21. The Home Store™ Printed Vinyl placemat, 100% vinyl, "12 in x 18 in", Coffee SKU
25688, UPC 639277248626
22. The Home Store™ Printed Vinyl placemat, 100% vinyl, "12 in x 18 in", Chef SKU
25689, UPC 639277248671
23. The Home Store™ Printed Vinyl placemat, 100% vinyl, "12 in x 18 in", Grape/Wine
SKU 25691, UPC 639277248695
24. Non-Slip Shelf Liner 12 in x 60 in, SKU 110323
25. Non-Slip Shelf Liner 12 in x 60 in Black, SKU 110325, UPC 639277103253
26. Non-Slip Shelf Liner 12 in x 60 in White, SKU 110327, UPC 639277103277
27. Non-Slip Shelf Liner 12 in x 60 in Blue, SKU 110331, UPC 639277103314
28. Non-Slip Shelf Liner 12 in x 60 in Tan, SKU 110332, UPC 639277103321
29. Gripper Pads, 4 count, SKU 145568, UPC 639277455680
30. Crisper Liners, SKU 145571, UPC 639277455710
31. Shelf Liners, SKU 25521, UPC 639277255211
32. Non-Slip Shelf Liner, SKU 145503, UPC 639277455031

33. Crisper Liners 12x12, SKU 145571, UPC 639277455710
34. Grip Liners 12x60, SKU 119109, UPC 639277191090
35. Gripper Pads 4 Pack, SKU 988906, UPC 639277889065
36. Grip Liner 12x50 Black, SKU 110335, UPC 639277103352
37. Grip Liner 12x50 White, SKU 110337, UPC 639277103376
38. Grip Liner 12x50 Blue, SKU 110339, UPC 639277103390
39. Grip Liner 12x50 Tan, SKU 110340, UPC 639277103406
40. Grip Shelf Liner 12x50, SKU 903495, UPC 639277034953
41. Crisper Liner Plastic, SKU 923917, UPC 639277239174
42. Grip-it Crisper Liner, SKU 801719, UPC 032014550615 & 10032014000032
43. Shelf Liner Grip Black/Brown/White, SKU 900390, UPC 032014630409, 032014630577 & 032014630584
44. Gripper Pads 4 Pack, SKU 110839, UPC 639277108395
45. Rug Underlay 18x28, SKU 110391, UPC 639277103918
46. Rug Liner Assortment 28x17.8, SKU 25842, UPC 639277258427
47. Placemat Waffle 2 Pack, SKU 939941, UPC 639277399410
48. Placemat Waffle 2 Pack, SKU 110609, UPC 639277106094
49. Placemat Waffle Spring 2 Pack, SKU 144278, UPC 049696614801 & 00639012251218
50. Jar Opener Soft Grip, SKU 923918, UPC 639277239181
51. Home Collection, Vinyl Shower Curtain Liner with 3 magnets, SKU 858702, UPC 639277587022
52. Shower Curtain Liner Assortment, SKU 177493, UPC 63927774934
53. Shower Liners w/Magnets 70x72, SKU 25800, UPC 639277258007
54. PVC Shower Liner, SKU 114318, UPC 639012000021 & 639277143181
55. Shower Curtain, SKU 939075, UPC 639277390752
56. Shower Curtain, SKU 847303, UPC 639277473035 & 4893796156428
57. Shower Curtain 70x72 3 Assorted Colors, SKU 110450, UPC 639277104502
58. Shower Curtain Liner White, SKU 15122, UPC 878848001011
59. White Magnetic Curtain Liner, SKU 147241, UPC 060107817406
60. Clear Magnetic Curtain Liner, SKU 147243, UPC 060107884132
61. Shower Liners Assorted Colors, SKU 130270, UPC 057799120402
62. Shower Curtain Liner, SKU 187122, UPC 639277871220
63. Shower Curtain Liner Assorted, SKU 10842, UPC 704936303531
64. Shower Curtain Liner Navy, SKU 144578, UPC 00011244300047
65. Shower Curtain Liner, SKU 175791, UPC 639277757913
66. Shower Curtain Liner, SKU 979031

EXHIBIT C

(DBP)

1. Sport Active® Adult Sunglass Nosepads, Item No. 000046
2. Forever Yesterday® Adult Sunglass Nosepads, Item No. 000046
3. Flip Flops By Max Grey® Kid Sizes, SKU 17494, UPC 639277174949
4. Girls Flip Flops with Embellishments By Max Grey® Kid Sizes, SKU 865337, UPC 639277653376