

1 Clifford A. Chanler, State Bar No. 135534
2 CHANLER LAW GROUP
3 71 Elm Street, Suite 8
4 New Canaan, CT 06840
5 Telephone: (203) 966-9911
6 Facsimile: (203) 801-5222

7 Daniel Bornstein, State Bar No. 181711
8 Laralie S. Paras, State Bar No. 203319
9 PARAS LAW GROUP
10 655 Redwood Highway, Suite 216
11 Mill Valley, CA 94941
12 Telephone: (415) 380-9222
13 Facsimile: (415) 380-9223

14 Christopher Martin, State Bar No. 186021
15 MARTIN LAW GROUP
16 23 N. Lincoln, Suite 204
17 Hinsdale, IL 60521
18 Telephone: (630) 789-6998
19 Facsimile: (630) 214-0979

20 Attorneys for Plaintiff
21 Russell Brimer

22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

20 RUSSELL BRIMER,
21
22 Plaintiff,
23
24 v.
25
26 THE BOELTER COMPANIES, et al.,
27
28 Defendants.

Case No. CGC-05-440811

**STIPULATION FOR ENTRY OF
JUDGMENT**

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)¹:

- 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

24 _____
25 ¹ 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.

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

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

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

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

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

20 /////

21 /////

22 /////

23 /////

24 /////

25 /////

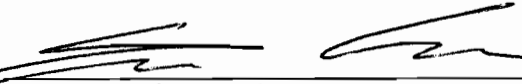

26 /////

27 /////

28 /////

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

3 IT IS HEREBY STIPULATED AND AGREED TO:

4
5 By:  By: 
6 (signature) LARALEE S. PARAS

7 On Behalf of Plaintiff Russell Brimer

8 Tomiko
9 Name (printed/typed)
10 President
11 Title (printed/typed)

12 On Behalf of:
13 NYX, Los Angeles Inc
14 (Insert Company Name)

15 Opt-In Defendant

16 Dated: 12/23/05 Dated: 2/6/06

17
18
19
20
21
22
23
24
25
26
27
28

1 **EXHIBIT C (Supplement)**
2 Contact Information for Purposes of Future Notice
3

4 Opt-In Party Name: NYX - US Angeles Inc

5
6 Contact Person: TONI KO

7
8 Mailing address: 2230 S. Tubeway Avenue
9 LOS Angeles CA 90040

10
11 Telephone: 323 869 9420

12 Fax number: 323 869 9430

13
14 Email address: toni@nyxcosmetics.com
15
16
17
18
19
20
21
22
23
24
25
26

Bar Code Numbers

Nail Polish

(Item # NP)

Item Number	Description	Bar Code Number
NP118	Sheer Lavender	800897-11109
NP119	Sheer Cotton Candy	800897-111106
NP120	Sheer Cream Frost	800897-111113
NP121	Sheer Shell	800897-111120
NP122	Sheer Nude	800897-111137
NP123	Sheer White Cream	800897-111144
NP124	Sheer Pink	800897-111151
NP125	Cancun Pink	800897-111168
NP126	Ultimate Deep Red	800897-111175
NP127	NYX	800897-111182
NP128	Orange	800897-111199
NP129	Hot Pink	800897-111205
NP130	Midnight Dream	800897-111212
NP01	Carnation	800897-111229
NP02	Ocean	800897-111236
NP03	Sweetie	800897-111243
NP04	Maroon	800897-111250
NP05	Pretty	800897-111267
NP06	Shandora	800897-111274
NP07	Red Pearl	800897-111281
NP08	Princess	800897-111298
NP09	Titanic	800897-111304
NP10	Ice Queen	800897-111311
NP11	Snow White	800897-111328

