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[Exempt from fees pursuant to Government Code Section 6103]

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Attorneys for Plaintiff
People of the State of California

FILED
3/16/10
CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS
BY J. Carroll
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF STANISLAUS

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. **PRO'S CHOICE BEAUTY CARE, INC., RITE AID CORPORATION; LONGS DRUG STORES CALIFORNIA, INC.; LONGS DRUG STORES CORPORATION; WALGREEN COMPANY; RALPHS GROCERY COMPANY; TARGET CORPORATION; K-MART CORPORATION; MARCY J. BLICK, Individually; and DOES Nos. 1 through 50, inclusive,** Defendants.	Case No. 623625 **STIPULATION OF PARTIES TO THE ENTRY OF FINAL JUDGMENT AND PERMANENT INJUNCTION** Judge: The Hon. Hurl W. Johnson Trial Date: Vacated Action Filed: February 13, 2008

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES THAT:

Plaintiff, the People of the State of California ("Plaintiff"), having filed its Complaint, and Defendants, Pro's Choice Beauty Care, Inc. ("Pro's Choice"), Rite Aid Corporation, Longs Drug Stores California, Inc. and Longs Drug Stores Corporation (hereinafter properly named successor entity Longs Drug Stores California, LLC), CVS Pharmacy, Inc., Walgreen Co., Ralphs Grocery Company, Target Corporation and Kmart Corporation ("Defendant Retailers") (all Defendants are hereafter collectively referred to as "Settling Defendants" or "Defendants" and individually "Defendant"), having been served with the First Amended Complaint, hereby stipulate and consent to the entry of a Final Judgment and Permanent Injunction pursuant to this Stipulation. The Plaintiff and Settling Defendants (collectively referred to herein as "the Parties") have agreed to settle the claims alleged in the First Amended Complaint filed in this matter without further litigation and by lodging this proposed Stipulation of Parties to the Entry of Final Judgment and Permanent Injunction ("Stipulation") pursuant to which a Final Judgment and Permanent Injunction ("Final Judgment") is to be entered by the Court.

JURISDICTION

This action is brought under California law and this Court has jurisdiction of the subject matter and the Parties hereto.

APPLICABILITY

1. Plaintiff alleges that, on or before the date of entry of the Final Judgment, Defendants violated the California Health and Safety Code and related implementing regulations that govern (a) volatile organic compounds ("VOCs") and product dating information in consumer hair care products, including the supply, distribution, sale, or offering for sale of consumer hair care products; and (b) conduct relating to the public health and environment and laws that promote fair and lawful competitive business practices. The Parties to this action agree to settle this action and Defendants, without admitting any fault or liability, thereupon agree to comply with the injunctive provisions set forth in this Stipulation and as ordered by this Court in the Final Judgment.

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2. This Stipulation and the Final Judgment shall settle and resolve all claims (the "Settled Claims") that were or could have been alleged in the First Amended Complaint relating to the distribution, supply, sale or offering for sale of consumer hair care products in California by the Settling Defendants. For purposes of settlement, the Parties stipulate and agree that the First Amended Complaint and Settled Claims shall include all claims that, prior to the Date of the Final Judgment, Defendants distributed, supplied, sold or offered for sale in California consumer hair care products in violation of California Code of Regulations, title 17, sections 94507 through 94517, California Health and Safety Code sections 41513, 42402, 42402.1, 42402.2, 42402.3 (or any other applicable provision of Division 26, part 4, chapter 3 of the California Health and Safety Code) and California Business and Professions Code section 17200 *et seq*. The Settled Claims also include (a) all Regulated Hair Care Products and civil penalties for failure to comply with requests for information that were the subject of ten-day letters issued by the California Air Resources Board ("CARB") to any Defendant prior to the Date of the Final Judgment; (b) all hair care products that were identified in the Notices of Violation ("NOVs") attached to the First Amended Complaint; (c) all hair care products that any Settling Defendant distributed, supplied, sold or offered for sale prior to the Date of the Final Judgment; (d) all alleged violations relating to the hair care products identified in Plaintiff's Motion for Preliminary Injunction; (e) the categorization of products as Hair Styling Products prior to the Date of the Final Judgment; (f) any failure to take corrective action within a reasonable period of time with respect to the alleged emission of excess VOCs in connection with hair care products supplied, sold or offered for sale by the Settling Defendants prior to the Date of the Final Judgment; and (g) any claim that existed as of the date of entry of the Final Judgment that Defendant Pro's Choice's agreements with Defendant Retailers to defend and indemnify the other Settling Defendants with respect to the Settled Claims are unlawful and violate Business and Professions Code section 17200 *et seq.*, California Code of Civil Procedure section 1060, California Civil Code sections 1668 and 2773, and Insurance Code section 533.5.

3. The provisions of this Stipulation and the Final Judgment are applicable to Defendants Pro's Choice, Rite Aid Corporation, Longs Drug Stores California, LLC, CVS Pharmacy, Inc.,

Walgreen Co., Ralphs Grocery Company, Target Corporation and Kmart Corporation, and each of their respective successors and assigns. The provisions of this Stipulation and the Final Judgment apply only to consumer hair care products distributed, supplied, sold or offered for sale by Defendant Pro's Choice in the State of California or which the Defendant Retailers purchased from Defendant Pro's Choice and distributed, supplied, sold or offered for sale in the State of California. Independent contractors and subcontractors are not covered by this Stipulation and the Final Judgment except for past acts as alleged in the First Amended Complaint which were performed at the direction of the Defendants.

4. For purposes of this Stipulation and the Final Judgment, unless otherwise specified, the definitions set forth in California Health and Safety Code section 41700 *et seq.*, and California Code of Regulations, title 17, sections 94507 through 94517, inclusive, as they exist on the date of entry of the Final Judgment, shall apply to the technical terms used herein. To the extent these definitions are amended (or should different statutory or regulatory definitions become applicable), the amendments and regulations in effect at the time of the acts, omissions, or events shall apply.

5. Nothing in this Stipulation or the Final Judgment shall excuse Defendants, collectively or individually, from prospectively meeting more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation, regulations, ordinances or permits from and after the effective date thereof.

