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Clifford A. Chanler, State Bar No. 135534
Daniel Bornstein, State Bar No. 181711
HIRST & CHANLER LLP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565
Telephone: (510) 848-8880
Facsimile: (510) 848-8880

Attorneys for Plaintiff
RUSSELL BRIMER

FILED
Superior Court of California
County of San Francisco

JUL 15 2009

GORDON PARK-LI, Clerk
BY: Andrew [Signature] Deputy Clerk

REC'D JUL 15 2009

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

RUSSELL BRIMER

Plaintiff,

v.

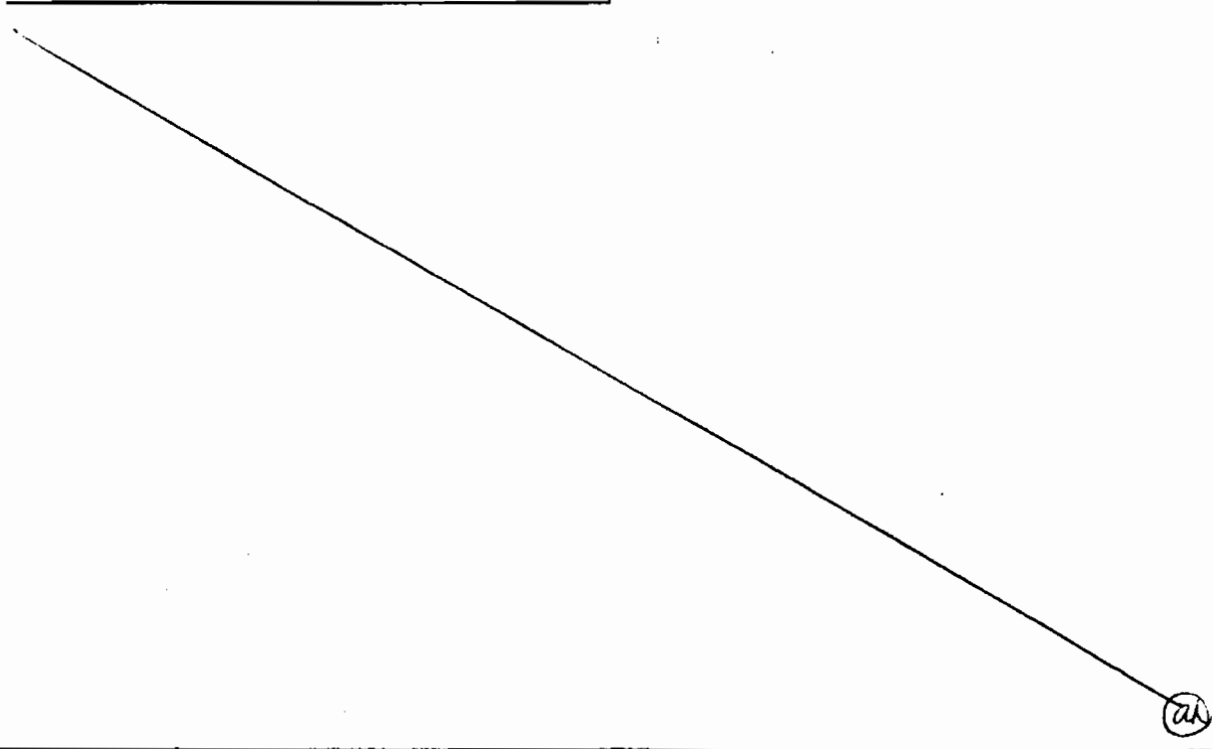
SOUTHWEST SPECIALTY FOODS, INC.;
and DOES 1 through 150, inclusive,

Defendants.

