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8 Attorneys for Plaintiff,
9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 CONSUMER ADVOCACY GROUP, INC.,
13 in the public interest,

14 Plaintiff,

15 v.

16 VALU MART CO., a California Corporation;
17 and DOES 1-20;

18 Defendants.

CASE NO. BC679776

[PROPOSED] CONSENT JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Complaint Filed: October 10, 2017

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22 **1. INTRODUCTION**

23 1.1 This Consent Judgment is entered into by and between Plaintiff, Consumer
24 Advocacy Group, Inc. (referred to as “**CAG**”) acting on behalf of itself and in the public interest,
25 and Defendants Valu Mart, Co. (“Valu Mart”), Buy Low Market Corp. (Buy Low”), KV Mart
26 Co. (“KV Mart”) (collectively, “**Defendants**”) with each a Party to the action and collectively
27 referred to as “**Parties.**”

28 **1.2 Defendants and Covered Products**

1 1.2.1 Defendants are corporations, which individually and collectively, at the time of
2 the service of the operative complaint and 60-day Notices, employed ten or more persons. Valu
3 Mart CO. and KV Mart Co. are subsidiaries of Buy Low Market Corp. For purposes of this
4 Consent Judgment only, Defendants are each deemed a person in the course of doing business in
5 California and subject to the provisions of the Safe Drinking Water and Toxic Enforcement Act
6 of 1986, California Health & Safety Code §§ 25249.6 et seq. (“**Proposition 65**”).

7 1.2.2 CAG alleges that Defendants manufactured, sold or distributed Children’s Foot-
8 wear in California, at all times relevant herein. CAG alleges that Defendants manufactured, sold
9 or distributed Ground Sage in California, at all times relevant herein. CAG alleges that
10 Defendants manufactured, sold or distributed Ginger Powder in California, at all times relevant
11 herein. CAG alleges that Defendants manufactured, sold or distributed Ground Clove in
12 California, at all times relevant herein. CAG alleges that Defendants manufactured, sold or
13 distributed Ground Ginger in California, at all times relevant herein. CAG alleges that
14 Defendants manufactured, sold or distributed Whole Ginger in California, at all times relevant
15 herein. CAG alleges that Defendants manufactured, sold or distributed Ground Anise in
16 California, at all times relevant herein.

17 1.3 **Listed Chemicals**

18 1.3.1 Di-n-butyl Phthalate (“DBP”) has been listed by the State of California as a
19 chemical known to cause developmental and other reproductive harm. Lead has been listed by
20 the State of California as a chemical known to cause cancer and developmental and other
21 reproductive harm.

