

1 Reuben Yeroushalmi (SBN 193981)
2 Ben Yeroushalmi (SBN 232540)
3 Peter T. Sato (SBN 238486)
4 **YEROUSHALMI & YEROUSHALMI**
5 An Association of Independent Law Corporations
6 9100 Wilshire Boulevard, Suite 240W
7 Beverly Hills, 90212
8 Telephone: (310) 623-1926
9 Facsimile: (310) 623-1930

10 Attorneys for Plaintiff,
11 Consumer Advocacy Group, Inc.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF LOS ANGELES**

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

16 Plaintiff,

17 v.

18 **UPPER CANADA SOAP & CANDLE**
19 **MAKERS CORPORATION**, a business
20 entity form unknown; **THE TJX**
21 **COMPANIES, INC.**, a Delaware
22 Corporation; **T.J. MAXX OF CA, LLC**, a
23 Delaware Limited Liability Company; **NBC**
24 **FOURTH REALTY CORP.**, a Nevada
25 Corporation; **MARMAXX OPERATING**
26 **CORP.**, a New York Domestic Business
27 Corporation; **T.J. MAXX**, a business entity
28 form unknown and DOES 1-20;

Defendants.

CASE NO. BC640325

CONSENT JUDGMENT [PROPOSED]

Health & Safety Code § 25249.5 *et seq.*

Dept.: 74

Judge: Hon. Michelle Williams Court

Complaint filed: November 15, 2016

I. INTRODUCTION

1.1 This Consent Judgment is entered into by and between plaintiff, Consumer Advocacy Group, Inc., (referred to as "CAG") acting on behalf of itself and in the interest of the public, and defendant Upper Canada Soap & Candle Makers Corporation, ("Upper Canada"), each a Party to the action and collectively referred to as "Parties." This Consent Judgment is

1 intended to fully resolve all claims, demands, and allegations related to this action and the
2 Notices of Violation referred to herein.

3 **1.2 Upper Canada and Products**

4 1.2.1 Defendant Upper Canada is a business entity form unknown which CAG
5 alleges employs ten or more persons. For purposes of this Consent Judgment only, Upper
6 Canada is deemed a person in the course of doing business in California and is subject to the
7 provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &
8 Safety Code §§ 25249.6 et seq. ("Proposition 65").

9 1.2.2 CAG alleges that Upper Canada manufactured, caused to be
10 manufactured, sold, and/or distributed Body Massagers as defined in the Notices.

11 **1.3 Chemical of Concern**

12 Diethyl Hexyl Phthalate, also known as Bis (2-ethylhexyl) phthalate ("DEHP") is known
13 to the State of California to cause cancer and birth defects or other reproductive harm.

14 **1.4 Notices of Violation.**

15 On August 19, 2016, CAG served Upper Canada, and various public enforcement
16 agencies, with a document entitled "60-Day Notice of Intent to Sue for Violation of the Safe
17 Drinking Water and Toxic Enforcement Act of 1986" ("August 19, 2016 Notice") that provided
18 the recipients with notice of alleged violations of Health & Safety Code § 25249.6 for failing to
19 warn individuals in California of alleged exposures to DEHP alleged to be contained in Body
20 Massagers. No public enforcer has commenced or diligently prosecuted the allegations set forth
21 in the August 19, 2016 Notice.

22 On November 15, 2016, CAG served Upper Canada, and various public enforcement
23 agencies, with a document entitled "60-Day Notice of Intent to Sue for Violation of the Safe
24 Drinking Water and Toxic Enforcement Act of 1986" ("November 15, 2016 Notice") that
25 provided the recipients with notice of alleged violations of Health & Safety Code § 25249.6 for
26 failing to warn individuals in California of alleged exposures to DEHP alleged to be contained in
27

1 Body Massagers. No public enforcer has commenced or diligently prosecuted the allegations set
2 forth in the November 15, 2016 Notice.

3 **1.5 Complaint.**

4 On November 15, 2016, CAG filed a Complaint for civil penalties and injunctive relief
5 (“Complaint”) in Superior Court of California County of Los Angeles, Case No. BC640325,
6 against Upper Canada, alleging that Upper Canada violated Proposition 65 by failing to give
7 clear and reasonable warnings of alleged exposure to DEHP in certain Body Massagers sold
8 and/or distributed in California by Upper Canada. Upper Canada denied all allegations.