Case No. CGC-08-474309

^(u)
~~PROPOSED~~ JUDGMENT PURSUANT
TO TERMS OF STIPULATION AND
ORDER RE: CONSENT JUDGMENT

Date: July 1, 2009
Time: 9:30 a.m.
Dept.: 301
Judge: Hon. Peter Busch



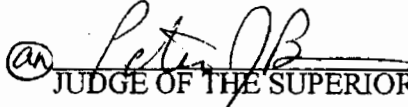
[PROPOSED] JUDGMENT

1 In the above-entitled action, Plaintiff RUSSELL BRIMER and Defendant SOUTHWEST
2 SPECIALTY FOODS, INC., having agreed through their respective counsel that judgment be
3 entered pursuant to the terms of the Proposition 65 settlement agreement in the form of a
4 Stipulation and [Proposed] Order Re: Consent Judgment entered into by the parties, and following
5 issuance of an order approving this Proposition 65 settlement agreement and entering the
6 Stipulation and Order Re: Consent Judgment on July 1, 2009.

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant to Code of Civil
8 Procedure §664.6, judgment is entered in accordance with the terms of the Stipulation and Order
9 Re: Consent Judgment attached hereto as **Exhibit 1**.

10
11 **IT IS SO ORDERED.**

12
13 Dated: JUL 15 2009

14
15 
16 JUDGE OF THE SUPERIOR COURT
17 PETER J. BUSCH

18 # 474309
19 BRIMER v. SOUTHWEST
20 SPECIALTY FOODS, INC.
21
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Exhibit 1

1 DANIEL BORNSTEIN (State Bar No. 181711)
HIRST & CHANLER LLP
2 2560 Ninth Street
Parker Plaza, Suite 214
3 Berkeley, CA 94710-2565
Telephone: (510) 848-8880
4 Facsimile: (510) 848-8118

5 Attorneys for Plaintiff
RUSSELL BRIMER

6 Attorneys for Defendants
7 SOUTHWEST SPECIALTY FOODS, INC.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

RUSSELL BRIMER,
Plaintiff,
v.
SOUTHWEST SPECIALTY FOODS,
INC.; and DOES 1 through 150,
Defendants.

Case No. CGC-08-474309
STIPULATION AND [PROPOSED]
ORDER RE: CONSENT JUDGMENT

1
2 **1. INTRODUCTION**

3 **1.1 Plaintiff and Settling Defendant.** This Consent Judgment is entered into by and
4 between plaintiff Russell Brimer (hereafter "Brimer" or "Plaintiff") and defendant Southwest
5 Specialty Foods, Inc. (hereinafter "Southwest" or "Defendant"), with Plaintiff and Defendant
6 collectively referred to as the "Parties" and Brimer and Defendant each being a "Party."

7 **1.2 Plaintiff.** Brimer is an individual residing in California who seeks to promote
8 awareness of exposures to toxic chemicals and improve human health by reducing or eliminating
9 hazardous substances contained in consumer products.

10 **1.3 General Allegations.** Plaintiff alleges that Defendant has manufactured,
11 distributed and/or sold in the State of California mugs and other ceramic containers, intended for
12 the consumption of food or beverages, with colored artwork or designs on the exterior surface
13 containing lead, which is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act
14 of 1986, California Health & Safety Code §§25249.5 et seq., also known as Proposition 65, to
15 cause cancer and birth defects (and other reproductive harm). Lead (and/or lead compounds)
16 shall be referred to herein as the "Listed Chemical."

17 **1.4 Product Description.** The products that are covered by this Consent Judgment
18 are defined as follows: the 14 oz. El Grande mug MUG2 (#0 89382 11299 0), intended for the
19 consumption of food or beverages, with colored artwork or designs on the exterior surface
20 containing lead, manufactured, sold and/or distributed by Defendant in California. Such products
21 collectively are referred to herein as the "Products."