22 1.4 **Notices of Violation**

23 1.4.1 On or about January 3, 2017, CAG served a “60-Day Notice of Intent to Sue for
24 Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” that provided Def-
25 endants with notice of alleged violations of Health & Safety Code §25249.6 for failing to warn
26 individuals in California of exposures to DBP contained in Children’s Footwear with Polymer
27 Straps sold by Defendants in California. No public enforcer has commenced or diligently
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1 prosecuted the allegations set forth in the Notice. On or about February 10, 2017, CAG served a
2 “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement
3 Act of 1986” that provided Defendant Valu Mart with notice of alleged violations of Health &
4 Safety Code §25249.6 for failing to warn individuals in California of exposures to Lead
5 contained in Ground Sage sold by Defendant in California. No public enforcer has commenced
6 or diligently prosecuted the allegations set forth in the Notice. On or about February 10, 2017,
7 CAG served a “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and
8 Toxic Enforcement Act of 1986” that provided Defendant Valu Mart with notice of alleged
9 violations of Health & Safety Code §25249.6 for failing to warn individuals in California of
10 exposures to Lead contained in Ginger Powder (labeled as Ground Ginger) (Milpas brand) sold
11 by Defendant in California. No public enforcer has commenced or diligently prosecuted the
12 allegations set forth in the Notice. On or about February 10, 2017, CAG served a “60-Day
13 Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of
14 1986” that provided Defendants with notice of alleged violations of Health & Safety Code
15 §25249.6 for failing to warn individuals in California of exposures to Lead contained in Ground
16 Ginger (Sadaf brand) sold by Defendant in California. No public enforcer has commenced or
17 diligently prosecuted the allegations set forth in the Notice. On or about April 26, 2017, CAG
18 served a “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic
19 Enforcement Act of 1986” that provided Defendant Valu Mart with notice of alleged violations
20 of Health & Safety Code §25249.6 for failing to warn individuals in California of exposures to
21 Lead contained in Whole Ginger sold by Defendant in California. No public enforcer has
22 commenced or diligently prosecuted the allegations set forth in the Notice. On or about April 26,
23 2017, CAG served a “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water
24 and Toxic Enforcement Act of 1986” that provided Defendant Valu Mart with notice of alleged
25 violations of Health & Safety Code §25249.6 for failing to warn individuals in California of
26 exposures to Lead contained in Ground Clove sold by Defendant in California. No public
27 enforcer has commenced or diligently prosecuted the allegations set forth in the Notice. On or
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1 about April 26, 2017, CAG served a “60-Day Notice of Intent to Sue for Violation of the Safe
2 Drinking Water and Toxic Enforcement Act of 1986” that provided Defendant Valu Mart with
3 notice of alleged violations of Health & Safety Code §25249.6 for failing to warn individuals in
4 California of exposures to Lead contained in Ground Anise sold by Defendant in California. No
5 public enforcer has commenced or diligently prosecuted the allegations set forth in the Notice.

6 1.5 Complaint

7 1.5.1 On October 10, 2017 CAG filed its original Complaint for civil penalties and
8 injunctive relief in Los Angeles County Superior Court, Case N° BC679776, against Valu Mart,
9 with respect to DBP in Children’s Footwear, and with respect to Lead in Ground Sage (Milpas
10 brand), Ground Ginger (Milpas brand), Ginger Powder (Sadaf brand manufactured by Soofer
11 Company, Inc.), Whole Ginger (Sadaf brand manufactured by Soofer Company, Inc.), Ground
12 Clove (Sadaf brand manufactured by Soofer Company, Inc.), and Ground Anise (Sadaf brand
13 manufactured by Soofer Company, Inc.). On February 2, 2018 CAG filed its First Amended
14 Complaint for civil penalties and injunctive relief (“**Complaint**”) in Los Angeles County Super-
15 ior Court, Case N° BC679776, against Valu Mart, KV Mart and Buy Low Market Corp. (as well
16 as against manufacturer/distributor Soofer Company, Inc., which is not party to this agreement
17 and as to which trial is proceeding) with respect to DBP in Children’s Footwear, and with respect
18 to Lead in Ground Sage, Ground Ginger (Milpas brand), Ginger Powder (Sadaf brand manufac-
19 tured by Soofer Company, Inc.), Whole Ginger (Sadaf brand manufactured by Soofer Company,
20 Inc.), Ground Clove (Sadaf brand manufactured by Soofer Company, Inc.), and Ground Anise
21 (Sadaf brand manufactured by Soofer Company, Inc.). The Complaint alleges, among other
22 things, that Defendant violated Proposition 65 for allegedly failing to give clear and reasonable
23 warnings of alleged exposure to: (1) DBP in Children’s Footwear with Polymer Straps; and (2)
24 Spices (the five spices are collectively hereafter referred to as “Spices”) as follows: (A) Ground
25 Sage (Milpas brand); (B) Ground Ginger (Milpas and Sadaf brands); (C) Ginger Powder (Sadaf
26 brand); (D) Whole Ginger (Sadaf brand); € Ground Clove (Sadaf brand); and (E) Ground Anise
27 (Sadaf brand), all of which Defendants distributed and/or sold in California.

