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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

10 APS&EE, LLC, a limited liability company, )  
11 )  
12 Plaintiff, )  
13 v. )  
14 WORLD MARKET, LLC, a limited liability )  
15 company, and DOES 1 through 100, inclusive, )  
16 Defendants. )

CASE NO. 22STCV13578

**[PROPOSED] CONSENT JUDGMENT**

Judge: Hon. David Sotelo  
Dept.: 40  
Compl. Filed: April 25, 2022

Unlimited Jurisdiction

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1 **1. RECITALS**

2 **1.1 The Parties**

3 **1.1.1** This Consent Judgment is entered into by and between APS&EE, LLC  
4 (“Plaintiff”) and World Market, LLC (“Defendant”). Plaintiff and Defendant shall hereinafter  
5 collectively be referred to as the “Parties”.

6 **1.1.2** Plaintiff is an organization based in California with an interest in  
7 protecting the environment, improving human health and the health of ecosystems, and  
8 supporting environmentally sound practices, which includes promoting awareness of exposure to  
9 toxic chemicals and reducing exposure to hazardous substances found in consumer products.

10 **1.1.3** Plaintiff alleges that Defendant is a person in the course of doing business  
11 as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition  
12 65”).

13 **1.2 Allegations**

14 **1.2.1** Plaintiff alleges that Defendant sold: (1) Jen Hewett mugs with exterior  
15 decorations, including “Fern DL” #26046358 (hereinafter, the “Mugs”) (2) peacock trays,  
16 including 25753790, D1, 200648106 (hereinafter, the “Trays”), and (3) palm tree paper weights,  
17 including 25697964, D1, 200589265 (hereinafter, the “Paper Weights”) in the State of California  
18 causing users in California to be exposed to unsafe levels of Lead without providing “clear and  
19 reasonable warnings”, in violation of Proposition 65. The Mugs, Trays, and Paper Weights  
20 described in this paragraph shall hereinafter collectively be referred to as the “Products”. Lead is  
21 potentially subject to Proposition 65 warning requirements because it is listed by the State of  
22 California as known to cause cancer and birth defects or other reproductive harm.

23 **1.2.2** On February 15, 2022, Plaintiff provided a Sixty-Day Notice of Violation  
24 to Defendant and the various public enforcement agencies regarding the alleged violation of  
25 Proposition 65 with respect to the Mugs (the “February 15th Notice”). On March 7, 2022,  
26 Plaintiff provided a Sixty-Day Notice of Violation to Defendant and the various public  
27 enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Trays,  
28 as well as an additional notice on the same date with respect to the Paper Weights (the “March

1 7th Notices”). The February 15th Notice and the March 7th Notices shall hereinafter collectively  
2 be referred to as the “Notices”. On April 25, 2022, Plaintiff filed the instant action in the  
3 Superior Court for the County of Los Angeles, and on May 12, 2022, Plaintiff filed a First  
4 Amended Complaint alleging violations of Proposition 65 with respect to lead exposure from the  
5 Products (the “Complaint”).

6 **1.3 No Admissions**

7 Defendant denies all allegations in Plaintiff’s Notice and Complaint and maintains that  
8 the Products have been, and are, in compliance with all laws, and that Defendant has not violated  
9 Proposition 65. This Consent Judgment shall not be construed as an admission of liability by  
10 Defendant but to the contrary as a compromise of claims that are expressly contested and denied.  
11 However, nothing in this section shall affect the Parties’ obligations, duties, and responsibilities  
12 under this Consent Judgment.

13 **1.4 Compromise**

14 The Parties enter into this Consent Judgment in order to resolve the controversy  
15 described above in a manner consistent with prior Proposition 65 settlements and consent  
16 judgments that were entered in the public interest and to avoid prolonged and costly litigation  
17 between them.

18 **1.5 Jurisdiction And Venue**

19 For purposes of this Consent Judgment only, the Parties stipulate that the above-entitled  
20 Court has jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper  
21 in Los Angeles County, and that this Court has jurisdiction to enter and enforce the provisions of  
22 this Consent Judgment pursuant to California Code of Civil Procedure (“CCP”) § 664.6 and  
23 Proposition 65.