22 **1.5 Notices of Violation.** Beginning on March 21, 2007, Brimer served Defendant
23 and various public enforcement agencies with a document entitled "60-Day Notice of Violation"
24 ("Notice"), that provided Defendant and such public enforcers with notice that alleged that
25 Defendant was in violation of Health & Safety Code §25249.6 for failing to warn purchasers that
26 certain Products that they sold expose users in California to the Listed Chemical.
27

1 **1.6 Complaint.** On April 10, 2008, Brimer, in the interest of the general public in
2 California, filed a complaint (hereafter referred to as the "Complaint" or the "Action") in the
3 Superior Court for the City and County of San Francisco against Defendant and Does 1 through
4 150, alleging violations of Health & Safety Code §25249.6 based on the alleged exposures to the
5 Listed Chemical contained in certain Products sold by Defendant.

6 **1.7 No Admission.** Defendant has filed its answer and denies the material factual and
7 legal allegations contained in Plaintiff's Notices and Complaint and maintains that all products
8 that it has sold and distributed in California including the Products have been and are in
9 compliance with all laws. Nothing in this Consent Judgment shall be construed as an admission
10 by Defendant of any fact, finding, issue of law, or violation of law, nor shall compliance with this
11 Agreement constitute or be construed as an admission by Defendant of any fact, finding,
12 conclusion, issue of law or violation of law. However, this section shall not diminish or
13 otherwise affect the obligations, responsibilities and duties of Defendant under this Consent
14 Judgment.

15 **1.8 Consent to Jurisdiction.** For purposes of this Consent Judgment only, the Parties
16 stipulate that this Court has jurisdiction over the Parties and concerning the alleged violations at
17 issue and personal jurisdiction over Defendant as to the acts alleged, that venue is proper in the
18 County of San Francisco, and that this Court has jurisdiction to enter this Consent Judgment and
19 to enforce the provisions thereof.

20 **1.9 Effective Date.** For purposes of this Consent Judgment, "Effective Date" shall be
21 May 29, 2009.
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1 **2. INJUNCTIVE RELIEF: PROPOSITION 65 WARNINGS AND**
2 **REFORMULATION**

3 **2.1 WARNING OBLIGATIONS FOR NON-REFORMULATED PRODUCTS**

4 (a) **Required Warnings.** After May 30, 2009, Southwest shall not ship or
5 cause to be shipped or sell any Products containing any of the Listed Chemical to any person or
6 entity in California, unless warnings are given in accordance with one or more provisions in

7 (b) Subsection 2.2 below.

8 (c) **Exceptions.** The obligation set forth in subsections 2.1(a) and 2.2 below
9 shall not apply to:

10 i. any Products manufactured on or before April 30, 2009; or

11 ii. Reformulated Products

12 **2.2 CLEAR AND REASONABLE WARNINGS**

13 (a) **Product Labeling.** A warning shall be affixed to the packaging, labeling
14 or directly to or on the Products which states:

15 **WARNING: The materials used as colored decorations on the**
16 **exterior of this product contain lead a chemical**
17 **known to the State of California to cause birth**
18 **defects or other reproductive harm.**

19 or,

20 **WARNING: The materials used as colored decorations on the**
21 **exterior of the following products contain lead a**
22 **chemical known to the State of California to**
23 **cause birth defects or other reproductive harm.**

24 Warnings issued for the Products pursuant to this subsection shall be prominently placed
25 with such conspicuousness as compared with other words, statements, designs, or devices as to
26 render it likely to be read and understood by an ordinary individual under customary conditions of
27 use or purchase. Any changes to the language or format of the warning required by this
28 subsection shall only be made following: (1) approval of Plaintiff; (2) approval from the
California Attorney General's Office, provided that written notice of at least fifteen (15) days is

1 given to Plaintiff for the opportunity to comment; or (3) Court approval.

2 (b) **Point-of-Sale Warnings.** The Defendant may execute its warning
3 obligations, where applicable, through arranging for the posting of signs at retail outlets in the
4 State of California at which the Products are sold, in accordance with the terms specified in
5 subsections 2.2(b)(i), 2.2(b)(ii) and 2.2(b)(iii).