PERMANENT INJUNCTION

6. Pursuant to California Health and Safety Code section 41513, California Government Code section 12607, and California Business and Professions Code section 17203, Defendants are each permanently enjoined and each Defendant shall comply with the applicable provisions of California Code of Regulations, title 17, sections 94507 through 94517, inclusive, with respect to the Regulated Hair Care Products they distribute, supply, sell or offer for sale in or to retail stores in California. As used herein, "Regulated Hair Care Products" means hair care products within the definition of California Code of Regulations, title 17, section 94508, subdivision (a), sections (76) through (80) defining "Hair Sprays," "Hair Styling Gels," "Hair Shines," "Hair Styling

Products" and "Hair Mousses." Nothing in this Stipulation shall alter the provisions of California Code of Regulations, title 17, section 94512, subdivision (a).

7. With respect to containers of Regulated Hair Care Products shipped by Defendant Pro's Choice to California after the Date of the Final Judgment, which products are to be distributed, supplied, sold or offered for sale in California, Defendant Pro's Choice is enjoined and mandated to comply with the requirements of Exhibit A entitled "Compliance Program" attached hereto and incorporated as if fully set forth herein.

8. Defendant Pro's Choice is mandated to monitor, self-audit and inspect hair care products which it ships to California to be distributed, supplied, sold or offered for sale in California, as set forth in Exhibit B entitled "Audit Program" attached hereto and incorporated as if fully set forth herein.

9. Defendant Pro's Choice's compliance with the Compliance Program in Exhibit A and the Audit Program in Exhibit B of this Stipulation shall constitute compliance by only Defendant Pro's Choice with the Permanent Injunction provisions set forth in Paragraph 6 of this Stipulation. Nothing in this paragraph shall preclude a Defendant Retailer from asserting that Defendant Pro's Choice's conduct is evidence of such Defendant Retailer's compliance with Paragraph 6 of this Stipulation. Nothing in this paragraph shall preclude Plaintiff from asserting that Defendant Pro's Choice's conduct is not evidence of a Defendant Retailer's compliance with Paragraph 6 of this Stipulation.

10. Defendant Retailers that have the capability shall implement "Stop Sales" of specified products or containers within seventy-two (72) hours of a written request to do so by Defendant Pro's Choice. "Stop Sales" shall be a direction to stores to cease sales of specific products or containers in California by modifying the computerized inventory and/or sales system to indicate when the product is scanned at the retail store cash register that the product cannot be sold. The Defendant Retailers with the capability to implement a Stop Sale shall also issue an instruction to their California employees and/or store managers not to override the register or sales system with respect to Regulated Hair Care Products. The Defendant Retailers that have the capability to implement a Stop Sale are Longs Drug Stores California, LLC, Walgreen Co., Ralphs Grocery

Company, Target Corporation, and Kmart Corporation. Should Defendant Rite Aid subsequently have Stop Sales capability, Defendant Rite Aid also shall implement Stop Sales of specific products or containers thereof in its California stores within seventy-two (72) hours of a written request to do so by Defendant Pro's Choice. Until Defendant Rite Aid implements a Stop Sales capability, Defendant Rite Aid shall remove all the specified products or containers from its shelves for sale in California stores within five calendar days (which shall be extended by an additional calendar day if the fifth day is a Sunday or holiday) of a written request to do so by Defendant Pro's Choice. If a manufacturer or filler of a Regulated Hair Care Product provides written notice to a Defendant Retailer that is received by the Defendant Retailer's counsel or by the Defendant Retailer's corporate headquarters that a certain product (or certain containers thereof) does not satisfy the applicable VOC-content requirements, the Defendant Retailer shall promptly forward such written notice to Defendant Pro's Choice Beauty Care, Inc., 35 Sawgrass Drive, Suite 1, Bellport, New York 11713, Attention: Corporate Counsel, or to Pro's Choice's counsel in this action. The provisions of Exhibit B shall apply upon receipt of such written notice by Defendant Pro's Choice's counsel or Defendant Pro's Choice's headquarters in Bellport, New York.

11. The removal of a Regulated Hair Care Product or container from California, issuance of Stop Sales or any other action taken pursuant to this Stipulation or the Final Judgment shall neither be construed as an admission that a product or container does not comply with California VOC-content or date code regulations, nor as a waiver, estoppel or relinquishment of any Party's factual or legal position with respect to such Regulated Hair Care Product or container. Defendants shall not be required pursuant to this Stipulation or the Final Judgment to implement a product removal or Stop Sales or take any other corrective action with respect to a product that complies with California VOC-content and date code statutes and regulations.

12. Defendant Pro's Choice shall be required, for a period of five (5) years from the Date of Final Judgment, to generate quarterly self-auditing compliance reports. Each quarterly compliance report from Defendant Pro's Choice shall be sent to the current Manager of the Consumer Products Enforcement Section, California Air Resources Board, at (916) 322-6965

(work) and (916) 445-5745 (fax) or at 1001 I Street, Sacramento, California 95814, no later than April 10, July 10, October 10 and January 10 of each year reporting is required. The first quarterly report shall be due on July 10, 2010 and shall cover the period from the Date of Final Judgment through June 30, 2010. Each quarterly report shall be in digital format on a CD or DVD containing the following information: product information (manufacturer, name, size and batch or other code set forth on the products, labeling or container) for each container of Regulated Hair Care Product identified as a violation and suspected violation of California VOC-content or date code requirements, the quantity or number of containers of Regulated Hair Care Product identified as violations and as suspected violations, documentation verifying removal of the containers of Regulated Hair Care Product identified as violations and suspected violations from State prior to sale, disposition of the containers of Regulated Hair Care Product identified as violations and suspected violations (destroyed or sent to a state other than California), a statement of reasons as to why the violation and any suspected violation occurred, and a statement of corrective actions taken to ensure no future violations for the product(s). As to Regulated Hair Care Products purchased from Defendant Pro's Choice and distributed, supplied, sold, or offered for sale in California, each Defendant Retailer shall retain for a period of three (3) years from date of creation (a) written verification of compliance as set forth in Paragraph 3 of Exhibit A attached to this Stipulation; (b) any Stop Sales or product removal notices and letters relating to VOC-content or date code restrictions that the particular Defendant Retailer receives from Pro's Choice or a manufacturer and letters responding thereto, if any; (c) documentation necessary to demonstrate implementation of any Stop Sales or product removals; and (d) any inventory data and sales records related to any Stop Sales or product removals referred to in subparagraph 12(b), above.

