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4 Attorneys for Plaintiff
5 RAMY KAUFLER EDEN

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF IMPERIAL

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13 RAMY KAUFLER EDEN

14 Plaintiff,

15 v.

16 R & EM CORPORATION; and DOES 1
through 50, inclusive,

17 Defendants.
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19
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Case No.: ECU003420

**[PROPOSED] STIPULATED CONSENT
JUDGMENT**

1 Plaintiff Ramy Eden (“Plaintiff”) and defendant R & EM Corporation (“Defendant”) hereby
2 enter into this Stipulated Consent Judgment (“Consent Judgment”) as follows:

3 WHEREAS: On or about November 9, 2023, Plaintiff served a 60-Day Notice of Violation
4 upon the California Attorney General and the district attorney for the Imperial County District
5 Attorney (collectively, “Public Prosecutors”) and Defendant per Cal. Health & Safety Code section
6 25249.5, *et seq.* (“Proposition 65”) with regard to the service station located at 250 S. Imperial Ave.,
7 Calexico, California (“250 S. Imperial Location”);

8 WHEREAS: On or about November 9, 2023, Plaintiff also served a 60-Day Notice of
9 Violation upon the Public Prosecutors and Defendant per Proposition 65 with regard to the service
10 station located at 324 S. Imperial Ave., Calexico, California (324 S. Imperial Location”);

11 WHEREAS the 250 S. Imperial Location and the 324 S. Imperial Location are collectively
12 referred to herein as the “Subject Locations”;

13 WHEREAS: The 60-Day Notices of Violation alleged that Defendant was required but failed
14 to provide warnings with respect to Unleaded Gasoline at the Subject Locations which sufficiently
15 complied with the requirements of Proposition 65;

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

18 WHEREAS: March 11, 2024, Plaintiff filed a civil complaint against Defendant in the above-
19 entitled Court alleging violation of Proposition 65 with regard to Unleaded Gasoline at the Subject
20 Locations (“Complaint”);

21 WHEREAS: Defendant denies Plaintiff’s allegations in the 60-Day Notices of Violation and
22 in the Complaint and denies that it has otherwise violated Proposition 65 or engaged in any
23 wrongdoing whatsoever;

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

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

28

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

2 1.1 For purposes of this Consent Judgment, Plaintiff and Defendant (collectively, the
3 “Parties”) agree that: This Court has jurisdiction over the allegations contained within the Complaint;
4 Venue of this matter is proper in the County of Imperial; and this Court has jurisdiction to enter this
5 Consent Judgment as a full and final resolution of all claims which were or could have been raised
6 in the Complaint and/or the 60-Day Notices of Violation and through the date of this Judgment with
7 respect to any violation of Proposition 65 arising out of an exposure to unleaded gasoline at the Subject
8 Locations (collectively, “Proposition 65 Claims”).

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

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

18 2.1 The locations covered by this Consent Judgment are the Subject Locations. This
19 Consent Judgment may apply to and benefit the Parties and their respective officers, directors,
20 shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees,
21 customers, distributors, wholesalers, retailers, predecessors, successors, and assigns.

22 2.2 “Effective Date” shall mean, with respect to this Consent Judgment, the date on which
23 the Court approves and enters the Consent Judgment.

24 **3. INJUNCTIVE RELIEF**

25 3.1 Clear and Reasonable Warning. As of the Effective Date, Defendant shall cause to be
26 posted at each of the Subject Locations a clear and reasonable exposure warning consistent with
27 California Health and Safety Code section 25249.6 as set forth in this section 3.1.

28 The warning shall consist of the following text:

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

6 The words “**WARNING:**” shall be in all capital letters and in bold font, followed by a
7 colon. The warning symbol to the left of the words “**WARNING:**” shall be a black exclamation
8 point in a yellow equilateral triangle with a black outline. The symbol must be in a size no smaller
9 than the height of the words “**WARNING:**”.

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

14 3.2 Changes to Proposition 65. If, after the Effective Date, changes are enacted to
15 Proposition 65 or its implementing regulations which require the use of additional or different
16 information on any warning applicable to the Subject Locations (“New Warnings”), the Parties agree
17 that the New Warnings may be used in place of the warnings set forth in section 3.1.

18 **4. MONETARY RELIEF**

19 4.1 Civil Penalty. Defendant shall pay a total of six thousand dollars (\$6,000.00) as a Civil
20 Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance
21 with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Civil Penalty
22 remitted to OEHHA and the remaining 25% of the Civil Penalty remitted to Eden. The Civil Penalty
23 payments shall be delivered to the addresses identified in § 4.3, below.

24 4.2 Date for Payment of Civil Penalty. Within ten (10) business days of the Effective Date,
25 Defendant shall issue two separate checks for the Civil Penalty payment: one check made payable to
26 “OEHHA” in the amount of four thousand five hundred dollars (\$4,500.00); and one check made
27 payable to “Ramy Eden” in the amount of one thousand five hundred dollars (\$1,500.00).

28 4.3 Payment Procedures.

