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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN FRANCISCO

12 ANTHONY FERREIRO,

13 Plaintiff,

14 v.

15 CWI, INC., REVO BRAND GROUP  
HOLDINGS, INC.,

16 Defendants.

Case No.: CGC-22-597913

**CONSENT JUDGMENT**

Judge: Richard B. Ulmer

Dept.: 302

Hearing Date: July 19, 2023

Hearing Time: 9:30 AM

Complaint Filed: February 7, 2022

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## 1. INTRODUCTION

1.1 **The Parties.** This Consent Judgment is entered into by and between Anthony Ferreiro acting on behalf of the public interest (hereinafter “Ferreiro”) and Revo Brand Group Holdings, Inc., Revo Brand Group, LLC (collectively, “Revo” or “Defendant”) with Ferreiro and Defendant collectively referred to as the “Parties” and each of them as a “Party.” Ferreiro is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Defendant is alleged to be a person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

1.2 **Allegations and Representations.** Ferreiro alleges that Defendant has exposed individuals to bisphenol A (BPA) from its sales of the Real Avid Smart Drive 90 Gunsmithing Kits without providing a clear and reasonable exposure warning pursuant to Proposition 65. BPA is listed under Proposition 65 as a chemical known to the State of California to cause reproductive toxicity.

1.3 **Notice of Violation/Complaint.** On or about February 3, 2021, Ferreiro served Revo, CWGS Group, LLC, CWI, Inc. (CWGS Group, LLC and CWI, Inc. are collectively referred to herein as, “CWI”), and various public enforcement agencies with documents entitled “60-Day Notice of Violation” pursuant to Health & Safety Code §25249.7(d) (the “Notice”), alleging that Defendant violated Proposition 65 for failing to warn consumers and customers that use of Real Avid Smart Drive 90 Gunsmithing Kits exposes users in California to BPA. No public enforcer has brought and is diligently prosecuting the claims alleged in the Notice. On January 31, 2022, Ferreiro filed a complaint (the “Complaint”) in the matter.

1.4 **Jurisdiction.** For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve, enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all claims which were or could have been raised in the Complaint based on the facts

1 alleged in the Complaint and/or in the Notice.

2       1.5   **No Admission.** Defendant and CWI denies all material, factual, and legal  
3 allegations contained in Ferreiro's Notice and Complaint and maintains that it has not violated  
4 Proposition 65. Nothing in this Consent Judgment shall be construed as an admission by Defendant  
5 or CWI of any fact, finding, issue of law, or violation of law; nor shall compliance with this Consent  
6 Judgment constitute or be construed as an admission by Defendant or CWI of any fact, finding,  
7 conclusion, issue of law, or violation of law, such being specifically denied by Defendant and CWI.  
8 However, this Section shall not diminish or otherwise affect the obligations, responsibilities, and  
9 duties of Defendant under this Consent Judgment.

10 **2.    DEFINITIONS**

11       2.1   **Covered Products.** The term "Covered Products" means Real Avid Smart Drive 90  
12 Gunsmithing Kits, that are manufactured, distributed and/or offered for sale in California by  
13 Defendant.

14       2.2   **Effective Date.** The term "Effective Date" means the date this Consent Judgment is  
15 entered as a Judgment of the Court.

16 **3.    INJUNCTIVE RELIEF: WARNINGS**

17       3.1   **Clear and Reasonable Warning.** As of the Effective Date, and continuing  
18 thereafter, a clear and reasonable exposure warning as set forth in this §§ 3.1 and 3.2 must be  
19 provided for all Covered Products that Defendant manufacturers, imports, distributes, sells, or  
20 offers for sale in California. However, there shall be no obligation for Defendant, Defendant  
21 Releasees, and Chain of Distribution Releasees (as those terms are defined in § 5.1) to provide a  
22 warning as set forth in this §§ 3.1 and 3.2 for Covered Products that are manufactured or enter the  
23 stream of commerce prior to the Effective Date. The warning shall consist of either the **Warning**  
24 or **Alternative Warning** described in §§ 3.3(a) or (b), respectively:

25       (a)   **Warning.** The "Warning" shall consist of the statement:  
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1         **WARNING:** This product can expose you to chemicals including [Lead and  
2        Lead Compounds] / [Bisphenol A (BPA)]<sup>1</sup> which is [are] known to the State of  
3        California to cause [cancer] [and] [birth defects or other reproductive harm]. For  
     more information, go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

4        (b)     **Alternative Warning:** Defendant may, but is not required to, use the alternative  
5        short-form warning as set forth in this § 3.3(b) (“**Alternative Warning**”) as follows:

6         **WARNING:** [Cancer] [and] [Reproductive Harm] - [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

7        3.2     A **Warning** or **Alternative Warning** provided pursuant to § 3.1 must print the word  
8        “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to  
9        the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral  
10       triangle with a black outline, except that if the sign or label for the Covered Product does not use  
11       the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller  
12       than the height of the word “**WARNING:**”. The **Warning** or **Alternative Warning** shall be affixed  
13       to or printed on the Covered Product’s packaging or labeling, or on a placard, shelf tag, sign or  
14       electronic device or automatic process, providing that the warning is displayed with such  
15       conspicuousness, as compared with other words, statements, or designs as to render it likely to be  
16       read and understood by an ordinary individual under customary conditions of purchase or use. The  
17       **Warning** or **Alternative Warning** may be contained in the same section of the packaging, labeling,  
18       or instruction booklet that states other safety warnings, if any, concerning the use of the Covered  
19       Product and shall be at least the same size as those other safety warnings.

20       In addition to affixing the **Warning** or **Alternative Warning** to the Covered Product’s  
21       packaging or labeling, the **Warning** or **Alternative Warning** shall be posted on websites where  
22       Defendant offers Products for sale to consumers in California. The requirements of this Section  
23       shall be satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink using the

24       <sup>1</sup> In accordance with 27 Cal. Code Regs., §§ 25601 and 25603, the long-form warning must  
25       expressly identify at least one of the chemicals to which a consumer might be exposed per  
26       toxicological endpoint, and the content of the warning shall include the endpoint (e.g., cancer,  
27       reproductive harm, or both). Lead and Lead Compounds are listed as known to cause cancer and  
28       birth defects or other reproductive harm; and BPA is listed as known to cause reproductive  
     toxicity. Section 3.1(a) expressly permits Defendant to display a Warning for Lead and Lead  
     Compounds or BPA. Should Defendant elect to use the short-form or “Alternative” warning  
     pursuant to Section 3.3(b), only the applicable endpoint(s) must be stated.

1 word "**WARNING**," appears on the product display page, or by otherwise prominently displaying  
2 the warning to the purchaser prior to completing the purchase. To comply with this Section,  
3 Defendant shall (a) post the **Warning** or **Alternative Warning** on its own website and, if it has the  
4 ability to do so, on the websites of its third-party internet sellers; and (b) if it does not have the  
5 ability to post the **Warning** or **Alternative Warning** on the websites of its third-party internet  
6 sellers, provide the **Warning** or **Alternative Warning** on the label or labeling of the Covered  
7 Products that satisfies Section 3.1, or providing such sellers with written notice in accordance with  
8 Title 27, California Code of Regulations, Section 25600.2.

9       **3.3 Compliance with Warning Regulations.** Defendant shall be deemed to be in  
10 compliance with this Consent Judgment by adhering to §§ 3.1 and 3.2 of this Consent Judgment or  
11 by complying with warning requirements adopted by the State of California's Office of  
12 Environmental Health Hazard Assessment ("OEHHA") applicable to the Covered Product and the  
13 exposure at issue after the Effective Date.

#### 14 **4. MONETARY TERMS**

15       **4.1 Civil Penalty.** Defendant shall pay \$1,000.00 as a Civil Penalty pursuant to Health  
16 and Safety Code section 25249.7(b), to be apportioned in accordance with California Health &  
17 Safety Code § 25249.12(c)(1) and (d), with 75% of these funds remitted to OEHHA and the  
18 remaining 25% of the Civil Penalty remitted to Ferreiro, as provided by California Health & Safety  
19 Code § 25249.12(d).