24 **1.6 Effective Date**

25 The “Effective Date” shall be the date this Consent Judgment is approved and entered by  
26 the Court.

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1 **2. INJUNCTIVE RELIEF**

2 **2.1 Reformulation Standard**

3 As of the Effective Date, Defendant shall not manufacture, distribute, sell, offer for sale,  
4 or cause to have any of the Products sold in California unless (a) the Mugs contain no more than  
5 1.0 microgram of lead based on a wipe sample collected using NIOSH Method 9100 from the  
6 part of the Mug that contains the Exterior Decorations, and the Trays and Paper Weights each  
7 contain no more than 100 parts per million (0.01%) of lead (“Reformulated Products”), or (b)  
8 any Product that does not meet the applicable reformulation standard is accompanied by a clear  
9 and reasonable warning as described below in Section 2.2. “Exterior Decorations” is defined as  
10 all colored artwork, designs and/or markings on the exterior surface of the Products.

11 **2.2 Proposition 65 Warnings**

12 **2.2.1** For any Products that are not Reformulated Products, such Products shall  
13 be accompanied by a clear and reasonable warning. Defendant shall provide a warning statement  
14 substantially similar to the following:

15 **“WARNING:** This product can expose you to Lead which is known to the State  
16 of California to cause cancer and birth defects or other reproductive harm. For  
17 more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).”

18 If Defendant has reason to believe the Products may expose consumers to additional  
19 chemicals listed under Proposition 65, then it may replace “Lead which is” with “chemicals,  
20 including Lead, which are” in the warning statement. The warning shall be accompanied by a  
21 symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black  
22 outline. Where the label for the product is not printed using the color yellow, the symbol may be  
23 printed in black and white. The symbol shall be placed to the left of the text of the warning, in a  
24 size no smaller than the height of the word “WARNING”.

25 The Products shall carry said warning directly on each unit, label, or package, with such  
26 conspicuousness as compared with other words, statements or designs as to render it likely to be  
27 read and understood by an ordinary consumer prior to sale. A Product that is sold by Defendant  
28 on the internet to persons located in California shall also provide the warning message by a  
clearly marked hyperlink on the product display page, or otherwise prominently displayed to the

1 purchaser before the purchaser completes his or her purchase of the Product. For Products that  
2 Defendant provides for a downstream entity to sell on the internet, Defendant shall include an  
3 instruction that the entity comply with the warning requirements of this section.

4 **3. PAYMENTS**

5 **3.1 Civil Penalty Pursuant To Proposition 65**

6 In settlement of all claims referred to in this Consent Judgment, Defendant shall pay a  
7 total civil penalty of three thousand dollars (\$3,000.00) to be apportioned in accordance with  
8 *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$2,250.00) for State of  
9 California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining  
10 25% (\$750.00) for Plaintiff.

11 Defendant shall issue two (2) checks for the civil penalty: (1) a check or money order  
12 made payable to “OEHHA” in the amount of \$2,250.00; and (2) a check or money order made  
13 payable to “Law Offices of Lucas T. Novak” in the amount of \$750.00. Defendant shall remit the  
14 payments within five (5) business days of the Effective Date, to:

15 Lucas T. Novak, Esq.  
16 LAW OFFICES OF LUCAS T. NOVAK  
17 8335 W Sunset Blvd., Suite 217  
18 Los Angeles, CA 90069

18 **3.2 Reimbursement Of Plaintiff’s Fees And Costs**

19 Defendant shall reimburse Plaintiff’s experts’ and attorney’s fees and costs incurred in  
20 prosecuting the instant action, for all work performed through entry of this Consent Judgment.  
21 Accordingly, Defendant shall issue a check or money order made payable to “Law Offices of  
22 Lucas T. Novak” in the amount of twenty-four thousand five hundred dollars (\$24,500.00).  
23 Defendant shall remit the payment within five (5) business days of the Effective Date, to:

24 Lucas T. Novak, Esq.  
25 LAW OFFICES OF LUCAS T. NOVAK  
26 8335 W Sunset Blvd., Suite 217  
27 Los Angeles, CA 90069

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1 **4. RELEASES**

2 **4.1 Plaintiff's Release Of Defendant**

3 Plaintiff, acting in its individual capacity and in the public interest, in consideration of the  
4 promises and monetary payments contained herein, hereby releases Defendant, its parents,  
5 subsidiaries, shareholders, directors, members, officers, employees, attorneys, successors and  
6 assignees, as well as its upstream vendors and distributors (collectively "Releasees"), from any  
7 alleged Proposition 65 violation claims asserted in Plaintiff's Notices and/or Complaint  
8 regarding failure to warn about exposure to lead from the Products sold or distributed by  
9 Defendant before and up to the Effective Date.

