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9 *Calsafe Research Center, Inc.*

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF ALAMEDA**

14
15 CALSAFE RESEARCH CENTER, INC., a
16 California non-profit corporation,

17 Plaintiff,

18 v.

19 TADIN, LLC, a California Limited Liability
20 Company; and DOES 1 to 10,

21 Defendants.
22

Case No.: 23CV055644

[PROPOSED] STIPULATED
CONSENT JUDGMENT

(Health & Safety Code § 25249, et seq.)

Complaint filed: December 1, 2023
Trial Date: TBD

1 **I. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Calsafe
3 Research Center, Inc., a California non-profit corporation (“Calsafe” or “Plaintiff”), and Tadin,
4 LLC (“Tadin” or “Defendant”) (collectively, the “Parties”).

5 **1.2 General Allegations.** On December 1, 2023, CalSafe initiated this action by
6 filing a Complaint for Civil Penalties and Injunctive Relief (the “Complaint”) pursuant to *Health*
7 *& Safety Code* § 25249.5 *et seq.* (“Proposition 65”) against Tadin. In this action, Calsafe alleges
8 that Tadin’s “Hibiscus Loose Flowers (UPC# 083703705779)” (the “Covered Product”) contains
9 lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin. Calsafe
10 alleges that the Covered Product exposes consumers to lead at a level requiring a Proposition 65
11 warning. Calsafe alleges that Tadin qualifies as a “Person” within the meaning of Proposition
12 65, and that Tadin manufactures, distributes, and/or offers for sale in the State of California the
13 Covered Product.

14 **1.3 Notice of Violation.** The Complaint is based on allegations contained in Calsafe’s
15 Notice of Violation dated May 19, 2023 (the “Notice”), that was served on the California attorney
16 General, other public enforcers, and Tadin. A true and correct copy of the Notice is attached
17 hereto as **Exhibit A** and incorporated by reference. More than 60 days have passed since the
18 Notice was served on the Attorney General, public enforcers, and Tadin; no designated
19 governmental entity has filed a Complaint against Tadin with regard to the Covered Product or
20 the alleged violations.

21 **1.4** Calsafe’s Notice and Complaint allege that the use of the Covered Product by
22 California consumers exposes them to lead without first receiving a clear and reasonable warning
23 from Tadin, which is a violation of California *Health & Safety Code* § 25249.6. Tadin denies all
24 material allegations contained in the Notice and Complaint.

25 **1.5** The Parties have entered into this Consent Judgment in order to settle,
26 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation. Tadin
27 denies the material, factual, and legal allegations in the Notice and Complaint and maintains that
28 all of the products, including the Covered Product, that it sold and/or distributed for sale in

1 California have been and are in compliance with all laws. Nothing in this Consent Judgment nor
2 compliance with this Consent Judgment shall constitute or be construed as an admission by Tadin
3 or by any of their respective officers, directors, shareholders, employees, agents, parent
4 companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
5 distributors, wholesalers, or retailers of any fact, finding, conclusion, issue of law, or violation
6 of law, such specifically denied by the Tadin. This Section shall not, however, diminish or
7 otherwise affect Tadin’s obligations, responsibilities, and duties under this Consent Judgment.

8 **1.6** Except as expressly set forth herein, nothing in this Consent Judgment shall
9 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
10 current or future legal proceeding unrelated to this proceeding.

11 **1.7 Effective Date.** For purposes of this Consent Judgment, the “Effective Date”
12 shall be the date the Consent Judgment has been approved and entered by the Court.

13 **II. JURISDICTION AND VENUE**

14 **2.1** For purposes of this Consent Judgment and any further court action that may
15 become necessary to enforce this Consent Judgment only, the Parties stipulate that this Court has
16 subject matter jurisdiction over the allegations of violations contained in the Complaint and
17 personal jurisdiction over Tadin as to the acts alleged in the Complaint.