1 **1.6 Consent to Jurisdiction**

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

9 **1.7 No Admission**

10 This Consent Judgment resolves claims that are denied and disputed. The Parties enter into
11 this Consent Judgment pursuant to a full and final settlement of any and all claims between the
12 Parties for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment shall
13 be construed as an admission by the Parties of any material allegation in the Notice or the
14 Complaint, or of any fact, conclusion of law, issue of law or violation of law of any kind, including
15 without limitation, any admission concerning any alleged or actual violation of Proposition 65 or
16 any other statutory, regulatory, common law, or equitable doctrine, including but not limited to the
17 meaning of the terms “knowingly and intentionally expose” or “clear and reasonable warning” as
18 used in *Health and Safety Code §25249.6*. Nothing in this Consent Judgment, nor compliance
19 with its terms, shall constitute or be construed as an admission by the Parties of any fact, conclusion
20 of law, issue of law, or violation of law, or of fault, wrongdoing, or liability by Defendants, their
21 officers, directors, employees, or parent, subsidiary or affiliated corporations, or be offered or
22 admitted as evidence in any administrative or judicial proceeding or litigation in any court, agency,
23 or forum. Furthermore, nothing in this Consent Judgment shall prejudice, waive or impair any
24 right, remedy, argument, or defense the Parties may have in any other or future legal proceeding,
25 except as expressly provided in this Consent Judgment.

1 **2. DEFINITIONS**

2 2.1 **“Covered Products”** means: (1) Children’s Footwear with Polymer Straps,
3 identified as “Comfortable High Wedge; Size M 1/2 ; Item# AG8078; Yellow flip flop with
4 plastic straps; soles decorated with flower patterns; “WARNING: CHOKING HAZARD”; Made
5 in China; UPC: 613153080784 sold by or supplied by Defendants; (2) Ground Sage, identified as
6 “Milpas® 69¢; GROUND SAGE; SALVIA MOLIDO; Net. Wt.: 1/8 oz. (3.54g); This product
7 may be used as a flavor enhancer for cooking your meals; Distributed by: MILPAS FOODS; 245
8 Baldwin Park Blvd., Industry, CA 91746; Phone 1-800-432-7266; www.faraon.com; Note to the
9 consumer: any questions regarding this product, please phone or email us; UPC 0 74734 62340
10 8; 5¼ x 4¼; 62340”; (3) Ginger Powder, identified as follows: (A) under the iteration “Ground
11 Ginger”: “Milpas® 99¢; GROUND GINGER; JENGIBRE MOLIDO; Net. Wt.: 1 oz. (28.35g);
12 Product of China; Distributed by: MILPAS FOODS; 245 Baldwin Park Blvd., Industry, CA
13 91746; www.faraon.com; [UPC] 074734622944; 5¼ x 4¼; 62294”; and (B), under the iteration
14 “Ginger Powder”: “Sadaf®; POWDER GINGER; Ingredients: GINGER POWDER; Net Wt/
15 Poids Net 2 Oz (56g); [UPC] 052851112562; For Mediterranean Recipes visit: www.sadaf.com;
16 SADAF FOODS, Los Angeles, California 90058, USA; ® Sadaf is a registered trademark of
17 Soofer Co., Inc.; © copyright Soofer Co, Inc. 2012; Packed in USA”; (4) Whole Ginger,
18 identified as “Sadaf®; Superior Quality Calidad Superior; Ginger Whole; www.Sadaf.com; Net
19 Wt. 0.75 Oz. (21g); Packed by Sadaf Foods, Los Angeles, CA 90058, USA; 171204X710; [UPC]
20 052851212552”; (5) Ground Clove, identified as: “Sadaf®; Stay Fresh Resealable Bag; Quality
21 You Can Trust; Ground Clove; CloDe Girofle Moulu; Clavo Molido; Ingredients: Ground Clove;
22 Net Wt./Poids Net 1.5 oz. (42g); For Mediterranean Recipes visit: www.Sadaf.com; Packed in
23 USA; [UPC] 052851111411”; and (6) Ground Anise, identified as “Sadaf; Stay Fresh Resealable
24 Bag; Ground Anise Seeds; Anis Vert Moulu; Quality You Can Trust; Net Wt/Poids Net 4 oz
25 (113g); www.Sadaf.com; Sadaf Foods; [UPC] 052851110087”.

