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21 Russell Brimer

22 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
23 COUNTY OF SAN FRANCISCO  
24 UNLIMITED JURISDICTION

25 RUSSELL BRIMER,  
26 Plaintiff,  
27 v.  
28 THE BOELTER COMPANIES, et al.,  
Defendants.

Case No. CGC-05-440811

**STIPULATION FOR ENTRY OF  
JUDGMENT**

STIPULATION AND (PROPOSED) ORDER RE: CONSENT JUDGMENT  
SFSC CASE NO. CGC 05-440811

1           1. The following constitutes the knowing and voluntary election and stipulation of the  
2 entity named below (“Company” or “Opt-In Defendant”) to join as a Settling Defendant under  
3 the Consent Judgment previously entered by the Court in *Brimer v. The Boelter Companies,*  
4 *Inc.*, San Francisco Superior Court Case No. CGC 05 -440811 (“Action”) and to be bound by  
5 the terms of that Consent Judgment.

6           2. At any time during the one-year period prior to the filing of this Stipulation  
7 (“Relevant Period”), the Company has employed ten (10) or more part-time or full-time  
8 persons and has manufactured, distributed, offered for use or sold one or more items in each of  
9 the following categories of Covered Products, as defined in the Consent Judgment (section 1.4)  
10 (check all that apply):

- 11            **Glassware Food/Beverage Products** (“Category A Products”)
- 12            **Glassware Non-Food/Beverage Products** (“Category C Products”)
- 13            **Ceramicware Food/Beverage Products** (“Category B Products”)
- 14            **Ceramicware Non-Food/Beverage Products** (“Category D Products”)

15           3. The categories of products identified above are hereafter designated “Covered  
16 Products” in the Action with respect to the Company.

17           4. At least one of the items in each of the categories checked above did not during the  
18 Relevant Period or does not currently meet the Reformulation Standards set forth for that  
19 category of Covered Products in section 2.3 of the Consent Judgment. The Company has not  
20 provided compliant Proposition 65 warnings in conjunction with the sale or use of all such  
21 Covered Products in California at all times during the Relevant Period.

22           5. The Company has not conducted a risk or exposure assessment for all Covered  
23 Products within each separate category checked above firmly establishing that the use of such  
24 Covered Products will result in an exposure in an amount less than that deemed permissible in  
25 22 Cal. Code Regs. §12805(b) (i.e., less than 0.5 micrograms of lead per day and/or less than  
26 4.1 micrograms of cadmium per day).

1           6. To the extent the Consent Judgment applies to the categories of Covered Products  
2 checked above, the Company agrees to be bound by the injunctive relief provisions of the  
3 Consent Judgment as it relates to each such category of Covered Products.

4           7. In conjunction with the execution of this Stipulation, the Company has provided the  
5 payments applicable to it as set forth in Table 14.4 of the Consent Judgment in the manner  
6 described in Exhibit E to the Consent Judgment. In this regard, the Company hereby  
7 represents and warrants that under the criteria set forth in subsections 14.4(a), (b), and (c) of  
8 the Consent Judgment, with respect to the Covered Products applicable to it pursuant to the  
9 categories checked in Paragraph 2 of this Stipulation, it is a (check only one)<sup>1</sup>:

- 10            **(a) Manufacturer** with combined sales in California of less than 350,000  
11           consumer units in calendar year 2004
- 12            **(a.1) Low Volume Manufacturer** with combined sales in California of less  
13           than 10,000 consumer units in calendar year 2004
- 14            **(b) Distributor and/or Importer** with combined sales in California of less than  
15           350,000 consumer units in calendar year 2004
- 16            **(b.1) Low Volume Distributor and/or Importer** with combined sales in  
17           California of less than 10,000 consumer units in calendar year 2004
- 18            **(c) Retailer and/or Amusement & Recreation Establishment**
- 19            **(d) Bar, Restaurant, Hotel, or Other Food/Beverage Service Defendant**
- 20            **(e) Opt-In Defendant with De Minimus Sales**, i.e., combined sales in  
21           California of less than 500 consumer units in calendar year 2004 (attach to this  
22           Stipulation a list of the names of all product lines (by narrative description and,  
23  
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25           <sup>1</sup> Any entity which has conducted activities which comprise more than one of the  
26 categories of business listed in (a)-(d) below shall be deemed to be a Manufacturer if 15% or  
27 more of its sales of Covered Products in California were the result of its Manufacturing of  
28 Covered Products; any entity otherwise in categories (c) or (d) shall be deemed to be a  
Distributor/Importer if 15% or more of its sales of Covered Products in California were the result  
of its Distributing/Importing of Covered Products.

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where available, UPC code) comprising these consumer units of Covered Products).

8. At least 65 days prior to the submissions of this Stipulation to the Court for entry, provided that it has been mailed to the address shown in Exhibit C attached hereto, the Company agrees to be deemed to have accepted service of a 60-day notice letter from Russell Brimer ("Brimer") alleging certain violations of Proposition 65 with respect to sales of the Covered Products identified herein.