18 **2.2** For purposes of this Consent Judgment, the Parties stipulate that venue is proper
19 in Alameda County, California, and that this Court has jurisdiction to enter this Consent
20 judgment as a full and final resolution of all claims up through and including the Effective Date
21 that were or could have been asserted in this action based on the facts alleged in the Notice and
22 Complaint.

23 **III. INJUNCTIVE RELIEF**

24 **3.1 Lead Reduction, Target Level, Compliance Date.** Beginning on the Effective
25 Date, Tadin shall reduce the level of lead in the Covered Product, if necessary, shipped for sale
26 in California to an exposure level of no more than 0.5 micrograms of lead per serving, with
27 serving size measured by the serving size specified on the label of the Covered Product (the
28 “Target Level”), or be subject to the provisions of Paragraphs 3.3 through 3.6

1 **3.2 Shipped for Sale in California.** “Shipped for Sale in California” means the
2 Covered Product that Tadin either directly ships to California for sale in California, or that it
3 sells to a distributor or retailer who Tadin knows will sell the Product to consumers in California.
4 Where a retailer or distributor sells the Covered Product both in California and other states, Tadin
5 shall take commercially reasonable steps to ensure that the only Covered Product that is sold in
6 California is in compliance with Paragraph 3.1 through 3.6.

7 **3.3 Clear and Reasonable Warnings, When Required.** Tadin agrees by the
8 Effective Date to only manufacture for sale, purchase for sale, import for sale, or distribute for
9 sale in or into California (in-person or online) the Covered Product that contains a warning as
10 provided for in Paragraphs 3.4 through 3.6, except as provided in Paragraph 3.1. For the
11 avoidance of doubt, if the Covered Product does not exceed the Target Level then Tadin *shall*
12 *not* be required to provide warnings.

13 **3.4 Warning Requirements.** A clear and reasonable warning for the Covered
14 Product shall consist of a warning affixed to the packaging, label, tag, or directly to each Covered
15 Product Shipped for Sale in California by Tadin that contains one of the following statements:

16 (A)

17
18 **WARNING:** Consuming this product can expose you to lead, which is known to the
19 State of California to cause cancer and birth defects or other reproductive harm. For
20 more information go to www.P65Warnings.ca.gov/food.

21 (B)

22 **WARNING:** Cancer and Reproductive Harm—www.P65Warnings.ca.gov/food.

23 The warning shall be offset in a box with a black outline and must be in a type size no
24 smaller than the largest type size used for other consumer information on the Covered Product.
25 “Consumer information” includes warnings, directions for use, ingredient lists, and nutritional
26 information. “Consumer information” does not include the brand name, product name, company
27 name, location of manufacture, or product advertising. In no case shall the warning appear in a
28 type size smaller than six (6) point type. The warning shall also comply with 27 C.C.R. §

1 25607.1(c). Specifically, where the product sign, label, or shelf tag used to provide a warning
2 includes consumer information in a language other than English, the warning must also be
3 provided in that language in addition to English.

4 **3.5 Warnings for Internet Sales.** For any Covered Product sold over the internet
5 where it will be shipped to California, the warning shall be displayed as follows: (A) on the
6 primary display page for the Covered Product; (B) as a clearly marked hyperlink using the word
7 “WARNING” in all capital and bold letters on the Covered Product’s primary display page, so
8 long as the hyperlink goes directly to a page prominently displaying the warning without content
9 that detracts from the warning; (C) on the checkout page or any other page in the checkout
10 process when a California delivery address is indicated for the purchase of the Covered Product
11 and with the warning clearly associated with the Covered Product to indicate that the Covered
12 Product is subject to the warning; or (D) by otherwise prominently displaying the warning to the
13 purchaser prior to completing the purchase of the Covered Product. The warning is not
14 prominently displayed if the purchaser must search for it in the general content of the website.