9 **1.6 Consent to Jurisdiction**

10 For purposes of this Consent Judgment, the Parties stipulate that this Court has
11 jurisdiction over the allegations of violations contained in the Complaint and personal
12 jurisdiction over Upper Canada as to the acts alleged in the Complaint, that venue is proper in the
13 County of Los Angeles, and that this Court has jurisdiction to enter this Consent Judgment as a
14 full settlement and resolution of the allegations contained in the Complaint and of all claims
15 which were, or could have been raised by, any person or entity based in whole or in part, directly
16 or indirectly, on the 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
19 into this Consent Judgment pursuant to a full and final settlement of any and all claims between
20 the Parties for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment
21 shall be construed as an admission by the Parties of any material allegation of the Complaint
22 (each and every allegation of which Upper Canada denies), any fact, conclusion of law, issue of
23 law or violation of law, including without limitation, any admission concerning any violation of
24 Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, or any
25 admission as to the meaning of the terms “knowingly and intentionally expose” or “clear and
26 reasonable warning” as used in Health and Safety Code section 25249.6. Nothing in this
27 Consent Judgment, nor compliance with its terms, shall constitute or be construed as an
28

1 admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, or of
2 fault, wrongdoing, or liability by Upper Canada, its officers, directors, employees, or parent,
3 subsidiary or affiliated corporations, or be offered or admitted as evidence in any administrative
4 or judicial proceeding or litigation in any court, agency, or forum. Furthermore, nothing in this
5 Consent Judgment shall prejudice, waive or impair any right, remedy, argument, or defense the
6 Parties may have in any other or future legal proceeding, except as expressly provided in this
7 Consent Judgment.

8 ///

9 ///

10 2. DEFINITIONS

11 2.1 "Covered Products" means Body Massagers with Polymer Cords, including but
12 not limited to "Therawell"; Body Massager; "Do-it-Yourself Massage Therapy";
13 "DIRECTIONS: Place the Body Massager behind your back or over your shoulder whole
14 holding the rope at each end. Move the rope to the desired area while applying pressure. Apply
15 more pressure for a deeper, more invigorating massage. This massager can also be used on arms
16 and legs."; Therawell AN UPPER CANADA COMPANY Mississauga, Canada"; "Made in
17 China"; "www.uppercanadasoap.com"; W768107TL; "TJ Maxx 73-9105-384003-000799-03-2;
18 "W768107TL"; UPC:064323161619 and "WellPRO Body Massager 'Can be used with massage
19 oils and lotions' "DIRECTIONS: Place the Body Massager behind your back or over your
20 shoulder whole [sic] holding the rope at each end. Move the rope to the desired area while
21 applying pressure. Apply more pressure for a deeper, more invigorating massage. This massager
22 can also be used on arms and legs.' WellPRO AN UPPER CANADA COMPANY Mississauga,
23 Canada' 'Made in China' 'www.uppercanada.com' W768107GYR; UPC: 064323177146"
24 ("Body Massagers") sold by or purchased from Upper Canada.

25 2.2 "Effective Date" means the date that the Court approves this Consent Judgment.

26 2.3 "DEHP" mean Diethyl Hexyl Phthalate, also known as Bis (2-ethylhexyl)
27 phthalate

28

1 2.4 “Notices” refers to Plaintiff’s August 19, 2016 and November 15, 2016 Notices.

2 **3. INJUNCTIVE RELIEF / REFORMULATION / CLEAR AND REASONABLE**
3 **WARNINGS ON EXISTING INVENTORY**

4 3.1 As of the Effective Date, Upper Canada shall not sell, offer for sale, or distribute
5 for sale the Covered Products in California unless they are reformulated to contain less than
6 0.1% by weight (1,000 parts per million) of DEHP.

7 3.2 For any Covered Products still existing in Upper Canada’s inventory as of the
8 Effective Date that contain more than 0.1% by weight (1,000 parts per million) DEHP, Upper
9 Canada shall place a Proposition 65 compliant warning on them. Any warning provided
10 pursuant to this section shall be affixed to the packaging of, or directly on, the Covered Products,
11 and be prominently placed with such conspicuousness as compared with other words, statements,
12 designs, or devices as to render it likely to be read and understood by an ordinary individual
13 under customary conditions before purchase or use. The warning shall state:

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

16 //

17 **4. SETTLEMENT PAYMENT**

18 4.1 **Payment:** Upper Canada shall pay a total of \$60,000 , within ten (10) business
19 days of the Effective Date.

20 Full and complete settlement of any and all monetary claims by CAG related to the
21 Notice in this action shall be divided as follows:

22 4.1.1 **Civil Penalty:** For each Payment, Upper Canada shall issue two separate
23 checks totaling eight thousand five-hundred and eighty dollars (\$8,580.00) as penalties pursuant
24 to Health & Safety Code § 25249.12:

25 (a) Upper Canada will issue one check made payable to the State of California’s
26 Office of Environmental Health Hazard Assessment (“OEHHA”) in the amount of six thousand
27 four-hundred and thirty-five dollars (\$6,435.00) representing 75% of the total penalty and Upper
28

1 Canada will issue a second check to CAG in the amount of two thousand one-hundred and forty-
2 five dollars (\$2,145.00) representing 25% of the total penalty;

3 (b) Separate 1099s shall be issued as follows: Upper Canada will issue a 1099 to
4 OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of
5 \$6,435.00. Upper Canada will also issue a 1099 to CAG in the amount of \$2,145.00 and deliver
6 it to CAG c/o Yerousalmi & Yerousalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly
7 Hills, California 90212.

8 4.1.2 **Additional Settlement Payments:** Upper Canada shall pay six thousand
9 four-hundred and twenty dollars (\$6,420.00) as an additional settlement payment to “Consumer
10 Advocacy Group, Inc.,” pursuant to Health & Safety Code § 25249.7(b), and California Code of
11 Regulations, Title 11 § 3202(d). CAG will use this total payment as follows, seventy percent
12 (80%) for fees of investigation, purchasing and testing for Proposition 65 listed chemicals in
13 various products, and for expert fees for evaluating exposures through various mediums,
14 including but not limited to consumer product, occupational, and environmental exposures to
15 Proposition 65 listed chemicals, and the cost of hiring consulting and retained experts who assist
16 with the extensive scientific analysis necessary for those files in litigation, and to offset the costs
17 of future litigation enforcing Proposition 65 but excluding attorney fees; twenty percent (20%)
18 for administrative costs incurred during the investigation and litigation to reduce the public’s
19 exposure to Proposition 65 listed chemicals by notifying those persons and/or entities believed to
20 be responsible for such exposures and attempting to persuade those persons and/or entities to
21 reformulate their products or the source of exposure to completely eliminate or lower the level of
22 Proposition 65 listed chemicals including but not limited to costs of documentation and tracking
23 of products investigated, storage of products, website enhancement and maintenance, computer
24 and software maintenance, investigative equipment, CAG’s member’s time for work done on
25 investigations, office supplies, mailing supplies and postage, thereby addressing the same public
26 harm as allegedly in the instant Action. Within 30 days of a request from the Attorney General.
27
28

1 CAG shall provide to the Attorney General copies of documentation demonstrating how the
2 above funds have been spent.

3 **4.1.3 Reimbursement of Attorney's Fees and Costs:** Upper Canada shall pay
4 a total amount of forty-five thousand dollars (\$45,000.00) to "Yeroushalmi & Yeroushalmi" as
5 reimbursement for reasonable investigation fees and costs, attorneys' fees, and any other costs
6 incurred as a result of investigating, bringing this matter to Upper Canada's attention, litigating,
7 and negotiating a settlement in the public interest.

8 **4.2 Delivery of Payments:**

9 4.2.1 All payments to OEHHA shall be delivered to: Office of Environmental
10 Health Hazard Assessment, Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento,
11 California 95812. Upper Canada shall provide written confirmation to CAG upon payment to
12 OEHHA.

13 4.2.2 All payments to CAG and Yeroushalmi & Yeroushalmi, shall be delivered
14 to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W,
15 Beverly Hills, CA 90212.

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

17 5.1 This Consent Judgment is a full, final, and binding resolution between CAG, on
18 behalf of itself and in the public interest, and Upper Canada and its officers, directors, insurers,
19 employees, parents, owners, shareholders, divisions, subdivisions, subsidiaries, partners,
20 affiliates, sister companies, agents, and their successors and assigns ("Upper Canada
21 Releasees"), and all entities to whom Upper Canada directly or indirectly distributes or sells
22 Covered Products, including, but not limited to, downstream distributors, wholesalers,
23 customers, retailers, franchisees, cooperative members, licensees, and the successors and assigns
24 of any of them, , who may use, maintain, distribute or sell Covered Products, ("Downstream
25 Releasees"), for all claims for violations of Proposition 65 through the Effective Date based on
26 alleged exposure to DEHP, from Covered Products, as set forth in the Notices. Upper Canada
27 and Upper Canada Releasees' compliance with this Consent Judgment shall constitute
28

1 compliance with Proposition 65 for the Covered Products with respect to exposure to DEHP
2 from Covered Products. Nothing in this Section affects CAG's right to commence or prosecute
3 an action under Proposition 65 against any person other than Upper Canada, Upper Canada
4 Releasees, or Downstream Releasees. Upper Canada, Upper Canada Releasees, and Downstream
5 Releasees are hereafter collectively referred to as the "Released Parties."

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

21
22 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
23 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
24 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.

25 CAG understands and acknowledges that the significance and consequence of this waiver of
26 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or
27 resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any
28

1 violation of Proposition 65 or any other statutory or common law regarding the failure to warn
2 about alleged exposure to DEHP from the Covered Products, including but not limited to any
3 exposure to, or failure to warn with respect to exposure to DEHP from the Covered Products.
4 CAG will not be able to make any claim for those damages or injunctive relief against the
5 Released Parties. Furthermore, CAG acknowledges that it intends these consequences for any
6 such Claims arising from any violation of Proposition 65 or any other statutory or common law
7 regarding the failure to warn about alleged exposure to DEHP from Covered Products as may
8 exist as of the date of this release but which CAG does not know exist, and which, if known,
9 would materially affect their decision to enter into this Consent Judgment, regardless of whether
10 their lack of knowledge is the result of ignorance, oversight, error, negligence, or any other
11 cause.

12 **6. ENFORCEMENT OF JUDGMENT**

13 6.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties
14 hereto. The Parties may, by noticed motion or order to show cause before the Superior Court of
15 California, County of Los Angeles, giving the notice required by law, enforce the terms and
16 conditions contained herein. A Party may enforce any of the terms and conditions of this
17 Consent Judgment only after that Party first provides 60 days' notice to the Party allegedly
18 failing to comply with the terms and conditions of this Consent Judgment and attempts to resolve
19 such Party's failure to comply in an open and good faith manner.

20 6.2 **Notice of Violation.** Prior to bringing any motion, order to show cause, or other
21 proceeding to enforce the terms of this Consent Judgment, the Party alleging a violation shall
22 provide written notice ("NOV") to the other Party. The NOV shall include information
23 sufficient for the Party alleged to be in violation to be able to understand and correct the
24 violation. With respect to NOVs from CAG relating to the Covered Products, for each of the
25 Covered Products: Any notice to Upper Canada must contain (a) the name of the product, (b)
26 specific dates when the product was sold in California, (c) the store or other place at which the
27 product was available for sale to consumers, and (d) any other evidence or other support for the
28

1 allegations in the notice, including all test data obtained by CAG regarding the Covered
2 Products.

3 **6.2.1 Non-Contested NOV.** For NOV's from CAG relating to the Covered Products,
4 CAG shall take no further action regarding the alleged violation if, within 60 days of receiving
5 such NOV, Upper Canada serves a Notice of Election ("NOE") that meets one of the following
6 conditions:

7 (a) The Covered Products were shipped by Upper Canada for sale in California
8 before the Effective Date, or

9 (b) Since receiving the NOV Upper Canada has taken corrective action by either (i)
10 taking all steps necessary to bring the sale of the product into compliance under the terms of this
11 Consent Judgment, or (ii) requesting that its customers or stores in California, as applicable,
12 remove the Covered Products identified in the NOV from sale in California and destroy or return
13 the Covered Products to Upper Canada or vendors, as applicable, or (iii) refute the information
14 provided in paragraph 6.2.

15 **6.2.2 Contested NOV.** For NOV's from CAG relating to the Covered Products, Upper
16 Canada may serve a Notice of Election ("NOE") informing CAG of its election to contest the
17 NOV within 30 days of receiving the NOV.

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

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

25 (c) If Upper Canada does not withdraw an NOE to contest the NOV or take action
26 under Section 6.2.1, above, the Parties shall meet and confer for a period of no less than 30 days
27 before CAG may seek an order enforcing the terms of this Consent Judgment.
28

1 6.3 In any proceeding brought by either Party to enforce this Consent Judgment, the
2 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

3 **7. ENTRY OF CONSENT JUDGMENT**

4 7.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to
5 California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG, and
6 Upper Canada waive their respective rights to a hearing or trial on the allegations of the
7 Complaint.

8 7.2 If this Consent Judgment is not approved in full by the Court, (a) this Consent
9 Judgment and any and all prior agreements between the parties merged herein shall terminate
10 and become null and void, and the actions shall revert to the status that existed prior to the
11 execution date of this Consent Judgment; (b) no term of this Consent Judgment or any draft
12 thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement
13 discussions, shall have any effect, nor shall any such matter be admissible in evidence for any
14 purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to
15 determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.

16 **8. MODIFICATION OF JUDGMENT**

17 8.1 This Consent Judgment may be modified only upon written agreement of the
18 Parties and, if the modification affects a substantive provision of this Consent Judgment, upon
19 entry of a modified Consent Judgment by the Court thereon, or otherwise upon motion of any
20 party as provided by law and upon entry of a modified Consent Judgment by the Court.

21 8.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
22 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

23 **9. RETENTION OF JURISDICTION**

24 9.1 This Court shall retain jurisdiction of this matter to implement and enforce the
25 terms of this Consent Judgment under Code of Civil Procedure § 664.6.
26
27
28

1 **10. DUTIES LIMITED TO CALIFORNIA**

2 10.1 This Consent Judgment shall have no effect on Covered Products sold or
3 distributed by Upper Canada outside the State of California.

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

5 11.1 CAG shall serve a copy of this Consent Judgment, signed by both parties, on the
6 California Attorney General so that the Attorney General may review this Consent Judgment
7 prior to its submittal to the Court for approval. No sooner than forty-five (45) days after the
8 Attorney General has received the aforementioned copy of this Consent Judgment, and in the
9 absence of any written objection by the Attorney General to the terms of this Consent Judgment,
10 the parties may then submit it to the Court for approval.

11 **12. ATTORNEY FEES**

12 12.1 Except as specifically provided in Sections 4.1.3 and 6.3, each Party shall bear its
13 own attorneys' fees and costs in connection with this action.

14 **13. ENTIRE AGREEMENT**

15 13.1 This Consent Judgment contains the sole and entire agreement and understanding
16 of the Parties with respect to the entire subject matter hereof and any and all prior discussions,
17 negotiations, commitments and understandings related hereto. No representations, oral or
18 otherwise, express or implied, other than those contained herein have been made by any party
19 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
20 deemed to exist or to bind any of the Parties.

21 **14. GOVERNING LAW**

22 14.1 The validity, construction and performance of this Consent Judgment shall be
23 governed by the laws of the State of California, without reference to any conflicts of law
24 provisions of California law.

25 14.2 The terms of this Consent Judgment shall be governed by the laws of the State of
26 California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered
27 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are
28

1 rendered inapplicable or are no longer required as a result of any such repeal or preemption, or
2 rendered inapplicable by reason of law generally as to the Covered Products, then subject to this
3 Consent Judgment Upper Canada may provide written notice to CAG of any asserted change in
4 the law, and shall have no further obligations pursuant to this Consent Judgment with respect to,
5 and to the extent that, the Covered Products are so affected. Nothing in this Consent Judgment
6 shall be interpreted to relieve Upper Canada from any obligation to comply with any pertinent
7 state or federal law or regulation.

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

17 15. EXECUTION AND COUNTERPARTS

18 15.1 This Consent Judgment may be executed in counterparts and by means of
19 facsimile or portable document format (pdf), which taken together shall be deemed to constitute
20 one document and have the same force and effect as original signatures.

22 16. NOTICES

23 16.1 Any notices under this Consent Judgment shall be by First Class Mail (with a
24 courtesy copy by email).

25 If to CAG:

26 Yeroushalmi & Yeroushalmi
27 9100 Wilshire Boulevard, Suite 240W
28 Beverly Hills, CA 90212
(310) 623-1926;

1 Email: lawfirm@yeroushalmi.com

2 If to Upper Canada:

3 Stephen Flatt
4 Upper Canada
5 1510A Caterpillar Rd,
6 Mississauga ON L4X 2W9

7 With copy to:

8 Jeffrey B. Margulies, Esq.
9 Norton Rose Fulbright US LLP
10 555 South Flower Street, Forty-First Floor
11 Los Angeles, CA 90071
12 Email: jeff.margulies@nortonrosefulbright.com

13 **17. AUTHORITY TO STIPULATE**

14 17.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
15 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf
16 of the party represented and legally to bind that party.

17 AGREED TO:

18 Date: 07/17 Nov 2017

19 Name: Michael Marcus

20 Title: Director
21 CONSUMER ADVOCACY
22 GROUP, INC.

23 AGREED TO:

24 Date: Dec 1, 2017

25 Name: Stephen Flatt

26 Title: President
27 UPPER CANADA SOAP & CANDLE
28 MAKERS CORPORATION

29 **IT IS SO ORDERED.**

30 Date: _____

31 Hon. Michelle Williams Court
32 JUDGE OF THE SUPERIOR COURT