

COPY

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ALAMEDA  
12 SOUTHERN DIVISION  
13

14 PEOPLE OF THE STATE OF CALIFORNIA ex ) No. H-192687 1  
rel. DANIEL E. LUNGREN, Attorney General )  
15 of the State of California, ) STIPULATION FOR ENTRY OF  
 ) CONSENT JUDGMENT AND  
16 Plaintiffs, ) ORDER THEREON  
 v. )  
17 )  
18 ANCHOR GLASS CONTAINER )  
CORPORATION, )  
19 Defendant. )  
20

21  
22 Plaintiff, the People of the State of California ex rel. Daniel E. Lungren ("People"),  
23 and defendant, Anchor Resolution Corp., f/k/a Anchor Glass Container Corporation  
24 ("Anchor"), herein enter into this Stipulation for Entry of Consent Judgment (hereinafter  
25 "Consent Judgment") as follows:

- 26 1. Introduction.  
27 1.0. On October 3, 1996, the People filed a Complaint for Civil Penalties and

1 Injunctive Relief ("Complaint") against Anchor in the Superior Court of the State of  
2 California, City and County of Alameda, People v. Anchor Glass Container Corporation,  
3 Civil Action No. H-192687.

4 1.1 On September 13, 1996, Anchor filed a voluntary petition for bankruptcy under  
5 Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of  
6 Delaware, No. 96-1434.

7 1.2. Anchor was at all relevant times a corporation that employed more than ten  
8 persons and operated facilities within the State of California that manufactured glass.

9 1.3. The Complaint alleges that Anchor operates a plant at 22302 Hathaway Avenue,  
10 Hayward, CA 94541 ("Hayward Facility"), which is engaged in production of glass bottles.  
11 The Complaint alleges that from 1990 through the date of the Complaint, during the course  
12 of its regular operations, the Hayward Facility knowingly and intentionally emitted lead into  
13 the air surrounding the facility and, that once emitted from the Hayward facility, the lead is  
14 dispersed into open air and blown downwind, where persons in surrounding areas breathe it.  
15 The Complaint alleges that Anchor has violated provisions of the Safe Drinking Water and  
16 Toxic Enforcement Act of 1986, codified at Health & Safety Code sections 25249.5 et seq,  
17 and known as "Proposition 65" and Business and Professions Code sections 17200 et seq.  
18 ("Unfair Competition Act"), by knowingly exposing persons to lead, a chemical known to the  
19 State of California to cause reproductive toxicity, without first providing a clear and  
20 reasonable warning to such individuals.

21 1.4 Anchor represents that, on February 5, 1997, it consummated the sale of  
22 substantially all of its assets to Consumers Packaging Inc. ("Consumers") and Owens-  
23 Brockway Glass Container Inc. ("Owens") pursuant to the terms of an Asset Purchase  
24 Agreement dated as of December 18, 1996 which had been approved by order of the  
25 Bankruptcy Court dated December 20, 1996. Consumers assigned its rights under the Asset  
26 Purchase Agreement to a subsidiary now known as Anchor Glass Container Corporation  
27 ("New Anchor"). Under the Asset Purchase Agreement, Owens acquired the Hayward

1 Facility. Anchor further represents that it is no longer in the business of manufacturing glass  
2 and has no manufacturing facilities in the State of California.

3 1.5. For purposes of this Judgment only, the parties stipulate that this Court has  
4 jurisdiction over the allegations of violations contained in the Complaint and personal  
5 jurisdiction over Anchor as to the acts alleged in the Complaint, that venue is proper in the  
6 County of Alameda and that this Court has jurisdiction to enter this Judgment.

7 1.6. The Parties enter into this Consent Judgment pursuant to a settlement of certain  
8 disputed claims between the Parties as alleged in the Complaint for the purpose of avoiding  
9 prolonged and costly litigation. By execution of this Consent Judgment, Anchor does not  
10 admit any facts or conclusions of law suggesting or demonstrating any violations of  
11 Proposition 65, the Unfair Competition Act or any other statutory, common law or equitable  
12 requirements. Nothing in this Consent Judgment shall be construed as an admission by  
13 Anchor of any fact, issue of law or violation of law, nor shall compliance with the Consent  
14 Judgment constitute or be construed as an admission by Anchor of any fact, issue of law, or  
15 violation of law. Nothing in this Consent Judgment shall prejudice, waive or impair any  
16 right, remedy or defense Anchor may have in any other or future legal proceedings.  
17 However, this paragraph shall not diminish or otherwise affect the obligations,  
18 responsibilities and duties of Anchor under this Consent Judgment.