15 **3.6 Warning Prominence.** Tadin agrees that each warning shall be prominently
16 placed with such conspicuousness, as compared with the other words, statements, designs, or
17 devices, as to render it likely to be read and understood by an ordinary individual under
18 customary conditions before purchase or use.

19 **3.7 Compliance with Clear and Reasonable Warning.** Tadin shall be deemed to
20 be in compliance with this Consent Judgment after the Effective Date by (A) adhering to
21 Paragraphs 3.1 through 3.6, or (B) by complying with any future warning requirements adopted
22 by the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”)
23 applicable to the Covered Product and chemical at issue.

24 **3.8 Grace Period of Existing Inventory.** The injunctive requirements of Section III
25 shall not apply to the Covered Product that is already in the stream of commerce as of the
26 Effective Date, which Covered Product is expressly subject to the releases provided in Section V.

27 **3.9 Entry of Consent Judgment.** Upon execution of this Consent Judgment by the
28 Parties, CalSafe shall notice a Motion for Court Approval and, within ten (10) days of approval

1 of the Consent Judgment by the Court, comply with the requirements set forth in California
2 *Health & Safety Code* § 25249.7(f).

3 **3.10 Attorney General Objection.** If the California Attorney General objects to any
4 term in this Consent Judgment, the Parties shall use their best efforts to resolve the concern in a
5 timely manner, and if possible, prior to the hearing on the motion.

6 **3.11 Void if Not Approved.** If this Consent Judgment is not approved by the Court, it
7 shall be void and have no force or effect.

8 **IV. MONETARY TERMS**

9 **4.1 Total Settlement Amount.** In full satisfaction of all potential civil penalties,
10 additional settlement payments, attorney fees, and costs, Tadin shall make a total payment of
11 Thirty-Two Thousand Dollars (\$32,000.00) (the “Total Settlement Amount”), apportioned into
12 a Civil Penalty, and Attorney Fees and Costs as set forth in Paragraphs 4.2 and 4.3, below.

13 **4.2 Civil Penalty Payment.** Pursuant to California *Health & Safety Code*
14 § 25249.7(b)(2) and in settlement of all claims alleged in the Notice and Complaint, Tadin agrees
15 to pay Three Thousand Two Hundred Dollars (\$3,200.00) in Civil Penalties. The Civil Penalty
16 payment will be apportioned in accordance with California *Health & Safety Code* §§
17 25249(c)(1), (d), with seventy-five (75) percent of these funds remitted to OEHHA, and the
18 remaining twenty-five (25) percent of the funds retained by CalSafe. Within ten (10) days of the
19 Effective Date, Tadin shall issue a check to “OEHHA” in the amount of Two Thousand Four
20 Hundred Dollars (\$2,400.00), with “Prop 65 Penalties” written in the Memo Line; and Tadin
21 shall, pursuant to the instructions below, wire to CalSafe the amount of Eight Hundred Dollars
22 (\$800.00).

23 All payments made to OEHHA (EIN: 68-0284486) pursuant to this Paragraph shall be
24 delivered directly to OEHHA at the following address:

25 For United States Postal Delivery Service:

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

For Non-United States Postal Delivery Service:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street MS #19B
Sacramento, CA 95814

All penalty payments owed to CalSafe shall be sent via wire to:

Wire Instructions:

Account Name: The Law Offices of Joseph R. Manning
Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 2967 Michelson Dr, Ste A, Irvine, CA 92612
Routing Number: 322271627
Wire Routing / ABA Number: 021000021
Swift Code: CHASUS33
Account Number: 579068902

For further benefit of: Civil Penalty Payment Case No. 23CV055644

4.3 Attorney Fees and Costs. Within ten (10) days of the Effective Date, Tadin agrees to pay Twenty-Eight Thousand Eight Hundred Dollars (\$28,800.00) to CalSafe and its counsel of record for all fees and costs incurred in investigating, bringing this matter to the attention of Tadin, litigating, negotiation, and obtaining judicial approval of a settlement in the public interest.

