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*Attorneys for Plaintiff Department of Toxic
Substances Control*

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

**California Department of Toxic
Substances Control,**

Plaintiff,

vs.

**World Cleaners, Inc., a California
corporation; 538 West 5th Street, San
Pedro, Inc., a California corporation;
and Richards Cleaners, Inc., a
dissolved California corporation,**

Defendants

Case No.: 2:16-CV-6896 DSF

**Consent Decree Between California
Department of Toxic Substances
Control and Defendants World
Cleaners, Inc. & 538 West 5th Street,
San Pedro, Inc.; Exhibits**

Judge: Hon. Dale Fischer

I. INTRODUCTION

1. Plaintiff the State of California Department of Toxic Substances Control (“DTSC” or “Plaintiff”) filed a complaint (“Complaint”) in this matter pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601 and the California Hazardous Substances Account Act (“HSAA”), California Health and Safety Code § 25300 against Defendants World Cleaners Inc. (“World Cleaners”) and 538 West 5th Street, San Pedro, Inc.

1 (“538, Inc.,” collectively “Settling Defendants”).¹ In the Complaint, DTSC seeks to
2 recover costs it incurred responding to releases and/or threatened releases of
3 hazardous substances at or from the property located at 538 West 5th Street, San
4 Pedro, Los Angeles, California, 90731, in the County of Los Angeles, California
5 (the “Property”)². CERCLA section 107(a), 42 U.S.C. § 9607(a). Additionally, the
6 Complaint seeks declaratory relief under CERCLA section 113(g)(2), 42 U.S.C. §
7 9613(g)(2) that Defendants are jointly and severally liable for future Response
8 Costs to be incurred by DTSC to address releases and/or threatened releases of
9 hazardous substances at or from the Site and a permanent injunction.

10 2. In the Complaint, DTSC alleges, in relevant part, the following:

11 a. Dry cleaning operations began on the Property early in the
12 twentieth century. In or about 1949, Richards Cleaners was incorporated.
13 Richards Cleaners operated a dry cleaning business at the Property from
14 roughly 1949 to 1981.

15 b. 538, Inc. purchased the Property in 1981 and is the current
16 owner of the Property.

17 c. From 1981 until recently, World Cleaners, Inc. operated the
18 dry-cleaning facility.

19 d. Dry-cleaning operations at the Property caused releases of
20 hydrocarbon solvents, perchloroethylene (PCE), and other hazardous dry-
21 cleaning liquids into the soil.

22 e. In August 2006, DTSC issued an “Order for Investigation”
23 directing World Cleaners to conduct a preliminary endangerment assessment,
24 including additional soil sampling, soil gas sampling and groundwater

25
26 ¹ The Complaint also named Defendant Richards Cleaners, Inc., a dissolved
corporation, which is in default.

27 ² The term “Site” is defined in Paragraph 29 to include the Property and the
28 vertical and areal extent of the hazardous substance contamination that is or has
been present at, beneath, and/or from the Property, including in the soil and/or
groundwater

1 sampling. Consultants for World Cleaners conducted the preliminary
2 endangerment assessment under DTSC oversight.

3 f. In 2008, consultants employed by World Cleaners submitted
4 the final Preliminary Endangerment Assessment to DTSC, finding that soil
5 and groundwater at the Site had each been contaminated with PCE.

6 g. In November 2008, DTSC exercised its authority under Health
7 and Safety Code section 25355.5 to issue a remedial action order (“2008
8 Remedial Action Order”) to World Cleaners and Mr. Brian Sher
9 (“Respondents”), which directed them to develop and implement a complete
10 site remediation strategy for the Site.

11 h. World Cleaners performed some site assessment and
12 remediation of the Property, but did not complete all of the actions required
13 in the 2008 Remedial Action Order.

14 3. DTSC is conducting Response Actions with respect to the Site as
15 necessary to remove and remedy the hazardous substances released and/or
16 threatened to be released at and from the Site. DTSC’s Response Actions include,
17 but are not limited to: investigation; removal/remediation actions; enforcement/cost
18 recovery; oversight; public participation; and compliance with the California
19 Environmental Quality Act. DTSC’s Response Actions through December 2018
20 were not inconsistent with the National Contingency Plan (“NCP”), 40 C.F.R. Part
21 300.

22 4. As of January 2018, DTSC’s incurred Response Costs related to the Site
23 exceed \$400,000.