6
7 i. If point-of-sale warnings are to be provided through one or more
8 signs posted at or near the point of sale or display of the Products, the warning must state:

9
10 **WARNING: The materials used as colored decorations on the**
11 **exterior of this product contain lead a chemical**
12 **known to the State of California to cause birth**
13 **defects or other reproductive harm.**

14 or

15 **WARNING: The materials used as colored decorations on the**
16 **exterior of the following mug products sold in**
17 **this store contain lead a chemical known to the**
18 **State of California to cause birth defects or**
19 **other reproductive harm.**

20 ii. Warnings issued for the Products pursuant to this subsection shall
21 be prominently placed with such conspicuousness as compared with other words, statements,
22 designs, or devices as to render it likely to be read and understood by an ordinary individual
23 under customary conditions of use or purchase and shall be placed or written in a manner such
24 that the consumer understands to which *specific* Products the warnings apply so as to minimize if
25 not eliminate the chances that an overwarning situation will arise. Any changes to the language
26 or format of the warning required for the Products by this subsection shall only be made
27 following: (1) approval of Plaintiff; (2) approval from the California Attorney General's Office,
28 provided that written notice of at least fifteen (15) days is given to Plaintiff for the opportunity to
comment; or, (3) Court approval.

1 iii. If Southwest intends to utilize point-of-sale warnings for sales made
2 to retail outlets to comply with this Consent Judgment, it must provide notice as required by this
3 Consent Judgment to each retailer to whom the Products are shipped for sale in California and
4 obtain the written consent of such retailer before shipping the Products. Such notice shall include
5 a copy of this Consent Judgment and any required warning materials (including, as appropriate,
6 signs and/or stickers). If Southwest has obtained the written consent of a retailer and transmitted
7 the requisite warnings as provided herein, Boston shall not be found to have violated this Consent
8 Judgment if it has complied with the terms of this Consent Judgment.

9
10 (c) **Internet Website Warning.** A warning may be given in conjunction with
11 the sale of the Product via the Internet, provided it appears either: (a) on the same web page on
12 which the Product is displayed; (b) on the same web page as the order form for the Product; (c) on
13 the same page as the price for any Product; or (d) on one or more web pages displayed to a
14 purchaser during the checkout process. The following warning statement shall be used and shall
15 appear in any of the above instances adjacent to or immediately following the display,
16 description, or price of the Product for which it is given in the same type size or larger than the
17 Product description text:

18
19 **WARNING: The materials used as colored decorations on the**
20 **exterior of this product contain lead, a chemical**
21 **known to the State of California to cause birth**
22 **defects or other reproductive harm.^[3]**

23 or

24 **WARNING: This product contains lead, a chemical known to**
25 **the state of California to cause birth defects or**
26 **other reproductive harm**

27 Alternatively, the designated symbol may appear adjacent to or immediately following the
28

1 display, description, or price of the Product for which a warning is being given, provided that the
2 following warning statement also appears elsewhere on the same web page, as follows:

3
4 **WARNING: Products identified on this page with this**
5 **symbol – contain Lead, a chemical known**
6 **to the State of California to cause birth**
7 **defects and other reproductive harm.**

8
9 **2.3 Reformulation Commitment**

10 Beginning October 31, 2009, Defendant shall not ship, offer to ship for sale or sale in
11 California any Products containing the Listed Chemical, unless such Products meet the applicable
12 reformulation standards set forth in section 2.3 (b) below.

13 (a) **Reformulation Definitions.** For purposes of this section, the following
14 definitions apply:

15 “Exterior Decorations” is defined as all colored artwork, designs and/or markings
16 on the exterior surface of the Product.

17 “Lip and Rim Area” is defined as the interior and exterior top 20 millimeters of a
18 hollowware food/beverage Product, as defined by American Society of Testing and
19 Materials Standard Test Method C927-99.

20 “No Detectable Lead” shall mean that no lead is detected at a level above two one-
21 hundredths of one percent (0.02%) by weight using a sample size of the materials in
22 question measuring approximately 50-100 mg and a test method of sufficient sensitivity to
23 establish a limit of quantitation of less than 200 ppm.¹

24 “Product” shall mean ceramic mugs intended for the consumption of food or
25 beverages, with colored artwork or designs on the exterior surface.