Wire Instructions:

Account Name: The Law Offices of Joseph R. Manning
Bank Name: J.P. Morgan Chase Bank, N.A.
Bank Address: 2967 Michelson Dr, Ste A, Irvine, CA 92612
Routing Number: 322271627
Wire Routing / ABA Number: 021000021
Swift Code: CHASUS33
Account Number: 579068902

For further benefit of: Attorney's Fees Case No. 23CV055644

1 **4.4** In the event that Tadin fails to remit the Total Settlement Amount or any portion
2 thereof owed under Paragraphs 4.1 through 4.3 of this Consent Judgment before the due date,
3 Tadin shall be deemed to be in material breach of its obligations under this Consent Judgment.
4 CalSafe shall provide written notice of delinquency to Tadin via electronic mail to Tadin’s
5 counsel of record. If Tadin fails to deliver any portion of or all of the Total Settlement Amount
6 within five (5) days from the written notice, the Total Settlement Amount shall accrue interest at
7 the statutory judgment interest rate provided in California *Code of Civil Procedure* § 685.010.

8 Additionally, Tadin agrees to pay Calsafe’s reasonable attorney fees and costs for any
9 efforts to collect the payment due under this Consent Judgment.

10 **V. RETENTION OF JURISDICTION**

11 **5.1** This Court shall retain jurisdiction over this matter to enforce, modify, or terminate
12 this Consent Judgment.

13 **VI. MODIFICATION OF CONSENT JUDGMENT**

14 **6.1** This Consent Judgment may be modified only as to the injunctive terms by
15 (A) written stipulation of the Parties and upon entry by the Court of a modified consent judgment,
16 or (B) by motion of either Party pursuant to Paragraph 5.1 and upon entry by the Court of a
17 modified consent judgment.

18 **6.2** If Tadin seeks to modify this Consent Judgment under Paragraph 5.1, then Tadin
19 must provide written notice to Calsafe of its intent (“Notice of Intent”). If Calsafe seeks to meet
20 and confer regarding the proposed modification in the Notice of Intent, then Calsafe shall provide
21 written notice of intent to meet and confer to Tadin within thirty (30) days of receiving the Notice
22 of Intent. The Parties shall then meet and confer in good faith in person, via telephone, or via
23 video conference within thirty (30) days of Calsafe’s written notice of intent to meet and confer.
24 Within thirty (30) days of such a meeting, if Calsafe disputes the proposed modification, Calsafe
25 shall provide Tadin a written basis for its opposition. The Parties shall continue to meet and confer
26 for an additional thirty (30) days in an effort to resolve any remaining disputes. Should it become
27 necessary, the Parties may agree in writing to different deadlines for the meet-and-confer period.
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1 **6.3** In the event that Tadin initiates or otherwise requests a modification under
2 Paragraph 5.1, and the meet and confer process leads to a joint motion or application for a
3 modification of the Consent Judgment, Tadin shall reimburse Calsafe its costs and reasonable
4 attorney fees for the time spent in the meet-and-confer process and filing and arguing the motion.

5 **VII. BINDING EFFECT, CLAIMS COVERED, CLAIMS RELEASED**

6 **7.1** This Consent Judgment shall have no application to any Covered Product that is
7 distributed or sold exclusively outside the State of California and/or that is not used by California
8 consumers. Nothing in this Consent Judgment is intended to apply to any occupational or
9 environmental exposures arising under Proposition 65, nor shall it apply to any other Tadin
10 products other than the Covered Product.

11 **7.2 Binding Effect.** This Consent Judgment is a full, final, and binding resolution
12 between Calsafe, on behalf of itself and its respective officers, directors, shareholders, employees,
13 agents, parent companies, subsidiaries, divisions, and affiliates and on behalf of the public
14 interest, and Tadin and its respective officers, directors, shareholders, employees, agents, parent
15 companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
16 distributors, wholesalers, or retailers, and all other upstream and downstream entities in the
17 distribution chain of the Covered Product and the predecessors, successors, and assigns of any of
18 them (collectively, “Released Parties”).

