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FILED-Central District
SUPERIOR COURT
SAN BERNARDINO COUNTY

MAY 07 2010

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10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF SAN BERNARDINO

13 WILLIAM JAY VAN VLEET and DANIEL
RODRIGUEZ, individually, and on Behalf of LEAD CASE NO. 142242 consolidated with
14 all Others Similarly Situated, CASE NO. SCVSS-147748

15
16 Plaintiff,

ASSIGNED FOR ALL PURPOSES TO:
The Hon. Christopher J Warner

17 GATE CITY BEVERAGE
18 DISTRIBUTORS, PRESTIGE SALES I and
19 II, and DOES 1 through 100, Inclusive

[PROPOSED] ORDER GRANTING
PLAINTIFFS' UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

20 GARY OWEN, individually, and on Behalf
of All Others Similarly Situated,

Date: May 6, 2010
Time: 8:30 a.m.
Dept. S 35

21
22 Plaintiff,

Complaint Filed: March 2, 2007
Trial Date: September 29, 2009

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24 GATE CITY BEVERAGE
25 DISTRIBUTORS, PRESTIGE SALES I and
II, and DOES 1 through 100, Inclusive

1 WHEREAS, the above entitled actions are pending in the San Bernardino County
2 Superior Court: LEAD CASE NO. 142242 consolidated with CASE NO. SCVSS-147748.

3 WHEREAS, the parties having made application for an order preliminarily approving the
4 settlement of these class actions, in accordance with a Stipulation and Settlement Agreement of
5 Class Action Claims, Between Plaintiffs, On Behalf Of Themselves, And All Others Similarly
6 Situated, And Defendant GATE CITY BEVERAGE DISTRIBUTORS AND PRESTIGE
7 SALES I, which sets forth the terms and conditions for a proposed settlement of the Litigation
8 and for dismissal of the Litigation with prejudice upon the terms and conditions set forth therein;
9 and the Court having read and considered the Stipulation and Settlement Agreement as well as
10 all exhibits attached to the Declaration of Matthew Righetti;

11 WHEREAS, all defined terms contained herein shall have the same meanings as those
12 set forth in the Stipulation;

13 NOW, THEREFORE, IT IS HEREBY ORDERED:

- 14 1. The Court does hereby preliminarily approves the Stipulation and Settlement
15 Agreement of Class Action Claims as being fair, just, reasonable and adequate.
- 16 2. The Court does hereby approve the proposed Class Notice, a copy of which is
17 attached to Decl. of M. Righetti as **Exhibit 2** and finds that the distribution of the
18 Class Notice substantially in the manner set forth in the Stipulation and
19 Settlement Agreement of Class Action Claims Section X(11)(b) meets the
20 requirements of California law and due process, and is the best notice practicable
21 under the circumstances and shall constitute due and sufficient notice to all
22 Persons entitled thereto.
- 23 3. The Court does hereby approve the proposed Claim Forms, copies of which are
24 attached to Decl. of M. Righetti as **Exhibit 3**.
- 25 4. The court does hereby approve the proposed Exclusion Form, a copy of which is
26 attached to the Decl. of M. Righetti as Exhibit 6;
- 27 5. The Court hereby approves Gilardi & Co to administrate the settlement according
28 to the procedures set forth in Stipulation of Settlement Agreement of Class

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Action Claims;

6. All Class Members shall be bound by all determinations and judgments in this litigation concerning the settlement.
7. Any Member of the Class may enter an appearance in the Litigation, at his or her own expense, individually or through counsel of his or her own choice. If they do not enter an appearance or exclude themselves from the Class (opt out), they will be represented by Class Counsel.
8. Pending final determination of whether the settlement should be approved, neither the Representative Plaintiff(s), nor any Class Member, either directly, representatively or in any other capacity, shall commence or prosecute Defendant or any of the Released Parties, any action or proceeding in any court or tribunal asserting any of the Released Claims. From the date of preliminary approval through the date of the hearing on final approval, Class Members who submit valid and timely claims and who do not exclude themselves from the Settlement Class shall be prohibited from filing any complaints with the California Department of Labor Standards Enforcement or from initiating any other proceedings regarding the released claims.
9. Any Class Member who wishes to be excluded (opt out) from the Class and not participate in the proposed settlement must comply with the exclusion (opt out) procedures set forth in the Stipulation and Settlement of Class Action Claims;
10. Any Member of the Class may appear and show cause, if he or she has any, why the proposed settlement of the Litigation should or should not be approved as fair, reasonable, and adequate, or why a judgment should or should not be entered thereon, or why attorneys' fees should or should not be awarded to Class Counsel; provided, however, that no Class Member or any other person shall be heard or entitled to contest the approval of the terms and conditions of the proposed settlement, or, if approved, the Judgment to be entered thereon

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approving the same, or, if awarded, compensation for the Representative Plaintiffs or the attorneys' fees and costs awarded to Class Counsel, unless that Person has complied with the Procedure for Objecting set forth in the Stipulation and Settlement Agreement of Class Action Claims;

- 11. The Hearing on final approval of Stipulation and Settlement Agreement Regarding Class Action Claims shall be held on 8/3, 2010 *8th in 535*
- 12. All papers in support of the settlement shall be filed and served on 7/20, 2010., *filed in Dept 535.*
- 13. At the Final Approval Hearing, the Court shall determine whether the proposed settlement, and any application for attorneys' fees or reimbursement of costs, shall be approved.
- 14. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the proposed settlement.

DATED: MAY 07 2010

/s/ Frederick A. Mandabach
JUDGE OF THE SUPERIOR COURT
(initials)