

1 JARRETT CHARO APC
Jarrett Charo, Esq. (SBN 224001)
2 4079 Governor Dr., No. 1018
San Diego, California 92122
3 P: (619) 350-3334
jcharo@charolaw.com

4 Attorneys for Plaintiff
5 RAMY KAUFLEER EDEN

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

RAMY KAUFLEER EDEN

Plaintiff,

v.

PALOMAR AIRPORT PARTNERS, LLC;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 37-2023-00030437-CU-MC-CTL

**[PROPOSED] STIPULATED CONSENT
JUDGMENT**

1 Plaintiff Ramy Eden (“Plaintiff”) and defendant Palomar Airport Partners, LLC (“Defendant”)
2 hereby enter into this Stipulated Consent Judgment (“Consent Judgment”) as follows:

3 WHEREAS: On or about April 28, 2023, Plaintiff served a 60-Day Notice of Violation upon
4 the California Attorney General, the district attorney for the County of San Diego, the San Diego City
5 Attorney (collectively, “Public Prosecutors”), and Defendant per Cal. Health & Safety Code §
6 25249.5, *et seq.* (“Proposition 65”) with regard to the service station located at 1991 Palomar Airport
7 Rd in Carlsbad, California (“Subject Location”);

8 WHEREAS: The 60-Day Notice of Violation alleged that Defendant was required but failed
9 to provide warnings with respect to Unleaded Gasoline which sufficiently complied with the
10 requirements of Proposition 65;

11 WHEREAS: No Public Prosecutor commenced an enforcement action concerning the
12 allegations in the 60-Day Notice of Violation;

13 WHEREAS: On July 19, 2023, Plaintiff filed a civil complaint against Defendant in the above-
14 entitled Court alleging violation of Proposition 65 with regard to Unleaded Gasoline at the Subject
15 Location (“Complaint”);

16 WHEREAS: Defendant denies Plaintiff’s allegations in the 60-Day Notice of Violation and in
17 the Complaint and denies that it has otherwise violated Proposition 65 or engaged in any wrongdoing
18 whatsoever;

19 WHEREAS: Plaintiff and Defendant wish to resolve their differences without the delay,
20 uncertainty, and expense of litigation;

21 NOW THEREFORE BE IT RESOLVED AND AGREED UPON AS BETWEEN PLAINTIFF
22 ACTING IN THE PUBLIC INTEREST AND DEFENDANT AS FOLLOWS:

23 **1. JURISDICTION, VENUE, AND DEFENDANT’S DENIAL OF LIABILITY**

24 1.1 For purposes of this Consent Judgment, Plaintiff and Defendant (collectively, the
25 “Parties”) agree that: This Court has jurisdiction over the allegations contained within the Complaint;
26 Venue of this matter is proper in the County of San Diego; and this Court has jurisdiction to enter this
27 Consent Judgement as a full and final resolution of all claims which were or could have been raised
28 in the Complaint and/or the 60-Day Notice of Violation and through the date of this Judgment with

1 respect to any violation of Proposition 65 arising out of an exposure to unleaded gasoline at the Subject
2 Location (collectively, “Proposition 65 Claims”).

3 1.2 The Parties enter into this Consent Judgment as a full and final settlement of the
4 Proposition 65 Claims for the purpose of avoiding prolonged and costly litigation and of resolving the
5 issues raised therein both as to past and future conduct. By execution of this Consent Judgment and
6 agreeing to comply with its terms, the Parties do not admit any fact, conclusion of law, or violation of
7 law. Defendant’s compliance with the Consent Judgment shall not be construed as an admission by
8 Defendant of any fact, conclusion of law, or violation of law. Defendant denies the material, factual,
9 and legal allegations in the 60-Day Notice of Violation and the Complaint and expressly denies any
10 wrongdoing whatsoever.

11 **2. APPLICATION OF THIS CONSENT JUDGMENT AND EFFECTIVE DATE**


12 2.1 The location covered by this Consent Judgment is the Subject Location. This Consent
13 Judgment may apply to and benefit the Parties and their respective officers, directors, shareholders,
14 employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees, customers,
15 distributors, wholesalers, retailers, predecessors, successors, and assigns.