24 5. DTSC will continue to incur Response Costs related to the Site. DTSC
25 reserves all its rights in connection with such costs. Settling Defendants reserve all
26 their rights to object to such costs.

27 6. Defendants World Cleaners and 538, Inc. filed answers to the Complaint
28 on October 21, 2016.

1 7. On October 2, 2017, the Court issued an “Order Granting Motion for
2 Summary Judgment (Dkt. No. 30)” (ECF No. 58) (hereinafter “Order Granting
3 Summary Judgment”), which found that Settling Defendants were jointly and
4 severally liable for DTSC’s Response Costs. The Court also found that DTSC is
5 “entitled to a declaration that Defendants are liable for future Response Costs and
6 damages. 42 U.S.C. § 9613(g)(2).” *Id.* Further, the Court “reviewed the 2008
7 Remedial Action Order issued by Plaintiff to Defendants and finds that it is
8 reasonable and should be incorporated into a permanent injunction of this Court
9 with the exception of § 6.22.” *Id.* (Paragraph 6.22 of the 2008 Remedial Action
10 Order allows DTSC to unilaterally modify the order.)

11 8. DTSC and Settling Defendants (“the Parties”) agree, and this Court, by
12 entering this Consent Decree, finds, that this Consent Decree has been negotiated
13 by the Parties in good faith, settlement of this matter will avoid expensive,
14 prolonged and complicated litigation between the Parties, and this Consent Decree
15 is fair, reasonable, in the public interest and consistent with the purpose of
16 CERCLA.

17 **THEREFORE**, the Court, with the consent of the Parties to this
18 Consent Decree, hereby **ORDERS, ADJUDGES, AND DECREES**, as follows:

19 **II. JURISDICTION**

20 9. The Court has subject matter jurisdiction over the matters alleged in this
21 action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1367(a) and CERCLA, section
22 113(b), 42 U.S.C. § 9613(b), and personal jurisdiction over each of the Parties.
23 Venue is appropriate in this district pursuant to 28 U.S.C. § 1391(b) and CERCLA
24 section 113(b), 42 U.S.C. § 9613(b). Solely for the purposes of this Consent
25 Decree and the underlying Complaint, Settling Defendants waive all objections and
26 defenses that Settling Defendants may have to the jurisdiction of the Court or to
27 venue in this district.
28

1 10. The Court shall retain jurisdiction over this matter for the purpose of
2 interpreting and enforcing the terms of this Consent Decree if necessary.

3 **III. PERMANENT INJUNCTION AND DECLARATION OF LIABILITY**

4 11. The Court's Order Granting Summary Judgment, including the
5 declaration of liability and permanent injunction, is attached to this Consent Decree
6 as Exhibit A and incorporated herein.

7 **IV. SETTLEMENT OF DISPUTED CLAIMS**

8 12. This Consent Decree resolves Settling Defendants' liability for Response
9 Costs DTSC incurred before January 1, 2018 and for any Response Costs
10 associated with the entry of this Consent Decree that DTSC incurs between January
11 1, 2018 and the Effective Date (i.e. negotiating, issuing public notice or seeking
12 judicial entry). For the avoidance of doubt, this Consent Decree does not resolve
13 Response Costs DTSC incurs after January 1, 2018, reviewing, and overseeing the
14 implementation of, the Addendum to Remedial Investigation/Feasibility Study
15 Workplan, 90-Day Dual-Phase Extraction Pilot Test, dated December 29, 2017, that
16 Defendants submitted to DTSC on December 31, 2017. Settling Defendants
17 reserve all their rights to object to such costs. DTSC agrees to that resolution in
18 exchange for consideration from Settling Defendants, including payment by
19 Settling Defendants to reimburse a portion of DTSC's Response Costs already
20 incurred in connection with releases and/or threatened releases of hazardous
21 substances at and/or from the Site.

22 13. Nothing in this Consent Decree shall be construed as an admission by
23 Settling Defendants of any issue of law or fact or of any violation of law, beyond
24 those issues of fact and law established in the Order Granting Summary Judgment,
25 ECF No. 48. Except as otherwise provided by this Consent Decree, this Consent
26 Decree shall not prejudice, waive or impair any right, remedy or defense that
27 Settling Defendants may have in any other or further legal proceeding.
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1 14. Settling Defendants consent to, and shall not challenge, entry of this
2 Consent Decree, the terms of this Consent Decree, or this Court’s jurisdiction to
3 enforce this Consent Decree. Settling Defendants further consent to the Court’s
4 entry of the Proposed Order attached to this Consent Decree as Exhibit B.

5 15. Upon approval and entry of this Consent Decree by the Court, this
6 Consent Decree shall constitute a final judgment between and among the Parties.

7 **V. DEFINITIONS**

8 16. Unless otherwise expressly provided herein, terms used in this Consent
9 Decree that are defined in CERCLA, in the HSAA or in regulations promulgated
10 under CERCLA shall have the meaning assigned to them therein. Whenever terms
11 listed below are used in this Consent Decree, the definitions below shall apply.

12 17. “Completion of the Remediation” shall mean when DTSC gives the
13 written notice specified in Paragraph 6.24 of the 2008 Remedial Action Order.

14 18. “Day” shall mean a calendar day. In computing any period of time under
15 this Consent Decree, where the last day would fall on a Saturday, Sunday, or
16 federal or State holiday, the period shall run until the close of business of the next
17 Day.

18 19. “Order Granting Summary Judgment” shall mean the “Order
19 GRANTING Motion for Summary Judgment (Dkt. No. 30)” that the Court issued
20 on October 2, 2017 (ECF No. 58).

21 20. “DTSC” shall mean the State of California Department of Toxic
22 Substances Control, and its predecessors and successors. DTSC is a public agency
23 of the State of California organized and existing under and pursuant to California
24 Health and Safety Code § 58000 et seq. Under California law, DTSC is the state
25 agency responsible for determining whether there has been a release and/or
26 threatened release of hazardous substances into the environment, and for
27 determining the actions to be taken in response thereto.

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1 21. "Effective Date" shall mean the date the Court enters an Order
2 approving this Consent Decree.

3 22. "Fair Market Value" shall have the meaning specified in California Code
4 of Civil Procedure section 1263.320.

5 23. "Parties" shall mean DTSC and Settling Defendants.

6 24. "Plaintiff" shall mean DTSC.

7 25. "Property" shall mean the real property, at 538 West 5th Street, in San
8 Pedro, Los Angeles County, California, identified as Assessor's Parcel Number
9 7451-027-004.

10 26. "Response Actions" shall mean all of "removal," "remedial" or
11 "response" actions as those terms are defined by CERCLA § 101, 42 U.S.C. §
12 9601, related to the release and/or threatened release of hazardous substances at or
13 from the Site, including into soil and groundwater.

14 27. "Response Costs" shall mean all costs of "removal," "remedial action,"
15 or "response" as those terms are defined by CERCLA § 101, 42 U.S.C. § 9601,
16 related to the release and/or threatened release of hazardous substances at or from
17 the Site, including into soil and groundwater.

18 28. "Settling Defendants" shall mean World Cleaners Inc. and 538 West 5th
19 Street, San Pedro, Inc.

20 29. "Site" shall mean the Property, however for purposes of this Consent
21 Decree, the Site includes the vertical and areal extent of the hazardous substance
22 contamination that is or has been present at, beneath, and/or from the Property,
23 including in the soil and/or groundwater.

24 **VI. SETTLING DEFENDANTS' OBLIGATIONS**

25 30. World Cleaners or its designee shall pay DTSC \$100,000 within thirty
26 (30) Days of the Effective Date.

27 31. Sale of the Property:
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- a. 538, Inc. consents to recording a lien on the Property in the amount of \$100,000 in the form of Exhibit C to this Consent Decree. 538, Inc. agrees not to contest the lien on the Property. Further, from the date it executes this Consent Decree, 538, Inc. until the date that lien is recorded, 538, Inc. will not agree to the recording of any other liens or encumbrances on the Property.
- b. 538, Inc. agrees to use commercially reasonable efforts to sell the Property as soon as reasonably practicable after the Completion of the Remediation, and to commence no later than six months after the Completion of Remediation. 538, Inc. has no obligation to attempt to sell the Property prior to Completion of the Remediation. At no time, however, may 538, Inc. sell the Property in other than an arms-length transaction or for less than its Fair Market Value.
- c. 538, Inc. shall use commercially reasonable efforts to sell the Property for Fair Market Value and to incur only commercially reasonable costs of sale for the sale of the Property. Within three (3) Days of entering or modifying any listing agreement, Settling Defendants shall provide DTSC a copy of that Agreement.
- d. For purposes of this Consent Decree, 538, Inc. shall be deemed to have made commercially reasonable efforts to sell the Property if it does both of the following: 1) Enters into a listing agreement with a licensed commercial real estate broker to list the Property at Fair Market Value and 2) Accepts the highest bona fide offer to purchase the Property in as-is condition, and without representations or warranties, for Fair Market Value.

