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4 Berkeley, CA 94704
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7 Attorney for Plaintiff
8 Center for Environmental Health

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF ALAMEDA**

11 CENTER FOR ENVIRONMENTAL
12 HEALTH, a California non-profit
13 corporation

14 Plaintiff

15 v.

16 DICK BRUHN, INC., dba SELIX
17 FORMALWEAR and DOES I-X,

18 Defendants.

Case No. RG04146143

**NOTICE OF ENTRY OF JUDGMENT
AND STATUTORY FINDINGS AND
ORDER APPROVING SETTLEMENT**

19
20 PLEASE TAKE NOTICE that on May 27, 2005, the Court entered Judgment and approved the
21 Settlement in this case. A true and correct copy of the approved Judgment and Statutory Findings
22 and Order Approving Settlement is attached hereto as Exhibit A and incorporated by this reference.

23 Dated: May 27, 2005

24 By:



25 Michael Freund
26 Attorney for Plaintiff

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7 Attorney for Plaintiff
8 Center for Environmental Health

9 Vincent P. Hurley (State Bar No. 111215)
10 Susan K. Blich (State Bar No. 187761)
11 Samuel J. Dalesandro (State Bar No. 221091)
12 Law Offices of Vincent P. Hurley
13 295 Main Street, 6th Floor
14 Salinas, CA 93901
15 Telephone: (831) 755-7833
16 Facsimile: (831) 753-0293

17 Attorney for Defendant
18 Dick Bruhn, Inc., dba Selix Formalwear

**ENDORSED
FILED
ALAMEDA COUNTY**

MAY 27 2005

**CLERK OF THE SUPERIOR COURT
By E. Opelski-Erickson, Deputy**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

18 CENTER FOR ENVIRONMENTAL
19 HEALTH, a California non-profit
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22 v.

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24 FORMALWEAR and DOES I-X,

25 Defendants.

Case No. RG04146143

(99)
~~PROPOSED~~ FINAL JUDGMENT
PURSUANT TO STIPULATION

Judge ~~Belmont~~ *See* James A. Richman
Dept. ~~31~~ *31*

EXHIBIT A

(99) ~~PROPOSED~~ FINAL JUDGMENT PURSUANT TO STIPULATION

1 Plaintiff Center for Environmental Health ("CEH") and Defendant Dick Bruhn, Inc. dba Selix
2 Formalwear ("Selix") have entered into a Stipulation for Final Judgment ("Stipulation") and
3 based on said Stipulation;
4

5 IT IS HEREBY ADJUDGED, ORDERED AND DECREED that Judgment be entered
6 pursuant to the terms of the Stipulation as follows:
7

8 **I. INJUNCTIVE RELIEF**

9 **1.1 Elimination of Perchloroethylene Emissions**

10 On or before August 14, 2006, Selix shall replace one of its perchloroethylene machines at its
11 Hayward facility with a machine using petroleum or any other solvent that does not contain
12 Proposition 65 listed chemicals. On or before January 1, 2009, Selix shall replace its remaining
13 perchloroethylene machine with a machine using petroleum or any other solvent that does not
14 contain Proposition 65 listed chemicals. Within ten (10) days after each conversion, Selix shall
15 send CEH a statement under penalty of perjury confirming the above.
16

17 **1.2 Proposition 65 Warnings**

18 Within thirty (30) days of Notice of Entry of Judgment, Selix shall provide the following
19 warnings to comply with Proposition 65:
20

21 (a) Selix shall post in its store in such a way that it is likely to be seen by customers and
22 employees, at least one sign which states in bold as follows:
23

24 **PROPOSITION 65 WARNING: THIS AREA CONTAINS**
25 **PERCHLOROETHYLENE, A CHEMICAL KNOWN TO THE STATE OF**
26 **CALIFORNIA TO CAUSE CANCER.**

27 (b) Selix shall cause to be prominently posted on either its bags containing
28 garments dry-cleaned with perchloroethylene or on its advertisements, a warning that

1 states in bold as follows:

2 **PROPOSITION 65 WARNING: THESE DRY CLEANED FABRICS CONTAIN AND**
3 **EMIT RESIDUAL AMOUNTS OF PERCHLOROETHYLENE, A CHEMICAL**
4 **KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER.**
5

6 (c) Selix shall mail or deliver every three (3) months a Proposition 65 warning to those
7 persons exposed to its perchloroethylene emissions in the exact form and content as set forth in
8 Exhibit B to the Stipulation. As long as Selix's emissions remain approximately 4,000 pounds
9 per year (as reflected in Selix's Annual Data Update Form submitted to the Bay Area Air Quality
10 Management District), the warning shall be provided to persons located at the following
11 distances from the facility: As to residents, those residents within 95 meters to the east of the
12 facility; within 80 meters to the west of the facility; within 90 meters to the north of the facility;
13 within 125 meters to the south of the facility; within 220 meters to the northwest of the facility;
14 within 80 meters to the northeast of the facility; within 125 meters to the southeast of the facility;
15 and within 120 meters to the southwest of the facility. As to workers, those workers within 50
16 meters of the facility in each direction.
17
18

19 Within ten (10) days after the providing the above warnings, Selix shall send CEH a one
20 time statement under penalty of perjury confirming that said warnings have been provided.
21

22 If in the future, Selix's emissions are projected to increase, the company will be responsible to
23 expand the area to be warned. Once Selix replaces perchloroethylene in one of its machines, the
24 area that Selix will be responsible to provide warnings to surrounding the facility will be half
25 the distances as set forth above. If Selix chooses, the company may consult with CEH
26 regarding the surrounding area to receive Proposition 65 warnings.
27

28 No future Proposition 65 warnings shall be required once Selix eliminates use of

1 perchloroethylene at its Hayward facility.

