

1 Reuben Yeroushalmi (SBN 193981)  
Peter T. Sato (SBN 238486)  
2 Shannon E. Royster (SBN 314126)  
**YEROUSHALMI & YEROUSHALMI**  
3 An Association of Independent Law Corporations  
9100 Wilshire Boulevard, Suite 240W  
4 Beverly Hills, 90212  
5 Telephone: (310) 623-1926  
Facsimile: (310) 623-1930

6 Attorneys for Plaintiffs,  
7 Consumer Advocacy Group, Inc.

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

11 Coordination Proceeding  
12 Special Title (Rule 3.550)

13 PROPOSITION 65  
14 RICE PRODUCT CASES

15 This Document Relates To:

16 CONSUMER ADVOCACY GROUP, INC., in  
17 the public interest,

18 Plaintiff,

19 v.

20 MERCADO LATINO, INC., dba FARADON  
21 FOODS CORPORATION, a California  
22 Corporation; C & F FOODS, INC., a California  
23 Corporation; RHEE BROS., INC., a Maryland  
24 Corporation; KOREAN FARM, INC., a  
California Corporation; and DOES 1-50;

25 Defendants.

JUDICIAL COUNCIL  
COORDINATION PROCEEDING NO. 4816  
In San Fran. Case No. CGC-13-536301

Coordinated with: 34-2014-00165277,  
BC556594, BC549137, BC549139, BC553427,  
BC553852, BC554810, and BC571487.

**CONSENT JUDGMENT [PROPOSED]**

Health & Safety Code § 25249.5 *et seq.*

[Assigned For All Purposes to Hon. Elihu M.  
Berle in Dept. 6]

Complaint Filed: December 19, 2013

1 **1. INTRODUCTION**

2 1.1 This Consent Judgment is entered into by and between Plaintiff, CONSUMER  
3 ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") acting on behalf of itself and in the interest of the  
4 public, and Defendant, MERCADO LATINO, INC., ("MERCADO" or "Defendant"), with each a  
5 Party to the action and collectively referred to as "Parties."

6 **1.2 Defendant and Covered Products**

7 1.2.1 CAG alleges that MERCADO is a California Corporation which employs ten or  
8 more persons. For purposes of this Consent Judgment only, MERCADO is deemed a person in the  
9 course of doing business in California and subject to the provisions of the Safe Drinking Water and  
10 Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq. ("Proposition  
11 65").

12 1.2.2 CAG alleges that MERCADO manufactures, causes to be manufactured, sells, or  
13 distributes parboiled white rice in California.

14 **1.3 Listed Chemical**

15 1.3.1 Lead and lead compounds have been listed by the State of California as known  
16 to cause cancer and/or birth defects or other reproductive harm.

17 **1.4 Notice of Violation.**

18 1.4.1 On or about September 10, 2013, CAG served MERCADO, and various public  
19 enforcement agencies with a document, dated September 9, 2013, titled "60-Day Notice of Intent to  
20 Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986" ("September 10,  
21 2013 Notice") that provided the recipients with notice of alleged violations of Health & Safety Code §  
22 25249.6 for allegedly failing to warn individuals in California of exposure to Lead contained in certain  
23 rice currently known as: FARAON® LONG GRAIN "E-Z COOK™ PARBOILED", "NET WT. 2  
24 LBS", ENRICHED RICE UPC: 0 74734 39799 6, sold by MERCADO in California. No public  
25 enforcer has commenced or diligently prosecuted the allegations set forth in the September 10, 2013  
26 Notice.

27 **1.5 Complaint, Answer and Coordination**

28 On December 19, 2013, CAG filed a Complaint against MERCADO for civil penalties and

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1 injunctive relief (the "Complaint") in San Francisco County Superior Court, Case No. CGC-13-  
2 536301, alleging that MERCADO violated Proposition 65 for allegedly failing to give clear and  
3 reasonable warnings of alleged exposure to Lead in certain rice named above in Section 1.4.1 that  
4 Defendants distributed and/or sold in California.

5 On March 24, 2014 MERCADO filed its general denial under CCP § 431.30(d) to the  
6 Complaint and setting forth various affirmative defenses.

7 On or about February 17, 2015 the Complaint was coordinated and assigned Judicial Council  
8 Coordination Proceeding number 4816 and transferred to the Los Angeles County Superior Court.

