

1 MIGUEL CUSTODIO, STATE BAR NO. 248744
2 VINEET DUBEY, STATE BAR NO. 243208
3 CUSTODIO & DUBEY LLP
4 766 East Colorado Boulevard, Suite 108
Pasadena, CA 91101
Telephone: (213) 785-2909
Facsimile: (213) 785-2899

5 Attorneys for Plaintiffs
6 JOHN BONILLA, RAFAEL DELGADO,
7 JR., JESSE GARRETT, and RACHEL
8 PADILLA

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11 (Unlimited Jurisdiction)

12 JOHN BONILLA; RAFAEL DELGADO,
13 JR.; JESSE GARRETT; and RACHEL
14 PADILLA,

15 Plaintiffs,

16 v.

17 ANHEUSER-BUSCH, LLC; BACARDI
18 U.S.A., INC.; CONSTELLATION
19 BRANDS, INC.; DIAGEO NORTH
20 AMERICA, INC.; HANGAR 24 CRAFT
21 BREWERY, LLC; HEINEKEN USA
22 INCORPORATED; BEAM INC.;
23 KOCHENVAGNER'S BREWING CO.;
24 MILLERCOORS LLC; MONKISH
25 BREWING CO. LLC; NEW BELGIUM
26 BREWING COMPANY, INC.; NOLET
27 SPIRITS U.S.A.; PABST BREWING
28 COMPANY; PAULANER USA LLC;
PERNOD RICARD USA, LLC;
SPEAKEASY ALES & LAGERS, INC.;
TELEGRAPH BREWING CO., INC.;
WILLIAM GRANT & SONS, INC.; and
DOES 1 through 150, inclusive,

Defendants.

Case No. BC537188

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

Complaint Filed: February 21, 2014

Trial Date: Not Set

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Plaintiffs, John Bonilla, Rafael Delgado, Jr., Jesse Garrett, and Rachel Padilla (“Plaintiffs”), and Defendants ANHEUSER-BUSCH, LLC, BACARDI U.S.A., INC., CONSTELLATION BRANDS, INC., DIAGEO NORTH AMERICA, INC., HANGAR 24 CRAFT BREWERY, LLC, HEINEKEN USA INCORPORATED, BEAM INC., KOOCHENVAGNER’S BREWING CO., MILLERCOORS LLC, MONKISH BREWING CO. LLC, NEW BELGIUM BREWING COMPANY, INC., NOLET SPIRITS U.S.A., PABST BREWING COMPANY, PAULANER USA LLC, PERNOD RICARD USA, LLC, SPEAKEASY ALES & LAGERS, INC., TELEGRAPH BREWING CO., INC., and WILLIAM GRANT & SONS, INC. (“Defendants”) hereby enter into this Stipulated Consent Judgment (“Consent Judgment”) as follows:

WHEREAS: On or after March 13, 2013, Plaintiffs, through Plaintiffs’ counsel, sent letters (“60-Day Notice(s)”) to Defendants, the California Attorney General, the District Attorneys of every County in the State of California, and the City Attorneys for every City in the State of California with a population greater than 750,000 (collectively, “Public Prosecutor(s)”) alleging that Defendants violated California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”) and that Plaintiffs intended to file an enforcement action in the public interest; and

WHEREAS: Plaintiffs further allege that Defendants manufacture, distribute, offer for sale, sell, and/or serve alcohol beverage products that expose consumers in the State of California to chemicals listed by the State of California pursuant to California Health and Safety Code § 25249.8, including “alcoholic beverages, when associated with alcohol abuse”, “ethyl alcohol in alcoholic beverages,” and “ethanol in alcoholic beverages” (collectively, “Covered Products”); and

WHEREAS: Plaintiffs further allege that persons in the State of California were exposed to Covered Products without being provided the Proposition 65 warning set out at California Health and Safety Code § 25249.6 and its implementing regulations (“Proposition 65 Warning”); and

WHEREAS: Defendants deny Plaintiffs’ allegations inasmuch as Defendants, beginning

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2 in 1988, and continuously thereafter, have funded and made available to alcohol beverage retail
3 license holders in the State of California (“Licensees”) signs that comply with the Proposition 65
4 Warning requirements (“Proposition 65 Signage”) and instructions on the posting and
5 maintenance of such Proposition 65 Signage, free of charge; and