26 “Reformulated Product” refers to any Product that meets the Reformulation
27 Standard set forth below, as applicable.

28

1 If the decoration is tested after it is affixed to the Product, the percentage of the Listed Chemicals by weight must relate only to the decorating material and must not include any quantity attributable to non-decorating material (e.g., the substrate).

1 (b) **Reformulation Standard.** A Product is a Reformulated Product if it
2 satisfies the standards outlined in subsections 2.3(b)(i), (ii) or (iii), subject to the following
3 qualifications:

4 i. **Decorating Material Content-Based Standard.** The Exterior
5 Decorations, exclusive of the Lip and Rim Area, must only utilize decorating
6 materials that contain six one-hundredths of one percent (0.06%) lead by weight or
7 less as measured either before or after the material is fired onto (or otherwise
8 affixed to) the Product, using EPA Test Method 3050B.²

9 ii. **Wipe Test-Based Standard.** The Product must produce a test result no
10 higher than 1.0 micrograms (ug) of lead as applied to the Exterior Decorations and
11 performed as outlined in NIOSH method no. 9100.

12 iii. **Total Acetic-Acid Immersion Test Based Standard.** The Product
13 must achieve a result of 0.99 ppm or less for lead after correction for internal
14 volume when tested under the protocol attached hereto as Exhibit A (the ASTM
15 C927-99 test method, modified for total immersion with results corrected for
16 internal volume).³

17 iv. **Lip and Rim Area Decoration.** If the Product contains Exterior
18 Decorations in the Lip and Rim Area:

19 (A) Any Exterior Decorations that extend into the Lip and Rim
20 Area must only utilize decorating materials that contain No Detectable
21 Lead, or

22 (B) The Product must yield a test result showing a concentration
23 level of 0.5 ug/ml or less of lead using ASTM method C 927-99.⁴

24
25 ² If the decoration is tested after it is affixed to the Product, the percentage of the Listed Chemicals by weight must relate only to
26 the decorating material and must not include any quantity attributable to non-decorating material (e.g., the substrate).

27 ³ Because this method requires correction for internal volume, this method is only appropriate for ceramic hollowware.

28 ⁴ The result must be evaluated without correction for internal volume; this method is only appropriate for ceramic hollowware.

1 **3. MONETARY PAYMENTS.**

2 **3.1** In settlement of all the claims referred to in this Consent Judgment against
3 Southwest, Southwest shall pay \$1,000.00 in civil penalties to be apportioned in accordance with
4 California Health & Safety Code §25192, with 75% of these funds remitted to the State of
5 California's Office of Environmental Health Hazard Assessment and the remaining 25% of these
6 penalty monies remitted to Brimer as provided by California Health & Safety Code §25249.12(d).
7 Southwest shall issue two separate checks for the penalty payment: (a) one check made payable
8 to Hirst & Chanler LLP in Trust for the State of California's Office of Environmental Health
9 Hazard Assessment (OEHHA) in the amount of \$750.00, representing 75% of the total penalty
10 and (b) one check to Hirst & Chanler LLP in Trust for Brimer in the amount of \$250.00,
11 representing 25% of the total penalty. Two separate 1099s shall be issued for the above
12 payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95814
13 (EIN: 68-0284486) in the amount of \$750.00. The second 1099 shall be issued to Brimer in the
14 amount of \$250.00, whose address and tax identification number shall be furnished, upon request,
15 five calendar days before payment is due. The penalty payment shall be due no later than April
16 30, 2009, and shall be sent to:

17 Hirst & Chanler LLP
18 Attn: Proposition 65 Controller
19 2560 Ninth Street
20 Parker Plaza, Suite 214
21 Berkeley, CA 94710-2565