9 **1.6 Consent to Jurisdiction**

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

17 **1.7 No Admission**

18 This Consent Judgment resolves claims that are denied and disputed. The Parties enter into  
19 this Consent Judgment pursuant to a full and final settlement of any and all claims between the Parties  
20 for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment shall be construed  
21 as an admission by the Parties of any material allegation in the Notice of Violation (see, Section 1.4.1  
22 herein), or the Complaint, or of any fact, conclusion of law, issue of law or violation of law of any  
23 kind, including without limitation, any admission concerning any alleged or actual violation of  
24 Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, including but not  
25 limited to the meaning of the terms "knowingly and intentionally expose" or "clear and reasonable  
26 warning" as used in Health and Safety Code section 25249.6. Nothing in this Consent Judgment, nor  
27 compliance with its terms, shall constitute or be construed as an admission by the Parties of any fact,  
28 conclusion of law, issue of law, or violation of law, or of fault, wrongdoing, or liability by any



1 Defendant, its officers, directors, employees, shareholders, or parent, subsidiary or affiliated  
2 corporations, or be offered or admitted as evidence in any administrative or judicial proceeding or  
3 litigation in any court, agency, or forum. Furthermore, nothing in this Consent Judgment shall  
4 prejudice, waive or impair any right, remedy, argument, or defense the Parties may have in any other  
5 or future legal proceeding, except as expressly provided in this Consent Judgment.

6 **2. DEFINITIONS**

7 2.1 "Covered Products" means parboiled white rice, including parboiled rice, sold,  
8 distributed, or supplied by MERCADO.

9 2.2 "Effective Date" means the date that this Consent Judgment is approved and entered by  
10 the Court.

11 2.3 "Lead" means lead and lead compounds.

12 2.4 "Listed Chemical" means Lead.

13 2.6 "Notice" means Plaintiff's September 10, 2013 Notice.

14 **3. INJUNCTIVE RELIEF & CLEAR AND REASONABLE WARNINGS.**

15 3.1 After the Effective Date, Defendant shall not sell in California, offer for sale in  
16 California, or ship into California for sale any Covered Products unless the concentration level of the  
17 Listed Chemical does not exceed 56 parts per billion ("ppb"). For any Covered Products that exceed  
18 56 ppb for the Listed Chemical that are sold as set forth above after the Effective Date, Defendant  
19 must provide a Proposition 65 compliant warning for the Covered Products as set forth below.  
20 Nothing is intended herein to provide for a permanent warning on MERCADO's Covered Products if  
21 the concentration levels do not exceed 56 ppb or a non-complaint Covered Product is thereafter  
22 brought into compliance (e.g. Defendant addresses non-compliance by removing/recalling any lot  
23 that is determined through the procedures set forth herein to not comply with the 56 ppb concentration  
24 level for lead).

25 3.2 Any warning provided pursuant to this section shall be affixed to the packaging of, or  
26 directly on, the Covered Products, and be prominently placed with such conspicuousness as compared  
27 with other words, statements, designs, or devices as to render it likely to be read and understood by an  
28 ordinary individual under customary conditions before purchase or use. Any warning on the packaging



1 or label must be set off from other surrounding information and enclosed in a box. Where a Covered  
2 Product's packaging or label used to provide a warning includes Consumer Information in a language  
3 other than English, the warning must also be provided in that language in addition to English.  
4 "Consumer Information" includes warnings, directions for use, ingredient lists, and nutritional  
5 information. "Consumer Information" does not include the brand name, product name, company  
6 name, location of manufacture, or product advertising. The Parties agree that the following warning  
7 language shall constitute compliance with Proposition 65 with respect to the alleged Listed Chemical  
8 in the Covered Products distributed and/or sold by the Defendant after the Effective Date:

9       **WARNING:** Consuming this product can expose you to Lead, which is known to the State of  
10       California to cause cancer and birth defects or other reproductive harm. For more information  
11       go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

12 **4. SETTLEMENT PAYMENT**

13       **4.1 Payment and Due Date:** After of the Effective Date, Defendant shall pay a total of  
14 three hundred and fifty-two thousand dollars and zero cents (\$352,000.00) in full and complete  
15 settlement of any and all claims for civil penalties, damages, attorney's fees, expert fees or any other  
16 claim for costs, expenses or monetary relief of any kind for claims that were or could have been  
17 asserted in the Notice or Complaint, as separated into partial payment as follows:

18               **4.1.1 Civil Penalty:** Defendant shall issue two separate checks totaling twelve  
19 thousand five hundred and eighty dollars (\$12,580.00) as follows for alleged civil penalties pursuant to  
20 Health & Safety Code § 25249.12:

21                       (a) Defendant will issue one check made payable to the State of California's  
22 Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of nine thousand four  
23 hundred and thirty-five dollars (\$9,435.00) representing 75% of the total civil penalty and Defendant  
24 will issue a second check to CAG in the amount of three thousand one hundred and forty-five dollars  
25 (\$3,145.00) representing 25% of the total civil penalty;

26                       (b) Separate 1099s shall be issued for each of the above payments: Defendant  
27 will issue a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the  
28 amount of \$9,435.00. Defendant will also issue a 1099 to CAG in the amount of \$3,145.00 and



1 deliver it to CAG c/o Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly  
2 Hills, California 90212.

3           **4.1.2 Additional Settlement Payments:** Defendant shall pay nine thousand four  
4 hundred and twenty dollars (\$9,420.00) as an Additional Settlement Payment to "Consumer Advocacy  
5 Group, Inc." pursuant to Health & Safety Code § 25249.7(b) and California Code of Regulations, Title  
6 11 § 3203(d). CAG will use this Additional Settlement Payment as follows, eighty five percent (85%)  
7 for fees of investigation, purchasing and testing for Proposition 65 listed chemicals in various  
8 products, and for expert fees for evaluating exposures through various mediums, including but not  
9 limited to consumer product, occupational, and environmental exposures to Proposition 65 listed  
10 chemicals, and the cost of hiring consulting and retaining experts who assist with the extensive  
11 scientific analysis necessary for those files in litigation and to offset the costs of future litigation  
12 enforcing Proposition 65 but excluding attorney fees; fifteen percent (15%) for administrative costs  
13 incurred during investigation and litigation to reduce the public's exposure to Proposition 65 listed  
14 chemicals by notifying those persons and/or entities believed to be responsible for such exposures and  
15 attempting to persuade those persons and/or entities to reformulate their products or the source of  
16 exposure to completely eliminate or lower the level of Proposition 65 listed chemicals including but  
17 not limited to costs of documentation and tracking of products investigated, storage of products,  
18 website enhancement and maintenance, computer and software maintenance, investigative equipment,  
19 CAG's member's time for work done on investigations, office supplies, mailing supplies and postage.  
20 Within 30 days of a request from the Attorney General, CAG shall provide to the Attorney General  
21 copies of documentation demonstrating how the above funds have been spent. CAG shall be solely  
22 responsible for ensuring the proper expenditure of such additional settlement payment.

23           **4.1.3 Reimbursement of Attorney Fees and Costs:** After the Effective Date,  
24 Defendant shall pay three hundred and thirty thousand dollars (\$330,000.00) payable to "Yeroushalmi  
25 & Yeroushalmi" as complete reimbursement for any and all reasonable investigation fees and costs,  
26 attorneys' fees, expert fees, and any and all other costs and expenses incurred as a result of  
27 investigating, bringing this matter to the Defendant's attention, litigating, negotiating a settlement in  
28 the public interest, and seeking and obtaining court approval of this Consent Judgment. The



1 \$330,000.00 shall be payable as follows: An initial payment of seventy eight thousand dollars  
2 (\$78,000.00) payable within ten (10) business days of the Effective Date with the remaining balance of  
3 two hundred and fifty two thousand dollars (\$252,000.00) to be payable on the 12th of each month  
4 thereafter in 18 monthly installments.

5 4.2 Other than the payment to OEHHA described above, all payments referenced in  
6 paragraphs 4.1.1, 4.1.2, and 4.1.3 above, shall be delivered to: Reuben Yeroushalmi, Yeroushalmi &  
7 Yeroushalmi, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212. The payment to OEHHA  
8 shall be delivered directly to Office of Environmental Health Hazard Assessment, Attn: Mike Gyurics,  
9 1001 I Street, Mail Stop 12-B, Sacramento, California 95812. Concurrently with its respective  
10 payments to OEHHA, Defendant shall provide CAG with written confirmation that the payment to  
11 OEHHA was delivered.

12 \* No payment required to be made herein shall be due before the Effective Date.