6 WHEREAS: Defendants assert that, as a result, Proposition 65 Signage that complies with
7 Proposition 65 requirements is widespread in the State of California and that consumers of
8 Covered Products in the State of California have, at one time or another, been in one or more
9 locations where they would have seen such Proposition 65 Signage and therefore, received
10 warnings in accordance with Proposition 65; and

11 WHEREAS: Plaintiffs and Defendants jointly seek to provide the public with Proposition
12 65 Signage and believe that this objective is achieved by the actions described in this Consent
13 Judgment; and

14 WHEREAS: Plaintiffs and Defendants wish to resolve their differences without the delay
15 and expense of litigation; and

16 WHEREAS: Plaintiffs and Defendants contemplate that entities which meet the Opt In
17 Defendant requirements of Sections 3.6. and 3.7. herein will opt into this Consent Judgment as
18 Defendants in the future.

19 NOW THEREFORE BE IT RESOLVED AND AGREED UPON AS BETWEEN
20 PLAINTIFFS ACTING IN THE PUBLIC INTEREST AND DEFENDANTS AS FOLLOWS:

21 **1. INTRODUCTION**

22 1.1. On or after March 13, 2013, Plaintiffs served 60-Day Notices on each Defendant and on
23 Public Prosecutors. No Public Prosecutor having commenced an enforcement action,
24 Plaintiffs filed their Complaint against Defendants in the present action.

25 1.2. Each Defendant is a supplier, as that term is defined at California Code of Regulations
26 Title 4, § 106(b)(1), and/or distributor of Covered Products (“Supplier”), and/or an Opt In
27 Defendant meeting the criteria of Sections 3.6. and 3.7. of this Consent Judgment.

28 1.3. Each Defendant employs ten (10) or more persons.

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1.4. For purposes of this Consent Judgment only, Plaintiffs and Defendants (the “Parties”) stipulate that: 1) this Court has jurisdiction over the allegations of violation contained in the Complaint and personal jurisdiction over Defendants as to the acts alleged in the Complaint; 2) venue is proper in the County of Los Angeles; and 3) this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were or could have been raised in the Complaint and of all claims which were or could have been raised by any person or entity based in whole or in part, directly or indirectly, on the facts alleged in the 60-Day Notices, in the present action, or arising therefrom or related thereto, with respect to Covered Products, including any Proposition 65 claim arising out of an exposure to Covered Products (collectively, “Proposition 65 Claims”).

1.5. The Parties enter into this Consent Judgment as a full and final settlement of the Proposition 65 Claims, for the purpose of avoiding prolonged and costly litigation and of resolving the issues raised therein both as to past and future conduct. By execution of this Consent Judgment, the Parties do not admit any fact, conclusion of law, or violation of law, nor shall Defendants’ compliance with the Consent Judgment constitute or be construed as an admission by Defendants of any fact, conclusion of law, or violation of law. Defendants deny the material, factual, and legal allegations in the 60-Day Notices and the Complaint and expressly deny any wrongdoing whatsoever.

2. DEFINITIONS

2.1. “Effective Date” shall mean, with respect to this Consent Judgment, fifteen (15) days from the date on which this Court enters the Consent Judgment.

3. INJUNCTIVE RELIEF

3.1. Defendants agree to undertake, or cause to be undertaken on their behalf, the following measures, compliance with which will constitute compliance by them with the Proposition 65 Warning requirements of California Health and Safety Code § 25249.6, and its implementing regulations, arising from exposure to Covered Products:

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2 3.1.1. Within three (3) months after the Effective Date, obtain from the California
3 Department of Alcoholic Beverage Control (“ABC”), a list of the current Licensees
4 in the State of California. Defendants may rely upon the ABC’s online database
5 found at <http://www.abc.ca.gov/datport/SubscrMenu.asp> for compliance with this
6 requirement and with Section 3.1.4.1. of this Consent Judgment;

7 3.1.2. Within three (3) months of obtaining said list of current Licensees, send by mail or
8 by electronic mail to every such Licensee the following:

9 3.1.2.1. Proposition 65 Signage (or an electronic link to or downloadable file
10 suitable for and capable of being printed (“Downloadable File”) of Proposition
11 65 Signage) meeting the requirements described in this Consent Judgment; and

12 3.1.2.2. A letter that:

- 13 (i) Provides contact information (electronic mail address, website address,
14 and telephone number) for ordering additional Proposition 65 Signage;
15 (ii) Informs the Licensee that such Proposition 65 Signage is available at
16 no charge;
17 (iii) Informs the Licensee that, if it intends to offer for sale, sell, and/or
18 serve any Covered Products in the State of California and employs ten
19 (10) or more persons, the Licensee must post and maintain Proposition
20 65 Signage at its establishment; and
21 (iv) Describes the regulatory requirements regarding the placement of
22 Proposition 65 Signage and references the ABC’s premises inspection
23 sheet that includes a Proposition 65 Signage requirement.

24 3.1.2.3. The Proposition 65 Signage will comply with the regulatory requirements
25 of California Code of Regulations, Title 27, § 25603.3(e), including any
26 amendments thereto, with respect to message, size, and appearance, except that
27 the Proposition 65 Signage may be 8 ½ inches by 11 inches.

28 3.1.3. The actions required by Sections 3.1.1. and 3.1.2. shall be repeated in the third
year, sixth year, and ninth year after the Effective Date.

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3.1.4. Within twelve (12) months after the Effective Date, Defendants shall:

3.1.4.1. Obtain, or cause to be obtained, from the ABC a list of Licensees who have received ABC licenses since Defendants' last mailing or electronic mailing of Proposition 65 Signage; and

3.1.4.2. Within one (1) month of obtaining said list of Licensees, provide such Licensees by mail, or by individually addressed electronic mail, all of the materials required by Sections 3.1.2.1. and 3.1.2.2.

3.1.5. The actions required by Sections 3.1.4.1. and 3.1.4.2. shall be repeated every six (6) months after completion of the requirements of Section 3.1.4.

3.1.6. Within six (6) months after the Effective Date, Defendants shall create or cause to be created an Internet website that offers Licensees in the State of California the ability to request Proposition 65 Signage meeting the requirements described in Section 3.1.2.3. at no charge to Licensees, including by means of an electronic link and/or Downloadable File.

3.2. Compliance with the above shall satisfy the requirements of this Consent Judgment and of the Proposition 65 Warning requirements as regards exposure to Covered Products. Should the provisions of California Code of Regulations, Title 27, § 25603.3(e), be changed by regulatory or statutory amendment, or as a result of binding judicial precedent, the requirements of this Consent judgment will be deemed amended accordingly, without need of further action by the Court.

3.3. In the event that Plaintiffs become aware of any perceived violation of this Consent Judgment, or of any Licensee which, in the course of business, offers for sale, sells, and/or serves a Covered Product in the State of California without providing Proposition 65 Signage, Plaintiffs shall promptly provide written notice of such alleged violation by first class mail with return receipt requested or by electronic mail in accordance with Section 6.1.1., including in such notice a description of the alleged violation and the name and address of the Licensee.

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3.4. Within fourteen (14) days, excluding holidays, of receipt of the notice described in Section 3.3., Defendants shall, by first class mail with return receipt requested or by electronic mail, furnish or cause to be furnished to the Licensee: 1) Proposition 65 Signage or an electronic link or Downloadable File containing Proposition 65 Signage, free of charge; 2) an offer to furnish additional Proposition 65 Signage, free of charge; and 3) instructions for posting and maintaining Proposition 65 Signage.

3.5. Within three (3) months of the Effective Date, Defendants shall:

3.5.1. Inform, or cause to be informed, other entities that manufacture, distribute, offer for sale, sell, and/or serve Covered Products in the State of California of the opportunity to opt in to this Consent Judgment.

3.5.2. Request, or cause to be requested, California-based retailer trade associations to notify their members that offer for sale, sell, and/or serve Covered Products in the State of California of the opportunity to opt in to this Consent Judgment.

3.6. An entity is eligible to become an Opt In Defendant for purposes of this Consent Judgment if it 1) is a company that employs ten (10) or more persons; and 2) manufactures, distributes, offers for sale, sells, and/or serves Covered Products in the State of California.