20 **4. REIMBURSEMENT OF FEES AND COSTS**

21 **4.1** The Parties acknowledge that Plaintiff and his counsel offered to resolve this
22 dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby
23 leaving this fee issue to be resolved after the material terms of the agreement had been settled.
24 Defendant then expressed a desire to resolve the fee and cost issue shortly after the other
25 settlement terms had been finalized. The Parties then attempted to (and did) reach an accord on
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1 the compensation due to Plaintiff and his counsel under the private attorney general doctrine
2 codified at Code of Civil Procedure §1021.5 for all work performed through the Court's approval
3 of the Agreement. Under the private attorney general doctrine codified at Code of Civil
4 Procedure §1021.5, Defendant shall reimburse Plaintiff and his counsel for fees and costs,
5 incurred as a result of investigating, bringing this matter to Defendant's attention, litigating and
6 negotiating a settlement in the public interest, and seeking the Court's approval of this Consent
7 Judgment. Specifically, Defendant shall pay Plaintiff and his counsel \$12,500.00 for all
8 attorneys' fees, expert and investigation fees, and litigation costs. The payment shall be made
9 payable to Hirst & Chanler LLP and shall be delivered to Plaintiff's counsel on or before April
10 30, 2009, at the following address:

11 HIRST & CHANLER LLP
12 Attn: Prop 65 Controller
13 2560 Ninth Street
14 Parker Plaza, Suite 214
15 Berkeley, CA 94710-2565.

16 Except as specifically provided in this Consent Judgment, Defendant shall have no further
17 obligation with regard to reimbursement of Plaintiff's attorney's fees and costs with regard to the
18 Products covered in this Action.

19 **5. RELEASE OF ALL CLAIMS**

20 **5.1 Plaintiff's Release of Defendant.** In further consideration of the representations,
21 warranties and commitments herein contained, and for the payments to be made pursuant to
22 sections 3 and 4, Plaintiff, on behalf of himself, his past and current agents, representatives,
23 attorneys, successors assignees, or any person or entity who may now or in the future claim
24 through him in a derivative manner, and in the interest of the general public, hereby waives all
25 rights to institute or participate in, directly or indirectly, any form of legal action and release all
26 claims, including, without limitation, all actions, causes of action, in law or in equity, suits,
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1 liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including,
2 but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever,
3 whether known or unknown, fixed or contingent (collectively "Claims"), against Defendant and
4 each of its distributors, wholesalers, licensors, licensees, auctioneers, retailers, dealers, customers,
5 owners, purchasers, users, parent companies, corporate affiliates, divisions, subsidiaries and their
6 respective officers, directors, attorneys, representatives, shareholders, agents, representatives,
7 insurers and employees and any other persons or entities to whom Defendant may be liable
8 (collectively, "Defendant's Releasees") arising under Proposition 65 related to Defendant's or
9 Defendant's Releasees' alleged failure to warn about exposures to or identification of the Listed
10 Chemical contained in the Products. It is specifically understood and agreed that the Parties and
11 the Court intend that Defendant's compliance with the terms of this Consent Judgment resolves
12 all issues and liability, now and in the future (so long as Defendant complies with the terms of the
13 Consent Judgment) concerning Defendant and the Defendant's Releasees' compliance with the
14 requirements of Proposition 65 as to the Listed Chemical in exterior decorations on the Products.

15 **5.2 Defendant's Release of Plaintiff.** Defendant waives all rights to institute any
16 form of legal action against Plaintiff, or their attorneys or representatives, for all actions taken or
17 statements made by Plaintiff or his attorneys or representatives, in the course of seeking
18 enforcement of Proposition 65 in association with this Action.

19 **6. COURT APPROVAL**

20 This Consent Judgment is not effective until it is approved and entered by the Court and
21 shall be null and void if, for any reason, it is not approved and entered by the Court within one
22 year after it has been fully executed by all Parties, in which event any monies that have been
23 provided to Plaintiff or his counsel pursuant to section 3 and section 4 above, shall be refunded
24 within fifteen (15) days.

