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6 Attorneys for Plaintiff
7 CENTER FOR ENVIRONMENTAL HEALTH

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF ALAMEDA

12 CENTER FOR ENVIRONMENTAL HEALTH,) Case No. RG 15-770932
13)
14 Plaintiff,) **[PROPOSED] CONSENT**
15 v.) **JUDGMENT AS TO AMERICAN**
16 SPACE JAM JUICE LLC, et al.,) **VAPOR INC. AND THE ARTISAN**
17 Defendants.) **VAPOR COMPANY LLC**
18)

20 **1. INTRODUCTION**

21 **1.1.** This Consent Judgment is entered into by Plaintiff Center for Environmental
22 Health, a non-profit corporation (“CEH”), and Defendants American Vapor Inc. and The Artisan
23 Vapor Company LLC (collectively referred to herein as “Settling Defendants”) to settle claims
24 asserted by CEH against Settling Defendants as set forth in the operative Complaint in the matter
25 *Center for Environmental Health v. Space Jam Juice LLC, et al.*, Alameda County Superior Court
26 Case No. RG 15-770932 (the “Action”). CEH and Settling Defendants are referred to
27 collectively as the “Parties.”
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1 **1.2.** On February 27, 2015, CEH served 60-Day Notices of Violation (the “February
2 27, 2015 Notices”) relating to the California Safe Drinking Water and Toxic Enforcement Act of
3 1986, California Health & Safety Code § 25249.5, *et seq.* (“Proposition 65”) on Settling
4 Defendant American Vapor Inc., the California Attorney General, the District Attorneys of every
5 County in the State of California, and the City Attorneys for every City in State of California with
6 a population greater than 750,000. The February 27, 2015 Notices allege violations of
7 Proposition 65 with respect to the presence of nicotine in electronic cigarette devices designed for
8 use with nicotine-containing liquids and nicotine-containing liquids used in such devices (the
9 “Products”) manufactured, distributed, and/or sold by Settling Defendant American Vapor Inc.

10 **1.3.** On September 2, 2015, CEH served four additional 60-Day Notices of Violation
11 (the “September 2, 2015 Notices”) on Settling Defendant American Vapor Inc. and the requisite
12 public enforcers alleging additional violations with regards to the Products. Specifically, the
13 September 2, 2015 Notices allege that Settling Defendant American Vapor Inc.’s Products expose
14 users to formaldehyde and acetaldehyde, both of which are produced when the Products are used
15 in their intended fashion.

16 **1.4.** On February 18, 2016, CEH served 60-Day Notices of Violation (the “February
17 18, 2016 Notices”) on Settling Defendant The Artisan Vapor Company LLC and the requisite
18 public enforcers alleging additional violations with regards to the Products. Specifically, the
19 February 18, 2016 Notices allege that Settling Defendant The Artisan Vapor Company LLC’s
20 Products expose users to nicotine, formaldehyde, and acetaldehyde. The February 27, 2015
21 Notices, September 2, 2015 Notices, and February 18, 2016 Notices shall collectively be referred
22 to as the “Notices.”

23 **1.5.** On May 19, 2015, CEH filed the Action, naming Settling Defendant American
24 Vapor Inc. as a defendant. On or around April 29, 2016, CEH amended the operative Complaint
25 to add Settling Defendant as a defendant in the Action. Upon entry of this Consent Judgment, the
26 Complaint shall be deemed amended to include the allegations of the September 2, 2015 and
27 February 18, 2016 Notices.

1 **1.6.** Solely for purposes of this Consent Judgment, the Parties agree that each Settling
2 Defendant is a corporation that employs ten (10) or more persons and that manufactures,
3 distributes, and/or sells Covered Products (as defined herein) in the State of California or has
4 done so in the past.

5 **1.7.** For purposes of this Consent Judgment only, the Parties stipulate that: (i) this
6 Court has jurisdiction over the allegations of violations contained in the Notices and Complaint
7 and personal jurisdiction over Settling Defendants as to the acts alleged in the Complaint; (ii)
8 venue is proper in the County of Alameda; and (iii) this Court has jurisdiction to enter this
9 Consent Judgment as a full and final resolution of all claims which were or could have been
10 raised in the Complaint based on the facts alleged in the Notice and Complaint with respect to
11 Products manufactured, distributed, and/or sold by Settling Defendants.