NP12	Margarita	800897-111335
NP13	Salsa	800897-111342
NP14	Lavender	800897-111359
NP15	Silver Plum	800897-111366
NP16	Gold	800897-111373
NP17	French Nude	800897-111380
NP18	Sheer White Frost	800897-111397
NP19	Angel	800897-111403
NP20	Foxy	800897-111410
NP21	Flash	800897-111427
NP22	Antique	800897-111434
NP23	Dream	800897-111441
NP24	Vamp	800897-111458
NP25	French White	800897-111465
NP26	Silver	800897-111472
NP27	Black	800897-111489
NP28	Clear	800897-111496
NP29	White	800897-111502
NP30	Jungle	800897-111519
NP31	Graffiti	800897-111526
NP32	South Sea	800897-111533
NP33	Hawaii	800897-111540
NP34	Wild	800897-111557
NP35	Apple	800897-111564
NP36	Shapiro	800897-111571
NP37	Pink Avenue	800897-111588
NP38	Peach Avenue	800897-111595
NP39	Purple Avenue	800897-111601
NP40	Blue Avenue	800897-111618
NP41	Annie	800897-111625
NP42	Red Red	800897-111632
NP43	Natural	800897-111649

NP44	Sorbet	800897-111656
NP45	Express	800897-111663
NP46	French Basic	800897-111670
NP47	Le Prive	800897-111687
NP48	Velfarre	800897-111694
NP49	Mango Café	800897-111700
NP50	Vitamin C	800897-111717
NP51	Karnak	800897-111724
NP52	Mega	800897-111731
NP53	Yuppies	800897-111748
NP54	Luzie	800897-111755
NP55	Rockin Robin	800897-111762
NP56	Sparks	800897-111779
NP57	Komma	800897-111786
NP58	Amazon	800897-111793
NP59	Lingerie	800897-111809
NP60	Juliana	800897-111816
NP61	Soft Sparkle	800897-111823
NP62	Gold Sparkle	800897-111830
NP63	Silver Blue	800897-111847
NP64	Sime Sparkle	800897-111854
NP65	Asphalt	800897-111861
NP66	Crystal	800897-111878
NP67	Silver Sparkle	800897-111885
NP68	Rainbow Sparkle	800897-111892
NP69	Frost White	800897-111908
NP70	Chestnut	800897-111915
NP71	Antique Sparkle	800897-111922
NP72	Africa	800897-111939
NP73	Lime	800897-111946
NP74	Cloud9	800897-111953
NP75	Roasted	800897-111960

NP76	Flame	800897-111977
NP77	Walnut Frost	800897-111984
NP78	Bronze	800897-111991
NP79	Voodoo	800897-112004
NP80	Grilled	800897-112011
NP81	Flamingo	800897-112028
NP82	French Oui	800897-112035
NP83	Blood	800897-112042
NP84	Dancing Queen	800897-112059
NP85	Strawberry	800897-112066
NP86	Secret	800897-112073
NP87	Juliette	800897-112080
NP88	Capuccino	800897-112097
NP89	French Touch	800897-112103
NP90	Hearth	800897-112110
NP91	Café Au Lait	800897-112127
NP92	Garnet	800897-112134
NP93	Iced Coffee	800897-112141
NP94	Dark Cherry	800897-112158
NP95	Champagne	800897-112165
NP96	Las Vegas	800897-112172
NP97	Nail Hardener	800897-112189
NP98	Nail Thickener	800897-112196
NP99	Top Coat	800897-112202
NP100	Cuticle Oil	800897-112219
NP101	Jillian	800897-112226
NP102	Sunset Boulevard	800897-112233
NP103	Carol	800897-112240
NP104	Orchid	800897-112257
NP105	Sue	800897-112264
NP106	Barbie Pink	800897-112271
NP107	Meeso	800897-112288

NP108	Aroma	800897-112295
NP109	Techno	800897-112301
NP110	Desert Rose	800897-112318
NP111	Shell	800897-112325
NP112	Love Letter	800897-112332
NP113	Shy	800897-112349
NP114	Jewel	800897-112356
NP115	Red Glitter	800897-112363
NP116	Dark Red Glitter	800897-112370
NP117	Whisper	800897-112387
NP131	Penny	800897-112394
NP132	Treasure	800897-112400
NP133	Hannah	800897-112417
NP134	Christine	800897-112424
NP135	Elaine	800897-112438
NP136	Fire	800897-112445
NP137	Sunshine	800897-112452
NP138	Pearl	800897-112469
NP139	Paradise	800897-112476
NP140	Laura	800897-112483
NP141	Aurora	800897-112499
NP142	Thaitian	800897-112506
NP143	Sun Rise	800897-112513
NP144	Thunder	800897-112526
NP145	Oyster	800897-119676