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- e. Any purchase agreement and escrow instructions for the sale of the Property shall require the escrow agent to pay DTSC the sum of \$100,000.
- f. Within five (5) Days of opening escrow to sell the Property, Settling Defendants shall notify DTSC in writing and shall provide DTSC with a copy of the agreement to sell the Property and escrow agreement. As early as possible after opening escrow, Settling Defendants shall request a preliminary Seller's Estimated Settlement Statement from the escrow agent and provide that statement to DTSC. Within fifteen (15) Days of its receipt of the Estimated Settlement Statement, DTSC may object to the sale price for the Property as being below Fair Market Value. Any objection must be in writing, and must state with specificity the basis of the objection. If such an objection is made, the parties will promptly confer to determine if the objection can be satisfactorily resolved. The Settling Defendants may not close the sale unless DTSC has withdrawn its objection. A determination by DTSC that the Property is being sold for less than Fair Market Value shall not be subject to judicial review.
- g. Unless DTSC has objected to the sale in accordance with the previous paragraph, on the day appointed for the close of escrow, DTSC will execute and provide to the escrow agent a release of the lien, which the escrow agent may record with the County Recorder.
- h. Within three (3) Days of escrow closing, the escrow agent shall pay DTSC the funds specified in subparagraph (e) of this Paragraph.

- 1 i. Within ten (10) Days of the close of escrow, Settling Defendants
- 2 shall provide both the Seller's Estimated Settlement Statement
- 3 and a signed report setting forth a cash based accounting of the
- 4 calculation of the Net Sale Proceeds, i.e., showing the gross sale
- 5 price, and each item deducted from same in calculating the Net
- 6 Sale Proceeds.
- 7 j. If 538, Inc. does not sell the Property within three years after the
- 8 Completion of the Remediation, DTSC will be entitled to
- 9 exercise its rights on the lien, including but not limited to a right
- 10 to cause a foreclosure on the lien.

11 32. At the time designated in section 5.13 of the 2008 Remedial Action
12 Order, 538, Inc. will promptly record a land-use covenant to be provided by DTSC
13 that shall limit use of the Property to commercial or industrial and protects the
14 ongoing cleanup activities.

15 33. Settling Defendant’s payment obligations shall be deemed to have been
16 satisfied in full upon: Delivery of the payments due under Paragraphs 30 and 31.
17 The payments specified in Paragraphs 30 and 31 shall be made by electronic funds
18 transfer certified or cashier’s check made payable to Cashier, California
19 Department of Toxic Substances Control, and shall bear on its face both the docket
20 number of this proceeding and the phrase “Site Code 401317.”

- 21 a. The payments shall be sent to:
22 Cashier
23 Accounting Office, MS-21A
24 Department of Toxic Substances Control
25 1001 I Street
26 P.O. Box 806
27 Sacramento, CA 95812-0806
- 28 b. A copy of the check shall be mailed to:
29 Debra Schwartz, Esq,
30 California Department of Toxic Substances Control
31 9211 Oakdale Ave.
32 Chatsworth, CA 91311
33 Or e-mailed to debra.schwartz@dtsc.ca.gov in .pdf or .jpg format.

1 34. This Consent Decree is conditioned upon full execution of the Settling
2 Defendants' respective obligations set forth in Paragraphs 30 through 32 and the
3 Settling Defendants' compliance with the Order Granting Summary Judgment. If
4 these conditions are not met then, at the discretion of DTSC and with reasonable
5 notice to Settling Defendants, this Consent Decree shall be voidable. However, if
6 the failure to comply is limited to one Settling Defendant's failure to comply with
7 its obligations under Paragraphs 30 through 32, then, at DTSC's discretion, this
8 Consent Decree is voidable against that Settling Defendant only and DTSC may
9 then proceed to litigate the Complaint against that Settling Defendant. Nothing in
10 this paragraph shall preclude DTSC from enforcing any part of this Consent
11 Decree.