26 2.2 **“Effective Date”** means the date that this Consent Judgment is approved by the
27 Court.
28

1 2.3 “DBP” means Di-n-butyl Phthalate. “Lead” means Lead (Pb).

2 2.4 “Listed Chemicals” means DBP and Lead.

3 2.5 “Notice” means, collectively, the January 3, 2017 Notice, the February 10, 2017
4 Notices and the April 26, 2017 Notices, all of which are referred to above in ¶1.4.1.

5 **3. INJUNCTIVE RELIEF/REFORMULATION**

6 3.1 After the Effective Date, Defendants shall not sell, offer for sale, or order for sale
7 any Covered Products unless the level of DBP in the Children’s Footwear with Polymer Straps
8 product within the Covered Products does not exceed more than 0.1% (1,000 parts per million)
9 by weight and unless the level of lead in the remaining (Spice) products within the Covered
10 Products does not exceed more than 720 parts per billion.

11 3.2 For any Covered Products whose DBP content exceeds .1% still existing in
12 Defendants’ inventory or inventories as of the Effective Date, Defendants shall place a clear and
13 reasonable warning Proposition 65 compliant warning on them, consistent with 27 CCR section
14 25600 *et seq.* In consideration of the fact that Defendants have agreed to only order for
15 manufacture reformulated Covered products, parties agree to the following language for Covered
16 Products in existing inventory that contain more than 0.1% DBP by weight:

17 ⚠ WARNING: This product can expose you to chemicals including Di-n-butyl Phthalate
18 (DBP) which is known to the State of California to cause birth defects or other
19 reproductive harm. For more information go to www.P65Warnings.ca.gov.

20 Or:

21 ⚠ WARNING: Reproductive Harm www.P65Warnings.ca.gov.

22 For any Covered Products whose Lead content exceeds 720 ppb still existing in
23 Defendants’ inventory or inventories as of the Effective Date, Defendants shall place a clear and
24 reasonable warning Proposition 65 compliant warning on them, consistent with 27 CCR section
25 25600 *et seq.* In consideration of the fact that Defendants have agreed to only order for
26 manufacture reformulated Covered products, parties agree to the following language for Covered
27 Products in existing inventory that contain more than 720 ppb:

1 ⚠️ WARNING: This product can expose you to chemicals including Lead (Pb) which is
2 known to the State of California to cause birth defects or other reproductive harm. For
3 more information go to www.P65Warnings.ca.gov.

4 Or:

5 ⚠️ WARNING: Reproductive Harm www.P65Warnings.ca.gov.

6 3.3 Any warning provided pursuant to this section shall be affixed to the packaging
7 or hangtag of, or directly on, the Covered Products, and be prominently placed with such
8 conspicuousness as compared with other words, statements, designs, or devices as to render it
9 likely to be read and understood by an ordinary individual under customary conditions before
10 purchase or use. The equilateral triangle pictogram shall be in yellow with a black exclamation
11 mark; provided however, the pictogram may be in white instead of yellow if the Covered Product
12 label does not contain the color yellow.