3.7. An entity that meets the criteria of Section 3.6. may opt into this Consent Judgment by providing Plaintiffs, no later than seven (7) months after the Effective Date, with the following:

3.7.1. A Notice of Intent to Opt in to Proposition 65 Consent Judgment, in the form attached hereto as **Exhibit 1**;

3.7.2. The correct name and address of the entity upon which a 60-Day Notice is to be served;

3.7.3. A check for \$1,500, unless the Opt In Defendant only offers for sale, sells, and/or serves Covered Products in the State of California at retail (a Licensee), in which event, the check will be for \$400. Checks shall be made payable to Custodio & Dubey LLP.

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3.7.4. An executed signature page to the Consent Judgment.

3.8. To the extent it has not already done so, and within one (1) month of receiving the information described in Section 3.7., Plaintiffs shall serve 60-Day Notices regarding Covered Products upon all eligible entities that have met the requirements to become Opt In Defendants of Sections 3.6. and 3.7.

3.9. Within eleven (11) months of the Effective Date, and assuming it has received at least one Notice of Intent to Opt in to Proposition 65 Consent Judgment pursuant to Section 3.7., Plaintiffs shall file a noticed motion for approval of an Amended Consent Judgment. The Amended Consent Judgment may differ from this Consent Judgment only as necessary to identify the Opt In Defendant or Opt In Defendants as a party or parties, and those receiving notice on their behalf. Plaintiffs may use Defendants' signatures attached to this Consent Judgment as their signatures on the Amended Consent Judgment. Plaintiffs shall also amend the Complaint as necessary to name any Opt In Defendants as defendants to this case within nine (9) months of the Effective Date.

3.10. Upon receipt of a check from an Opt In Defendant pursuant to Section 3.7., Plaintiffs will place the money in escrow until such time as the Court approves an Amended Consent Judgment acknowledging the Opt In Defendant as a party to the Consent Judgment. If the Court approves the Amended Consent Judgment as to an Opt In Defendant, the money received shall be paid such that the sums paid by the first ten (10) Opt In Defendants in either category (Suppliers-\$1500 or Licensee-\$400) shall go entirely to reimbursement of Plaintiffs' attorneys' fees and, thereafter, 15% of each payment shall constitute penalties and 85% shall constitute reimbursement of Plaintiff's reasonable attorneys' fees. Of the 15% constituting penalties, 75% shall go to the State of California and 25% shall go to Plaintiffs. If the Court does not approve the Amended Consent Judgment as to an Opt In Defendant, the money received shall be paid back to that Opt In Defendant within ten (10) days.

4. MONETARY RELIEF

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2 4.1. Within ten (10) days of the judgment being final, Defendants shall pay to Plaintiffs the
3 total sum of \$92,000, of which \$16,000 shall constitute penalties and \$76,000 shall
4 constitute reimbursement of Plaintiffs' reasonable attorneys' fees. Of the \$16,000
5 constituting penalties, \$12,000 shall go to the State of California and \$4,000 shall go to
6 Plaintiffs.

7 4.2. The payment specified in Section 4.1. shall be made by check payable to Custodio &
8 Dubey LLP.

9 **5. CLAIMS COVERED AND RELEASE**

10 5.1. This Consent Judgment is a full, final, and binding resolution between Plaintiffs acting in
11 the public interest, on the one hand, and on the other hand, Defendants and Opt In
12 Defendants, and their parent companies, shareholders, members, divisions, subdivisions,
13 subsidiaries, partners, related companies, affiliated companies, distributors, wholesalers,
14 and retailers, and their respective officers, directors, representatives, shareholders, agents,
15 and employees, and each of their successors and assigns (collectively, "Releasees") of
16 any violation of Proposition 65 that has been or could have been asserted in the public
17 interest against the Releasees arising out of exposure to the Covered Products.

18 Notwithstanding the foregoing, such release shall not apply to any Licensee that fails to
19 post and maintain Proposition 65 Signage fourteen (14) days after receiving from
20 Defendants Proposition 65 Signage, an offer to furnish additional Proposition 65 Signage,
21 and instructions on posting and maintaining Proposition 65 Signage provided to Licensee
22 pursuant to Section 3.4. of this Consent Judgment.