12 **VII. ACCESS TO INFORMATION**

13 35. Within thirty (30) Days of the Effective Date, Settling Defendants shall
14 have provided to DTSC copies of any and all records, documents, and information
15 within its possession or control, or that of its agents, relating to: (a) the ownership,
16 operation or control of the Site; (b) the purchase, storage, use, handling, generation,
17 treatment, transportation, or disposal of hazardous substances in connection with
18 the Site; (c) releases and/or threatened releases of hazardous substances at or from
19 the Site, including the soil and groundwater; and (d) removal, remedial or Response
20 Actions conducted by any person at the Site. If Settling Defendants believe they
21 produced all such documents in the course of this litigation, they may comply with
22 this Paragraph by sending DTSC a signed letter representing and warranting that
23 they have already produced all information subject to this Paragraph. The letter
24 shall identify each day of production. Sending such a letter shall not absolve
25 Settling Defendants of their obligations under Paragraph 36.
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1 36. If after the Effective Date, Settling Defendants obtain or discover any
2 records, documents or information described in Paragraph 35 not previously
3 provided to DTSC, Settling Defendants agree to provide DTSC with copies of the
4 additional records, documents or information within ten (10) Days of the date
5 Settling Defendants discover or obtain the records, documents or information.

6 **VIII. COVENANT NOT TO SUE BY DTSC**

7 37. Except as expressly provided in Section IX (DTSC's Reservation of
8 Rights) of this Consent Decree, DTSC covenants not to sue Settling Defendants
9 pursuant to CERCLA or the HSAA to: (a) recover Response Costs related to the
10 Site that DTSC incurred before January 1, 2018, or that DTSC incurs between
11 January 1, 2018, and the Effective Date (i.e. negotiating, issuing public notice or
12 seeking judicial entry), including Response Costs associated with groundwater
13 remediation relating to any hazardous substances released at the Site; or (b) require
14 Settling Defendants to conduct Response Actions, including removal or remedial
15 actions, related to the release and/or threatened release of hazardous substances at
16 or from the Site, including the soil and groundwater. For the avoidance of doubt,
17 this Covenant Not to Sue does not extend to Response Costs DTSC incurs after
18 January 1, 2018, reviewing, and overseeing the implementation of, the Addendum
19 to Remedial Investigation/Feasibility Study Workplan, 90-Day Dual-Phase
20 Extraction Pilot Test, dated December 29, 2017 that Defendants submitted to DTSC
21 on December 31, 2017. Settling Defendants reserve all their rights to object to such
22 costs. This Covenant Not to Sue is conditioned upon the complete and satisfactory
23 performance by Settling Defendants of all their obligations under this Consent
24 Decree, including the obligations imposed by the Order Granting Summary
25 Judgment. With reasonable notice to Settling Defendants, this Covenant Not to Sue
26 shall be revocable and thereafter deemed not effective if the Settling Defendants
27 fail to fully perform their obligations stated in the Order Granting Summary
28 Judgment or as to a Settling Defendant(s) who fails to comply with the

1 requirements of Paragraphs 30 through 32 and 35 through 36 of this Consent
2 Decree. With reasonable notice to Settling Defendants, nothing in this paragraph
3 shall preclude DTSC from enforcing any part of this Consent Decree.

4 **IX. DTSC'S RESERVATION OF RIGHTS**

5 38. Claims Regarding Other Matters. DTSC reserves, and this Consent
6 Decree is without prejudice to, all rights against Settling Defendants with respect to
7 all matters not expressly included within DTSC's Covenant Not to Sue (Section
8 VIII).

9 39. Reservation of Claims. DTSC reserves, and this Consent Decree is
10 without prejudice to, all rights against Settling Defendants with respect to the
11 following matters:

12 a. Failure of Settling Defendants to meet the requirements of this
13 Consent Decree;

14 b. Damage to natural resources, as defined in CERCLA section
15 101(6), 42 U.S.C. § 9601(6), including all costs incurred by any natural
16 resources trustees;

17 c. Liability resulting from Settling Defendant's introduction of
18 any hazardous substance, pollutant, or contaminant to the Site after the
19 Effective Date;

20 d. Liability resulting from overt acts by Settling Defendants after
21 the Effective Date that exacerbate hazardous substance conditions existing at
22 or from the Site;

23 e. Claims based on liability arising from the past, present, or
24 future disposal of hazardous substances at sites or locations other than the
25 Site and

26 f. Claims based on criminal liability.

