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14 Attorneys for Plaintiff,
15 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY SAN FRANCISCO
18 (Unlimited Jurisdiction)

19 MATEEL ENVIRONMENTAL
20 JUSTICE FOUNDATION,

21 Plaintiff,

22 v.

23 THINGS REMEMBERED, INC.,

24 Defendant.

CASE NO.

CGC-18-570686

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

TOXIC TORT/ENVIRONMENTAL

25 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

26 INTRODUCTION

27 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
28 failure of defendant THINGS REMEMBERED, INC. (hereinafter "Defendant"), to give clear and
reasonable warnings to those residents of California, who drink from leaded crystal glassware that
Defendant sells in California. Defendant sells leaded crystal wine glasses, high ball glasses,
cocktail glasses, decanters and other glassware that is made from leaded crystal and contains lead
at high levels. When beverages are stored in or served from this leaded crystal, some of the lead
leaches out of the crystal into the drink. A person who drinks from this crystal thus ingests lead, a

COMPLAINT FOR INJUNCTION
AND CIVIL PENALTIES

ENDORSED
FILED
San Francisco County Superior Court

OCT 17 2018

CLERK OF THE COURT
BY: NEYL WEBB
Deputy Clerk

BY FAX
ONE LEGAL LLC

1 chemical known to the State of California to cause reproductive toxicity. This causes an exposure
2 to lead within the meaning of Health and Safety Code Section 25249.6.

3 2. Defendant sells leaded crystal throughout California, including in San Francisco.
4 Defendant's leaded crystal imparts lead to beverages that are stored in or served from it. This
5 causes exposure to lead, a chemical listed pursuant to 27 Cal. Code Regs. § 27001 as known to
6 cause male and female reproductive toxicity, as well as developmental toxicity.

7 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
8 to compel Defendant to bring its business practices into compliance with section 25249.5 et seq.
9 by providing a clear and reasonable warning to each individual who has been and who in the
10 future may be exposed to lead by drinking from Defendant's leaded crystal.

11 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
12 of Defendant to provide clear and reasonable warnings regarding exposure to a chemical known to
13 cause male and female reproductive toxicity, as well as developmental toxicity.

14 PARTIES

15 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel") is
16 a non-profit organization dedicated to, among other causes, the protection of the environment,
17 promotion of human health, environmental education, and consumer rights. Mateel is based in
18 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
19 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement action
20 in the public interest pursuant to Health & Safety Code §25249.7(d).

21 6. Defendant is a person doing business within the meaning of Health & Safety Code
22 Section 25249.11. Defendant is a business that sells leaded crystal in California, including in San
23 Francisco County. Exposures to lead that are at issue in this case occur in San Francisco County.

24 7. Plaintiff brings this enforcement action against Defendant pursuant to Health &
25 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of the
26 Notice of Violation letter, dated July 31, 2018, which Mateel sent to California's Attorney
27 General. A substantively identical letter was sent to the District Attorney of San Francisco County
28 as well as to district attorneys for each of California's 58 counties and to the city attorneys for

every California city with a population greater than 750,000. Attached to the Notice of Violation Letter sent to Defendant was a summary of Proposition 65 that was prepared by California's Office of Environmental Health Hazard Assessment. In addition, each Notice of Violation Letter plaintiff sent was accompanied by a Certificate of Service attesting to the service of the Notice of Violation Letter on each entity that received it. Pursuant to California Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis for the action was also sent with each Notice of Violation Letter. Factual information sufficient to establish the basis of the Certificate of Merit was enclosed with the Notice of Violation letter Mateel sent to the Attorney General.

8. Pursuant to a Consent Judgment in the case *Mateel v. TJ Maxx, et al.* (San Francisco Superior Court Case No. 313596) ("the Consent Judgment"), on June 21, 2018, Mateel sent Things Remembered a Probationary Notice of Default, specifying more than forty Things Remembered California stores that were failing to provide Proposition 65 warnings required under the Consent Judgment. On September 6, 2018, also pursuant to the Consent Judgment, Mateel sent Things Remembered a Notice of Default, specifying almost all of the Things Remembered retail locations identified in the Probationary Notice of Default as remaining in violation of both the Consent Judgment and the warning requirements of Proposition 65. More than thirty days have elapsed since Mateel sent Things Remembered the above-referenced September 6, 2018 Notice of Default. Things Remembered has not notified Mateel that it chooses to contest the Consent Judgment violations specified in the September 6, 2018 Notice of Default. Moreover, Things Remembered has provided no documentary evidence that would support a position to contest the September 6, 2017 Notice of Default.