23 5.2. Plaintiffs, acting on their own behalf and in the public interest pursuant to California
24 Health and Safety Code § 25249.7(d), release, waive, and forever discharge any and all
25 claims against the Releasees arising from any violation of Proposition 65 that has been or
26 could have been asserted in the public interest regarding the failure to warn under
27 Proposition 65 arising in connection with exposure to the Covered Products
28 manufactured, distributed, offered for sale, sold, and/or served in the State of California
by Releasees.

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5.3. To the extent that the foregoing release is one to which California Civil Code § 1542 (or similar provisions of law) applies, it is the intention of the Parties that the release shall be effective as a bar to any and all actions, fees, damages, losses, claims, liabilities, and demands of whatsoever character, nature and kind, known or unknown, suspected or unsuspected specified herein. In furtherance of this intention, Plaintiffs expressly waive any and all rights and benefits conferred upon it by the provisions of California Civil Code § 1542 (or similar provisions of law), which reads as follows: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

5.4. Compliance by Defendants and Opt In Defendants with the terms of this Consent Judgment shall constitute compliance with Proposition 65 with respect to exposure to the Covered Products.

6. PROVISION OF NOTICE

6.1. When any Party is entitled to receive any notice or writing under this Consent Judgment, the notice or writing shall be sent by first class mail with return receipt requested or by electronic mail as follows:

6.1.1. Notices to Defendants. The persons for Defendants, other than Opt In Defendants, to receive notices or writings pursuant to this Consent Judgment shall be:

The Beer Institute	With a copy to:
info@beerinstitute.org	Michèle Corash
The Distilled Spirits Council of the	Morrison & Foerster LLP
U.S. (http://discus.org/contact/)	425 Market St.
The Wine Institute	San Francisco, CA 94105
http://www.wineinstitute.org/contact	

6.1.2. Notices to Plaintiffs. The person for Plaintiffs to receive notices pursuant to this Consent Judgment shall be:

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Vineet Dubey
Custodio & Dubey LLP
766 E. Colorado Blvd., Ste. 108
Pasadena, CA 91101

6.1.3. Notices to Opt In Defendants. Each Opt In Defendant shall specify the person(s) and address to receive notices for such Opt In Defendant, and Section 6.1.1. of this Consent Judgment shall, thereupon, be deemed amended accordingly.

6.2. Any Party may modify the person and address to whom the notice is to be sent by sending the other Party notice by first class mail with return receipt requested or by electronic mail.

7. COURT APPROVAL

7.1. This Consent Judgment shall become effective on the Effective Date, provided however, that Plaintiffs shall prepare and file a Motion for Approval of this Consent Judgment and Defendants shall support approval of such Motion for Approval.

7.2. If this Consent Judgment is not entered by the Court, it shall be of no force or effect and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

8. GOVERNING LAW AND CONSTRUCTION

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

9. ENTIRE AGREEMENT

9.1. 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, or understandings related thereto, if any, are hereby merged herein and therein.

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9.2. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Consent Judgment have been made by any Party hereto.

9.3. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto only to the extent that they are expressly incorporated herein.

9.4. No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby.

9.5. No waiver of any of the provisions of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

10. RETENTION OF JURISDICTION

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

11. NO EFFECT ON OTHER SETTLEMENTS

11.1. Nothing in this Consent Judgment shall preclude Plaintiffs from resolving any claim against another entity on terms that are different from those contained in this Consent Judgment.

12. EXECUTION IN COUNTERPARTS

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

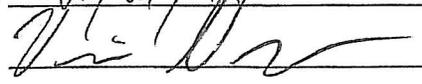
13. AUTHORIZATION

13.1. The undersigned are authorized to stipulate to, enter into, and execute this Consent Judgment on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

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AGREED TO:

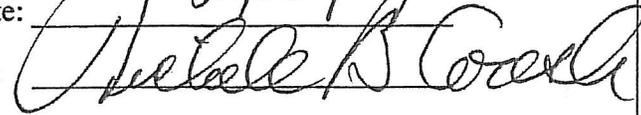
Date: 2/21/14

By: 

Vineet Dubey

AGREED TO:

Date: 2/21/2014

By: 

Michèle Corash