13 4. SETTLEMENT PAYMENT

14 4.1 **Payment and Due Date:** Within ten (10) days of the Effective Date, Defendants,
15 whom shall be collectively, jointly and severally liable therefor, shall pay a total of thirty-five
16 thousand dollars (\$35,000) in full and complete settlement of any and all claims for civil
17 penalties, damages, attorney’s fees, expert fees or any other claim for costs, expenses or
18 monetary relief of any kind for claims that were or could have been asserted in the Notices or
19 Complaint, as follows:

20 4.1.1 **Civil Penalty:** Defendants shall issue two separate checks totaling \$2,300.00 as
21 follows for alleged civil penalties pursuant to *Health & Safety Code* §25249.12:

22 (a) Defendants will issue one check made payable to the State of California’s Office of
23 Environmental Health Hazard Assessment (“OEHHA”) in the amount of \$1,725 representing
24 75% of the total civil penalty and Defendant will issue a second check to CAG in the amount of
25 \$575 representing 25% of the total civil penalty;

26 (b) Separate 1099s shall be issued for each of the above payments: Defendants will issue
27 a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486) in the amount of
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1 \$1,725. Defendant will also issue a 1099 to CAG in the amount of \$575 and deliver it to CAG
2 c/o LAW OFFICES OF KENNETH W. RALIDIS, A.P.L.C., 3435 Wilshire Blvd., 27th Floor,
3 Los Angeles, California 90010.

4 **4.1.2 Additional Settlement Payments:** Defendants shall issue one check for \$1,700 to
5 “Consumer Advocacy Group, Inc.” pursuant to *Health & Safety Code* §25249.7(b) and
6 *California Code of Regulations*, Title 11 § 3203(d). CAG will use this portion of the Total
7 Settlement Payment as follows, eighty five percent (85%) for fees of investigation, purchasing
8 and testing for the Proposition 65 Listed Chemical in various products, and for expert fees for
9 evaluating exposures through various mediums, including but not limited to consumer product,
10 occupational, and environmental exposures to the Proposition 65 Listed Chemical, and the cost
11 of hiring consulting and retaining experts who assist with the extensive scientific analysis
12 necessary for those files in litigation and to offset the costs of future litigation enforcing
13 Proposition 65 but excluding attorney fees; fifteen percent (15%) for administrative costs
14 incurred during investigation and litigation to reduce the public’s exposure to the Proposition 65
15 Listed Chemical by notifying those persons and/or entities believed to be responsible for such
16 exposures and attempting to persuade those persons and/or entities to reformulate their products
17 or the source of exposure to completely eliminate or lower the level of the Proposition 65 Listed
18 Chemical including but not limited to costs of documentation and tracking of products
19 investigated, storage of products, website enhancement and maintenance, computer and software
20 maintenance, investigative equipment, CAG’s member’s time for work done on investigations,
21 office supplies, mailing supplies and postage Within 30 days of a request from the Attorney
22 General, CAG shall provide to the Attorney General copies of documentation demonstrating how
23 the above funds have been spent. CAG shall be solely responsible for ensuring the proper
24 expenditure of such additional settlement payment.

25 **4.1.3 Reimbursement of Attorney Fees and Costs:** Defendants shall issue a check in
26 the amount of \$31,000 payable to “LAW OFFICES OF KENNETH W. RALIDIS, A.P.L.C.” as
27 complete reimbursement for any and all reasonable investigation fees and costs, attorneys’ fees,
28

1 expert fees, and any and all other costs and expenses incurred as a result of investigating,
2 bringing this matter to the Defendants’ attention, litigating, negotiating a settlement in the public
3 interest, and seeking and obtaining court approval of this Consent Judgment.

4 4.2 Other than the payment to OEHHA described above, all payments referenced in
5 paragraphs 4.1.1, 4.1.2, and 4.1.3 above, shall be delivered to: LAW OFFICES OF KENNETH
6 W. RALIDIS, A.P.L.C., 3435 Wilshire Blvd., 27th Floor, Los Angeles, California 90010. The
7 payment to OEHHA shall be delivered directly to Office of Environmental Health Hazard
8 Assessment, Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento, California 95812.
9 Defendant shall provide written confirmation to CAG concurrently with payment to OEHHA.