13. If Defendant Pro's Choice removes containers of Regulated Hair Care Products from the State of California that have been identified as violations and/or suspected violations of California VOC-content or date code requirements, Defendant Pro's Choice shall hold such containers for a period of thirty (30) days (the "Notification Period") after submitting the quarterly self-auditing compliance report pertaining to those containers and referred to in Paragraph 12 above. Should

Plaintiff wish to inspect the containers held by Defendant Pro's Choice, it shall notify Defendant Pro's Choice within the thirty (30) day period by certified mail, return receipt requested. Defendant Pro's Choice shall provide Plaintiff with photographs of the labels of the containers, including any batch and date codes within seventy-two (72) hours of receipt of the request for inspection. If after reviewing the photographs, Plaintiff wishes to inspect the actual containers, Plaintiff shall so notify Defendant Pro's Choice in writing, sent by certified mail, return receipt requested within five (5) calendar days (which shall be extended by an additional calendar day if the fifth day is a Sunday or holiday) of receipt of the photographs. Defendant Pro's Choice shall then retain custody of the containers and make the containers available for inspection in California within thirty (30) days of the receipt of the inspection request (the "Holding Period"). Should any Party wish to test the containers, the Parties shall agree upon a laboratory to conduct the test or, if samples of the content of the containers can be independently tested by both Plaintiff's and Defendant's laboratories, the Parties shall agree upon a procedure to allow for such testing. If Plaintiff does not request an inspection during the Notification Period or, if after a timely request for an inspection, Plaintiff does not conduct an inspection during the Holding Period, then Defendant Pro's Choice may destroy the removed containers of Regulated Hair Care Product in accordance with any applicable statutes or regulations or may sell them in another state outside of California. Defendant Pro's Choice may sell the product that it is currently holding for further inspection as of the Date of the Final Judgment in another state outside of California or destroy it in accordance with applicable law.

14. Upon written request by certified mail, return receipt requested, Defendant Pro's Choice shall make available to Plaintiff any written verification from manufacturers or Responsible Parties (as defined in California Code of Regulations, title 17, section 94508, subdivision (a)(123)) received within the quarter for which a report is being generated, concerning the VOC-content of any Regulated Hair Care Product or product line of Regulated Hair Care Product and any analytical testing results that Defendant Pro's Choice relies upon to establish compliance with VOC-content restrictions for products supplied to retail stores in California in the same quarter for which the report is being generated. Defendant Pro's Choice shall maintain these and all other

VOC-content verification records for as long as it ships containers with the identical manufacturer's label, including specific product name, size and listed order of ingredients, to California for distribution, sale, or offering for sale in California retail stores and for three (3) years thereafter. All documents required pursuant to this paragraph shall be made available to Plaintiff within thirty (30) days of Defendant Pro's Choice's receipt of the written request.

15. Upon written request by certified mail, return receipt requested, Defendant Pro's Choice shall also make available to Plaintiff documents sufficient to show the removal, return, rejection, salvage, or destruction of containers of Regulated Hair Care Products from the Settling Defendants' California Stores that have been identified as a violation or suspected violation of California VOC-content or date code requirements within the quarter for which the report is requested based on data then available. Defendant Pro's Choice shall maintain these records for one (1) year after the removal, return, rejection, salvage or destruction of the container. All documents required pursuant to this paragraph shall be made available to Plaintiff within thirty (30) days of Defendant Pro's Choice's receipt of the written request.

16. Any party may seek modification of the injunctive provisions of the Final Judgment as permitted by law or by the Court.

CIVIL PENALTIES

17. Defendants shall be jointly and severally liable to the People for the sum of **NINE HUNDRED THIRTY THOUSAND DOLLARS ($930,000.00)** for civil penalties, pursuant to Business and Professions Code section 17206 and Health and Safety Code sections 42402.3, 42402.2, 42402.1, 42402 and 42403 for all Regulated Hair Care Products that allegedly did not comply with California Code of Regulations, title 17, sections 94507 through 94517, inclusive, and that were distributed, supplied, sold or offered for sale by Defendants in California prior to the Date of the Final Judgment. By the close of the next business day after all Parties have executed this Stipulation and delivered it to counsel for Defendant Pro's Choice, the payment for civil penalties shall be deposited by wire transfer into the Burke, Williams & Sorensen, LLP client trust account. Within two business days after notice of entry of the Final Judgment, Burke, Williams & Sorensen, LLP shall issue eight checks from its client trust account made payable to

the following payees, to be distributed by the Attorney General as follows:

California Air Resources Board	$ 475,000.00
California Attorney General	$ 150,000.00
Stanislaus County District Attorney	$ 150,000.00
Sacramento County District Attorney	$ 37,500.00
San Bernardino County District Attorney	$ 37,500.00
San Joaquin County District Attorney	$ 37,500.00
Solano County District Attorney	$ 37,500.00
El Dorado County District Attorney	$ 5,000.00

The civil penalty of $455,000 received by the California Attorney General, Stanislaus County District Attorney, Sacramento County District Attorney, San Bernardino County District Attorney, Solano County District Attorney, El Dorado County District Attorney, and San Joaquin County District Attorney shall be apportioned as civil penalties received pursuant to Business and Professions Code section 17206.

The civil penalty of $475,000 received by the California Air Resources Board shall be apportioned as civil penalties received pursuant to Health and Safety Code section 42403.

No additional civil penalties shall be due for any alleged violations of Business and Professions Code sections 17206, and Health and Safety Code sections 42402.3, 42402.2, 42402.1, 42402 and 42403 or California Code of Regulations, title 17, sections 94507 through 94517 for the Settled Claims.