27 40. Government Authority. Except as expressly provided in the Consent
28 Decree, nothing in the Consent Decree is intended nor shall it be construed to

1 preclude DTSC from exercising its authority under any law, statute or regulation.
2 Furthermore, nothing in the Consent Decree is intended, nor shall it be construed, to
3 preclude any other state agency, department, board or entity or any federal entity
4 from exercising its authority under any law, statute or regulation.

5 41. Claims Against Other Persons. DTSC reserves, and this Consent Decree
6 is without prejudice to, all rights, claims, and causes of action DTSC may have
7 against any person other than Settling Defendants. Nothing in this Consent Decree
8 is intended to be nor shall it be construed as a release, covenant not to sue, or
9 compromise of any claim or cause of action, which DTSC may have against any
10 person or other entity not a signatory to this Consent Decree or included in
11 Paragraph 50.

12 42. Unknown Conditions/New Information. Notwithstanding any other
13 provision in the Consent Decree, DTSC reserves, and this Consent Decree is
14 without prejudice to, the right to institute proceedings in this action or in a new
15 action, and/or to issue an administrative order seeking to compel Settling
16 Defendants to perform response activities at the Site and/or to pay DTSC for
17 additional Response Costs, if:

- 18 a. Either of the following occurs: (i) conditions at the Site,
19 previously unknown to DTSC, are discovered, or (ii) information
20 previously unknown to DTSC, is received, in whole or in part;
21 and
22 b. DTSC determines that the previously unknown conditions or new
23 information together with other relevant information indicate that
24 the Response Actions at the Site are not protective of human
25 health or the environment.

26 **X. COVENANT NOT TO SUE BY SETTLING DEFENDANTS**

27 43. Settling Defendants covenant not to sue DTSC, and agree not to assert
28 any affirmative claims or causes of action against DTSC or any DTSC contractors

1 or employees that arise out of the transaction or occurrence that is the subject
2 matter of the DTSC's complaint, or for any injuries, losses, costs, or damages
3 caused or incurred as a result of the performance of the requirements of this
4 Consent Decree or DTSC's Response Actions at the Site.

5 44. In any legal proceedings that DTSC may initiate against Settling
6 Defendants for non-compliance with this Consent Decree, Settling Defendants may
7 raise any and all defenses that Settling Defendants deem to be relevant to the issue
8 of whether or not they have complied with the terms of the Consent Decree.

9 **XI. EFFECT OF SETTLEMENT AND CONTRIBUTION PROTECTION**

10 45. With regard to claims for contribution against Settling Defendants for
11 "Matters Addressed" in this Consent Decree, the Parties agree, and the Court finds
12 as follows:

13 a. This Consent Decree constitutes a judicially approved
14 settlement within the meaning of CERCLA section 113(f)(2), 42 U.S.C. §
15 9613(f)(2).

16 b. This Consent Decree requires that Settling Defendants pay
17 certain Response Costs with respect to their liability at the Site.

18 c. Settling Defendants are entitled to the contribution protection
19 provided by CERCLA section 113(f)(2), 42 U.S.C. § 9613(f)(2), and by state
20 statutory and common law for the "Matters Addressed" in this Consent
21 Decree, except for actions and claims identified in Section VIII (DTSC's
22 Reservation of Rights).

23 46. "Matters Addressed". The "Matters Addressed" in this Consent Decree
24 are all Response Actions taken or to be taken and all Response Costs incurred or to
25 be incurred, at or in connection with the Site, by DTSC, or any other person.

26 47. The protection provided for in this Section XI is conditioned upon
27 compliance by Settling Defendants with its obligations under the Order Granting
28 Summary Judgment and Paragraphs 30 through 32 of this Consent Decree.

1 48. Nothing in this Consent Decree limits or impairs the right of DTSC to
2 pursue any other person for unrecovered Response Costs incurred by DTSC.