25 **7. SEVERABILITY**

26 If, subsequent to court approval of this Consent Judgment, any of the provisions of this
27

1 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable
2 provisions remaining shall not be adversely affected.

3 **8. ATTORNEYS' FEES**

4 In the event that, after Court approval: (1) Southwest seeks modification of this Consent
5 Judgment pursuant to Section 14 below; or (2) Brimer takes reasonable and necessary steps to
6 successfully enforce the terms of this Consent Judgment, Brimer shall be entitled to his
7 reasonable attorneys' fees and costs pursuant to CCP §1021.5.

8 **9. GOVERNING LAW**

9 The terms of this Consent Judgment shall be governed by the laws of the State of
10 California and apply within the State of California. In the event that Proposition 65 is repealed or
11 is otherwise rendered inapplicable by reason of law generally, or as to the Products specifically,
12 then Defendant shall have no further obligations pursuant to this Consent Judgment with respect
13 to, and to the extent that, those Products are so affected.

14 **10. NOTICES**

15 All correspondence and notices required to be provided pursuant to this Consent Judgment
16 shall be in writing and personally delivered or sent by: (1) first-class, registered, certified mail,
17 return receipt requested or (ii) overnight courier on either Party by the other at the addresses listed
18 below. Either Party, from time to time, may specify a change of address to which all notices and
19 other communications shall be sent.

20 For Plaintiff:	20 For Defendant:
21 Russell Brimer	21 Donald R. Wild
22 c/o Hirst & Chanler LLP	22 WILD, CAREY & FIFE
23 2560 Ninth Street	23 120 Montgomery Street, Suite 1000
24 Parker Plaza, Suite 214	24 San Francisco, CA 94104
Berkeley, CA 94710-2565	

25 **11. COUNTERPARTS; FACSIMILE SIGNATURES**

26 This Consent Judgment may be executed in counterparts and by facsimile, each of which
27 shall be deemed an original, and all of which, when taken together, shall constitute one and the

1 same document.

2 **12. COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(F)**

3 Plaintiff agrees to comply with the reporting form requirements referenced in Health &
4 Safety Code §25249.7(f). Pursuant to regulations promulgated under that section, Plaintiff shall
5 present this Consent Judgment to the California Attorney General's Office within two (2) days
6 after receiving all of the necessary signatures. A noticed motion to enter the Consent Judgment
7 will then be served on the Attorney General's Office at least forty-five (45) days prior to the date
8 a hearing is scheduled on such motion in the Superior Court for the City and County of San
9 Francisco unless the Court allows a shorter period of time.

10 **13. ADDITIONAL POST EXECUTION ACTIVITIES**

11 The Parties shall mutually employ their best efforts to support the entry of this Agreement
12 as a Consent Judgment and obtain approval of the Consent Judgment by the Court in a timely
13 manner. The Parties acknowledge that, pursuant to Health & Safety Code §25249.7, a noticed
14 motion is required to obtain judicial approval of this Consent Judgment. Accordingly, the
15 Plaintiff agrees to file a Motion to Approve the Agreement ("Motion"), within a reasonable
16 period of time after the Execution Date (*i.e.*, not to exceed sixty (60) days unless otherwise agreed
17 to by the Parties' counsel based on unanticipated circumstances). Plaintiff's counsel shall prepare
18 a declaration in support of the Motion which shall, *inter alia*, set forth support for the fees and
19 costs to be reimbursed pursuant to Section 4.

20 **14. MODIFICATION**

21 This Consent Judgment may be modified only by: (1) written agreement of the Parties
22 and upon entry of a modified Consent Judgment by the Court thereon, or (2) motion of any Party
23 as provided by law and upon entry of a modified Consent Judgment by the Court. The Attorney
24 General shall be served with notice of any proposed modification to this Consent Judgment at
25 least fifteen (15) days in advance of its consideration by the Court.

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1 **15. ENTIRE AGREEMENT**

2 This Consent Judgment sets forth the entire agreement between Plaintiff and Defendant
3 relating to the subject mater hereof and hereby supersedes any and all prior oral or written
4 agreements or understandings.

5 **16. AUTHORIZATION**

6 The undersigned are authorized to execute this Consent Judgment on behalf of their
7 respective Parties and have read, understood and agree to all of the terms and conditions of this
8 Consent Judgment.

9 AGREED TO:

AGREED TO:

10 Date: 4-30-09

Date: _____

11 By: 
12 Plaintiff Russell Brimer

By: _____
13 Jeff Jacobs, President
Defendant Southwest Specialty Foods, Inc.

14 APPROVED AS TO FORM:

APPROVED AS TO FORM:

15 Date: _____

Date: _____

16 HIRST & CHANLER LLP

WILD, CAREY & FIFE

17 By: _____
18 Daniel Bornstein
19 Attorneys for Plaintiff
20 RUSSELL BRIMER

By: _____
21 Donald R. Wild
22 Attorneys for Defendant
23 SOUTHWEST SPECIALTY FOODS, INC

24 **IT IS SO ORDERED.**

25 Date: _____

26 JUDGE OF THE SUPERIOR COURT

1 **15. ENTIRE AGREEMENT**

2 This Consent Judgment sets forth the entire agreement between Plaintiff and Defendant
3 relating to the subject mater hereof and hereby supersedes any and all prior oral or written
4 agreements or understandings.

5 **16. AUTHORIZATION**

6 The undersigned are authorized to execute this Consent Judgment on behalf of their
7 respective Parties and have read, understood and agree to all of the terms and conditions of this
8 Consent Judgment.

9 **AGREED TO:**

AGREED TO:

10 Date: _____ Date: _____

11
12 By: _____
13 Plaintiff Russell Brimer

11
12 By: _____
13 Jeff Jacobs, President
Defendant Southwest Specialty Foods, Inc.

14 **APPROVED AS TO FORM:**

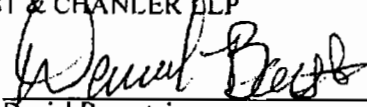
APPROVED AS TO FORM:

15 Date: 4/30/07

15 Date: _____

16 HIRST & CHANLER LLP

16 WILD, CAREY & FIFE

17
18 By: 
19 Daniel Bornstein
20 Attorneys for Plaintiff
RUSSELL BRIMER

17
18 By: _____
19 Donald R. Wild
20 Attorneys for Defendant
SOUTHWEST SPECIALTY FOODS, INC

21
22
23 **IT IS SO ORDERED.**

24 Date: _____

25 _____
26 JUDGE OF THE SUPERIOR COURT

1 15. ENTIRE AGREEMENT

2 This Consent Judgment sets forth the entire agreement between Plaintiff and Defendant
3 relating to the subject matter hereof and hereby supersedes any and all prior oral or written
4 agreements or understandings.

5 16. AUTHORIZATION

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7 respective Parties and have read, understood and agree to all of the terms and conditions of this
8 Consent Judgment.

9 AGREED TO:

AGREED TO:

10 Date: _____

Date: 4-30-09

11
12 By: _____
13 Plaintiff Russell Brimer

By: 
14 Jeff Jacobs, President
15 Defendant Southwest Specialty Foods, Inc.

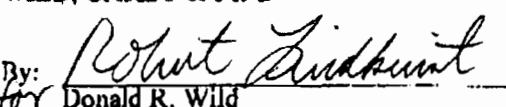
16 APPROVED AS TO FORM:

APPROVED AS TO FORM:

17 Date: _____

Date: 4/30/09

18 HIRST & CHANLER LLP
19 By: _____
20 Daniel Bornstein
21 Attorneys for Plaintiff
22 RUSSELL BRIMER

WILD, CAREY & FIFE
By: 
for Donald R. Wild
Attorneys for Defendant
SOUTHWEST SPECIALTY FOODS, INC

23 IT IS SO ORDERED.

24 Date: _____

25 JUDGE OF THE SUPERIOR COURT