ATTORNEYS' FEES AND COSTS

18. Defendants shall be responsible, jointly and severally, to pay within thirty (30) days after the entry of the Final Judgment, the sum of THREE HUNDRED AND TWENTY THOUSAND DOLLARS ($320,000.00) to Plaintiff as attorneys' fees and costs, including costs of inspection, investigation, enforcement, prosecution and suit (including expert fees) pursuant to California Code of Civil Procedure section 1021.8. By the close of the next business day after all Parties have executed this Stipulation and delivered it to counsel for Defendant Pro's Choice, the payment for attorneys' fees and costs shall be deposited by wire transfer into the Burke, Williams

& Sorensen, LLP client trust account. Within two business days after notice of entry of the Final Judgment, Burke, Williams & Sorensen, LLP shall issue four (4) checks from its client trust account made payable as follows:

California Attorney General	$ 100,000.00
California District Attorneys Association	$ 134,000.00 (divided equally between the "Circuit Prosecutor Project" and the "Statewide Rural Circuit Prosecutor Project")
Craig Thompson Environmental Protection Prosecution Fund	$ 86,000.00

No additional attorneys' fees and costs shall be due, including costs of inspection, investigation, enforcement, prosecution, and suit (including expert fees and any costs or expenses under Health and Safety Code section 42405.5) in connection with the Settled Claims or the prosecution of this action.

Burke, Williams & Sorensen, LLP shall deliver all checks required by paragraphs 17 and 18 above to the Office of the California Attorney General as set forth below. In the alternative, payments may be made by wire transfer and such transfers shall be electronically transmitted to an account and routing number as directed in writing by Plaintiff to Defendants following the entry of the Final Judgment. All payments made by check shall be delivered to the following address:

Office of the California Attorney General
Attention: Michele Mercado
Environment Section
1300 "I" Street, 15th Floor
P.O. Box 944255
Sacramento, California 94244-2550

The Office of the California Attorney General shall disburse the penalties and funds in accordance with the terms of the Final Judgment, and to the entities identified in Paragraphs 17 and 18. Defendants shall provide copies of all payments made, either by mail or personal delivery, to:

Office of the California Attorney General
Brett J. Morris, Deputy Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550

ENFORCEMENT AND LIABILITY FOR NON-COMPLIANCE BY DEFENDANTS

19. Nothing in this Stipulation or the Final Judgment shall restrict or condition the ability of Plaintiff to separately administer or enforce laws or regulations, codes, orders, or the provisions of any permit issued by CARB for any matter that is not the subject of Plaintiff's covenant not to sue in Paragraph 24 below. Nothing in this Stipulation or the Final Judgment shall prevent Settling Defendants from initiating judicial or administrative action against Plaintiff, CARB or any other enforcement agency for any matter that is not the subject of Defendants' covenant not to sue in Paragraph 25 below.

AUTHORITY TO ENTER STIPULATION

20. Each signatory to this Stipulation certifies that he or she is fully authorized by the Party he or she represents to enter into this Stipulation, to execute it on behalf of the Party represented, and to legally bind that Party. This Stipulation may be executed by the Parties in counterparts, and when a copy is signed by an authorized representative of each Party, the stipulation shall be effective as if a single document were signed by all Parties.

INTEGRATION

21. This Stipulation constitutes the entire agreement between the Parties as to the matters addressed herein. This Stipulation includes the agreement that the Final Judgment shall not be amended or supplemented except upon written order of this Court. Except as expressly stated herein, no agreements, promises, representations or warranties have been made or relied upon by any Party hereto with respect to the terms of this Stipulation to the Entry of Final Judgment. Each Party to this Stipulation has conducted its own independent investigation of the facts and claims alleged in the First Amended Complaint and settled herein.

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JURISDICTION RETAINED

22. The Parties request that the Court retain jurisdiction over the Parties pursuant to California Code of Civil Procedure section 664.6 to enforce this settlement until performance in full of the terms of the settlement, including:

(a) entering this Stipulation to the Entry of Final Judgment;

(b) adjudicating any proceeding to enforce the Final Judgment;

(c) adjudicating any contempt of the Final Judgment;

(d) resolving any dispute that may arise between the Parties regarding the Final Judgment; and

(e) issuing such further orders as may be necessary and appropriate for the interpretation, implementation, modification and enforcement of the Final Judgment.

NO WAIVER OF RIGHT TO ENFORCE

23. The failure of any Party to enforce any provision of this Stipulation or the Final Judgment shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulation or the Final Judgment. The failure of any Party to enforce any such provision shall not preclude that Party from later enforcing the same or any other provision of the Final Judgment during the period that provision of the Final Judgment remains in effect. No oral advice, guidance, suggestions or comments by employees or officials of any Party regarding matters covered in this Stipulation or the Final Judgment shall be construed to relieve any Party of its obligations required by this Stipulation or the Final Judgment.

MATTERS RESOLVED BY THE FINAL JUDGMENT

24. This Stipulation to the Entry of Final Judgment is a final and binding resolution and settlement as to the Parties and the Settled Claims as defined above. Except as necessary to enforce this Stipulation or the Final Judgment, Plaintiff hereby covenants not to sue, assert or pursue any claims or causes of action in any forum against the Defendants, or each of their officers, directors, employees, shareholders, representatives, agents, Contractors, Subcontractors, parent, subsidiary or affiliated companies, Customers, successors or assigns, arising from or in connection with all Settled Claims. (As used in this Paragraph 24 of this Stipulation,

"Customers" shall mean those persons and entities to whom Defendants sold Regulated Hair Care Products prior to the Date of Final Judgment. As used herein, "Contractors" and "Subcontractors" shall mean those persons and entities acting at the direction of or on behalf of Defendants prior to the Date of Final Judgment.) Plaintiff represents and warrants that it has not assigned or transferred any Settled Claim and that it will not assign or transfer, or purport to assign or transfer, any such Settled Claim in the future.

25. Except as necessary to enforce the terms of this Stipulation or the Final Judgment, Defendants also covenant not to sue, and agree not to assert or pursue any claims or causes of action against Plaintiff, or its representatives, agents, contractors, subcontractors or employees, for the Settled Claims. Defendants represent and warrant that they have not assigned or transferred the claims or causes of action that are the subject of the foregoing covenant not to sue and agree that they will not assign or transfer, or purport to assign and transfer, any such claims in the future.