19 **7.3** Compliance with the terms of this Consent Judgment shall be deemed to constitute
20 compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to
21 lead in the Covered Product as set forth in the Notice and Complaint.

22 **7.4 Calsafe Release of Tadin(s).** Calsafe, on behalf of itself and its respective
23 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
24 and affiliates and on behalf of the public interest fully releases and discharges Released Parties
25 from any and all claims, actions, cause of action, suits, demands, liabilities, damages, penalties,
26 fees costs, and expenses asserted, or that could have been asserted based on or related to the
27 handling, use, sale, distribution, or consumption of the Covered Product in California, as to any
28 alleged violation of Proposition 65 or its implementing regulations up through the Effective Date,

1 based on a failure to provide Proposition 65 warning on the Covered Product with respect to lead
2 as set forth in the Notice and Complaint.

3 **7.5** Calsafe on its own behalf only, and Tadin on its own behalf only, further waives
4 and releases any and all claims they, their attorneys, or their representatives may have against
5 each other for all actions or statements made or undertaken in the course of seeking or opposing
6 enforcement of Proposition 65 in connection with the Notice and Complaint up through and
7 including the Effective Date, provided, however, that nothing in this Section shall affect or limit
8 any Party's right to seek to enforce the terms of the Consent Judgment.

9 **7.6 California Civil Code Section 1542.** It is possible that other claims not known to
10 the Parties, arising out of the facts alleged in the Notice and Complaint, and relating to the
11 Covered Product, will develop or be discovered. Calsafe on behalf of itself only, and TADIN on
12 behalf of itself only, acknowledge that this Consent Judgment is expressly intended to cover and
13 include all such claims up through and including the Effective Date, including all rights of action
14 therefore. Calsafe and Tadin acknowledge that the claims released in Section VII above may
15 include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such
16 unknown claims. California *Civil Code* § 1542 reads as follows:

17
18 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
19 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
20 EXIST IN HIS OR HER FAVOR, AT THE TIME OF EXECUTING THE
21 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
22 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
23 DEBTOR OR RELEASED PARTY.

24 **VIII. SEVERABILITY**

25 **8.1** In the event that any of the provisions of this Consent Judgment are held by a court
26 of competent jurisdiction to be unenforceable, the validity of the remaining enforceable
27 provisions shall not be adversely affected.

28 **IX. GOVERNING LAW**

1 **9.1** The terms and conditions of this Consent Judgment shall be governed by and
2 construed in accordance with the laws of the State of California.

3 **X. PROVISION OF NOTICE**

4 **10.1** All notices required to be given to either Party to this Consent Judgment by the
5 other shall be in writing and sent to the following agents listed below via first-class mail or
6 electronic mail. Any Party may modify the person/entity or address to whom the notice is to be
7 sent by sending the other Party notice by certified mail, return receipt requested. Said change shall
8 take effect on the date the return receipt is signed by the Party receiving the change.

9 Notice for Calsafe shall be sent to:

10 Joseph R. Manning, Jr.
11 26100 Towne Centre Drive
12 Foothill Ranch, CA 92610
13 Tel: Office (949) 200-8757 Fax: (866) 843-8309
14 p65@manninglawoffice.com

15 Notice for Tadin shall be sent to:

16 George Salmas
17 The Food Lawyers®
18 1880 Century Park East
19 Suite 611
20 Los Angeles, CA 90067
21 Tel: (310) 556-0721
22 George.Salmas@TheFoodLawyers.com

23 **XI. EXECUTED IN COUNTERPARTS**

24 **11.1** This Consent Judgment may be executed in counterparts, which taken together
25 shall be deemed to constitute one document. A facsimile or .PDF signature page shall be
26 construed to be as valid as the original signature.

