

1 WILSON TURNER KOSMO LLP
 ROBIN A. WOFFORD (137919)
 2 KATHERINE M. McCRAY (243500)
 550 West C Street, Suite 1050
 3 San Diego, California 92101
 Telephone: (619) 236-9600
 4 Facsimile: (619) 236-9669
 E-mail: rwofford@wilsonturnerkosmo.com
 5 E-mail: kmccray@wilsonturnerkosmo.com
Attorneys for Defendant/Counter-Claimant
 6 EQUILON ENTERPRISES LLC dba
 SHELL OIL PRODUCTS US

7 BLEAU FOX, A P.L.C.
 8 THOMAS P. BLEAU, ESQ. (152945)
 3575 Cahuenga Boulevard West, Suite 580
 9 Los Angeles, California 90068
 Telephone: (323) 874-8613
 10 Facsimile: (323) 874-1234
 E-mail: bleaushark@aol.com
 11 **Attorneys for Plaintiff/Counter-Defendant**
 12 MARILYN JO CHINIVASAGAM,
 PALAMAS INVESTMENTS INC.

13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**
 15 **SAN JOSE DIVISION**

16 MARILYN JO CHINIVASAGAM,
 17 **Plaintiff,**
 18 **v.**
 19 EQUILON ENTERPRISES, LLC a Delaware
 limited liability company dba Shell Oil Products
 20 US, and DOES 1 through 10, Inclusive,
 21 **Defendants.**

Case No. 5:09-CV-03136-JW (PSG)
**STIPULATION AND REQUEST FOR
 COURT ORDER TO
 AMEND/CORRECT JUDGMENT**
 Complaint Filed: July 10, 2009
 Judge: Hon. James Ware
 Ct. Rm.: 8
 M. Judge: Hon. Paul Singh Grewal
 Ct. Rm.: 5
 Trial Date: Not Set

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 24 **AND RELATED CROSS-ACTIONS.**

25
 26 **IT IS HEREBY STIPULATED,** by and between the parties, Plaintiff and Counter-Defendant
 27 Marilyn Jo Chinivasagam, Counter-Defendant Palamas Investments Inc., and Defendant and
 28

1 Counter-Claimant Equilon Enterprises LLC d/b/a Shell Oil Products US (collectively, the "Parties"),
2 through their respective counsel as follows:

3 1. On March 7, 2011, this Court entered Judgment in this case. (See Record Doc. 107.)
4 In the first paragraph of the March 7, 2011 Judgment, the Court referred to its "July 13, 2010 Order
5 Granting in Part and Denying in Part Defendant's Motion to Dismiss." (*Id.* at 1, emphasis added.)
6 However, this appears to be a clerical error, as the Court's July 13, 2010 order was an "Order
7 Granting Defendant's Motion for Summary Judgment." (See Record Doc. 70.)

8 2. On March 16, 2011, Plaintiff and Counter-Defendant Marilyn Jo Chinivasagam and
9 Counter-Defendant Palamas Investments Inc. filed a Notice of Appeal that repeated this error by
10 referring to the July 13, 2010 order as an "Order Granting Defendant Equilon Enterprises's Motion
11 to Dismiss." (See Record Doc. 108.)

12 3. Federal Rule of Civil Procedure 60(a) authorizes the court to "correct a clerical
13 mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order,
14 or other part of the record," on motion or on its own. Thus, the parties STIPULATE AND REQUEST
15 THIS COURT TO ENTER AN ORDER as follows:

16 a. The first sentence of the March 7, 2011 Judgment is hereby amended and corrected
17 to state: "Pursuant to the Court's July 13, 2010 Order Granting Defendant's Motion for Summary
18 Judgment, judgment is entered in favor of Defendant Equilon Enterprises LLC, ("Defendant")
19 against Plaintiff Marilyn Jo Chinivasagam ("Plaintiff") as to Plaintiff's First Cause of Action for
20 violation of the Petroleum Marketing Practices Act ("PMPA"), 15 U.S.C. § 2801, *et seq.*"


21 b. The parties further request the court enter an Amended Judgment attached hereto as
22 Exhibit A.