16 2.2 “Effective Date” shall mean, with respect to this Consent Judgment, the date on which
17 the Court approves and enters the Consent Judgment.

18 **3. INJUNCTIVE RELIEF**

19 3.1 Clear and Reasonable Warning. As of the Effective Date, Defendant shall cause to be
20 posted at the Subject Location a clear and reasonable exposure warning consistent with California
21 Health and Safety Code section 25249.6 as set forth in this § 3.1.

22 The warning shall consist of the following text:

23  **WARNING:** Breathing the air in this area or skin contact with petroleum products
24 can expose you to chemicals including benzene, motor vehicle exhaust and carbon
25 monoxide, which are known to the State of California to cause cancer and birth
26 defects or other reproductive harm. Do not stay in this area longer than necessary.
For more information go to www.P65Warnings.ca.gov/service-station

27 The words “**WARNING:**” shall be in all capital letters and in bold font, followed by a
28 colon. The warning symbol to the left of the words “**WARNING:**” shall be a black exclamation

1 point in a yellow equilateral triangle with a black outline. The symbol must be in a size no smaller
2 than the height of the words “WARNING:”.

3 The warning shall be posted on a sign at each gas pump at the Subject Location and the
4 warning must be printed in no smaller than 22-point type and be enclosed in a box. If other signage
5 at the Subject Location is provided for the public in a language other than English, the warning
6 must be provided in English and that other language.

7 3.2 Changes to Proposition 65. If, after the Effective Date, changes are enacted to
8 Proposition 65 or its implementing regulations which require the use of additional or different
9 information on any warning applicable to the Subject Location (“New Warnings”), the Parties agree
10 that the New Warnings may be used in place of the warnings set forth in section 3.1.

11 **4. MONETARY RELIEF**

12 4.1 Civil Penalty. Defendant shall pay a total of four thousand dollars (\$4,000.00) as a Civil
13 Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance
14 with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Civil Penalty
15 remitted to OEHHA and the remaining 25% of the Civil Penalty remitted to Eden. The Civil Penalty
16 payments shall be delivered to the addresses identified in § 4.3, below.

17 4.2 Date for Payment of Civil Penalty. Within ten (10) business days of the Effective Date,
18 Defendant shall issue two separate checks for the Civil Penalty payment: one check made payable to
19 “OEHHA” in the amount of three thousand dollars (\$3,000.00); and one check made payable to “Ramy
20 Eden” in the amount of one thousand dollars (\$1,000.00). The Civil Penalty payments shall be delivered
21 to the addresses identified in § 4.3, below.

22 4.3 Payment Procedures.

23 (a) Issuance of Payments. Payments shall be delivered as follows:

- 24 (i) The Civil Penalty payment owed to Eden shall be delivered to the
- 25 address set forth in Eden’s IRS Form W-9;
- 26 (ii) The Civil Penalty payment owed to OEHHA shall be delivered
- 27 directly to OEHHA (Memo Line “Prop 65 Penalties”) at the
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following addresses:

For United States Postal Service Delivery:

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

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

(b) Copy of Payment to OEHHA. Defendant agrees to provide Eden’s counsel with a copy of the check payable to OEHHA, simultaneous with its penalty payments to Eden, which copy shall be delivered to the address provided in § 7.1(a), as proof of payment to OEHHA.

(c) Tax Documentation. Within five (5) business days of the Parties fully executing this Consent Judgment, Eden shall provide IRS W-9 forms for each of the following payees:

- (i) “Ramy Eden”;
- (ii) “Jarrett Charo APC” (EIN: 84-2408511); and
- (iii) “Office of Environmental Health Hazard Assessment” (EIN: 68-0284486).

