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 TREASURY WINE ESTATES AMERICAS COMPANY,
 11 FOSTER'S WINE ESTATES SALES CO. and
 Defendant TREASURY WINE ESTATES HOLDINGS, INC.

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17 Attorneys for Plaintiff and Counterclaim Defendant
 SANTA BARBARA WINERY, INC.

18 **UNITED STATES DISTRICT COURT**
 19 **CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION**

20 SANTA BARBARA WINERY, INC.,
 21 Plaintiff,
 22 vs.
 23 TREASURY WINE ESTATES
 24 AMERICAS COMPANY, FOSTER'S
 WINE ESTATES SALES CO., and
 25 TREASURY WINE ESTATES
 26 HOLDINGS, INC., and DOES 1 through
 10 inclusive,
 27 Defendants.

CASE NO.
2:10-cv-01026-JHN -PLAx
CONSENT DECREE

28 And related counterclaims.

1 Plaintiff, Santa Barbara Winery, Inc. (hereinafter “SBW”) filed the above
2 civil action against Defendants Treasury Wine Estates Americas Company,
3 Foster’s Wine Estates Sales Co. and Treasury Wine Estates Holdings, Inc.
4 (hereinafter collectively referred to as “Treasury”).

5 The Court, upon the consent and request of SBW and Treasury, hereby
6 acknowledges that the parties have reached an agreement as to their dispute and
7 have stipulated to the following facts and to entry of this Decree.
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10 FACTS

11 1. This Court has jurisdiction over the parties and the subject matter of
12 this action pursuant to 15 U.S.C. §1121 and 28 U.S.C. §§1331 and 1338.

13 2. SBW owns the trademark SANTA BARBARA WINERY in
14 connection with wines and related goods.

15 3. SBW has been using its SANTA BARBARA WINERY mark since in
16 or about 1962, and has made use of its mark in interstate commerce throughout the
17 United States continuously since in or about the 1960s.

18 4. In or about December 2009, Treasury began using a trademark, trade
19 name and brand SANTA BARBARA WINE COMPANY in connection with
20 wines.

21 5. Plaintiff SBW’s complaint in this action has alleged claims for
22 infringement of its common law mark, under Section 43(a) of the Lanham Act, 15
23 U.S.C. § 1125(a), and related claims. Treasury has disputed SBW’s claims.

24 6. SBW and Treasury have now entered a confidential written settlement
25 agreement (“January 2011 Settlement Agreement”) resolving the issues in this
26 case, subject to the entry of this Consent Decree, and have filed a Stipulation with
27 the Court requesting the entry of this Consent Decree.
28

1 23, 2010 with the “SANTA BARBARA WINE COMPANY” brand, under the
2 following conditions set forth below:

3 a. Treasury may continue to sell its existing inventory of wine
4 already labeled with SANTA BARBARA WINE COMPANY until January
5 31, 2011 in the State of California, and until June 30, 2011 in the remaining
6 states, territories and possessions of the United States. Any advertisement or
7 Distribution of wine under a SANTA BARBARA WINE COMPANY label
8 after these dates shall be a violation of this Decree.

9 b. Treasury’s inventory sell-off is conditioned on its compliance
10 with the monetary compensation and advertising provisions of the parties’
11 January 2011 Settlement Agreement.

12 4. Treasury shall provide notice, to those of its authorized distributors who
13 received shipment of SANTA BARBARA WINE COMPANY wine, of the terms
14 of Paragraphs 2 and 3 of this Decree, and shall advise them that, by Court decree,
15 they are required to comply with the distribution, advertising and sale restrictions
16 of those paragraphs by October 10, 2011.

17 5. In the event of a breach of this Judgment, or violation of any of its
18 terms, SBW shall have the right to apply to this Court and this Court shall have the
19 power to award appropriate monetary and equitable relief, including, without
20 limitation, issuance of a temporary restraining order or preliminary injunction to
21 prevent further violations of the terms of this Judgment.

22 6. In the event Treasury is found by the Court to have violated a term of
23 this Judgment, Plaintiff SBW shall be entitled to recover liquidated damages from
24 Treasury in the amount of the greater of \$10,000 per violation for each state or
25 territory in which the violation occurs, or 70% (seventy percent) of Treasury’s
26 gross profit from any sale in violation of this Consent Decree. The liquidated
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1 damages provided for in this Consent Decree shall be considered damages and not
2 a license to share profits or revenues among unrelated entities. SBW shall also be
3 entitled to recovery of SBW's attorneys fees incurred in applying to the Court for a
4 remedy for a violation of this Judgment. Such relief shall not limit the Court's
5 power to issue additional equitable relief or monetary sanctions to ensure future
6 compliance with the judgment. In any proceeding upon this Consent Decree, the
7 Court may award reasonable attorneys' fees and costs to the prevailing party
8 consistent with the Lanham Act and applicable case law.
9

10 7. On August 31, 2011, Treasury shall serve upon Plaintiff a report,
11 made under oath, confirming the steps it has taken in order to ensure compliance
12 by Treasury with the provisions of this Consent Decree. The report will not be
13 filed with the Court, except in the event of a dispute between the parties.

14 8. The parties stipulate that Treasury's Counterclaim be dismissed with
15 prejudice.

16 9. This Court retains jurisdiction for purposes of enforcing this Consent
17 Decree.

18 10. No appeal shall be taken by the parties to this Judgment.

19 Approved and consented to:

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SANTA BARBARA WINERY, INC.

TREASURY WINE ESTATES
AMERICAS COMPANY; FOSTER'S
FOSTER'S WINE ESTATES SALES
CO.; TREASURY WINE ESTATES
HOLDINGS, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

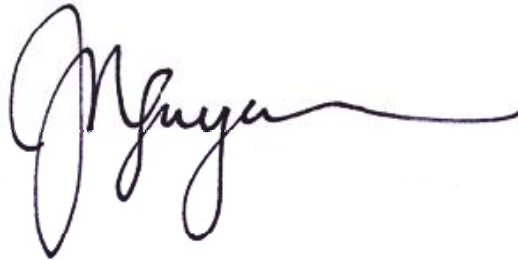
Title: _____

Date: _____

Date: _____

IT IS SO ORDERED.

DATED: March 02, 2011

A handwritten signature in cursive script, appearing to read "M. Guyer", written over a horizontal line.

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