26. Nothing in this Stipulation or the Final Judgment shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future claims except as provided in this Stipulation and the Final Judgment.

27. Defendants shall not seek their costs, attorneys' fees, investigatory costs, expert witness fees or other costs of litigation from Plaintiff, its officials, agents, or representatives.

28. Plaintiff shall dismiss, and hereby does dismiss, with prejudice all of the causes of action alleged in the First Amended Complaint as to Defendant Marcy J. Blick, with Plaintiff and Defendant Blick to each bear their own attorneys' fees and costs.

29. Nothing in this Agreement shall affect Plaintiff's or any other entity's right or ability to sue, assert, or pursue any claims or causes of action seeking to invalidate in whole or in part any agreement by Defendant Pro's Choice to defend or indemnify the Defendant Retailers in connection with those Regulated Hair Care Products supplied, sold or offered for sale after the Date of the Final Judgment.

INTERPRETATION

30. This Stipulation to the Entry of Final Judgment shall be deemed to have been drafted

equally by all Parties hereto. Accordingly, the Parties hereby agree that any and all rules of construction to the effect that ambiguity is construed against a drafting Party shall be inapplicable in any dispute concerning the terms, meaning, or interpretation of this Stipulation or the Final Judgment.

NOTICES

31. Unless otherwise specified, any notices or requests provided by this Stipulation shall be sent to the following addresses by certified mail, return receipt requested unless otherwise designated in writing by the party to receive the notice or request.

(a) If to Defendant Pro's Choice:

Pro's Choice Beauty Care, Inc.
35 Sawgrass Drive, Suite 1
Bellpark, NY 11713
Attention: Corporate Counsel

With a copy to:

Melodie K. Larsen, Esq.
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, CA 90071

(b) If to Plaintiff:

Brett Morris
Deputy Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, California 94612

With a copy to:

Matthew Maclear
Deputy District Attorney
832 12th Street, Suite 300
Modesto, CA 95313

EFFECTIVE DATE

32. The "Date" of the Final Judgment shall be the date of entry of the Final Judgment by this Court.

33. At any time sixty (60) months after the Date of the Final Judgment by the Court, any Party may provide notice to the Court (which shall be served on all other Parties) that the Permanent

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Injunction provisions of the Final Judgment should expire and have no further force or effect ("Notice of Termination"). A motion seeking to modify or terminate the Permanent Injunction may be filed and set for hearing by the Court. In the event that such a motion is filed, none of the injunctive provisions of the Final Judgment will terminate pending the Court's ruling on the motion. The termination of any of the injunctive provisions of the Final Judgment shall have no effect on any Party's obligation to comply with requirements imposed by statute, regulation, ordinance, or law. Nothing in this paragraph is intended to modify existing law with respect to the modification or termination of permanent injunctions.

The Parties, by and through their respective and duly authorized representatives, hereby stipulate and consent to this Stipulation to the Entry of Final Judgment and Permanent Injunction.

IT IS SO STIPULATED.

FOR PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA:

Dated: March _____, 2010

EDMUND G. BROWN JR.
Attorney General of California

_____
BRETT J. MORRIS
Deputy Attorney General
Attorneys for Plaintiff
The People of the State of California

Dated: March _____, 2010

BIRGIT FLADAGER
District Attorney, County of Stanislaus

_____
MATTHEW MACLEAR
Deputy District Attorney

FOR THE SETTLING DEFENDANTS:

Dated: March 12, 2010

PRO'S CHOICE BEAUTY CARE, INC.

MICHAEL ROSS
President
For Pro's Choice Beauty Care, Inc.

Dated: March _____, 2010

RITE AID CORPORATION

JAMES COMITALE
Vice President and Assistant Secretary
For Rite Aid Corporation

Dated: March _____, 2010

Longs Drug Stores California, LLC. (for formerly-named Defendants Longs Drug Stores California, Inc. and Longs Drug Stores Corporation)

DENNIS MURPHY
Senior Legal Counsel
For Longs Drug Stores California, LLC.

Dated: March _____, 2010

WALGREEN CO.

Its_____
For Walgreen Co.

FOR THE SETTLING DEFENDANTS:

Dated: March` _____, 2010

PRO'S CHOICE BEAUTY CARE, INC.

_____
MICHAEL ROSS
President
For Pro's Choice Beauty Care, Inc.

Dated: March 15, 2010

RITE AID CORPORATION

_____
JAMES COMITALE
Vice President and Assistant Secretary
For Rite Aid Corporation

Dated: March _____, 2010

Longs Drug Stores California, LLC. (for formerly-named Defendants Longs Drug Stores California, Inc. and Longs Drug Stores Corporation)

_____
DENNIS MURPHY
Senior Legal Counsel
For Longs Drug Stores California, LLC.

Dated: March _____, 2010

WALGREEN CO.

_____

Its_____
For Walgreen Co.

FOR THE SETTLING DEFENDANTS:

Dated: March` _____, 2010

PRO'S CHOICE BEAUTY CARE, INC.

_____

MICHAEL ROSS
President
For Pro's Choice Beauty Care, Inc.

Dated: March _____, 2010

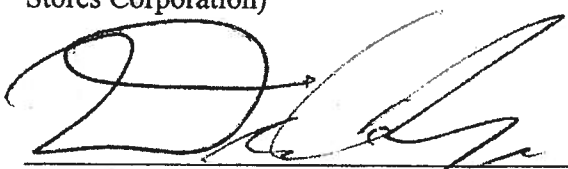
RITE AID CORPORATION

_____

JAMES COMITALE
Vice President and Assistant Secretary
For Rite Aid Corporation

Dated: March 11, 2010

Longs Drug Stores California, LLC. (for formerly-named Defendants Longs Drug Stores California, Inc. and Longs Drug Stores Corporation)



DENNIS MURPHY
Senior Legal Counsel & Asst. Secretary
For Longs Drug Stores California, LLC.

Dated: March _____, 2010

WALGREEN CO.

_____

Its_____
For Walgreen Co.

FOR THE SETTLING DEFENDANTS:

Dated: March` _____, 2010

PRO'S CHOICE BEAUTY CARE, INC.