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

11 5.1 This Consent Judgment is a full, final, and binding resolution between CAG, on
12 behalf of itself and in the public interest, and Defendants and their owners, officers, directors,
13 insurers, employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners,
14 affiliates, sister companies, predecessors, and their successors and assigns (“**Defendant**
15 **Releasees**”), and all entities to whom Defendants directly or indirectly distribute or sell Covered
16 Products, including, but not limited to, downstream distributors, wholesalers, customers, retailers
17 marketplace hosts, franchisees, cooperative members, licensees, and the successors and assigns
18 of any of them, who may use, maintain, distribute or sell Covered Products (“**Downstream**
19 **Defendant Releasees**”), of all claims for alleged or actual violations of Proposition 65 for
20 alleged exposures to the Listed Chemicals from the Covered Products manufactured, distributed
21 or sold by Defendants up through the Effective Date as set forth in the Notices and Complaint.
22 Defendants and Defendant Releasees’ compliance with this Consent Judgment shall constitute
23 compliance with Proposition 65 with respect to alleged exposures to the Listed Chemical from
24 the Covered Products sold by Defendant Releasees or Downstream Defendant Releasees after the
25 Effective Date. Nothing in this Section affects CAG’s right to commence or prosecute an action
26 under Proposition 65 against any person other than Defendants, Defendant Releasees, or
27 Downstream Defendant Releasees (collectively the “**Released Parties**”).
28

1 5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,
2 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or
3 indirectly, any form of legal action and releases all claims, including, without limitation, all
4 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations,
5 damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation
6 fees, expert fees, and attorneys' fees) of any nature whatsoever, whether known or unknown,
7 fixed or contingent (collectively "**Claims**"), against the Released Parties arising from any actual
8 or alleged violation of Proposition 65 or any other statutory or common law claim regarding the
9 Covered Products manufactured, distributed or sold by the Defendant Releasees through the
10 Effective Date regarding any actual or alleged failure to warn about exposure to the Listed
11 Chemicals from the Covered Products. In furtherance of the foregoing, CAG on behalf of itself
12 only, hereby waives any and all rights and benefits which it now has, or in the future may have,
13 conferred upon it with respect to Claims regarding the Covered Products manufactured,
14 distributed or sold by the Defendant Releasees through the Effective Date arising from any
15 violation of Proposition 65 or any other statutory or common law regarding the failure to warn
16 about exposure to the Listed Chemicals from the Covered Products by virtue of the provisions of
17 section 1542 of the *California Civil Code*, which provides as follows:

18 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
19 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
20 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
21 **THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD**
22 **HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH**
23 **THE DEBTOR OR RELEASED PARTY.**

24 CAG understands and acknowledges that the significance and consequence of this waiver of
25 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or
26 resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any
27 violation of Proposition 65 or any other statutory or common law regarding the Covered
28 Products manufactured, distributed or sold by the Defendants and/or the Defendant Releasees
through the Effective Date regarding the failure to warn about actual or alleged exposure to the

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

9 **6. ENTRY OF CONSENT JUDGMENT**

10 6.1 CAG and Defendants, cooperatively, shall file a motion seeking approval of this
11 Consent Judgment pursuant to *California Health & Safety Code §25249.7(f)* and/or a Good Faith
12 Settlement Motion, which shall require Defendants to assert by declaration of their principal(s)
13 their financial conditions which formed the primary basis for the monetary portions of this
14 Settlement and Consent Judgment (in the absence of which the monetary portions of this
15 Settlement and Consent Judgment would not have been so low). The Parties agree to act in good
16 faith to obtain Court approval of the Consent Judgment. Upon entry of the Consent Judgment,
17 CAG and Defendants waive their respective rights to a hearing and trial on the allegations in the
18 Notices and Complaint.