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

14 5.1 This Consent Judgment is a full, final, and binding resolution between CAG, on behalf  
15 of itself and in the public interest, and Defendant and its officers, directors, insurers, employees,  
16 parents, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister companies,  
17 attorneys, experts, and their successors and assigns ("Defendant Releasees"), and all entities to whom  
18 Defendant directly or indirectly distributes or sells Covered Products, including, but not limited to,  
19 downstream distributors, wholesalers, vendors, customers, retailers, franchisees, cooperative members,  
20 licensees, and the successors and assigns of any of them, including but not limited to B & V  
21 Enterprises, Inc. DBA Super King Markets, who may use, maintain, distribute or sell Covered  
22 Products ("Downstream Defendant Releasees"), and to Defendant's suppliers, including cross-  
23 defendant Riceland Foods, Inc., only as to Covered Products supplied by Riceland Foods to the  
24 Defendant ("Supplier Releasee") of all claims for alleged or actual violations of Proposition 65 for  
25 alleged exposures to the Listed Chemical from the Covered Products manufactured, distributed,  
26 packaged, or sold by Defendant, Defendant Releasees, Downstream Defendant Releasees, and/or  
27 Supplier Releasee up to the Effective Date of this Consent Judgment, and inclusive of the Notice and  
28 Complaint. Defendant, Defendant Releasees, Downstream Defendant Releasee and Supplier



1 Releasee's compliance with this Consent Judgment shall constitute compliance with Proposition 65  
2 with respect to alleged exposures to the Listed Chemical from the Covered Products sold by  
3 Defendant, Defendant Releasees, Downstream Defendant Releasees, and/or Supplier Releasee  
4 individually and/or collectively after the Effective Date. Nothing in this Section affects CAG's right  
5 to commence or prosecute an action under Proposition 65 against any person other than Defendant,  
6 Defendant Releasees, Downstream Defendant Releasees, or Supplier Releasee. Defendant, Defendant  
7 Releasees, Downstream Defendant Releasees, and Supplier Releasee are hereafter individually and/or  
8 collectively referred to as the "Released Parties".

9 5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,  
10 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or  
11 indirectly, any form of legal or administrative action and releases all claims, including, without  
12 limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations,  
13 damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees,  
14 expert fees, and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or  
15 contingent (collectively "Claims"), against the Released Parties arising from any actual or alleged  
16 violation of Proposition 65 or any other statutory or common law claim regarding the Covered  
17 Products manufactured, packaged, distributed or sold by the Released Parties through the Effective  
18 Date regarding any actions or inaction by the Released Parties whatsoever relating to the Covered  
19 Products regarding any actual or alleged failure to warn about exposure to the Listed Chemical from  
20 the Covered Products. In furtherance of the foregoing, CAG on behalf of itself and its officers,  
21 directors, insurers, employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners,  
22 affiliates, sister entities, successors in interest, and all of their successors and assigns ("CAG  
23 Releasees"), hereby waives any and all rights and benefits which they now have, or in the future may  
24 have, conferred upon them with respect to Claims regarding the Covered Products manufactured,  
25 packaged, distributed or sold by the Released Parties up to the Effective Date arising from any  
26 violation of Proposition 65 or any other statutory or common law violation whatsoever relating to the  
27 Covered Products and/or regarding claims arising from the failure to warn about exposure to the Listed  
28 Chemical from the Covered Products by virtue of the provisions of section 1542 of the California Civil



1 Code, which provides as follows:

2 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
3 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
4 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE  
5 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
6 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED  
7 PARTY.

8 CAG Releasees understand and acknowledge that the significance and consequence of this waiver of  
9 California Civil Code section 1542 is that even if the CAG Releasees suffer future damages arising out  
10 of or resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any  
11 violation of Proposition 65 or any other statutory or common law regarding the Covered Products  
12 manufactured, packaged, distributed or sold by the Released Parties through the Effective Date  
13 regarding the failure to warn about actual or alleged exposure to the Listed Chemical from the  
14 Covered Products, CAG Releasees will not be able to make any claim for those damages, penalties or  
15 other relief against the Released Parties. Furthermore, CAG Releasees acknowledge that they intend  
16 these consequences for any such Claim: arising from any violation of Proposition 65 or any other  
17 statutory or common law regarding the failure to warn about exposure to the Listed Chemical from the  
18 Covered Products as may exist as of the Effective Date of this release but which the CAG Releasees  
19 do not know exist, and which, if known, would materially affect their decision to enter into this  
20 Consent Judgment, regardless of whether their lack of knowledge is the result of ignorance, oversight,  
21 error, negligence, or any other cause.