27 **XII. DRAFTING**

28 **12.1** The terms of this Consent Judgment have been reviewed by the respective counsel
for each Party prior to its signing, and each Party has had the opportunity to fully discuss the
terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation
and construction of this Consent Judgment, no inference, assumption, or presumption shall be

1 drawn, and no provision of this Consent Judgment shall be construed against any Party, based
2 on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted
3 all or any portion of the Consent Judgment. It is conclusively presumed that all of the Parties
4 participate equally in the preparation and drafting of this Consent Judgment.

5 **XIII. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

6 **13.1** If a dispute with respect to either Party's compliance with the terms of this
7 Consent Judgment entered by the Court, the Parties shall meet and confer in person, by
8 telephone, by video conference, and/or in writing and endeavor to resolve the dispute in an
9 amicable manner. No action or motion may be filed with the Court in the absence of such a good
10 faith attempt to resolve the dispute beforehand.

11 **XIV. ENFORCEMENT**

12 **14.1** The Parties may, by motion or order to show cause before the Superior Court of
13 Alameda County, enforce the terms and conditions of this Consent Judgment. In any successful
14 action brought by Calsafe to enforce this Consent Judgment, Calsafe may seek whatever fines,
15 costs, penalties, or remedies as are provided by law for failure to comply with this Consent
16 Judgment.

17 **XV. ENTIRE AGREEMENT, AUTHORIZATION**

18 **15.1** This Consent Judgment contains the sole and entire agreement and understanding
19 of the Parties with respect to the entire subject matter herein, including any and all prior
20 discussions, negotiations, commitments, and understandings related thereto. No representations,
21 oral or otherwise, express or implied, other than those contained herein have been made by any
22 party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be
23 deemed to exist or to bind any Party.

24 **15.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
25 by the Party he or she represents to stipulate to this Consent Judgment.

26 **XVI. REQUEST FOR FINDINGS, APPROVAL, AND ENTRY.**

27 **16.1** This Consent Judgment has come before the Court upon the request of the Parties.
28 The Parties request the Court to fully review this Consent Judgment and, being fully informed

1 regarding the matters which are the subject of this action, make the findings pursuant to
2 California *Health and Safety Code* § 25249(f)(4) and approve this Consent Judgment.

3
4 **IT IS SO STIPULATED.**

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7 DATED: 9/18/2024, 2024

CALSAFE RESEARCH CENTER, INC.

DocuSigned by:
By: eric fairon
Eric Fairon, CEO
Calsafe Research Center, Inc.

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13 DATED: _____, 2024

TADIN, LLC

By: _____
Jose Gonzalez, President
Tadin, LLC

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17 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to *Health & Safety*
18 *Code* § 25249.7(f)(4) and *Code of Civil Procedure* § 664.6, judgment is hereby entered.

19 Dated: _____

JUDGE OF THE SUPERIOR COURT

1 regarding the matters which are the subject of this action, make the findings pursuant to
2 California *Health and Safety Code* § 25249(f)(4) and approve this Consent Judgment.

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IT IS SO STIPULATED.

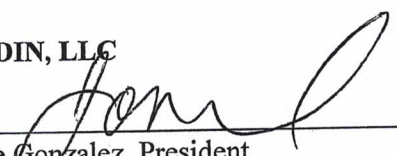
CALSAFE RESEARCH CENTER, INC.

DATED: _____, 2024

By: _____
Eric Fairon, CEO
Calsafe Research Center, Inc.

TADIN, LLC

DATED: 6/21, 2024

By: 
Jose Gonzalez, President
Tadin, LLC

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to *Health & Safety Code* § 25249.7(f)(4) and *Code of Civil Procedure* § 664.6, judgment is hereby entered.

Dated: _____

JUDGE OF THE SUPERIOR COURT