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

1 (i) The Civil Penalty payment owed to Eden shall be delivered to the
2 address set forth in Eden’s IRS Form W-9;

3 (ii) The Civil Penalty payment owed to OEHHA shall be delivered
4 directly to OEHHA (Memo Line “Prop 65 Penalties”) at the
5 following addresses:

6 For United States Postal Service Delivery:
7 Mike Gyurics
8 Fiscal Operations Branch Chief
9 Office of Environmental Health Hazard Assessment
10 P.O. Box 4010
11 Sacramento, CA 95812-4010

12 For Non-United States Postal Service Delivery:
13 Mike Gyurics
14 Fiscal Operations Branch Chief
15 Office of Environmental Health Hazard Assessment
16 1001 I Street
17 Sacramento, CA 95814

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

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

- 25 (i) “Ramy Eden”;
- 26 (ii) “Jarrett Charo APC” (EIN: 84-2408511); and
- 27 (iii) “Office of Environmental Health Hazard Assessment” (EIN: 68-
28 0284486).

4.4 Attorney’s Fees and Costs. Defendant shall pay a total of sixteen thousand dollars
(\$16,000.00) 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

1 settlement in the public interest. Within ten (10) business days of the Effective Date, Defendant shall
2 issue one check payable to “Jarrett Charo APC” in the amount of sixteen thousand dollars (\$16,000.00)
3 and deliver it to the address identified in § 7.1(a), below.

4 **5. CLAIMS COVERED AND RELEASED**

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

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

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

24 5.4 California Civil Code § 1542. It is possible that other claims not known to the Parties
25 arising out of the facts alleged in this matter and relating to alleged violations of Proposition 65
26 concerning the Subject Locations will develop or be discovered. Eden on behalf of himself only, on
27 one hand, and Defendant, on the other hand, acknowledge that this Consent Judgment is expressly
28 intended to cover and include all such claims up through the Effective Date, including all rights of

1 action therefor. The Parties acknowledge that the claims released may include unknown claims, and
2 nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil
3 Code § 1542 reads as follows:

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

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

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

13
14 6.1 Eden agrees to comply with the reporting requirements referenced in California Health
15 & Safety Code § 25249.7(f) and to promptly bring a motion for approval of this Consent Judgment.
16 Defendant agrees not to oppose such motion.

17 **7. NOTICES**

18 7.1 Unless specified herein, all correspondence and notices required to be provided
19 pursuant to this Consent Judgment to any Party shall be in writing and personally delivered or sent to
20 that Party—via: (i) email; (ii) first-class registered or certified mail with return receipt requested; or
21 (iii) overnight or two-day courier—at the following addresses:

22 (a). For Plaintiff:
23 Jarrett S. Charo
24 Jarrett Charo APC
25 4079 Governor Drive, No. 1018
26 San Diego, CA 92122
27 jcharo@charolaw.com

(b). For Defendant:
28 Freddy A. Garmo
Garmo & Garmo, LLP
5464 Grossmont Center Dr.
La Mesa, CA 91942
freddy@garmolaw.com

29 7.2 Any Party, from time to time, may specify in writing to any other Party a change of
30 address to which all notices and other communications from that other Party shall be sent.

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8. COURT APPROVAL

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

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 one or more of the Subject Locations, 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

1 Judgment shall have the same force and effect as the original.

2 **14. AUTHORIZATION**

3 14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by
4 the Party he or she represents to stipulate to this Consent Judgment and has read, understood, and
5 agrees to each of the terms and conditions contained herein.

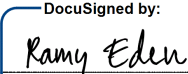
6 **15. SEVERABILITY**

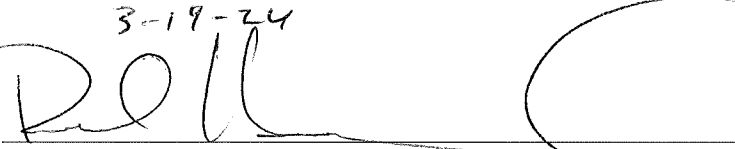
7 15.1 If, subsequent to Court approval of this Consent Judgment, any part or provision is
8 declared by a Court to be invalid, void, or unenforceable, the remaining portions or provisions shall
9 continue in full force and effect.

10 **STIPULATED AND AGREED TO:**

11 4/2/2024

12 Dated:

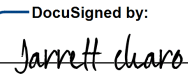
13 By: 
Ramy Eden 14D08191F02B41A...

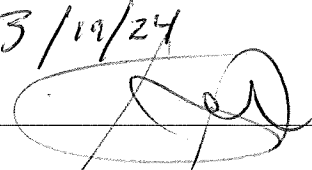
14 Dated: 3-19-24
15 
16 By: Raul Fernando Hernandez on behalf of R & EM Corporation

17 **APPROVED AS TO FORM:**

18 4/2/2024

19 Dated:

20 By: 
Jarrett Charo, Esq., attorney for Plaintiff Ramy Eden

21 Dated: 3/19/24
22 
23 By: Freddy Garmo, Esq., attorney for Defendant R & EM Corporation
24

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

26 Dated: _____
27 _____
28 Judge of the Superior Court