10 **4.2 Defendant's Release Of Plaintiff**

11 Defendant, by this Consent Judgment, waives all rights to institute any form of legal  
12 action against Plaintiff, its shareholders, directors, members, officers, employees, attorneys,  
13 experts, successors and assignees for actions or statements made or undertaken, whether in the  
14 course of investigating claims or seeking enforcement of Proposition 65 against Defendant in  
15 this matter. If any Releasee should institute any such action, then Plaintiff's release of said  
16 Releasee in this Consent Judgment shall be rendered void and unenforceable.

17 **4.3 Waiver Of Unknown Claims**

18 Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil  
19 Code which provides as follows:

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

24 Each of the Parties waives and relinquishes any right or benefit it has or may have under  
25 Section 1542 of California Civil Code or any similar provision under the statutory or non-  
26 statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights  
27 and benefits. The Parties acknowledge that each may subsequently discover facts in addition to,  
28 or different from, those that it believes to be true with respect to the claims released herein. The

1 Parties agree that this Consent Judgment and the releases contained herein shall be and remain  
2 effective in all respects notwithstanding the discovery of such additional or different facts.

3 **5. COURT APPROVAL**

4 Upon execution of this Consent Judgment by the Parties, Plaintiff shall file a noticed  
5 Motion for Approval and Entry of Consent Judgment in the above-entitled Court. This Consent  
6 Judgment is not effective until it is approved and entered by the Court. It is the intention of the  
7 Parties that the Court approve this Consent Judgment, and in furtherance of obtaining such  
8 approval, the Parties and their respective counsel agree to mutually employ their best efforts to  
9 support the entry of this agreement in a timely manner, including cooperating on drafting and  
10 filing any papers in support of the required motion for judicial approval.

11 **6. SEVERABILITY**

12 Should any part or provision of this Consent Judgment for any reason be declared by a  
13 Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue  
14 in full force and effect.

15 **7. GOVERNING LAW**

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

18 **8. NOTICE**

19 All correspondence and notice required to be provided under this Consent Judgment shall  
20 be in writing and delivered personally or sent by first class or certified mail addressed as follows:

21 TO DEFENDANT: 22 Merrit M. Jones, Esq. 23 BRYAN CAVE LEIGHTON PAISNER LLP 24 Three Embarcadero Center, 7th Floor 25 San Francisco, CA 94111	TO PLAINTIFF: Lucas T. Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069
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26 **9. INTEGRATION**

27 This Consent Judgment constitutes the entire agreement between the parties with respect  
28 to the subject matter hereof and may not be amended or modified except in writing.

1 **10. COUNTERPARTS**

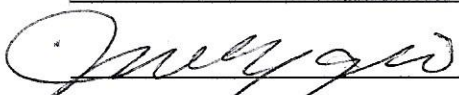
2 This Consent Judgment may be executed in counterparts, each of which shall be deemed  
3 an original, and all of which, when taken together, shall constitute the same document. Execution  
4 and delivery of this Consent Judgment by e-mail, facsimile, or other electronic means shall  
5 constitute legal and binding execution and delivery. Any photocopy of the executed Consent  
6 Judgment shall have the same force and effect as the originals.

7 **11. AUTHORIZATION**

8 The undersigned are authorized to execute this Consent Judgment on behalf of their  
9 respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions  
10 of this Consent Judgment. Each Party warrants to the other that it is free to enter into this  
11 Consent Judgment and is not subject to any conflicting obligation that will or might prevent or  
12 interfere with the execution or performance of this Consent Judgment by said Party.

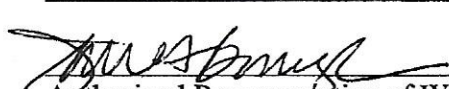
13  
14 **AGREED TO:**

15 Date: 10/10/22

16  
17 By:   
18 Authorized Representative of APS&EE, LLC

19  
20 **AGREED TO:**

21 Date: 10-6-22

22  
23 By:   
24 Authorized Representative of World Market, LLC

25 **IT IS SO ORDERED.**

26 Dated: \_\_\_\_\_  
27 \_\_\_\_\_  
28 JUDGE OF THE SUPERIOR COURT