20       **4.1.1** Within fourteen (14) days of the Effective Date, Defendant shall issue two  
21 separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$750.00; and to  
22 (b) "Brodsky & Smith in Trust for Ferreiro" in the amount of \$250.00 Payment owed to Ferreiro  
23 pursuant to this Section shall be delivered to the following payment address:

24       Evan J. Smith, Esquire  
25       Brodsky & Smith  
26       Two Bala Plaza, Suite 805  
26       Bala Cynwyd, PA 19004

27 Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly  
28 to OEHHA (Memo Line "Prop 65 Penalties") at one of the following address(es):

1 For United States Postal Service Delivery:

2 Mike Gyurics  
3 Fiscal Operations Branch Chief  
4 Office of Environmental Health Hazard Assessment  
5 P.O. Box 4010  
6 Sacramento, CA 95812-4010

7 For Non-United States Postal Service Delivery:

8 Mike Gyurics  
9 Fiscal Operations Branch Chief  
10 Office of Environmental Health Hazard Assessment  
11 1001 I Street  
12 Sacramento, CA 95814

13 A copy of the check payable to OEHHA shall be mailed to Brodsky & Smith at the address set  
14 forth above as proof of payment to OEHHA.

15 4.2 **Attorneys' Fees.** Within fourteen (14) days of the Effective Date, Defendant shall  
16 pay \$16,500.00 to Brodsky & Smith ("Brodsky & Smith") as complete reimbursement for  
17 Ferreiro's attorneys' fees and costs incurred as a result of investigating, bringing this matter to  
18 Defendant attention, litigating and negotiating and obtaining judicial approval of a settlement in  
19 the public interest, pursuant to Code of Civil Procedure § 1021.5.

20 **5. RELEASE OF ALL CLAIMS**

21 5.1 This Consent Judgment is a full, final, and binding resolution between Ferreiro  
22 acting on his own behalf and on behalf of the public interest, and on behalf of his past and current  
23 agents, representatives, attorneys, successors, and/or assignees, and Revo, and its parents,  
24 shareholders, members, directors, officers, managers, employees, representatives, agents,  
25 beneficiaries, insurers, attorneys, divisions, subdivisions, subsidiaries, partners, sister companies,  
26 and affiliates, and their predecessors, successors and assigns ("Defendant Releasees"), and all  
27 entities from whom they obtain and to whom they directly or indirectly distribute or sell Covered  
28 Products, including but not limited to manufacturers, suppliers, distributors, wholesalers,  
customers, licensors, licensees retailers (including CWI and their direct and indirect parents,  
subsidiaries, affiliates), franchisees, and cooperative members ("Chain of Distribution Releasees"),  
of all claims for alleged violations of Proposition 65 based on exposure to BPA from use of the

1 Covered Products as set forth in the Notice and Complaint, with respect to any Covered Products  
2 manufactured, distributed, or sold by Defendant prior to the Effective Date. It is the Parties'  
3 intention that this Consent Judgment shall have preclusive effect such that no other actions by  
4 private enforcers, whether purporting to act in his, her, or its interests or the public interest, shall  
5 be permitted to pursue and/or take any action with respect to any alleged violation of Proposition  
6 65 based on exposure to BPA that was alleged in the Notice and Complaint, or that could have been  
7 brought pursuant to the Notice and Complaint against Defendant, CWI, and/or the Defendant  
8 Releasees and Chain of Distribution Releasees of the Covered Products ("Proposition 65 Claims").

9 5.2 In addition to the foregoing, Ferreiro, on behalf of himself, his past and current  
10 agents, representatives, attorneys, and successors and/or assignees, and not in his representative  
11 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of  
12 legal action and releases Defendant, CWI, Defendant Releasees, and Chain of Distribution  
13 Releasees-, from any and all manner of actions, causes of action, claims, obligations, demands,  
14 rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges,  
15 losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law  
16 or equity, fixed or contingent, now or in the future, with respect to any alleged violations of  
17 Proposition 65 related to or arising from Covered Products manufactured, distributed, or sold by  
18 Defendant, CWI, Defendant Releasees or Chain of Distribution Releasees. With respect to the  
19 foregoing waivers and releases in this paragraph, Ferreiro hereby specifically waives any and all  
20 rights and benefits which he now has, or in the future may have, conferred by virtue of the  
21 provisions of § 1542 of the California Civil Code, which provides as follows:

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

28 5.3 Defendant waives any and all claims against Ferreiro, his attorneys and other  
representatives, for any and all actions taken, or statements made (or those that could have been  
taken or made) by Ferreiro and his attorneys and other representatives, whether in the course of

investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to Covered Products.