_____
MICHAEL ROSS
President
For Pro's Choice Beauty Care, Inc.

Dated: March _____, 2010

RITE AID CORPORATION

_____
JAMES COMITALE
Vice President and Assistant Secretary
For Rite Aid Corporation

Dated: March _____, 2010

Longs Drug Stores California, LLC. (for formerly-named Defendants Longs Drug Stores California, Inc. and Longs Drug Stores Corporation)

_____
DENNIS MURPHY
Senior Legal Counsel
For Longs Drug Stores California, LLC.

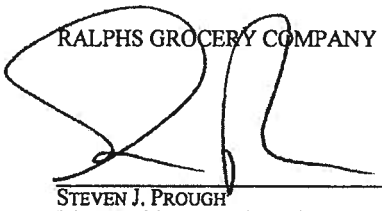
Dated: March 10, 2010

WALGREEN CO.

_____ 3/10/10
Shannon Petree
Divisional Vice President and General Merchandise Manager

Dated: March 10, 2010

RALPHS GROCERY COMPANY



STEVEN J. PROUGH
Vice President, Legal Services
For Ralphs Grocery Company

Dated: March _____, 2010

KMART CORPORATION

MARY ELIZABETH TORTORICE
Vice President and Deputy General Counsel
Sears Holdings Management Corporation
For Kmart Corporation

Dated: March _____, 2010

TARGET CORPORATION

ROBIN L. PREBLE
Senior Group Legal Counsel
For Target Corporation

APPROVED AS TO FORM

Dated: March _____, 2010

BURKE, WILLIAMS, & SORENSEN, LLP
By:

MELODIE K. LARSEN
Attorneys for Pro's Choice Beauty Care, Inc.
and Marcy J. Blick

Dated: March _____, 2010

RALPHS GROCERY COMPANY

_____
STEVEN J. PROUGH
Vice President, Legal Services
For Ralphs Grocery Company

Dated: March 12, 2010

KMART CORPORATION

Mary Elizabeth Tortorice
MARY ELIZABETH TORTORICE
Vice President and Deputy General Counsel
Sears Holdings Management Corporation
For Kmart Corporation

Dated: March _____, 2010

TARGET CORPORATION

_____
ROBIN L. PREBLE
Senior Group Legal Counsel
For Target Corporation

APPROVED AS TO FORM

Dated: March _____, 2010

BURKE, WILLIAMS, & SORENSEN, LLP
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Attorneys for Pro's Choice Beauty Care, Inc.
and Marcy J. Blick

Dated: March _____, 2010

RALPHS GROCERY COMPANY

_____
STEVEN J. PROUGH
Vice President, Legal Services
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Dated: March _____, 2010

KMART CORPORATION

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MARY ELIZABETH TORTORICE
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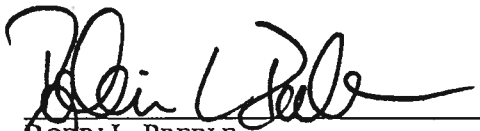
Sears Holdings Management Corporation
For Kmart Corporation

Dated: March 11, 2010

TARGET CORPORATION



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ROBIN L. PREBLE
Senior Group Legal Counsel
For Target Corporation

APPROVED AS TO FORM

Dated: March _____, 2010

BURKE, WILLIAMS, & SORENSEN, LLP
By:

_____
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Attorneys for Pro's Choice Beauty Care, Inc.
and Marcy J. Blick

Dated: March _____, 2010

RALPHS GROCERY COMPANY

_____
STEVEN J. PROUGH
Vice President, Legal Services
For Ralphs Grocery Company

Dated: March _____, 2010

KMART CORPORATION

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MARY ELIZABETH TORTORICE
Vice President and Deputy General Counsel
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For Kmart Corporation

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TARGET CORPORATION

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Senior Group Legal Counsel
For Target Corporation

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BURKE, WILLIAMS, & SORENSEN, LLP
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Melodie K Larsen
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Dated: March 15, 2010

STEVENS, O'CONNELL & JACOBS, LLP
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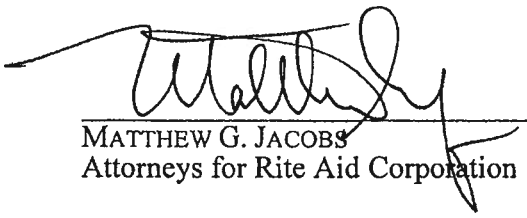

MATTHEW G. JACOBS
Attorneys for Rite Aid Corporation

Dated: March _____, 2010

GREENBURG TRAURIG LLP
By:

JAMES MATTESICH
Attorneys for Defendant Longs Drug Stores California, LLC and Walgreen Co.

Dated: March _____, 2010

MORRISON & FOERSTER, LLP
By:

MICHAEL JACOB STEEL
Attorneys for Defendants Ralphs Grocery Company and Kmart Corporation

Dated: March _____, 2010

MORRISON & FOERSTER, LLP
By:

PETER HSIAO
Attorneys for Target Corporation

Dated: March _____, 2010

STEVENS, O'CONNELL & JACOBS, LLP
By:

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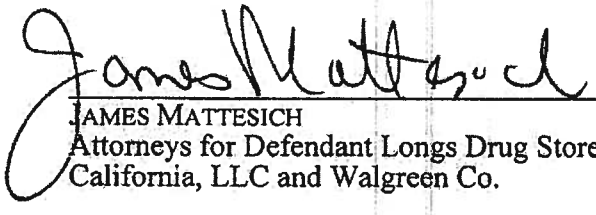
MATTHEW G. JACOBS
Attorneys for Rite Aid Corporation

Dated: March 15, 2010

GREENBURG TRAURIG LLP
By:



_____
JAMES MATTESICH
Attorneys for Defendant Longs Drug Stores California, LLC and Walgreen Co.

Dated: March _____, 2010

MORRISON & FOERSTER, LLP
By:

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MICHAEL JACOB STEEL
Attorneys for Defendants Ralphs Grocery Company and Kmart Corporation

Dated: March _____, 2010

MORRISON & FOERSTER, LLP
By:

_____
PETER HSIAO
Attorneys for Target Corporation

Dated: March _____, 2010

STEVENS, O'CONNELL & JACOBS, LLP
By:

_____
MATTHEW G. JACOBS
Attorneys for Rite Aid Corporation

Dated: March _____, 2010

GREENBURG TRAURIG LLP
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JAMES MATTESICH
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Dated: March 12, 2010

MORRISON & FOERSTER, LLP
By:

_____
MICHAEL JACOB STEEL
Attorneys for Defendants Ralphs Grocery Company and Kmart Corporation

Dated: March _____, 2010

MORRISON & FOERSTER, LLP
By:

_____
PETER HSIAO
Attorneys for Target Corporation

Dated: March _____, 2010

STEVENS, O'CONNELL & JACOBS, LLP
By:

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MATTHEW G. JACOBS
Attorneys for Rite Aid Corporation

Dated: March _____, 2010

GREENBURG TRAURIG LLP
By:

_____
JAMES MATTESICH
Attorneys for Defendant Longs Drug Stores California, LLC and Walgreen Co.

Dated: March _____, 2010

MORRISON & FOERSTER, LLP
By:

_____
MICHAEL JACOB STEEL
Attorneys for Defendants Ralphs Grocery Company and Kmart Corporation

Dated: March 16, 2010

MORRISON & FOERSTER, LLP
By:

_____
PETER HSIAO
Attorneys for Target Corporation

EXHIBIT A

COMPLIANCE PROGRAM

1. For each container of hair care products within the definitions in California Code of Regulations, title 17, section 94508, subdivision (a), sections (76) through (80) ("Hair Sprays," "Hair Styling Gels," "Hair Shines," "Hair Styling Products" and "Hair Mousses") (hereinafter, collectively, "Regulated Hair Care Products") that it ships to California after the date of the Final Judgment to be distributed, supplied, sold or offered for sale by retail stores in California, Defendant Pro's Choice shall perform at least one of the steps described in Paragraphs (a) through (c) below:

a. Verify that each container clearly indicates that it is compliant with California VOC-content restrictions (such as, for example, by labeling containers that comply with California VOC-content restrictions by placing "CA" in the part number, labeling those containers that meet California VOC-content restrictions as "low VOC" or as meeting "stringent VOC clean air standards," labeling containers as California compliant, or labeling as non-compliant only those containers that are not good for California).

b. Test one or more representative samples of such containers pursuant to CARB Method 310 (*See* California Code of Regulations, title 17, section 94515) prior to distributing, supplying, selling or offering for sale such product in the State of California. A representative sample as used in subdivision b, paragraph 1 of this Exhibit A, shall be defined to be a container with the same manufacturer's UPC (except where the UPC differs solely because of the container size) and same ingredients in the same listed order. Testing shall be repeated whenever (a) the manufacturer's UPC changes; (b) the ingredients listed change; or (c) the listed order of the ingredients changes.

In those cases where the UPC of a Regulated Hair Care Product differs solely because of container size and Plaintiff provides Defendant Pro's Choice with either (i) written documentation from the manufacturer or filler of the

Regulated Hair Care Product establishing that the VOC-content of one size container complies with California VOC-content restrictions while another size container of the same Regulated Hair Care Product with the same ingredients in the same listed order does not, or (ii) CARB's written test results establishing that the VOC-content of one size container complies with California VOC-content restrictions while another size container of the same Regulated Hair Care Product with the same ingredients in the same listed order does not, then Defendant Pro's Choice shall test each size of that Regulated Hair Care Product with the same ingredients in the same listed order prior to any further distributing, supplying, selling or offering to sell in California the container size that has been identified as non-compliant. Defendant Pro's Choice's receipt of written manufacturer documentation pursuant to this subparagraph shall cause all of the procedures of Paragraph 1 of Exhibit B to be implemented. Defendant Pro's Choice's receipt of CARB's written test results pursuant to this subparagraph shall cause all of the provisions of Paragraph 3 of Exhibit B to be implemented.

c. Obtain written documentation from the product manufacturer and/or Responsible Party (as defined in California Code of Regulations, title 17, section 94508, subdivision (a)(123)) that such Regulated Hair Care Product or containers thereof to be distributed, supplied, sold, or offered for sale in the State of California comply with California's VOC-content restrictions (California Code of Regulations, title 17, section 94509).

2. Defendant Pro's Choice shall also inspect each container of Regulated Hair Care Products for compliance with the product dating information requirements of California Code of Regulations, title 17, sections 94512.

3. Defendant Pro's Choice shall provide written verification of compliance with the provisions of Exhibit A to the other Settling Defendants on a quarterly basis by the 15th day of the month immediately following the end of each calendar quarter.

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4. Defendant Pro's Choice shall implement and maintain procedures by which Regulated Hair Care Products are screened and sorted for date codes and compliance with California VOC-content restrictions prior to shipment to California to be distributed, supplied, sold or offered for sale by retail stores in California.

EXHIBIT B

AUDIT PROGRAM

Defendant Pro's Choice shall monitor, self-audit and inspect the Regulated Hair Care Products it ships to California to be distributed, supplied, sold or offered for sale by retail stores in California by performing the following steps:

1. If a manufacturer or filler of a Regulated Hair Care Product provides written notice to Defendant Pro's Choice or written notice to a Defendant Retailer that is forwarded to Defendant Pro's Choice (as provided by Paragraph 11 of the Stipulation), which notice is received by Defendant Pro's Choice's counsel or at Defendant Pro's Choice's corporate headquarters in Bellport, New York, that a certain product or certain containers thereof do not satisfy the applicable California VOC-content requirements, Defendant Pro's Choice, after verifying the information provided, shall issue a product removal notice for all affected containers to all entities receiving any affected containers from Defendant Pro's Choice. Defendant Pro's Choice shall have five (5) business days after receipt of the written notice to verify the information provided by the manufacturer or filler. If the information provided by the manufacturer or filler is verified, Defendant Pro's Choice shall have three (3) days from the verification to issue a removal notice. The removal notice shall include a request that the Defendant Retailers who received the affected product implement a Stop Sale for the specific product or containers identified in the removal notice. Defendant Pro's Choice shall take such steps as are reasonably necessary to ensure that all affected containers are removed within thirty (30) days of the removal notice. All affected containers shall be returned in accordance with the applicable product removal procedures in place between Defendant Pro's Choice and each Defendant Retailer. Such containers shall be identified in quarterly compliance reports submitted by Defendant Pro's Choice referred to in paragraph 13 of the Stipulation of Parties to the Entry of Final Judgment and Permanent Injunction.