4.4 Attorney’s Fees and Costs. Defendant shall pay a total of eighteen thousand five hundred dollars (\$18,500.00) to Plaintiff’s counsel, Jarrett Charo APC, which is entitled to attorney’s fees and costs incurred by it in this action for, including, without limitation, investigating potential violations, bringing this matter to Defendant’s attention, prosecuting this action in court, and negotiating a settlement in the public interest. Within ten (10) business days of the Effective Date, Defendant shall issue one check payable to “Jarrett Charo APC” in the amount of eighteen thousand five hundred dollars (\$18,500.00) and deliver it to the address identified in § 7.1(a), below.

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1 5. **CLAIMS COVERED AND RELEASED**

2 5.1 This Consent Judgment is a full, final and binding resolution between Plaintiff on
3 behalf of himself and in the public interest, and Defendant and its respective officers, directors,
4 members, shareholders, employees, attorneys, agents, parent companies, subsidiaries, divisions,
5 affiliates, suppliers, franchisees, licensees, and retailers, its parent and all subsidiaries and affiliates
6 thereof, its employees, agents and assigns (collectively, the “Released Parties”).

7 5.2 Plaintiff’s Release of Released Parties. Plaintiff acting on his own behalf and in the
8 public interest releases the Released Parties from all claims, actions, causes of actions, suits, demands,
9 liability, damages, penalties, fees, costs, and expenses asserted or which could have been asserted
10 based on the alleged failure to warn about exposures to unleaded gasoline under Proposition 65 at the
11 Subject Location up through the Effective Date. Compliance with the terms of this Consent Judgment
12 constitutes compliance with Proposition 65 with respect to exposure to unleaded gasoline at the
13 Subject Location.

14 5.3 Defendant’s Release of Eden. Defendant, on behalf of itself, its past and current agents,
15 representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Eden,
16 his attorneys, and other representatives for any and all actions taken or statements made (or those that
17 could have been taken or made) by Eden and/or his attorneys and other representatives, whether in the
18 course of investigating claims, bringing the 60-Day Notice of Violation, prosecution of this action, or
19 otherwise seeking to enforce Proposition 65 against Defendant in this matter, or with respect to the
20 Subject Location.

21 5.4 California Civil Code § 1542. It is possible that other claims not known to the Parties
22 arising out of the facts alleged in this matter and relating to alleged violations of Proposition 65
23 concerning the Subject Location will develop or be discovered. Eden on behalf of himself only, on
24 one hand, and Defendant, on the other hand, acknowledge that this Consent Judgment is expressly
25 intended to cover and include all such claims up through the Effective Date, including all rights of
26 action therefor. The Parties acknowledge that the claims released may include unknown claims, and
27 nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil
28 Code § 1542 reads as follows:

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

6 The Parties each acknowledge and understand the significance and consequences of this
7 specific waiver of California Civil Code § 1542 which is a material inducement for this Agreement.

8 **6. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f) AND MOTION**
9 **FOR COURT APPROVAL**

10 6.1 Eden agrees to comply with the reporting requirements referenced in California Health
11 & Safety Code § 25249.7(f) and to promptly bring a motion for approval of this Consent Judgment.
12 Defendant agrees not to oppose such motion.

13 **7. NOTICES**

14 7.1 Unless specified herein, all correspondence and notices required to be provided
15 pursuant to this Consent Judgment to any Party shall be in writing and personally delivered or sent to
16 that Party—via: (i) email; (ii) first-class registered or certified mail with return receipt requested; or
17 (iii) overnight or two-day courier—at the following addresses:

18	(a). For Plaintiff:	(b). For Defendant:
19	Jarrett S. Charo	J. Scott Scheper
20	Jarrett Charo APC	SStratege Law
21	4079 Governor Drive, No. 1018	5060 N. Harbor Dr., Ste 275
22	San Diego, CA 92122	San Diego, CA 92106
	jcharo@charolaw.com	scheper@strategelaw.com

23 7.2 Any Party, from time to time, may specify in writing to any other Party a change of
24 address to which all notices and other communications from that other Party shall be sent.

25 **8. COURT APPROVAL**

26 8.1 This Consent Judgment shall not become effective until approved and entered by the
27 Court. If this Consent Judgment is not entered by the Court, it shall be of no force or effect, and shall
28 not be introduced into evidence or otherwise used in any proceeding for any purpose.