12 **1.8.** The Parties enter into this Consent Judgment as a full and final settlement of all
13 claims which were or could have been raised in the Complaint arising out of the facts or conduct
14 related to Settling Defendants alleged therein and in the Notices. By execution of this Consent
15 Judgment and agreeing to comply with its terms, the Parties do not admit any fact, conclusion of
16 law, or violation of law, nor shall compliance with the Consent Judgment constitute or be
17 construed as an admission by the Parties of any fact, conclusion of law, or violation of law.
18 Settling Defendants deny the material, factual, and legal allegations in the Notices and Complaint
19 and expressly deny any wrongdoing whatsoever. Except as specifically provided herein, nothing
20 in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or
21 defense any of the Parties may have in this or any other pending or future legal proceedings. This
22 Consent Judgment is the product of negotiation and compromise and is accepted by the Parties
23 solely for purposes of settling, compromising, and resolving issues disputed in the Action.

24 **2. DEFINITIONS**

25 **2.1.** “Covered Products” means “Covered Liquid Products” and “Covered Device
26 Products.”

1 **2.2.** “Covered Liquid Products” means liquids that are designed for use with electronic
2 cigarette devices, also known as tanks and vape pens, that are manufactured, distributed, and/or
3 sold by Settling Defendants in California.

4 **2.3.** “Covered Device Products” means electronic cigarette devices, also known as
5 tanks and vape pens, which contain nicotine or are designed and intended for use with nicotine-
6 containing liquid, that are manufactured, distributed, and/or sold by Settling Defendants in
7 California.

8 **2.4.** “Effective Date” means the date on which the Court enters this Consent Judgment.

9 **3. INJUNCTIVE RELIEF**

10 **3.1. Clear and Reasonable Warnings for Nicotine-Containing Covered Liquid**

11 **Products.** As of the Effective Date, no nicotine-containing Covered Liquid Product may be
12 manufactured for sale, distributed or sold in California unless such nicotine-containing Covered
13 Liquid Product has a clear and reasonable warning on the outer label of the product. The warning
14 shall state the following:

15 **WARNING:** Use of this product will expose you to nicotine, a chemical
16 known to the State of California to cause birth defects or other reproductive
17 harm, and formaldehyde and acetaldehyde, chemicals known to cause
18 cancer.

19 The warning shall not be preceded by, surrounded by, or include any additional words or phrases
20 that contradict, obfuscate, or otherwise undermine the warning. The warning statement shall be
21 prominently displayed on the nicotine-containing Covered Liquid Product with such
22 conspicuousness, as compared with other words, statements, or designs as to render it likely to be
23 read and understood by an ordinary individual prior to sale. To the extent that other warning
24 statements are included on the outer label of a nicotine-containing Covered Liquid Product, the
25 warning required herein shall be separated from the other warnings by a line that is at least the
26 same height as a line of text on the label. For internet, catalog, or any other sale where the
27 consumer is not physically present and cannot see a warning displayed on the nicotine-containing
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1 Covered Liquid Product prior to purchase or payment, the warning statement shall be displayed in
2 such a manner that it is likely to be read and understood as being applicable to the nicotine-
3 containing Covered Liquid Product being purchased prior to the authorization of or actual
4 payment. Placement of the warning statement at the bottom of an internet webpage that offers
5 multiple products for sale does not satisfy the requirements of this Section.

6 **3.1.1. Warnings for Nicotine-Containing Covered Liquid Products in the**
7 **Stream of Commerce.** In an effort to ensure that consumers receive clear and reasonable
8 warnings in compliance with Proposition 65 for nicotine-containing Covered Liquid Products that
9 have not been labeled in accordance with Section 3.1, within thirty (30) days following the
10 Effective Date, Settling Defendants shall provide warning instructions by certified mail to each of
11 their California retailers or distributors to whom Settling Defendants reasonably believes has
12 remaining inventory of Covered Liquid Products as of the Effective Date. The warning
13 instructions shall instruct Settling Defendants' California retailers or distributors to comply with
14 warning requirements consistent with Section 3.1 herein.