9. Defendant employs more than ten people.

JURISDICTION

10. The Court has jurisdiction over this action pursuant to California Health & Safety Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6 of the Health & Safety Code, which contains the statutes under which this action is brought, does

1 not grant jurisdiction to any other trial court.

2 11. This Court also has jurisdiction over Defendant because it is a business that has
3 sufficient contacts in California and within San Francisco County. Defendant intentionally
4 availed itself of the legal protections offered by California and by San Francisco County by
5 marketing its leaded crystal for use in San Francisco, California. It is thus consistent with
6 traditional notions of fair play and substantial justice for the San Francisco Superior Court to
7 exercise jurisdiction over Defendant.

8 12. Venue is proper in this Court because exposures to lead caused by Defendant's
9 leaded crystal occur in San Francisco. Liability for Plaintiff's causes of action, or some parts
10 thereof, has accordingly arisen in San Francisco during the times relevant to this Complaint and
11 Plaintiff seeks civil penalties imposed by statute.

12 FIRST CAUSE OF ACTION
13 (Claim for Injunctive Relief)

14 13. Plaintiff realleges and incorporates by reference into this First Cause of Action, as
15 if specifically set forth herein, paragraphs 1 through 12, inclusive.

16 14. The People of the State of California have declared by referendum under
17 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed
18 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

19 15. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
20 that businesses that knowingly and intentionally expose any individual to a chemical known to the
21 State of California to cause cancer or developmental toxicity must first provide a clear and
22 reasonable warning to such individual prior to the exposure.

23 16. Since at least three years prior to the Notice of Violation Letter, Defendant has
24 engaged in conduct that violates Health and Safety Code Section 25249.6 et seq. This conduct
25 includes knowingly and intentionally exposing to lead, those California residents who drink
26 beverages that have been stored in or served from leaded crystal that Defendant sells at its retail
27 stores throughout California. Defendant has not provided clear and reasonable warnings of the
28 exposure within the meaning of Health & Safety Code Sections 25249.6 and 25249.11.

17. At all times relevant to this action, Defendant knew that its leaded crystal was causing exposures to lead. In spite of this knowledge, Defendant sold leaded crystal, the intended use for which caused the lead exposures Defendant knew would occur.

18. By the above described acts, Defendant has violated Cal. Health & Safety Code § 25249.6 and is therefore subject to an injunction ordering it to stop violating Proposition 65, to provide warnings to all present and future customers who buy leaded crystal Defendant sells in California.

SECOND CAUSE OF ACTION
(Claim for Civil Penalties)

19. Plaintiff realleges and incorporates by reference into this Second Cause of Action, as if specifically set forth herein, paragraphs 1 through 18, inclusive.

20. By the above described acts, Defendant is liable and should be liable pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500 per day for each individual exposed without proper warning to lead when these individuals drank lead-contaminated beverages from Defendant's leaded crystal.

PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against DEFENDANT, as follows:

1. Pursuant to the First Cause of Action, that Defendant be enjoined, restrained, and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety Code;

2. Pursuant to the Second Cause of Action, that Defendant be assessed a civil penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section 25249.6 of the California Health & Safety Code, to lead when they drank lead-contaminated beverages from Defendant's leaded crystal;

3. That, pursuant to Civil Procedure Code § 1021.5, Defendant be ordered to pay to Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

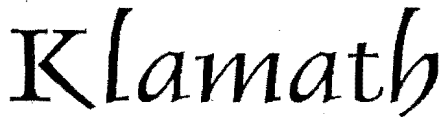
1 4. For such other relief as this court deems just and proper.