19 2. Penalties

20 2.0 Within thirty (30) days of execution of this Consent Judgment, Anchor shall  
21 pay the sum of \$26,972 as a civil penalty pursuant to Health & Safety Code sections  
22 25249.7(b) and 25192. Payment shall be made by delivery of certified funds payable to the  
23 Department of Justice, California Attorney General's Office. Making these payments shall  
24 not be construed as an admission by Anchor of any fact, issue of law or violation of law, nor  
25 shall compliance with the Consent Judgment constitute or be construed as an admission by  
26 Anchor of any fact, issue of law, or violation of law.

1           3.     Payment of Costs and Fees.

2           Within thirty (30) days of execution of this Consent Judgment, Anchor shall pay  
3 \$18,028 as reimbursement for the costs of investigating and prosecuting this action. Payment  
4 shall be made by delivery of certified funds in the amount of \$6,000 payable to the Attorney  
5 General of the State of California at 2101 Webster Street, 12th Floor, Oakland, California  
6 94612-3049 (Attn: Susan S. Fiering, Deputy Attorney General), by delivery of certified  
7 funds in the amount of \$7,000 payable to the Environmental Health Account, Public Health  
8 Trust, at 2001 Addison Street, Ste. 210, Berkeley, CA 94704 (with a copy to Susan S.  
9 Fiering, Deputy Attorney General, 2101 Webster Street, 12th Floor, Oakland, California  
10 94612-3049), by delivery of certified funds in the amount of \$3,000 to Michael Freund,  
11 Esq., 1915 Addison Street, Berkeley, CA 94704 and by delivery of \$2028 to Communities  
12 for a Better Environment, 500 Howard Street, Ste. 506, San Francisco, CA 94105.

13           4.     Additional Enforcement Actions: Continuing Obligations

14           4.0    By entering into this Consent Judgment, the People do not waive any right to  
15 take further enforcement actions on any violations not covered by the Complaint. Nothing in  
16 this Consent Judgment shall be construed as diminishing Anchor's continuing obligation to  
17 comply with Proposition 65 or the Unfair Competition Act in its future activities.

18           5.     Enforcement of Consent Judgment

19           The People may, by motion or order to show cause before the Superior Court of  
20 Alameda, enforce the terms and conditions contained in this Consent Judgment. In any  
21 action brought by the People to enforce this Consent Judgment, the People may seek  
22 whatever fines, costs, penalties or remedies as provided by law for failure to comply with the  
23 Consent Judgment. Where said failure to comply constitutes future alleged violations of  
24 Proposition 65 or other laws, independent of the Consent Judgment and/or those alleged in  
25 the Complaint, the People are not limited to enforcement of this Consent Judgment, but may  
26 seek in another action whatever fines, costs, penalties or remedies are provided by law for  
27 failure to comply with Proposition 65 or other laws. However, the rights of Anchor to

1 defend itself and its actions in law or equity shall not be abrogated or reduced in any fashion  
2 by the terms of this paragraph.

3 7. Application of Consent Judgment This Consent Judgment shall apply to, be  
4 binding upon and inure to the benefit of the Parties, their divisions, subdivisions,  
5 subsidiaries, and affiliates and the successors or assigns of each of them. Nothing in this  
6 Consent Judgment shall be construed to create any liability for, or release any liability of,  
7 Owens-Brockway, if any exists, for any failure to warn with respect to lead usage at the  
8 Hayward Facility for any time period.

9 8. Entry of Consent Judgment This Consent Judgment shall be null and void, and be  
10 without any force or effect, unless entered by the Court in this matter.

11 9. Authority to Stipulate to Consent Judgment

12 Subject to paragraph 10 hereof, each signatory to this Consent Judgment certifies that  
13 he or she is fully authorized by the party he or she represents to enter into this Consent  
14 Judgment on behalf of the party represented and legally to bind that party.