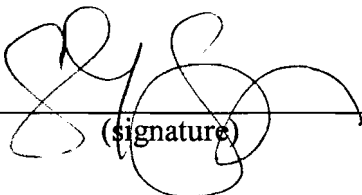
9. The Company hereby stipulates to be deemed to have voluntarily accepted service of the summons and complaint in this Action upon the filing of this Stipulation and agrees to be subject to the jurisdiction of the Court for purposes of the Consent Judgment.

10. Future notices concerning this Stipulation and the Consent Judgment shall be provided to the Company at the address shown in Exhibit C as attached hereto. If the Company desires to change the individual and/or address designated to receive notice on its behalf, the Company shall provide notice to Brimer and Boelter's counsel at the addresses for them listed in Exhibit C to the Consent Judgment.


11. The undersigned have read, and the person and/or entity named below knowingly and voluntarily agree to be bound by, all terms and conditions of this Stipulation and the Consent Judgment as previously approved and entered by the San Francisco County Superior Court in this Action.

12. The undersigned have full authority to make the written representations above and to enter into this Stipulation for the person/entity on behalf of which he/she is signing.

IT IS HEREBY STIPULATED AND AGREED TO:

By:  \_\_\_\_\_  
(signature)

Stephen L. Sapienza  
Name (printed/typed)

By:  \_\_\_\_\_  
LARALEI S. Paras

On Behalf of Plaintiff Russell Brimer

1 Vice President & Senior Counsel  
Title (printed/typed)

2 On Behalf of:

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4 Home Box Office, Inc.  
5 (Insert Company Name)

6 Opt-In Defendant

7 Dated: 1/11/06

Dated: 2/6/06

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1 Jeffrey H. Dasteel, State Bar No. 110405  
2 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
3 300 South Grand Avenue, Suite 3400  
4 Los Angeles, California 90071-3144  
5 (213) 687-5000  
6 (213) 687-5600 (fax)  
7 Attorney for Opt-In Defendant  
8 Home Box Office, Inc.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO, UNLIMITED JURISDICTION

11 RUSSELL BRIMER ) Case No. CGC-05-440811

12 Plaintiff, ) DECLARATION OF RICHARD OREN

13 v. )

14 THE BOELTER COMPANIES, ET AL )

15 Opt-in Defendant. )

- 16 1. My name is Richard Oren. I am the Director of Licensing, HBO Properties, for Home Box  
17 Office, Inc. Except as otherwise stated, I have first hand, personal knowledge of the facts  
18 stated in this declaration and, if called to do so, could and would testify competently thereto.  
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- 20 2. This Declaration concerns the following products (the "Covered Products"):
- 21 Comeback Coffee Mug
  - 22 Curb Logo Cappuccino Mug (black on white)
  - 23 Curb Half Empty/Half empty Glass
  - 24 The Sopranos Logo Hi Ball Glass
  - 25 The Sopranos Logo Old Fashioned Glass
  - 26 The Sopranos Retro Diner Mug (creme w/red logo)
  - 27 The Sopranos Cappuccino Mug (creme w/black logo)
  - 28 Sex and the City Logo Cappuccino Mug
  - Deadwood Logo Shot Glass
  - Entourage Logo Pint Glass
  - Entourage Shot Glass
  - Entourage Logo Mug
  - Entourage Coffee Mug - Logo (black)
  - Six Feet Under Coffee Mug (green logo on stone/beige standard diner mug)

1 Comeback Coffee Mug  
2 Carnivale DOF Glass  
3 Carnivale Shot Glass  
4 Carnivale Logo Mug

5 3. I have reviewed the appropriate records of Home Box Office, Inc. with regard to the 2004  
6 sales of the Covered Products. Only the following Covered Products had sales in California  
7 in 2004 in the listed amounts:

PID	PRODUCT	2004 SALES
1894141	Coffee Mug-Sex City Logo	39
1894135	DOF Glass-Sopranos Logo	25
1903723	Mug-Deadwood Log Speckled	54
1898324	Shot Glass-Deadwood Logo	31
1898328	Shot Glass-Entourage Logo	1
TOTAL		150

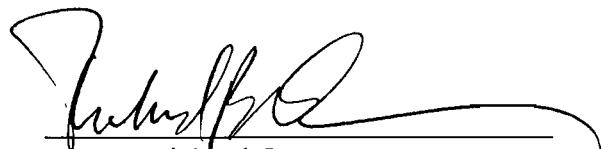
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22 4. According to the records of Home Box Office, Inc., there were under 500 sales of the  
23 Covered Products in 2004 in California.  
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1 I declare under penalty of perjury under the laws of the State of New York that the foregoing is  
2 true and correct.

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DATED: 1/6/06,



Name: Richard Oren  
Title: Director of Licensing,  
HBO Properties