2 **II. PAYMENT**

3 In full and final satisfaction of CEH's costs of litigation, attorney's fees and all other
4 expenses, penalties as provided for in Health & Safety Code section 25249.7, Selix shall make a
5 total payment of \$29,000.00 within ten (10) days of Notice of Entry of Judgment. Said
6 payments shall be for the following:
7

8 a) \$9,500.00 payable to the Center for Environmental Health for research into alternatives to
9 the use of toxic chemicals and promotion of those alternatives and reimbursement of CEH's out
10 of pocket expenses. CEH's tax identification no. is 94-3169008.
11

12 b) \$19,500.00 payable to Michael Freund as reimbursement of attorney's fees. Selix's
13 payments shall be mailed to the Law Office of Michael Freund.
14

15 **III. RES JUDICATA**

16 This Judgment shall bar any and all persons from prosecuting against Dick Bruhn, Inc., dba
17 Selix Formalwear and/or its parents, subsidiaries, affiliates, divisions, subdivisions, officers,
18 directors, shareholders, employees, agents, attorneys, successors and assigns, of any and all
19 claims, known or unknown, that have been or could have been asserted by CEH against
20 Defendant in the Amended Complaint in regard to any violation of Proposition 65, or the Unfair
21 Competition Act, or any other statutory or common law claims that were or could have been
22 asserted in the Amended Complaint against Dick Bruhn, Inc., dba Selix Formalwear up to and
23 including the date of entry of Judgment arising from the use of perchloroethylene.
24
25

26 **IV. MODIFICATION OF JUDGMENT**

27 This Stipulation and the Judgment entered by the Court may be modified only upon
28

1 written agreement of the Parties and upon entry of a modified Consent Judgment by the Court
2 thereon, or upon a regularly-noticed motion of any Party to the Stipulation as provided by law
3 and upon entry of a modified Judgment by the Court.
4

5 **V. RETENTION OF JURISDICTION**

6 This Court shall retain jurisdiction of this matter to enforce, modify or terminate the
7 Judgment.
8

9 **VI. DISMISSAL OF DOE DEFENDANTS**

10 The Court hereby dismisses all DOE Defendants in the case.
11

12 **VII. FINDINGS AND ORDER**

13 This settlement having come before the Court upon the request of the Parties and the Court
14 having fully reviewed the settlement and being fully informed regarding the matters which are
15 the subject of this action, it is hereby found that the terms and provisions of the Stipulation
16 represent a fair and equitable settlement of all matters which have been raised between the
17 Parties to this litigation, that the case has been diligently prosecuted, that the settlement is in the
18 public interest, that the findings pursuant to Health & Safety Code section 25249.7 (f) (4) have
19 been appropriately made and that the Settlement is approved.
20

21 Dated: **MAY 27 2005**, 2005
22

23 **JAMES A. RICHMAN** 
24 Judge of the Superior Court

25 **JAMES A. RICHMAN**
26
27
28

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**ENDORSED
FILED
ALAMEDA COUNTY**

MAY 27 2005

CLERK OF THE SUPERIOR COURT
By E. Opelski-Erickson, Deputy

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF ALAMEDA**

11 CENTER FOR ENVIRONMENTAL
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14 Plaintiff

15 v.

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17 FORMALWEAR and DOES I-X,

18 Defendants.

Case No. RG04146143

**STATUTORY FINDINGS AND ORDER
APPROVING SETTLEMENT**

May 27, 2005
Date: ~~April 27, 2005~~
Time: 9:00 a.m.
Dept.: ~~100~~ 31

19
20 This matter having come on calendar pursuant to a regularly noticed motion on April 25, 2005
21 and the Court having reviewed all the evidence submitted in support of Plaintiff's motion in this
22 case, hereby makes the following findings pursuant to Health & Safety Code Section 25249.7 (f)

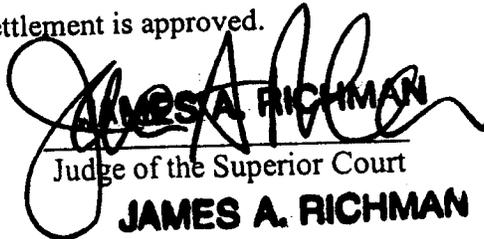
23 (4):

- 24
25 1) The warnings provided fully comply with Proposition 65.
26 2) The attorney's fees award in the settlement is reasonable under California law; and
27 3) No civil penalty is warranted based on the criteria set forth in 11 CCR § 3203 (a) and
28

1 Health & Safety Code Section 25249.7 (b) (2).

2 IT IS HEREBY ORDERED that the Settlement is approved.

3 Dated: MAY 27 2005

4 
5 JAMES A. RICHMAN
6 Judge of the Superior Court
7 JAMES A. RICHMAN

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CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On May 27, 2005 I served the within:

Notice of Entry of Judgment and Statutory Findings and Order Approving Settlement; (Center for Environmental Health v. Dick Bruhn, Inc., dba Selix Formalwear, Alameda County Case No. RG04146143)

on the parties in said action, by facsimile and placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California and/or by hand delivery to said parties addressed as follows:

California Attorney General
Attn: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612

Vincent P. Hurley, Esq.
Law Offices of Vincent P. Hurley
38 Seascapes Village
Aptos, CA 95003

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on May 27, 2005 at Berkeley, California.



Michael Freund