15 10. Bankruptcy Court Approval

16 This Consent Judgment shall not be binding upon the parties until Anchor has been  
17 authorized to execute it and perform under it by final order of the United States Bankruptcy  
18 Court for the District of Delaware.

19 11. Claims Covered

20 This Consent Judgment is a final and binding resolution between the People and  
21 Anchor of any and all alleged violations of Proposition 65, and the Business and Professions  
22 Code Sections 17200 et seq., on or before the date of this Consent Judgment, arising from  
23 Anchor's alleged failure to warn of exposure to lead from the Hayward Facility.

24 12. Modification of Consent Judgment

25 This Consent Judgment may be modified by express written agreement of the parties  
26 with the approval of the court or by an order of this Court.

27 13. Execution in Counterparts

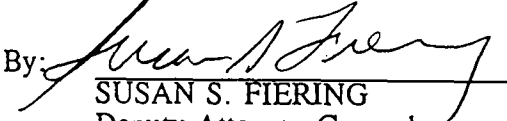
1 This Consent Judgment may be executed in counterparts, which taken together shall  
2 be deemed to constitute one and the same document.

3 14. Retention of Jurisdiction

4 This Court shall retain jurisdiction of this matter to implement the Consent Judgment.

5 IT IS SO STIPULATED:

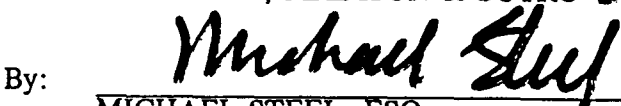
6 Dated: 8/1/97 DANIEL E. LUNGREN  
7 Attorney General  
8 RODERICK E. WALSTON  
9 Chief Assistant Attorney General  
10 THEODORA BERGER  
11 Assistant Attorney General  
12 EDWARD G. WEIL  
13 SUSAN S. FIERING  
14 Deputy Attorneys General

11 By:   
12 SUSAN S. FIERING  
13 Deputy Attorney General  
14 Attorneys for the People of the State of  
California ex rel. Daniel E. Lungren

15 Dated: ANCHOR RESOLUTION CORP., f/k/a ANCHOR  
16 GLASS CONTAINER CORPORATION

17 By: \_\_\_\_\_  
18  
19 Its: \_\_\_\_\_

20 APPROVED AS TO FORM:

21 Dated: PILLSBURY, MADISON & SUTRO **LLP**  
22 By:   
23 MICHAEL STEEL, ESQ.  
24 Attorneys for the Anchor Resolution Corp. f/k/a Anchor  
Glass Container Corporation

25 IT IS SO ORDERED:

26 Dated: \_\_\_\_\_  
27 JUDGE, Superior Court of the State of California

1 This Consent Judgment may be executed in counterparts, which taken together shall  
2 be deemed to constitute one and the same document.

3 14. Retention of Jurisdiction

4 This Court shall retain jurisdiction of this matter to implement the Consent Judgment.

5 IT IS SO STIPULATED:

6 Dated: \_\_\_\_\_ DANIEL E. LUNGREN  
7 Attorney General  
8 RODERICK E. WALSTON  
9 Chief Assistant Attorney General  
10 THEODORA BERGER  
11 Assistant Attorney General  
12 EDWARD G. WEIL  
13 SUSAN S. FIERING  
14 Deputy Attorneys General

11 By: \_\_\_\_\_  
12 SUSAN S. FIERING  
13 Deputy Attorney General  
14 Attorneys for the People of the State of  
California ex rel. Daniel E. Lungren

15 Dated: *August 4, 97* ANCHOR RESOLUTION CORP., f/k/a ANCHOR  
16 GLASS CONTAINER CORPORATION

17 By: \_\_\_\_\_  
18 Its: *Chief Legal Officer and Secretary.*

19 APPROVED AS TO FORM:

20 Dated: \_\_\_\_\_ PILLSBURY, MADISON & SUTRO  
21  
22 By: \_\_\_\_\_  
23 MICHAEL STEEL, ESQ.  
24 Attorneys for the Anchor Resolution Corp. f/k/a Anchor  
Glass Container Corporation

25 IT IS SO ORDERED:

26 Dated: \_\_\_\_\_  
27 JUDGE, Superior Court of the State of California