22 6. ENFORCEMENT OF JUDGMENT

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

6.2 Notice of Violation. Prier to bringing any motion, order to show cause, or other



1 proceeding to enforce the terms of this Consent Judgment, CAG shall provide a Notice of Violation  
2 ("NOV") to Defendant. The NOV shall include for each of the Covered Products: (a) the name of the  
3 Covered Products; (b) specific dates, name, barcode and lot number when the Covered Product was  
4 sold in California; (c) the store or other place at which the Covered Product was available for sale to  
5 consumers; (d) any other evidence or support for the allegations in the NOV which must include  
6 copies of complete CAG test results forming the basis for the NOV including, the testing laboratory,  
7 testing method utilized and all analytical results; (e) CAG shall not initiate an NOV without one  
8 sample of a Covered Product exceeding 5.6 ppb lead; and (f) in association with any NOV, CAG shall  
9 provide split samples of the tested product to MERCADO for its own testing together with a copy or  
10 copies of the packaging from which the Covered Product was sampled showing the packaging's  
11 barcode, and the sprayed inkjet writing on the packaging clearly showing the lot number, the listed  
12 reference number, and the expiration date.

13 6.2.1 Response to NOV.

14 (a) CAG shall take no further action of any kind regarding the alleged violation if,  
15 within 90 days of receiving such NOV, Defendant:

16 (1) Serves a Notice of Election ("NOE") not to contest the NOV that meets one  
17 of the following conditions:

18 (i) A statement that the Covered Product was produced or shipped  
19 by Defendant for sale in California before the Effective Date; or

20 (ii) A statement that since receiving the NOV, Defendant has taken  
21 corrective action by either: (i) taking all steps necessary to bring the sale of the product into  
22 compliance with this Consent Judgment; or (ii) requesting that its customers or stores in California, as  
23 applicable, remove the Covered Product identified in the NOV from sale in California and destroy or  
24 return the Covered Product to Defendant or vendor, as applicable; or

25 (2) Refutes the information provided in the NOV that reflect compliance. CAG  
26 shall provide Notice of its Acceptance ("NOA") or Notice of Rejection ("NOR") of Defendant's  
27 refutation within 30 days of the date such refutation data is provided to CAG by Defendant.

28 6.2.2 Contested NOV. Within 60 days following CAG's NOR or 90 days following

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1 the NOV, whichever is later, Defendant may serve a Notice of Election (“NOE”) informing CAG of  
2 its election to contest the NOV.

3 (a) In its election, Defendant may request that the sample(s) of Covered  
4 Product tested by CAG be subject to confirmatory testing at an independent third-party laboratory  
5 certified by the California Environmental Laboratory Accreditation Program for the analysis of heavy  
6 metals; or an independent third-party laboratory that is registered with the United States Food & Drug  
7 Administration (“FDA”) for the analysis of heavy metals; and/or that uses methods that are in  
8 compliance with FDA regulations for the analysis of heavy metals.

9 (b) If the confirmatory testing establishes that the Covered Products do not  
10 contain the Listed Chemicals in excess of the levels allowed in Section 3.1, above, CAG shall take no  
11 further action regarding the alleged violation. If the testing does not establish compliance with Section  
12 3.1, above, Defendant may withdraw its NOE to contest the violation and may serve a new NOE  
13 pursuant to Section 6.2.1(a)(1).

14 (c) If Defendant does not withdraw a NOE to contest the NOV, the Parties  
15 shall meet and confer for a period of no less than 60 days before CAG may seek an order enforcing the  
16 terms of this Consent Judgment.

17 6.3 In any proceeding brought by either Party to enforce this Consent Judgment, the  
18 prevailing party shall be entitled to recover its reasonable attorney’s fees and costs.

19 **7. ENTRY OF CONSENT JUDGMENT**

20 7.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to  
21 California Health & Safety Code § 25349.7(f). Upon entry of the Consent Judgment, CAG and  
22 Defendant waive their respective rights to a hearing and trial on the allegations in the Notice,  
23 Complaint and Coordination Proceeding stated in the caption above.

24 7.2 If this Consent Judgment is not approved in full by the Court: (a) the Parties agree to  
25 meet and confer to determine whether to modify the terms of the Consent Judgment and to resubmit it  
26 for approval; or (b) this Consent Judgment and any and all prior agreements between the Parties  
27 merged herein shall terminate and become null and void, and the actions shall revert to the status that  
28 existed prior to the execution date of this Consent Judgment except that the Parties shall petition the

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1 Court for a new trial date and new trial date deadlines; and (c) no term of this Consent Judgment or  
2 any draft thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement  
3 discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose  
4 in this Action, or in any other proceeding.