2
3 Dated: October 17, 2018

KLAMATH ENVIRONMENTAL LAW CENTER

4
5 By 

6 William Verick
7 Attorney for Plaintiff
8 Mateel Environmental Justice Foundation
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Klamath

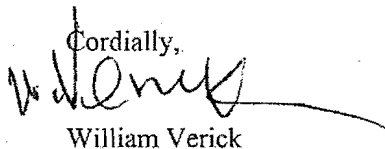
July 31, 2018

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") hereby provide notice that Things Remembered, Inc. ("Things Remembered") has been, is, will be and threatens to be in violation of Cal. Health & Safety Code §25249.6. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below-listed address and telephone number, I may be considered a "responsible individual" at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when Things Remembered markets leaded crystal vessels such as decanters, tumblers, wine glasses, highball glasses, champagne flutes, and cocktail glasses (as for martinis) (collectively hereinafter "leaded crystal vessels"). Eating food or drinking beverages that have been stored in or served from leaded crystal exposes people to lead and lead compounds, (hereinafter, collectively, "lead"). Lead leaches from the vessel into the food or beverage stored in, or served from, the vessel. The food or beverage is then consumed and the accompanying lead ingested. These exposures occur via the ingestion route of exposure. These violations have occurred every day since at least July 31, 2015, and will continue every day until reasonable warnings are given to those people exposed or until Things Remembered stops selling leaded crystal.

Cordially,

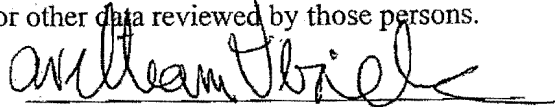


William Verick

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached notice(s) of violation in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

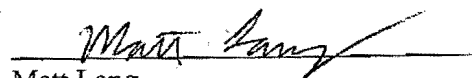
Dated: July 31, 2018


William Verick

CERTIFICATE OF SERVICE

I, Matt Lang, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 1125 Sixteenth Street, Suite 204, Arcata, California, 95521. On July 31, 2018, I caused the attached NOTICE OF VIOLATION LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached NOTICE OF VIOLATION and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 31, 2018, at Arcata, California.


Matt Lang

SERVICE LIST

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE BOX 70550
OAKLAND, CA 94612-0550

OAKLAND CITY ATTORNEY
CITY HALL 6TH FLOOR
1 FRANK OGAWA PLAZA
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL, ROOM 234
1 DR. CARLTON B. GOODLETT PLACE
SAN FRANCISCO, CA 94102-4682

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
915 I STREET, 4TH FLOOR
SACRAMENTO, CA 95814-2608

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALAMEDA
1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF COLUSA
547 MARKET STREET
COLUSA, CA 95932

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF IMPERIAL
940 W. MAIN STREET, SUITE 102
EL CENTRO, CA 92243-2880

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF KERN
1215 TRUXTON AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST. # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LASSEN
2950 RIVERSIDE DR
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MODOC
204 SOUTH COURT STREET
ALTURAS, CA 96101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 93902

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
201 COMMERCIAL STREET
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
401 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
10810 JUSTICE CENTER DR. STE 240
ROSEVILLE, CA 95678

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520 MAIN STREET #404
QUINCY, CA 95971

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COUNTY OF RIVERSIDE
3960 ORANGE ST.
RIVERSIDE, CA 92501

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COUNTY OF SACRAMENTO
901 G STREET
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COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

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316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

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330 W. BROADWAY, SUITE 1100
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COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

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COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1355 WEST STREET
REDDING, CA 96001

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COUNTY OF SIERRA
P.O. BOX 457
DOWNIEVILLE, CA 95936

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COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

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COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
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1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

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COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

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COURTHOUSE #224
VISALIA, CA 93291

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2 S. GREEN ST.
SONORA, CA 95370

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VENTURA, CA 93009

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301 SECOND STREET
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

NELSON TEJADA, CEO
CHARLES J. IBOLD, GENERAL COUNCIL
THINGS REMEMBERED, INC.
5500 AVION PARK DRIVE
HIGHLAND HEIGHTS, OH 44143