23 c. The parties further request that the March 16, 2010 Notice of Appeal be considered to
24 be a Notice of Appeal of the *Amended* Judgment.

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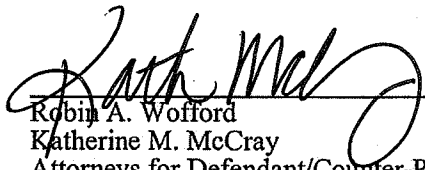
Dated: March ²²~~21~~, 2011

BLEAU / FOX, A.P.L.C.

By: 
THOMAS V. BLEAU
GENNADY L. LEBEDEV
SAM HELMI
Attorneys for Plaintiff/Counter-Defendants
MARILYN JO CHINIVASAGAM and
PALAMAS INVESTMENTS, INC.

Dated: ²² March ~~21~~, 2011

WILSON TURNER KOSMO LLP

By: 
Robin A. Wofford
Katherine M. McCray
Attorneys for Defendant/Counter-Plaintiff
EQUILON ENTERPRISES LLC dba SHELL
OIL PRODUCTS US

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: April 4, 2011

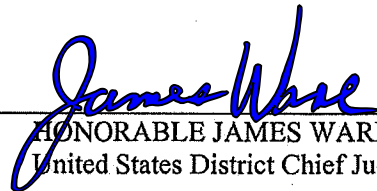

HONORABLE JAMES WARE
United States District Chief Judge

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Marilyn Jo Chinivasagam,
Plaintiff,
v.
Equilon Enters., LLC,
Defendant.

No. C 09-03136 JW
James H. [Signature]
~~PROPOSED~~ AMENDED JUDGMENT

Pursuant to the Court's July 13, 2010 Order Granting Defendant's Motion for Summary Judgment, judgment is entered in favor of Defendant Equilon Enterprises LLC ("Defendant") against Plaintiff Marilyn Jo Chinivasagam ("Plaintiff") as to Plaintiff's First Cause of Action for violation of the Petroleum Marketing Practices Act ("PMPA"), 15 U.S.C. § 2801, *et seq.*

Pursuant to this Court's November 24, 2010 Order Granting Defendant's Motion for Summary Judgment, judgment is entered in favor of Defendant against Plaintiff and Counter-Defendant Palamas Investments, Inc. ("Counter-Defendant") as to Defendant's Fourth Counterclaim for Conversion in the amount of \$50,036.00, which includes \$2,708.00 per month fair rental value from July 1, 2009 until November 30, 2010 and \$4,000 in environmental compliance costs, together with an additional \$2,708.00 per month in rental value thereafter until Counter-Defendant and Plaintiff transfer the improvements to Defendant.

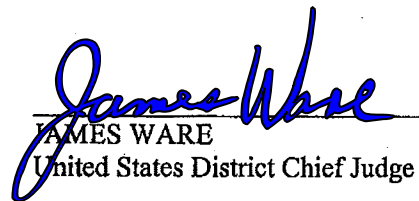
Further, also pursuant to the November 24 Order, the Court imposes a constructive trust on the improvements and equipment located at the Station Site at 16601 Almaden Expressway, San

1 Jose, California, compelling Plaintiff and Counter-Defendant to transfer the property to Defendant.
2 In light of Plaintiff and Counter-Defendant's continued occupancy of the property, the Court finds
3 good cause to continue its September 23, 2010 Preliminary Injunction Regarding Access for
4 Environmental Testing and Compliance until Plaintiff and Counter-Defendant transfer the property
5 to Defendant. Plaintiff and Counter-Defendant are required to give Defendant full rights of access
6 and entry upon the Station Site to take possession and remove its improvements and equipment, as
7 well as to perform any required remediation to bring the Site into compliance with applicable law.

8 Additionally, pursuant to the Court's March 7, 2011 Order Granting Defendant's Motion for
9 Attorney Fees and Costs, the Court awards Defendant \$201,296.05 which consists of \$191,954 for
10 attorney fees and \$9,342.05 in costs.

11 The Clerk shall close this file.

12
13 Dated: April 4, 2011



JAMES WARE
United States District Chief Judge

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