5 **8. MODIFICATION OF JUDGMENT**

6 8.1 This Consent Judgment may be modified only upon written agreement of the Parties  
7 and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of any Party as  
8 provided by law and upon entry of a modified Consent Judgment by the Court.

9 8.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to meet  
10 and confer with the other Party prior to filing a motion to modify the Consent Judgment.

11 **9. RETENTION OF JURISDICTION**

12 9.1 This Court shall retain jurisdiction of this matter to implement and enforce the terms of  
13 this Consent Judgment under Code of Civil Procedure § 664.6.

14 9.2 In any proceeding brought by either Party to enforce this Consent Judgment, the  
15 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

16 **10. SERVICE ON THE ATTORNEY GENERAL**

17 10.1 CAG shall serve a copy of this Consent Judgment, signed by both parties, on the  
18 California Attorney General so that the Attorney General may review this Consent Judgment prior to  
19 its submittal to the Court for approval. No sooner than forty-five (45) days after the Attorney General  
20 has received the aforementioned copy of this Consent Judgment, CAG may then submit it to the Court  
21 for approval.

22 **11. ATTORNEY FEES**

23 11.1 Except as specifically provided in Sections 4.1.3, and 8.2, each Party shall bear its own  
24 attorneys' fees, costs and expert fees in connection with the claims resolved in this Consent Judgment.

25 **12. GOVERNING LAW**

26 12.1 The validity, construction and performance of this Consent Judgment shall be governed  
27 by the laws of the State of California, without reference to any conflicts of law provisions of  
28 California law.



1           12.2 In the event that Proposition 65 is repealed, preempted, or is otherwise rendered  
2 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are  
3 rendered inapplicable or are no longer required as a result of any such repeal or preemption, or  
4 rendered inapplicable by reason of law generally as to the Covered Products, then Defendant may  
5 provide written notice to CAG of any asserted change in the law, and shall have no further obligations  
6 pursuant to this Consent Judgment with respect to, and to the extent that, the Covered Products are so  
7 affected. Nothing in this Consent Judgment shall be interpreted to relieve Defendant from any  
8 obligation to comply with any other pertinent state or federal law or regulation.

9           12.3 The Parties, including their counsel, have participated in the preparation of this Consent  
10 Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This Consent  
11 Judgment was subject to revision and modification by the Parties and has been accepted and approved  
12 as to its final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing  
13 in this Consent Judgment shall not be interpreted against any Party as a result of the manner of the  
14 preparation of this Consent Judgment. Each Party to this Consent Judgment agrees that any statute or  
15 rule of construction providing that ambiguities are to be resolved against the drafting Party should not  
16 be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby  
17 waive California Civil Code § 1654.

18 **13. EXECUTION AND COUNTERPARTS**

19           13.1 This Consent Judgment may be executed in counterparts and by means of facsimile or  
20 portable document format (pdf), which taken together shall be deemed to constitute one document and  
21 have the same force and effect as original signatures.

22 **14. NOTICES**

23           14.1 Any notices under this Consent Judgment shall be by delivery of First Class Mail.  
24 If to CAG:

25 Reuben Yeroushalmi, Esq.  
26 Yeroushalmi & Yeroushalmi  
27 9100 Wilshire Boulevard, Suite 240W  
28 Beverly Hills, CA 90212

If to Defendant MERCADO:



1 Maria M. Rohaidy , Esq.  
2 TAUBMAN, SIMPSON, YOUNG &  
3 SULENTOR  
4 One World Trade Center, Suite 400  
5 Long Beach, CA 90831

6 **15. AUTHORITY TO STIPULATE**

7 15.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by  
8 the Party he or she represents to enter into this Consent Judgment and to execute it on behalf of the  
9 Party represented and legally to bind that party.

10 AGREED TO:

11 Date: July 16, 2020

12  
13 Michael Marcus  
14 Name: Michael Marcus  
15 Title: Director  
16 CONSUMER ADVOCACY GROUP,  
17 INC.

AGREED TO:

11 Date: July 16, 2020

12  
13 José Arriaga  
14 Name: José Arriaga  
15 Title: V.P., C.F.O.  
16 MERCADO LATINO, INC.

18  
19  
20 **IT IS SO ORDERED.**

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

22 \_\_\_\_\_  
23 JUDGE OF THE SUPERIOR COURT