3 **XII. NOTIFICATION**

4 49. Notification to or communication among the Parties as required or
5 provided for in this Consent Decree shall be addressed as follows:

6 For DTSC:

7 Joseph Cully, Project Manager
8 Cypress Cleanup Program
9 California Department of Toxic Substances Control
10 Corporate Avenue
11 Cypress, CA 91311-6505

12 California Department of Toxic Substances Control
13 Office of Legal Counsel, MS-23A
14 P.O. Box 806
15 Sacramento, CA 95812-0806

16 For Settling Defendant World Cleaners:

17 Michael Gallagher
18 Erin Poppler
19 BASSI EDLIN HUIE & BLUM LLP
20 500 Washington Street, Suite 700
21 San Francisco, CA 94111

22 David R. Isola
23 ISOLA LAW GROUP, LLP
24 405 West Pine Street
25 Lodi, CA 95240

26 For Settling Defendant 538, Inc.:

27 David R. Isola
28 ISOLA LAW GROUP, LLP
405 West Pine Street
Lodi, CA 95240

29 **XIII. GENERAL PROVISIONS**

30 50. Parties Bound. This Consent Decree shall apply to, be binding upon, and
31 inure to the benefit of the Parties and their representatives, successors, heirs,
32 legatees, and assigns.

1 51. No Rights in Other Parties. Except as provided in Paragraph 50
2 regarding parties bound, nothing in this Consent Decree shall be construed to create
3 any rights in, or grant any cause of action to, any person not a party to this Consent
4 Decree.

5 52. No Waiver of Enforcement. The failure of DTSC to enforce any
6 provision of this Consent Decree shall in no way be deemed a waiver of such
7 provision or in any way affect the validity of this Consent Decree. The failure of
8 DTSC to enforce any such provision shall not preclude it from later enforcing the
9 same or any other provision of this Consent Decree.

10 53. Attorneys' Fees. Except as expressly provided in this Consent Decree,
11 the Parties will not seek to recover attorneys' fees and/or litigation costs against
12 each other.

13 54. Final Agreement. This Consent Decree constitutes the final, complete
14 and exclusive agreement and understanding between the Parties with respect to the
15 settlement embodied in this Consent Decree.

16 55. Modifications. This Consent Decree may be modified only upon written
17 approval of the Parties and with the consent of the Court.

18 56. Counterparts. This Consent Decree may be executed in two or more
19 counterparts, each of which shall be deemed an original, but all of which together
20 shall constitute one and the same instrument.

21 57. Agent. Settling Defendants have appointed and authorized the agents
22 identified in Paragraph 49 to this Consent Decree to receive notices with respect to
23 all matters arising under or relating to this Consent Decree.

24 **XIV. ENTRY OF THE CONSENT DECREE**

25 58. This Consent Decree shall be lodged with the Court for a period of not
26 less than thirty (30) Days. The Consent Decree also is subject to a public comment
27 period of not less than thirty (30) Days. DTSC may modify or withdraw its consent
28 to this Consent Decree if comments received during the public comment period

1 disclose facts or considerations that indicate that this Consent Decree is
2 inappropriate, improper or inadequate. Settling Defendants consent to the entry of
3 this Consent Decree without further notice.

4 59. If, for any reason, the Court declines to approve this Consent Decree in
5 the form presented, this agreement is voidable at the sole discretion of any Party
6 and the terms of the Consent Decree may not be used as evidence in any litigation
7 between the Parties.

8 60. Each signatory to this Consent Decree certifies that he or she is fully
9 authorized by the Party he or she represents to enter into the terms and conditions of
10 this Consent Decree, to execute it on behalf of the party represented, and to legally
11 bind that party to all the terms and conditions of this Consent Decree.

12 **8/13/18**
13 Dated: _____



Honorable Dale Fischer
United States District Judge

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15 Party Signatures on pages to follow
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1 California Department of Toxic Substances

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3 DATE: _____

By: _____

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SIGNATURE

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6

NAME (printed or typed)

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TITLE (printed or typed)

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10 World Cleaners, Inc.

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12 DATE: _____

By: _____

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SIGNATURE

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NAME (printed or typed)

16 538 West 5th Street, San Pedro, Inc.

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18 DATE: _____

By: _____

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SIGNATURE

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APPROVED AS TO FORM AND CONTENT:

Dated:

James Potter
Deputy Attorney General
Attorney for California Department of
Toxic Substances Control

BASSI EDLIN HUIE & BLUM LLP

Dated:

Michael E. Gallagher
Erin K. Poppler
Attorneys for World Cleaners, Inc.

ISOLA LAW GROUP LLP

Dated:

David R. Isola
Attorneys for World Cleaners, Inc.

ISOLA LAW GROUP LLP

Dated:

David R. Isola
Attorney for 538 West 5th Street, San
Pedro, Inc.