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9. GOVERNING LAW

9.1 The terms of this Consent Judgment shall be governed by the law of the State of California.

10. ENTIRE AGREEMENT

10.1 This Consent Judgment contains the sole and entire agreement of the Parties with respect to the entire subject matter herein, and any 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 hereof.

11. MODIFICATION

11.1 No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby and approved and ordered by the Court; or upon the Court granting a motion brought by any of the Parties. In the event Proposition 65 is repealed or preempted as to the Subject Location, then Defendant shall have no further obligation pursuant to this Consent Judgment with respect to, and to the extent that, the Subject Location is so affected.

12. RETENTION OF JURISDICTION

12.1 This Court shall retain jurisdiction of this matter to implement, enforce, or modify the Consent Judgment. Any alleged breach of the terms of this Consent Judgment shall be brought in this Court.

13. COUNTERPARTS: SIGNATURES

13.1 This Consent Judgment may be executed in counterparts and by facsimile, pdf signature, or DocuSign signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. Any photocopy of the executed Consent Judgment shall have the same force and effect as the original.

14. AUTHORIZATION

14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment and has read, understood, and

1 agrees to each of the terms and conditions contained herein.

2 **15. SEVERABILITY**

3 15.1 If, subsequent to Court approval of this Consent Judgment, any part or provision is
4 declared by a Court to be invalid, void, or unenforceable, the remaining portions or provisions shall
5 continue in full force and effect.

6 **STIPULATED AND AGREED TO:**

7 12/1/2023

8 Dated:

DocuSigned by:

9 By:

Ramy Eden
Ramy Eden 41A...

10 Dated:

11 By:

Samir Salem, on behalf of Palomar Airport Partners, LLC

12 **APPROVED AS TO FORM:**

13 Dated:

14 By:

Jarrett Charo, Esq., attorney for Plaintiff Ramy Eden

15 Dated:

16 By:

Scott Scheper, Esq., attorney for Defendant
Palomar Airport Road Partners, LLC

17 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

18 Dated: _____

Judge of the Superior Court

1 agrees to each of the terms and conditions contained herein.

2 **15. SEVERABILITY**

3 15.1 If, subsequent to Court approval of this Consent Judgment, any part or provision is
4 declared by a Court to be invalid, void, or unenforceable, the remaining portions or provisions shall
5 continue in full force and effect.

6 **STIPULATED AND AGREED TO:**

7 Dated:

8 By:

9 _____
Ramy Eden

10 Dated: 12.3.2023

11 By:

12 _____
Samir Salem, on behalf of Palomar Airport Partners, LLC

13 **APPROVED AS TO FORM:**

14 Dated:

15 By:

16 _____
Jarrett Charo, Esq., attorney for Plaintiff Ramy Eden

17 Dated: 12-4-23

18 By:

19 _____
Scott Scheper, Esq., attorney for Defendant
20 Palomar Airport Road Partners, LLC

21 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

22 Dated: _____

23 _____
24 Judge of the Superior Court

1 agrees to each of the terms and conditions contained herein.

2 **15. SEVERABILITY**

3 15.1 If, subsequent to Court approval of this Consent Judgment, any part or provision is
4 declared by a Court to be invalid, void, or unenforceable, the remaining portions or provisions shall
5 continue in full force and effect.

6 **STIPULATED AND AGREED TO:**

7 Dated:

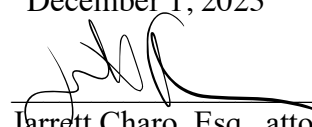
8 By: _____
9 Ramy Eden

10 Dated:

11 By: _____
12 Samir Salem, on behalf of Palomar Airport Partners, LLC

13 **APPROVED AS TO FORM:**

14 Dated: December 1, 2023

15 By:  _____
16 Jarrett Charo, Esq., attorney for Plaintiff Ramy Eden

17 Dated:

18 By: _____
19 Scott Scheper, Esq., attorney for Defendant
20 Palomar Airport Road Partners, LLC

21 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

22 Dated: _____
23 _____
24 Judge of the Superior Court