



1 WHEREAS, the Parties<sup>1</sup> in the above-entitled Action have entered into a Stipulation of  
2 Settlement, filed August 22, 2013 (the “Stipulation”), after arms-length settlement discussions  
3 conducted in good faith and with the assistance of an experienced mediator, Randall W. Wulff.;

4 WHEREAS, the Court has received and considered the Stipulation, including the  
5 accompanying exhibits;

6 WHEREAS, the Parties have made an application for an order preliminarily approving  
7 the settlement of this Action, and for its dismissal with prejudice upon the terms and conditions  
8 set forth in the Stipulation; and

9 WHEREAS, the Court has reviewed the Parties’ application for such order, and has  
10 found good cause for same.

11 NOW, THEREFORE, IT IS HEREBY ORDERED:

12 **A. The Settlement Class Is Conditionally Certified.**

13 1. Pursuant to Federal Rule of Civil Procedure 23, and for settlement purposes only,  
14 the Court hereby certifies the following Class:

15 all individuals in the United States who purchased the Challenged Products within the  
16 Class Period. Specifically excluded from the Class are (a) Defendant, (b) the officers,  
17 directors, or employees of Defendant and their immediate family members, (c) any entity  
18 in which Defendant has a controlling interest, (d) any affiliate, legal representative, heir,  
19 or assign of Defendant, (e) all federal court judges who have presided over this Action  
and their immediate family members; (f) all persons who submit a valid request for  
exclusion from the Class; and (g) those who purchased the Challenged Products for the  
purpose of resale.

20 2. With respect to the Class and for settlement purposes only, the Court  
21 preliminarily finds the prerequisites for a class action under Federal Rules of Civil Procedure  
22 23(a) and (b)(3) have been met, including: (a) numerosity; (b) commonality; (c) typicality; (d)

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25 <sup>1</sup> All capitalized terms herein shall have the same meanings as set forth in the Stipulation  
26 unless otherwise specifically defined.

1 adequacy of the class representatives and Class Counsel; (e) predominance of common questions  
2 of fact and law among the Class for purposes of settlement; and (f) superiority.

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4 3. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby appoints the  
5 Plaintiffs in the Action – *i.e.*, Andrea Golloher, Marisa Freeman, Roberta Chase, James Hanks,  
6 Michael Shapiro, Brenda Brown, Gretchen Swenson, Crystal Kenny, Kelly Bottari, Rennee  
7 Conover and Shanisha Sanders – as the class representatives.

8 4. Having considered the factors set forth in Federal Rule of Civil Procedure  
9 23(g)(1), the Court hereby appoints Mark N. Todzo and the Lexington Law Group as Class  
10 Counsel.

11 **B. The Stipulation Is Preliminarily Approved and Final Approval  
12 Schedule Set.**

13 5. The Court hereby preliminarily approves the Stipulation and the terms and  
14 conditions of settlement set forth therein, subject to further consideration at the Final Approval  
15 Hearing described below.

16 6. The Court has conducted a preliminary assessment of the fairness, reasonableness,  
17 and adequacy of the Stipulation, and hereby finds that the settlement falls within the range of  
18 reasonableness meriting possible final approval. The Court therefore preliminarily approves the  
19 proposed settlement as set forth in the Stipulation. This approval is given in light of the parties’  
20 representations at the hearing that the release is not to be interpreted so broadly as to bar any  
21 claims that might arise from product labeling or advertising practices not identical or closely  
22 related to those in dispute in this action.

23 7. Pursuant to Federal Rule of Civil Procedure 23(e), the Court will hold a Final  
24 Approval Hearing on March 27, 2014, at 1:30. p.m., in the Courtroom of the Honorable Richard  
25 Seeborg, United States District Court for the Northern District of California, San Francisco  
26 Courthouse, Courtroom 3 - 17th Floor, 450 Golden Gate Ave, San Francisco, CA 94102, for the  
27 following purposes:

1 (a) finally determining whether the Class meets all applicable requirements of  
2 Federal Rule of Civil Procedure 23 and, thus, the Class should be certified for purposes of  
3 effectuating the settlement;

4 (b) determining whether the proposed settlement of the Action on the terms  
5 and conditions provided for in the Stipulation is fair, reasonable and adequate and should be  
6 approved by the Court;

7 (c) considering the application of Class Counsel for an award of attorneys'  
8 fees and reimbursement of expenses, as provided for under the Stipulation;

9 (d) considering the applications of Plaintiffs for class representative incentive  
10 awards, as provided for under the Stipulation;

11 (e) considering whether the Court should enter the [Proposed] Final  
12 Settlement Order and Judgment;

13 (f) considering whether the release of the Released Claims as set forth in the  
14 Stipulation should be provided; and

15 (g) ruling upon such other matters as the Court may deem just and  
16 appropriate.

17 8. The Court may adjourn the Final Approval Hearing and later reconvene such  
18 hearing without further notice to Class Members.

19 9. The Parties may further modify the Stipulation prior to the Final Approval  
20 Hearing so long as such modifications do not materially change the terms of the settlement  
21 provided thereunder. The Court may approve the Stipulation with such modifications as may be  
22 agreed to by the Parties, if appropriate, without further notice to Class Members.

23 10. All papers in support of the settlement and any application for an award of  
24 attorneys' fees and expenses and/or class representative incentive awards must be filed with the  
25 Court and served at least at least 30 days prior to the deadline for class members to object to the  
26 settlement. Plaintiffs shall also post a copy of the motion for fees and costs on the settlement  
27 website.



1 Claims; and (b) information about how to contact the Claim Administrator vial a toll-free  
2 telephone number, email and U.S. mail to enable those who have submitted Claim Forms to  
3 inquire as to the Status of their Claims. The Settlement Website will be permanently deactivated  
4 and made unavailable within 120 days following the Effective Date. Class Notice and Claim  
5 Forms may also be made available to Class Members through the websites of Class Counsel at  
6 their option through the close of the Claim Submission Period but no longer.

7 15. The Claim Administrator is ordered to begin publication of the Publication Notice  
8 on or about 120 days before the Final Approval Hearing and complete publication of the  
9 Publication Notice on or about 80 days before the Final Approval Hearing.

10 16. The costs of Notice, processing of claims of Class Members, creating and  
11 maintaining the Settlement Website, and all other Claim Administrator and Notice expenses shall  
12 be paid from the Claim Fund in accordance with the applicable provisions of the Stipulation.

13 **D. Procedure for Class Members to Participate in the Settlement.**

14 17. The Court approves the Parties' proposed Claim Form. Any Class Member who  
15 wishes to participate in the settlement shall complete a Claim Form in accordance with the  
16 instructions contained therein and submit it to the Claim Administrator no later than 10 days  
17 prior to the date of the Final Approval Hearing, which date will be specifically identified in the  
18 Claim Form. Such deadline may be further extended without notice to the Class by written  
19 agreement of the Parties.

20 18. The Claim Administrator shall have the authority to accept or reject claims in  
21 accordance with the Stipulation, including the Claims Administration Protocols.

22 19. Any Class Member may enter an appearance in the Action, at his or her own  
23 expense, individually or through counsel who is qualified to appear in the jurisdiction. All Class  
24 Members who do not enter an appearance will be represented by Class Counsel.

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1 the objection(s) and the grounds for such objections, together with all papers that the Class  
2 Member desires to submit to the Court no later than 50 days prior to the date of the Final  
3 Approval Hearing, the date for which will be specifically identified in the Publication Notice and  
4 Class Notice. The Court will consider such objection(s) and papers only if such papers are  
5 timely received by the Clerk of the Court, Class Counsel and Vogue's Counsel. Such papers  
6 must be sent to each of the following persons:

7 Clerk of the Court,	Mark N. Todzo	Kieran G. Doyle
8 United States District Court	Lexington Law Group	Cowan, Liebowitz & Latman
9 Northern District of California	503 Divisadero Street	1133 Avenue of the Americas
450 Golden Gate Avenue	San Francisco, CA 94117	New York, NY 10036
San Francisco, CA 94102		

10 25. All objections must include the name, address, and telephone number of the  
11 objecting Class Member, an affirmation that they purchased the Challenged Products during the  
12 Class Period, an explanation of the objection, and the submitting party's signature. All  
13 objections must also include a reference to *Golloher v. Todd Christopher International, Inc.*,  
14 Case No. C 12-06002 RS (N.D. California). Each Class Member submitting an objection must  
15 state whether he or she (or his or her attorney) intends to appear at the Final Approval Hearing.

16 26. Attendance at the Final Approval Hearing is not necessary; however, any Class  
17 Member wishing to be heard orally with respect to approval of the settlement, the applications  
18 for attorneys' fees and reimbursement of expenses, or the application for class representative  
19 incentive awards are required to provide written notice of their intention to appear at the Final  
20 Approval Hearing no later than 50 days prior to the date of the Final Approval Hearing, which  
21 date will be specifically identified in the Class Notice. Class Members who do not oppose the  
22 settlement, the applications for attorneys' fees and expenses, or class representative incentive  
23 awards need not take any action to indicate their approval. A Class Member's failure to submit a  
24 written objection in accordance with the procedure set forth in the Class Notice waives any right  
25 the Class Member may have to object to the settlement, attorneys' fees and expenses, or class  
26 representative incentive awards, to appear at the Final Approval Hearing, or to appeal or seek  
27 other review of the Final Judgment and Order.



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**IT IS SO ORDERED.**

DATED: 10/7/13



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THE HONORABLE RICHARD SEEBORG  
UNITED STATES DISTRICT COURT  
JUDGE