15 **3.2. Clear and Reasonable Warnings for Non-Nicotine-Containing Covered**
16 **Liquid Products.** As of the Effective Date, no non-nicotine-containing Covered Liquid Product
17 may be manufactured for sale, distributed or sold in California unless such non-nicotine-
18 containing Covered Liquid Product has a clear and reasonable warning on the outer label of the
19 product. The warning shall state the following:

20 **WARNING:** Use of this product will expose you to formaldehyde and
21 acetaldehyde, chemicals known to the State of California to cause cancer.

22 The warning shall not be preceded by, surrounded by, or include any additional words or phrases
23 that contradict, obfuscate, or otherwise undermine the warning. The warning statement shall be
24 prominently displayed on the non-nicotine-containing Covered Liquid Product with such
25 conspicuousness, as compared with other words, statements, or designs as to render it likely to be
26 read and understood by an ordinary individual prior to sale. To the extent that other warning
27 statements are included on the outer label of a nicotine-containing Covered Liquid Product, the
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1 warning required herein shall be separated from the other warnings by a line that is at least the
2 same height as a line of text on the label. For internet, catalog, or any other sale where the
3 consumer is not physically present and cannot see a warning displayed on the non-nicotine-
4 containing Covered Liquid Product prior to purchase or payment, the warning statement shall be
5 displayed in such a manner that it is likely to be read and understood as being applicable to the
6 non-nicotine-containing Covered Liquid Product being purchased prior to the authorization of or
7 actual payment. Placement of the warning statement at the bottom of an internet webpage that
8 offers multiple products for sale does not satisfy the requirements of this Section.

9 **3.2.1. Warnings for Non-Nicotine-Containing Covered Liquid Products in**
10 **the Stream of Commerce.** In an effort to ensure that consumers receive clear and reasonable
11 warnings in compliance with Proposition 65 for non-nicotine-containing Covered Liquid Products
12 that have not been labeled in accordance with Section 3.2, within thirty (30) days following the
13 Effective Date, Settling Defendants shall provide warning instructions by certified mail to each of
14 their California retailers or distributors to whom Settling Defendants reasonably believes has
15 remaining inventory of Covered Liquid Products as of the Effective Date. The warning
16 instructions shall instruct Settling Defendants' California retailers or distributors to comply with
17 warning requirements consistent with Section 3.2 herein.

18 **3.3. Clear and Reasonable Warnings for Covered Device Products.** As of the
19 Effective Date, no Covered Device Product may be manufactured for sale, distributed or sold in
20 California unless such Covered Device Product has a clear and reasonable warning on the outer
21 packaging of the product. For Covered Device Products that contain nicotine, the warning shall
22 state the following:

23 **WARNING:** Use of this product will expose you to nicotine, a chemical
24 known to the State of California to cause birth defects or other reproductive
25 harm, and formaldehyde and acetaldehyde, chemicals known to cause
26 cancer.

1 For Covered Device Products that do not contain nicotine, but are designed for use with nicotine-
2 containing products, the warning shall state the following:

3 **WARNING:** Use of this product with nicotine-containing liquid will
4 expose you to nicotine, a chemical known to the State of California to
5 cause birth defects or other reproductive harm, and formaldehyde and
6 acetaldehyde, chemicals known to cause cancer.

7 The warning shall not be preceded by, surrounded by, or include any additional words or phrases
8 that contradict, obfuscate, or otherwise undermine the warning. The warning statement shall be
9 prominently displayed on the outer packaging of the Covered Device Product with such
10 conspicuousness, as compared with other words, statements, or designs as to render it likely to be
11 read and understood by an ordinary individual prior to sale. To the extent that other warning
12 statements are included on the outer label of a nicotine-containing Covered Liquid Product, the
13 warning required herein shall be separated from the other warnings by a line that is at least the
14 same height as a line of text on the label. For internet, catalog, or any other sale where the
15 consumer is not physically present and cannot see a warning displayed on the Covered Device
16 Product prior to purchase or payment, the warning statement shall be displayed in such a manner
17 that it is likely to be read and understood as being applicable to the Covered Device Product being
18 purchased prior to the authorization of or actual payment. Placement of the warning statement at
19 the bottom of an internet webpage that offers multiple products for sale does not satisfy the
20 requirements of this Section.

21 **3.3.1. Warnings for Covered Device Products in the Stream of Commerce.**

22 In an effort to ensure that consumers receive clear and reasonable warnings in compliance with
23 Proposition 65 for Covered Products that have not been labeled in accordance with Section 3.3,
24 within thirty (30) days following the Effective Date, Settling Defendants shall provide warning
25 instructions by certified mail to each of their California retailers or distributors to whom Settling
26 Defendants reasonably believes has remaining inventory of Covered Device Products as of the
27 Effective Date. The warning instructions shall be consistent with Section 3.3 herein.

1 **3.4. Optional Additional Injunctive Provisions.** In order for Settling Defendants to
2 be eligible for any waiver of the additional penalty/payment in lieu of penalty payments set forth
3 in Section 4.1.5 below, Settling Defendants shall undertake the additional actions below. If
4 Settling Defendants opt to be bound by this Section, Settling Defendants must provide CEH with
5 a written election stating which optional provision(s) they are agreeing to implement.

6 **3.4.1. Product Reformulation.** Within one hundred and eighty (180) days
7 following the Effective Date, all Covered Products manufactured for sale in California shall be
8 manufactured such that use of the Covered Products will not produce detectable levels of
9 formaldehyde and acetaldehyde.

10 **3.4.2. Product Safety Requirements.** If Settling Defendants opt to participate in
11 Section 3.4, Settling Defendants shall make the following changes to the Covered Products to
12 increase the safety of such products:

13 **3.4.2.1.** Within one hundred and eighty (180) days following the
14 Effective Date, all Covered Liquid Products manufactured for sale in California shall be
15 manufactured with child proof caps in accordance with the standards set forth in 16 C.F.R. §
16 1700.15(b).

17 **3.4.2.2.** Within one hundred and eighty (180) days following the
18 Effective Date, all Covered Liquid Products manufactured for sale in California shall be
19 manufactured without diacetyl in the Covered Liquid Products.

20 **3.4.3. Prohibition on Sales and Advertising to Minors.** If Settling Defendants
21 opt to participate in Section 3.4, Settling Defendants shall not sell Covered Products to persons
22 younger than eighteen (18) years of age and shall take reasonable steps to prevent the sale of
23 Covered Products to such persons, including, but not limited to the following measures:

24 **3.4.3.1.** Settling Defendants shall implement one or more systems
25 for checking the age of persons who purchase Covered Products on the Internet or in person. The
26 system shall include age verification by requiring and checking an official government
27 identification card or verifying through a reputable credit agency the age of anyone who
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1 purchases Covered Products on the Internet, or of anyone under twenty-six (26) years old who
2 purchases in person. The system shall be put into place within one hundred and eighty (180) days
3 of the Effective Date.

4 **3.4.3.2.** Settling Defendants shall also not use advertisements or
5 promotional materials that target minors.

6 **3.4.4. Prohibition on Health and Safety Claims.** If Settling Defendants opt to
7 participate in Section 3.4, Settling Defendants shall not make health and or safety claims unless
8 such claims have been reviewed and approved by the Federal Food and Drug Administration.
9 Examples of prohibited claims include the following:

10 **3.4.4.1.** Settling Defendants shall not advertise Covered Products as
11 smoking-cessation devices. This prohibition includes any claims or testimonials about quitting
12 smoking, using e-cigarettes as a treatment for tobacco dependence or addiction.

13 **3.4.4.2.** Settling Defendants shall not make any claim that the
14 Covered Products do not expose users carcinogens or are better or safer than tobacco.

15 **3.4.4.3.** Settling Defendants shall not make any claim that the
16 Covered Products produce no second hand smoke.

17 **4. PAYMENTS**

18 **4.1.** Settling Defendants shall jointly and severally initially pay to CEH the total sum of
19 \$20,500, which shall be allocated as follows and in more detail on Exhibit A:

20 **4.1.1.** \$1,010 as a civil penalty pursuant to California Health & Safety Code §
21 25249.7(b), such money to be apportioned by CEH in accordance with California Health &
22 Safety Code § 25249.12 (25% to CEH and 75% to the State of California's Office of
23 Environmental Health Hazard Assessment). This civil penalty shall be paid in one (1) check on
24 the date set forth in Exhibit A and shall be made payable to the Center for Environmental Health.

25 **4.1.2.** \$1,515 as a payment in lieu of civil penalty pursuant to California Health &
26 Safety Code § 25249.7(b) and California Code of Regulations, Title 11, § 3203(b). CEH will use
27 such funds to continue its work educating and protecting people from exposures to toxic
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1 chemicals. CEH may also use a portion of such funds to monitor compliance with this Consent
2 Judgment and to purchase and test Settling Defendants' Products to confirm compliance. In
3 addition, as part of its Community Environmental Action and Justice Fund, CEH will use four
4 percent (4%) of such funds to award grants to grassroots environmental justice groups working to
5 educate and protect the public from exposures to toxic chemicals. The method of selection of
6 such groups can be found at the CEH website at www.ceh.org/justicefund. This payment in lieu
7 of civil penalty shall be paid in one (1) check on the date set forth in Exhibit A and shall be made
8 payable to the Center for Environmental Health.

9 **4.1.3.** \$17,975 as a reimbursement of a portion of CEH's reasonable attorneys'
10 fees and costs. This amount shall be divided into two checks: (1) a check for \$15,925 shall be
11 made payable to Lexington Law Group; and (2) a check for \$2,050 shall be made payable to the
12 Center for Environmental Health. These amounts shall be paid in one (1) check made payable to
13 the Center for Environmental Health and two (2) separate checks made payable to the Lexington
14 Law Group on the dates set forth in Exhibit A.

15 **4.1.4.** The payments required under Sections 4.1.1-4.1.3 shall be delivered on or
16 before the dates set forth in Exhibit A. All checks shall be delivered to Mark Todzo at Lexington
17 Law Group at the address set forth in Section 8.1.2.

18 **4.1.5.** In the event that Settling Defendants elect not to certify their compliance
19 with one or more of the optional provisions in Section 3.4 in accordance with that Section, within
20 one hundred and eighty (180) days following the Effective Date, Settling Defendants must jointly
21 and severally make an additional payment for each provision not certified, as follows: (i) \$2,000
22 if Settling Defendants elect to not participate in Section 3.4.1; (ii) \$2,000 if Settling Defendants
23 elect to not participate in Section 3.4.2; (iii) \$2,000 if Settling Defendants elect to not participate
24 in Section 3.4.3; and (iv) \$2,000 if Settling Defendants elect to not participate in Section 3.4.4.
25 Each of these payments shall be paid in two (2) separate checks, each payable to the Center for
26 Environmental Health, to be allocated as follows:

27 **4.1.5.1.** Forty percent (40%) shall constitute a civil penalty pursuant to
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1 California Health & Safety Code § 25249.7(b), such money to be apportioned by CEH in
2 accordance with California Health & Safety Code § 25249.12 (25% to CEH and 75% to the State
3 of California’s Office of Environmental Health Hazard Assessment).

4 **4.1.5.2.** Sixty percent (60%) shall constitute a payment in lieu of civil
5 penalty pursuant to California Health & Safety Code § 25249.7(b) and California Code of
6 Regulations, Title 11, § 3203(b). CEH will use such funds to continue its work educating and
7 protecting people from exposures to toxic chemicals. CEH may also use a portion of such funds
8 to monitor compliance with this Consent Judgment and to purchase and test Settling Defendants’
9 Products to confirm compliance. In addition, as part of its Community Environmental Action and
10 Justice Fund, CEH will use four percent (4%) of such funds to award grants to grassroots
11 environmental justice groups working to educate and protect the public from exposures to toxic
12 chemicals. The method of selection of such groups can be found at the CEH website at
13 www.ceh.org/justicefund.

14 **5. ENFORCEMENT OF CONSENT JUDGMENT**

15 **5.1.** CEH may, by motion or application for an order to show cause before the Superior
16 Court of Alameda County, enforce the terms and conditions contained in this Consent Judgment.
17 Prior to bringing any motion or application to enforce the requirements of Section 3 above, CEH
18 shall provide Settling Defendants with a Notice of Violation and a copy of any test results which
19 purportedly support CEH’s Notice of Violation. The Parties shall then meet and confer regarding
20 the basis for CEH’s anticipated motion or application in an attempt to resolve it informally,
21 including providing Settling Defendants a reasonable opportunity of at least thirty (30) days to
22 cure any alleged violation. Should such attempts at informal resolution fail, CEH may file its
23 enforcement motion or application. The prevailing party on any motion to enforce this Consent
24 Judgment shall be entitled to its reasonable attorney’s fees and costs incurred as a result of such
25 motion or application. This Consent Judgment may only be enforced by the Parties.
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1 **6. MODIFICATION OF CONSENT JUDGMENT**

2 **6.1.** This Consent Judgment may only be modified by written agreement of CEH and
3 Settling Defendants, or upon motion of CEH or Settling Defendants as provided by law.

4 **7. CLAIMS COVERED AND RELEASE**

5 **7.1.** This Consent Judgment is a full, final, and binding resolution between CEH acting
6 in the public interest and Settling Defendants and Settling Defendants’ parents, officers, directors,
7 shareholders, divisions, subdivisions, subsidiaries, and their respective successors and assigns
8 (“Defendant Releasees”) and all entities to whom they distribute or sell or have distributed or sold
9 Covered Products including, but not limited to, distributors, wholesalers, customers, retailers,
10 franchisees, cooperative members, and licensees (“Downstream Defendant Releasees”), of all
11 claims alleged in the Complaints arising from any violation of Proposition 65 that have been or
12 could have been asserted in the public interest against Settling Defendants and Downstream
13 Defendant Releasees, regarding the failure to warn about exposures to nicotine, formaldehyde,
14 and/or acetaldehyde in the Covered Products manufactured, distributed, or sold by Settling
15 Defendants prior to the Effective Date.

16 **7.2.** CEH, for itself and on behalf of the public interest pursuant to Health and Safety
17 Code § 25249.7, releases, waives, and forever discharges any and all claims alleged in the
18 Complaints against Settling Defendants and Downstream Defendant Releasees arising from any
19 violation of Proposition 65 that have been or could have been asserted regarding the failure to
20 warn about exposures to nicotine, formaldehyde, and/or acetaldehyde in connection with Covered
21 Products manufactured, distributed, or sold by Settling Defendants prior to the Effective Date.

22 **7.3.** Compliance with the terms of this Consent Judgment by Settling Defendants and
23 the Downstream Defendant Releasees shall constitute compliance with Proposition 65 by Settling
24 Defendant and Downstream Defendant Releasees with respect to any alleged failure to warn
25 about nicotine, formaldehyde, and/or acetaldehyde in Covered Products manufactured,
26 distributed, or sold by Settling Defendant after the Effective Date.

1 **8. PROVISION OF NOTICE**

2 **8.1.** When any Party is entitled to receive any notice under this Consent Judgment, the
3 notice shall be sent by first class and electronic mail as follows:

4 **8.1.1. Notices to Settling Defendants.** The person(s) for Settling Defendants to
5 receive notices pursuant to this Consent Judgment shall be:

6 Bao M. Vu
7 Stoel Rives LLP
8 500 Capitol Mall, Suite 1600
9 Sacramento, CA 95814
10 bmvu@stoel.com

11 **8.1.2. Notices to Plaintiff.** The person for CEH to receive notices pursuant to
12 this Consent Judgment shall be:

13 Mark Todzo
14 Lexington Law Group
15 503 Divisadero Street
16 San Francisco, CA 94117
17 mtodzo@lexlawgroup.com

18 **8.2.** Any Party may modify the person and address to whom the notice is to be sent by
19 sending the other Parties notice by first class and electronic mail.

20 **9. COURT APPROVAL**

21 **9.1.** This Consent Judgment shall become effective on the Effective Date, provided
22 however, that CEH shall prepare and file a Motion for Approval of this Consent Judgment and
23 Settling Defendants shall support approval of such Motion.

24 **9.2.** If this Consent Judgment is not entered by the Court, it shall be of no force or
25 effect and shall not be introduced into evidence or otherwise used in any proceeding for any
26 purpose.

27 **10. GOVERNING LAW AND CONSTRUCTION**

28 **10.1.** The terms and obligations arising from this Consent Judgment shall be construed
and enforced in accordance with the laws of the State of California.

1 **11. ENTIRE AGREEMENT**

2 **11.1.** This Consent Judgment contains the sole and entire agreement and understanding
3 of CEH and Settling Defendants with respect to the entire subject matter hereof, and any and all
4 prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
5 merged herein and therein.

6 **11.2.** There are no warranties, representations, or other agreements between CEH and
7 Settling Defendants except as expressly set forth herein. No representations, oral or otherwise,
8 express or implied, other than those specifically referred to in this Consent Judgment have been
9 made by any Party hereto.

10 **11.3.** No other agreements not specifically contained or referenced herein, oral or
11 otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements
12 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind
13 any of the Parties hereto only to the extent that they are expressly incorporated herein.

14 **11.4.** No supplementation, modification, waiver, or termination of this Consent
15 Judgment shall be binding unless executed in writing by the Party to be bound thereby.

16 **11.5.** No waiver of any of the provisions of this Consent Judgment shall be deemed or
17 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall
18 such waiver constitute a continuing waiver.

19 **12. RETENTION OF JURISDICTION**

20 **12.1.** This Court shall retain jurisdiction of this matter to implement or modify the
21 Consent Judgment.

22 **13. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

23 **13.1.** Each signatory to this Consent Judgment certifies that he or she is fully authorized
24 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and
25 execute the Consent Judgment on behalf of the Party represented and to legally bind that Party.
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1 **14. NO EFFECT ON OTHER SETTLEMENTS**

2 **14.1.** Nothing in this Consent Judgment shall preclude CEH from resolving any claim
3 against another entity on terms that are different from those contained in this Consent Judgment.

4 **15. EXECUTION IN COUNTERPARTS**

5 **15.1.** The stipulations to this Consent Judgment may be executed in counterparts and by
6 means of facsimile, which taken together shall be deemed to constitute one document.

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8 **IT IS SO STIPULATED:**

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CENTER FOR ENVIRONMENTAL HEALTH

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Charlie Pizarro
Associate Director

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AMERICAN VAPOR INC.

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Signature

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Printed Name

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14. NO EFFECT ON OTHER SETTLEMENTS

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

15. EXECUTION IN COUNTERPARTS

15.1. 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.

IT IS SO STIPULATED:

CENTER FOR ENVIRONMENTAL HEALTH

Charlie Pizarro
Associate Director

AMERICAN VAPOR INC.



Signature

Raja Khan

Printed Name

Managing Member

Title

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ARTISAN VAPOR COMPANY LLC



Signature

UMAIR KAIMKHANI

Printed Name

DIRECTOR

Title

IT IS SO ORDERED:

Dated: _____, 2016

Judge of the Superior Court

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EXHIBIT A
Settlement Payments and Allocations

Total Settlement Payment: \$28,500

Payment 1: Total \$10,250 - Due 10 Days After the Effective Date

Payment 1 Allocations:

Civil Penalty:	\$1,010
Payment in Lieu of Civil Penalty:	\$1,515
Attorneys' Fees and Costs to CEH:	\$2,050
Attorneys' Fees and Costs to LLG:	\$5,675

Payment 2: Total \$10,250 - Due 60 Days After the Effective Date

Payment 2 Allocations:

Attorneys' Fees and Costs to LLG:	\$10,250
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Payment 3: Total \$8,000 (may be waived pursuant to Section 4.1.5) - Due 180 Days After the Effective Date

Payment 3 Allocations:

<i>Waivable</i> Civil Penalty:	\$3,200 total, or \$800 for each election made under Sections 3.4.1, 3.4.2, 3.4.3, or 3.4.4
<i>Waivable</i> Payment in Lieu of Civil Penalty:	\$4,800 total, or \$1,200 for each election made under Sections 3.4.1, 3.4.2, 3.4.3, or 3.4.4