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2. If Defendant Pro's Choice identifies any potentially non-compliant containers of Regulated Hair Care Product(s) that it has shipped to California to be distributed, supplied, sold or offered for sale in California:

a. The potentially non-compliant containers shall be immediately pulled from the shelves of the store locations where they were found and immediately processed for return to Defendant Pro's Choice in New York for inspection. The means for return to New York shall be by the most appropriate means of ground transportation to ensure the quickest delivery under the circumstances. The Parties agree that UPS Ground shall be sufficient to satisfy this requirement in any case and that Defendant Pro's Choice shall bear the expense of such return. Defendant Pro's Choice shall inspect the returned containers for compliance with California law. The method of inspection shall be to inspect the manufacturer's labeling of the container and compare it to samples that Defendant Pro's Choice already knows are either compliant or non-compliant with California VOC-content restrictions based on previous use of one of the criteria set forth in paragraphs 1(a) through 1(c) of Exhibit A.

b. Within ten (10) business days after receipt of the container in New York, Defendant Pro's Choice shall complete an investigation to determine whether the non-compliant container was an isolated incident or whether additional non-compliant containers were shipped to California customers for distribution, sale or offer for sale in California. Defendant Pro's Choice's investigation shall include a review of any irregularities in warehouse procedures and an inspection of at least five (5) other stores in the same retail chain for additional non-compliant containers by the same product name and label, date code (if the product is subject to a sell-through period), size, exact batch code and listed order of ingredients. Defendant Pro's Choice shall implement any necessary corrective action. If Defendant Pro's Choice determines that additional non-compliant containers of the product were shipped to California, Defendant Pro's Choice shall immediately issue a product removal notice for all affected containers to all entities receiving them from Defendant Pro's Choice. The removal notice shall include a request

that the Defendant Retailers receiving the affected product or containers implement a Stop Sale for the specific products or containers identified in the removal notice. Defendant Pro's Choice shall take such steps as are reasonably necessary to ensure that all affected containers are removed from California stores and warehouses within thirty (30) days of the issuance of a product removal notice. All affected containers shall be returned in accordance with the applicable product removal procedures in place between Defendant Pro's Choice and each Defendant Retailer. All containers returned in response to such a product removal action shall be identified in quarterly compliance reports submitted by Defendant Pro's Choice, which reports shall be as described in paragraph 13 of the Stipulation of Parties to the Entry of Final Judgment and Permanent Injunction. If the same product by the same manufacturer and with the same product name and label, date code, size and exact batch code and listed order of ingredients is found in more than ten (10) locations of any chain, then Defendant Pro's Choice shall immediately institute a complete "Field VOC Audit" for all stores in that chain in addition to the Stop Sales and product removal effort described above.

3. If, after testing the product pursuant to CARB Method 310, CARB discovers a potential violation of California VOC laws with respect to any Regulated Hair Care Product supplied by Defendant Pro's Choice then:

a. If CARB sends a written Notice of Violation to Defendant Pro's Choice and the written notice includes (a) the test report created by CARB for the container(s) and all other data or information upon which CARB bases its determination of non-compliance; (b) readable photographs of the front, back and bottom of the container (including listed order of ingredients), the UPC sticker, the portion of the label (if any) indicating compliance or non-compliance, and the date and batch code on the container (as well as any other codes placed on the container by the manufacturer or filler); and (c) includes any lawfully-available information obtained from the manufacturer (except for the formula of the product) with respect to the VOC-content or date code of the container or product or states that no such information has been obtained by CARB, then:

b. Defendant Pro's Choice shall have ten (10) business days to investigate CARB's claim and determine whether any non-compliant product was supplied, sold or offered for sale to retail stores in California and, if so, whether additional non-compliant containers were shipped to California customers. Defendant Pro's Choice's investigation shall include a review of any irregularities in warehouse procedures and an inspection of at least five (5) other stores in the same retail chain for additional non-compliant containers by the same product name and label, date code (if the product is subject to a sell-through period), size, exact batch code and listed order of ingredients. If Defendant Pro's Choice confirms that the container was non-compliant and determines that the additional non-compliant containers were shipped to California, Defendant Pro's Choice shall immediately issue a product removal notice for all affected containers to all entities receiving them from Defendant Pro's Choice. The removal notice shall include a request that the Defendant Retailers receiving the affected product or containers implement a Stop Sale for the specific products or containers identified in the removal notice. Defendant Pro's Choice shall take such steps as are reasonably necessary to ensure that all affected containers are removed from California stores and warehouses within thirty (30) days of the issuance of a product removal notice.

c. All affected containers shall be returned in accordance with the applicable product removal procedures in place between Defendant Pro's Choice and each Defendant Retailer. All containers returned in response to such a product removal action shall be identified in quarterly compliance reports submitted by Defendant Pro's Choice, which reports shall be as described in paragraph 13 of the Stipulation of Parties to the Entry of Final Judgment and Permanent Injunction. If the same product by the same manufacturer and with the same product name and label, date code, size and exact batch code and listed order of ingredients is found in more than ten (10) locations of any chain, then Defendant Pro's Choice shall institute a complete "Field VOC Audit" for all stores in that chain in addition to the Stop Sale and product removal effort described above.

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d. If Defendant Pro's Choice contests CARB's claim of violation, it may, within fourteen (14) days of receipt of the written claim of violation, provide a written response to CARB in which it states the facts upon which it bases its belief that the Regulated Hair Care Product complies with California Code of Regulations, title 17, sections 94509 and 94512, including test data and supporting documentation. Defendant Pro's Choice may also provide copies of all communications with the manufacturer or filler of the product and documents relating to its compliance with the foregoing sections. If additional time is needed to provide information, Defendant Pro's Choice may notify CARB in writing and shall have an additional ten (10) days in which to respond.