**6. INTEGRATION**

6.1 This Consent Judgment contains the sole and entire agreement of the Parties and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter of this Consent Judgment.

**7. GOVERNING LAW**

7.1 The terms of this Consent Judgment shall be governed by the laws of the State of California and apply within the State of California. If Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by reason of law generally, or as to Covered Products, then Defendant shall have no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, Covered Products are so affected.

**8. NOTICES**

8.1 Unless specified in this Consent Judgment, all correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party at the following addresses. In addition to (i) and (ii) above, any notice required or permitted by this Consent Judgment shall also be provided via electronic mail if an email address is provided for the recipient below:

For Defendant and CWI:

Greg Berlin  
Alston & Bird  
333 South Hope Street, 16th Floor  
Los Angeles, CA 90071  
[greg.berlin@alston.com](mailto:greg.berlin@alston.com)

For Ferreiro:

Evan Smith  
Brodsky & Smith  
Two Bala Plaza, Ste. 805  
Brodsky Smith, PA 19004  
[esmith@brodskysmith.com](mailto:esmith@brodskysmith.com)

Any party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

1       **9. COUNTERPARTS; FACSIMILE SIGNATURES**

2           9.1     This Consent Judgment may be executed in counterparts and by facsimile, each of  
3     which shall be deemed an original, and all of which, when taken together, shall constitute one and  
4     the same document.

5       **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**  
6       **APPROVAL**

7           10.1    Ferreiro agrees to comply with the requirements set forth in California Health &  
8     Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.  
9     Defendant agrees it shall support approval of such Motion.

10          10.2    This Consent Judgment shall not be effective until it is approved and entered by the  
11     Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the  
12     Parties agree to meet and confer on how to proceed and if an agreement is not reached within 30  
13     days, the case shall proceed on its normal course.

14          10.3    If the Court approves this Consent Judgment and is reversed or vacated by an  
15     appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent  
16     Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on  
17     its normal course on the trial court's calendar.

18       **11. MODIFICATION**

19          11.1    This Consent Judgment may be modified only by further written stipulation of the  
20     Parties and the approval of the Court or upon the granting of a motion brought to the Court by either  
21     Party.

22       **12. ATTORNEY'S FEES**

23          12.1    If a dispute arises with respect to either Party's compliance with the terms of this  
24     Consent Judgment entered by the Court, the Parties shall meet and confer in person, or by telephone,  
25     and/or in writing and endeavor to resolve the dispute in an amicable manner. No action or motion  
26     may be filed in the absence of such a good faith attempt to resolve the dispute beforehand.

1           12.2    A Party who unsuccessfully brings or contests an action arising out of this Consent  
2 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

3           12.3    Nothing in this Section shall preclude a Party from seeking an award of sanctions  
4 pursuant to law.

5   **13.    RETENTION OF JURISDICTION**

6           13.1    This Court shall retain jurisdiction of this matter to implement or modify the  
7 Consent Judgment.

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14. AUTHORIZATION

14.1 The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this document and certify that he or she is fully authorized by the Party he or she represents to execute the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as explicitly provided in this Consent Judgment each Party is to bear its own fees and costs.

AGREED TO:

Date: 2/21/23  
By Anthony Ferreira  
ANTHONY FERREIRO

AGREED TO:

Date: 2/21/23  
By Roy Williams, Its President  
REVO BRAND GROUP HOLDINGS, INC

AGREED TO:

Date: 2/21/23  
By Roy Williams, Its President  
REVO BRAND GROUP, LLC

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of Superior Court