19 6.2 If this Consent Judgment is not approved in full by the Court: (a) this Consent
20 Judgment and any and all prior agreements between the Parties merged herein shall terminate
21 and become null and void, and the actions shall revert to the status that existed prior to the
22 execution date of this Consent Judgment; (b) no term of this Consent Judgment or any draft
23 thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement
24 discussions, shall have any effect, nor shall any such matter be admissible in evidence for any
25 purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to
26 determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.
27
28

1 **7. MODIFICATION OF JUDGMENT**

2 7.1 This Consent Judgment may be modified only upon written agreement of the
3 Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of
4 any Party as provided by law and upon entry of a modified Consent Judgment by the Court.

5 7.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
6 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

7 **8. RETENTION OF JURISDICTION**

8 8.1 This Court shall retain jurisdiction of this matter to implement and enforce the
9 terms of this Consent Judgment under *Code of Civil Procedure* §664.6.

10 8.2 In any proceeding brought by either Party to enforce this Consent Judgment, the
11 prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

12 **9. SERVICE ON THE ATTORNEY GENERAL**

13 9.1 CAG shall serve a copy of this Consent Judgment, signed by both parties, on the
14 California Attorney General so that the Attorney General may review this Consent Judgment
15 prior to its submittal to the Court for approval. No sooner than forty-five (45) days after the
16 Attorney General has received the aforementioned copy of this Consent Judgment, CAG may
17 then submit it to the Court for approval. Defendants expressly understand and agree that
18 declarations regarding their financial positions shall be provided to the California Attorney
19 General at the same time as a copy of this signed Consent Judgment is provided to the California
20 Attorney General.

21 **10. ENTIRE AGREEMENT**

22 10.1 This Consent Judgment contains the sole and entire agreement and understanding
23 of the Parties with respect to the entire subject matter hereof and any and all prior discussions,
24 negotiations, commitments and understandings related hereto. No representations, oral or
25 otherwise, express or implied, other than those contained herein have been made by any party
26 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
27 deemed to exist or to bind any of the Parties.
28

1 **11. ATTORNEY FEES**

2 11.1 Except as specifically provided in Sections 4.1.3 and 8.2, each Party shall bear its
3 own attorneys' fees and costs in connection with the claims resolved in this Consent Judgment.

4 **12. GOVERNING LAW**

5 12.1 The validity, construction, terms, and performance of this Consent Judgment shall
6 be governed by the laws of the State of California, without reference to any conflicts of law
7 provisions of California law.

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

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

1 **13. EXECUTION AND COUNTERPARTS**

2 13.1 This Consent Judgment may be executed in counterparts and by means of
3 facsimile or portable document format (pdf), which taken together shall be deemed to constitute
4 one document and have the same force and effect as original signatures.

5 **14. NOTICES**

6 14.1 Any notices under this Consent Judgment shall be by delivery of First-Class Mail.

7 If to CAG:

8 KENNETH W. RALIDIS
9 LAW OFFICES OF KENNETH W. RALIDIS, A.P.L.C.
10 3435 Wilshire Blvd., 27th Floor
11 Los Angeles, California 90010
ken@ralidislaw.com

12 If to Defendant:

13 EMILY WEISSENBERGER
14 SHOOK, HARDY & BACON, L.L.P.
15 One Montgomery Tower, Suite 2700
16 120 Kearny Street
San Francisco, California 94104-4505

17 **15. AUTHORITY TO STIPULATE**

18 15.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
19 by the Party he or she represents to enter into this Consent Judgment and to execute it on behalf
20 of the Party represented and legally to bind that party.

21 [SIGNATURES ON NEXT PAGE]
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AGREED TO:

AGREED TO:

Date: 1/20/2023, ~~2022~~

Date: 01/19, 2023

Michael Marcus

Paul Vazin

Name: Michael Marcus

Name: Paul Vazin

Title: Director

Title: President

CONSUMER ADVOCACY GROUP, INC.

VALU MART CO.

AGREED TO:

Date: 01/19, 2023

Paul Vazin

Name: Paul Vazin

Title: President

KV MART CO.

AGREED TO:

Date: 01/19, 2023

Paul Vazin

Name: Paul Vazin

Title: CEO

BUY LOW MARKET CORP.

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT