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**FILED**  
ALAMEDA COUNTY  
APR 10 2009  
CLERK OF THE SUPERIOR COURT  
By [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ALAMEDA  
UNLIMITED JURISDICTION

PEOPLE OF THE STATE OF CALIFORNIA, ex ) Case No. RG 04-162075  
rel. BILL LOCKYER, Attorney General, et al., )  
 ) (Consolidated with RG 04-162037, RG  
Plaintiffs, ) 04-169511)  
 )  
vs. ) [PROPOSED] CONSENT JUDGMENT  
 ) AS TO GOODY PRODUCTS, INC.  
BURLINGTON COAT FACTORY )  
WAREHOUSE CORPORATION, et al, )  
 )  
Defendants. )  
 )  
 )  
AND RELATED CONSOLIDATED CASES. )  
 )

**1. INTRODUCTION**

1.1 This Consent Judgment is entered into by the Center For Environmental Health, a California non-profit corporation ("CEH"), and Goody Products, Inc. ("Defendant"), to settle certain claims asserted by CEH against Defendant as set forth in the complaint in the matter entitled *Center for Environmental Health v. Nadri, Inc., et al.*, Alameda County Superior Court Case No. RG 06-269531 (the "*Nadri Action*").

1           1.2    On May 12, 2006, CEH filed the original complaint in the *Nadri* Action, which was  
2 later consolidated with three other actions including the lead case entitled *People v. Burlington*  
3 *Coat Factory et al.* (Alameda Superior Court Case No. RG 04-162075).

4           1.3    On February 21, 2006, upon noticed motion, the Court entered a Consent Judgment  
5 against a group of other defendants in the consolidated actions (the "Master Consent Judgment").

6           1.4    On June 15, 2006, upon noticed motion, the Court amended the Master Consent  
7 Judgment by entering an Amended Consent Judgment in the consolidated actions (the "Amended  
8 Master Consent Judgment").

9           1.5    On June 28, 2007, CEH provided a "Notice of Violation of Proposition 65" to the  
10 California Attorney General, the District Attorneys of every county in California, the City  
11 Attorneys of every California city with a population greater than 750,000, and to Defendant  
12 regarding the presence of lead in jewelry manufactured, distributed or sold by Defendant.

13           1.6    On November 8, 2007, the Complaint in the *Nadri* Action was amended to name  
14 Defendant as a party.

15           1.7    Defendant is a corporation that employs 10 or more persons, and which  
16 manufactures, distributes and/or sells Covered Products in the State of California.

17           1.8    For purposes of this Consent Judgment only, CEH and Defendant (the "Parties")  
18 stipulate that this Court has jurisdiction over the allegations of violations contained in the  
19 Complaint and personal jurisdiction over Defendant as to the acts alleged in the Complaint, that  
20 venue is proper in the County of Alameda, and that this Court has jurisdiction to enter this  
21 Consent Judgment as a full and final resolution of all claims which were or could have been raised  
22 in the Complaint based on the facts alleged therein with respect to Covered Products  
23 manufactured, distributed, and/or sold by Defendant.

24           1.9    CEH and Defendant enter into this Consent Judgment as a full and final settlement  
25 of all claims that were raised in the Complaint, or which could have been raised in the Complaint,  
26 arising out of the facts or conduct related to Defendant alleged therein. By execution of this  
27 Consent Judgment and agreeing to comply with its terms, the Parties do not admit any facts or  
28 conclusions of law, including, but not limited to, any facts or conclusions of law suggesting or

1 demonstrating any violations of Proposition 65 or any other statutory, common law or equitable  
2 requirements relating to lead in jewelry. Nothing in this Consent Judgment shall be construed as  
3 an admission by the Parties of any fact, conclusion of law, issue of law or violation of law, nor  
4 shall compliance with the Consent Judgment constitute or be construed as an admission by the  
5 Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Consent  
6 Judgment shall prejudice, waive or impair any right, remedy, argument or defense the Parties may  
7 have in this or any other or future legal proceedings. This Consent Judgment is the product of  
8 negotiation and compromise and is accepted by the Parties for purposes of settling, compromising,  
9 and resolving issues disputed in this action.

10 **2. DEFINITIONS**

11 2.1 The term "Covered Product" means hair accessories.

12 2.2 The term "Effective Date" means January 1, 2009.

13 **3. INJUNCTIVE RELIEF**

14 3.1 **Reformulation of Covered Products.** After the Effective Date, Defendant shall  
15 not manufacture, ship, or sell or offer for sale any Covered Product that:

16 3.1.1 Contains any component, or is made of any material, that contains more  
17 than 0.02 percent lead by weight (200 parts per million ("ppm")); and

18 3.1.2 Contains or is made with any Surface Coating that contains more than  
19 0.009 percent lead by weight (90 ppm). For purposes of this Consent Judgment, "Surface  
20 Coating" shall carry the same meaning as "Paint or other similar surface coating" under 16 CFR  
21 §1303.2(b)(1) ("Paint and other similar surface-coating materials means a fluid, semi-fluid, or  
22 other material, with or without a suspension of finely divided coloring matter, which changes to a  
23 solid film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or  
24 other surface. This term does not include printing inks or those materials which actually become a  
25 part of the substrate, such as the pigment in a plastic article, or those materials which are actually  
26 bonded to the substrate, such as by electroplating or ceramic glazing.").

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1 **4. ENFORCEMENT**

2 4.1 **General Enforcement Provisions.** The Attorney General or CEH may, by motion  
3 or application for an order to show cause before this Court, enforce the terms and conditions  
4 contained in this Consent Judgment, provided, however, that any action to enforce the terms of  
5 Section 3 of this Consent Judgment shall be brought exclusively pursuant to this Section 4.

6 4.2 **Enforcement of Materials Violation.**

7 4.2.1 **Notice of Violation.** In the event that, at any time following the Effective  
8 Date, the Attorney General or CEH ("Notifying Person") identifies one or more Covered Products  
9 that the Notifying Person believes in good faith do not comply with Section 3 of this Consent  
10 Judgment ("Noncompliant Covered Product"), the Notifying Person may issue a Notice of  
11 Violation pursuant to this Section 4.

12 4.2.2 **Service of Notice of Violation and Supporting Documentation.**

13 4.2.2.1 The Notice of Violation shall be sent to the person(s) identified in  
14 Section 8.1.1 to receive notices for Defendant, and must be served within 60 days of the date the  
15 alleged violation(s) was or were observed.

16 4.2.2.2 The Notice of Violation shall, at a minimum, set forth for each  
17 Noncompliant Covered Product: (a) the date(s) the alleged violation(s) was observed, (b) the  
18 location at which the Covered Product was offered for sale, (c) a description of the Noncompliant  
19 Covered Product, and (d) all test data obtained by the Notifying Person regarding the  
20 Noncompliant Covered Product and supporting documentation sufficient for validation of the test  
21 results, including all laboratory reports, quality assurance reports and quality control reports  
22 associated with testing of the Noncompliant Covered Product. Such Notice of Violation shall be  
23 based upon test data that meets the criteria of Exhibit A. Wipe, swipe, and swab testing are not  
24 sufficient to support a Notice of Violation.

25 4.2.2.3 The Notifying Person shall promptly make available for inspection  
26 and/or copying upon request all supporting documentation related to the testing of the  
27 Noncompliant Covered Product and associated quality control samples, including chain of custody  
28 records, all laboratory logbook entries for laboratory receiving, sample preparation, and

1 instrumental analysis, and all printouts from all analytical instruments relating to the testing of  
2 Noncompliant Covered Product samples and any and all calibration, quality assurance, and quality  
3 control tests performed or relied upon in conjunction with the testing of the Noncompliant  
4 Covered Product, obtained by or available to the Notifying Person that pertains to the  
5 Noncompliant Covered Product's alleged noncompliance with Section 3 and, if available, any  
6 exemplars of Noncompliant Covered Products tested.

7           **4.2.3 Notice of Election of Response.** No more than 30 days after receiving a  
8 Notice of Violation by email, Defendant shall provide written notice to the Notifying Person  
9 whether it elects to contest the allegations contained in a Notice of Violation ("Notice of  
10 Election").

11           **4.2.3.1** If a Notice of Violation is contested the Notice of Election shall  
12 include all then-available documentary evidence regarding the alleged violation, including all test  
13 data, if any. If Defendant or the Notifying Person later acquires additional test or other data  
14 regarding the alleged violation, it shall notify the other party and promptly provide all such data or  
15 information to the party. Any test data used to rebut a Notice of Violation shall meet the criteria  
16 of Exhibit A.

17           **4.2.3.2** If a Notice of Violation is not contested, the Notice of Election shall  
18 include a description of Defendant's corrective action pursuant to Section 4.2.6. The Notice of  
19 Election shall include the name, address, telephone number, and other contact information, of  
20 Defendant's Supplier(s) of each Covered Product identified in the Notice of Violation, and of any  
21 party to the Amended Master Consent Judgment or to a consent judgment that contained "identical  
22 or substantially identical terms as provided in Sections 2, 3 and 4 of the amended consent  
23 judgment," as those terms are used in Health & Safety Code § 25214.3(d), to whom Defendant  
24 sold any Covered Product(s) identified in the Notice of Violation.

25           **4.2.4 Meet and Confer.** If a Notice of Violation is contested, the Notifying  
26 Person and the Defendant shall meet and confer to attempt to resolve their dispute. Within 30  
27 days of serving a Notice of Election contesting a Notice of Violation, and if no enforcement action  
28 has been filed, Defendant may withdraw the original Notice of Election contesting the violation

1 and serve a new Notice of Election conceding the violation. If no informal resolution of a Notice  
2 of Violation results, the Notifying Person may by motion or order to show cause before the  
3 Superior Court of Alameda, seek to enforce the terms and conditions contained in this Consent  
4 Judgment. In any such proceeding, the Attorney General and CEH may seek whatever fines,  
5 costs, penalties, or remedies are provided by law for failure to comply with the Consent Judgment.

6 **4.2.5 Non-Contested Matters.** If Defendant elects not to contest the  
7 allegations in a Notice of Violation, it shall undertake corrective action under Section 4.2.6 and  
8 shall make any contributions required by Section 4.2.7.

9 **4.2.6 Corrective Action in Non-Contested Matters.** If Defendant elects not to  
10 contest the allegation, it shall include in its Notice of Election a detailed description of corrective  
11 action that it has undertaken or proposes to undertake. Corrective action shall be undertaken as  
12 follows:

13 **4.2.6.1 Noncompliant Covered Products Subject to CPSIA.** If the  
14 Noncompliant Covered Product is subject to, and complies with, the lead standards applicable to  
15 the Covered Product under Section 101 of the Consumer Product Safety Improvement Act of 2008  
16 (Public Law 110-314, 122 Stat. 3016 (August 14, 2008)) ("CPSIA"), Defendant shall cease  
17 shipping the Noncompliant Covered Product for sale in California until it has obtained  
18 confirmation by third-party testing of subsequent lots of the Noncompliant Covered Product  
19 sufficient to demonstrate that such lots meet the requirements of Section 3, and provides such  
20 confirmation to CEH in writing five business days in advance of shipping such Covered Product  
21 for sale in California. If the Noncompliant Covered Product is subject to and does not comply  
22 with the lead standards applicable to the Noncompliant Covered Product under Section 101 of the  
23 CPSIA, additional corrective action required by this Consent Judgment shall consist of  
24 instructions to Defendant's customers with California retail stores to cease offering the  
25 Noncompliant Covered Product for sale in California as soon as practicable.

26 **4.2.6.2 Noncompliant Covered Products Not Subject to CPSIA.** If the  
27 Noncompliant Covered Product is not a children's product subject to a lead standard applicable  
28 under CPSIA, but nonetheless complies with the lead standards under Section 101 of the CPSIA

1 that would apply to the Noncompliant Covered Product if it were a children's product, Defendant  
2 shall cease shipping the Noncompliant Covered Product for sale in California until it has obtained  
3 confirmation by third-party testing of subsequent lots of the Noncompliant Covered Product  
4 sufficient to demonstrate that such lots meet the requirements of Section 3, and provides such  
5 confirmation to CEH in writing five business days in advance of shipping such Covered Product  
6 for sale in California. If the Noncompliant Covered Product does not comply with such CPSIA  
7 Standards, additional corrective action must at a minimum include instructions to Defendant's  
8 customers with California retail stores to cease offering the Noncompliant Covered Product for  
9 sale in California as soon as practicable.

10 4.2.6.3 Defendant shall keep and make available to the Notifying Person for  
11 inspection and/or copying records and correspondence regarding corrective action taken pursuant  
12 to this Section.

13 4.2.6.4 If there is a dispute over the corrective action, the Parties shall meet  
14 and confer pursuant to Section 4.2.4 before seeking any remedy in court.

15 **4.2.7 Required Contributions to Proposition 65 Jewelry Testing Fund in**  
16 **Non-Contested Matters.** Defendant shall be required to make a contribution to the Proposition  
17 65 Jewelry Testing Fund established by the Amended Master Consent Judgment as specified  
18 below:

19 4.2.7.1 If Defendant serves a Notice of Election not to contest the  
20 allegations in a Notice of Violation within 15 days of e-mail receipt of the Notice of Violation, or  
21 if the Noncompliant Covered Product does not exceed the applicable lead content requirements  
22 under CPSIA or AB 1681, whichever is lower and applicable to the Noncompliant Covered  
23 Product, it shall not be required to make any contributions pursuant to this Section.

24 4.2.7.2 If Defendant serves a Notice of Election not to contest the  
25 allegations in a Notice of Violation more than 15 days but less than 31 days after receipt of the  
26 Notice of Violation, and if the lead content of the Noncompliant Covered Product exceeds the  
27 requirements of Section 3 and applicable lead content requirements of CPSIA or AB 1681  
28 Standards, whichever is lower and applicable to the Noncompliant Covered Product, Defendant

1 shall make a required contribution in the amount of \$2,500 for each Supplier from whom it  
2 purchased the Noncompliant Covered Product(s) identified in any Notices of Violation served  
3 within a 30-day period.

4                   4.2.7.3     If Defendant withdraws a Notice of Election contesting the violation  
5 and serves a new Notice of Election not to contest the allegations in a Notice of Violation within  
6 60 days after receipt of the Notice of Violation, and before any enforcement action concerning the  
7 violations alleged in the Notice of Violation is filed, and the lead content of the Noncompliant  
8 Covered Product exceeds applicable lead content requirements of CPSIA or AB 1681 Standards,  
9 whichever is lower and applicable to the Covered Product, Defendant shall make a required  
10 contribution in the amount of \$7,500 for each Supplier from whom it purchased the Covered  
11 Product(s) identified in any Notices of Violation served within a 30-day period.

12                   4.2.7.4     The contributions shall be paid within 15 days of service of a Notice  
13 of Election.

14                   4.2.7.5     Defendant's liability for required contributions shall be limited as  
15 follows:

16                   4.2.7.5.1     Defendant as a Supplier to one or more retailers shall  
17 be liable for one required contribution within any 30-day period,  
18 regardless of the number of retailers to whom the Covered Product  
19 is distributed.

20                   4.2.7.5.2     If Defendant has manufactured, sold, or distributed a  
21 Covered Product identified in a Notice of Violation, only one  
22 required contribution may be assessed against the Defendant  
23 potentially liable therefore in any 30-day period, in the following  
24 order of priority: (1) Manufacturers; (2) Importers; (3) Distributors,  
25 and (4) Retailers.

26                   4.2.7.5.3     Defendant's monetary liability to make required  
27 contributions under Section 4.2.7.2 shall be limited to \$5,000 for  
28 each 30-day period. Defendant's monetary liability to make



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required contributions under Section 4.2.7.3 shall be limited to \$15,000 for each 30-day period.

4.2.7.6 If Defendant has paid either of the payments set forth in Sections 4.2.7.2 and 4.2.7.3 more than six times in any 18-month period, or more than three times in any 12-month period for Covered Products sold to Defendant from the same Supplier then, at the Notifying Person's option, the Notifying Person may seek whatever fines, costs, penalties, or remedies are provided by law for failure to comply with the Consent Judgment.

4.2.8 **Limitation on Liability.** Defendant's liability when it elects not to contest a Notice of Violation shall be limited to the contributions required by Section 4.2.7.

**5. PAYMENTS**

5.1 **Payments From Defendant.** Within five days of the entry of this Consent Judgment, Defendant shall pay the total sum of \$95,000 as a settlement payment.

5.2 **Allocation of Payments.** The total settlement amount for Defendant shall be paid in three separate checks delivered to the offices of the Lexington Law Group, LLP (Attn: Eric Somers), 1627 Irving Street, San Francisco, California 94122 and made payable and allocated as follows:

5.2.1 Defendant shall pay the sum of \$1,000 as a penalty pursuant to Health & Safety Code § 25249.7(b),

5.2.2 Defendant shall pay the sum of \$31,200 as payment to CEH in lieu of penalty pursuant to Health & Safety Code § 25249.7(b), and California Code of Regulations, title 11, § 3202(b). CEH will use such funds to continue its work educating and protecting people from exposures to toxic chemicals, including heavy metals. In addition, CEH may use a portion of such funds to monitor compliance with the reformulation requirements of this and other similar Consent Judgments, to purchase and test jewelry, and to prepare and compile the information and documentation necessary to support a Notice of Violation. The payment in lieu of penalty check shall be made payable to the Center For Environmental Health.

1                   5.2.3    Defendant shall pay the sum of \$62,800 as reimbursement of reasonable  
2 attorneys' fees and costs. The attorneys' fees and cost reimbursement check shall be made  
3 payable to the Lexington Law Group, LLP.

4       **6.       MODIFICATION AND DISPUTE RESOLUTION**

5                   6.1    **Modification.** This Consent Judgment may be modified from time to time by  
6 express written agreement of the Parties, with the approval of the Court, or by an order of this  
7 Court upon motion and in accordance with law.

8                   6.2    **Subsequent Legislation.** If, subsequent to the Effective Date, legislation is  
9 adopted that addresses the lead content of Covered Products sold in California, any Party shall be  
10 entitled to request that the Court modify this Consent Judgment for good cause shown.

11                  6.3    **Notice; Meet and Confer.** Any Party seeking to modify this Consent Judgment  
12 shall attempt in good faith to meet and confer with all affected Parties prior to filing a motion to  
13 modify the Consent Judgment.

14       **7.       CLAIMS COVERED AND RELEASE**

15                  7.1    This Consent Judgment is a full, final, and binding resolution between CEH and  
16 Defendant and their parents, shareholders, divisions, subdivisions, subsidiaries, partners, sister  
17 companies and their successors and assigns ("Defendant Releasees"), and all entities other than  
18 those listed on Exhibit B of this Consent Judgment to whom they distribute or sell Covered  
19 Products, including but not limited to distributors, wholesalers, customers, retailers, franchisees,  
20 cooperative members, and licensees ("Downstream Defendant Releasees"), of any violation of  
21 Proposition 65 or any other statutory or common law claims that have been or could have been  
22 asserted in the public interest against Defendant, Defendant Releasees, and Downstream  
23 Defendant Releasees, regarding the failure to warn about exposure to lead arising in connection  
24 with Covered Products manufactured, distributed, or sold by Defendant prior to the Effective Date.

25                  7.2    CEH, for itself and acting on behalf of the public interest pursuant to Health and  
26 Safety Code §25249.7(d), releases, waives, and forever discharges any and all claims against  
27 Defendant, Defendant Releasees, and Downstream Defendant Releasees arising from any violation  
28 of Proposition 65 or any other statutory or common law claims that have been or could have been

1 asserted in the public interest regarding the failure to warn about exposure to lead arising in  
2 connection with Covered Products manufactured, distributed or sold by Defendant prior to the  
3 Effective Date.

4 7.3 Compliance with the terms of this Consent Judgment by Defendant and its  
5 Defendant Releasees shall constitute compliance with Proposition 65 by that Defendant, its  
6 Defendant Releasees and their Downstream Defendant Releasees with respect to any alleged  
7 failure to warn about Lead in Covered Products manufactured, distributed or sold by Defendant  
8 after the Effective Date.

9 7.4 Nothing in this Section 7 shall apply to any Supplier that is not Defendant unless  
10 such Supplier is a parent, subsidiary, or sister company of Defendant.

## 11 8. PROVISION OF NOTICE

12 8.1 When any party is entitled to receive any notice under this Consent Judgment, the  
13 notice shall be sent by certified mail and electronic mail as follows:

14 8.1.1 **Notices to Defendant.** The person for Defendant to receive Notices  
15 pursuant to this Consent Judgment shall be:

16 Andrew Rudd  
17 Newell Rubbermaid, Inc.  
18 3 Glenlake Parkway  
19 Atlanta, GA 30328  
20 Andrew.Rudd@newellco.com

21 With a copy to:

22 Jeffrey B. Margulies  
23 Fulbright & Jaworski LLP  
24 555 South Flower Street, 41st Floor  
25 Los Angeles, California 90071  
26 Tel: (213) 892-9286 / Fax: (310) 995-6218  
27 jmargulies@fulbright.com

28 8.1.2 **Notices to Plaintiff.** The person for CEH to receive Notices pursuant to  
this Consent Judgment shall be:

1 Eric S. Somers  
2 Lexington Law Group, L.L.P.  
3 1627 Irving Street  
4 San Francisco, California 94122  
Tel: (415) 759-4111 / Fax: (415) 759-4112  
esomers@lexlawgroup.com

5 8.2 Any party may modify the person and address to whom the notice is to be sent by  
6 sending each other party notice by certified mail and/or other verifiable form of written  
7 communication.

8 **9. COURT APPROVAL**

9 9.1 This Consent Judgment shall become effective on the Effective Date, provided  
10 however, that CEH shall prepare and file a Motion for Approval of this Consent Judgment and  
11 Defendant shall support approval of such Motion.

12 9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or effect  
13 and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

14 **10. GOVERNING LAW AND CONSTRUCTION**

15 10.1 The terms of this Consent Judgment shall be governed by the laws of the State of  
16 California.

17 10.2 The Parties, including their counsel, have participated in the preparation of this  
18 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This  
19 Consent Judgment has been accepted and approved as to its final form by all Parties and their  
20 counsel. Accordingly, any uncertainty or ambiguity existing in this Consent Judgment shall not be  
21 interpreted against any Party as a result of the manner of the preparation of this Consent Judgment.  
22 Each Party to this Consent Judgment agrees that any statute or rule of construction providing that  
23 ambiguities are to be resolved against the drafting Party should not be employed in the  
24 interpretation of this Consent Judgment and, in this regard, the Parties hereby waive California  
25 Civil Code §1654.

26 **11. ATTORNEYS' FEES**

27 11.1 A party who unsuccessfully brings or contests an action arising out of this Consent  
28 Judgment shall be required to pay the prevailing party's reasonable attorneys' fees and costs

1 unless the unsuccessful party has acted with substantial justification. For purposes of this Consent  
2 Judgment, the term substantial justification shall carry the same meaning as used in the Civil  
3 Discovery Act of 1986, Code of Civil Procedure §§2016.010, *et seq.*

4 11.2 Notwithstanding Section 11.1, a party who prevails in a contested enforcement  
5 action brought pursuant to Section 4 may seek an award of attorneys' fees pursuant to Code of  
6 Civil Procedure §1021.5 against a party that acted with substantial justification. The party seeking  
7 such an award shall bear the burden of meeting all of the elements of §1021.5, and this provision  
8 shall not be construed as altering any procedural or substantive requirements for obtaining such an  
9 award.

10 11.3 Nothing in this Section 11 shall preclude a Party from seeking an award of  
11 sanctions pursuant to law.

## 12 **12. ENTIRE AGREEMENT**

13 12.1 This Consent Judgment contains the sole and entire agreement and understanding  
14 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,  
15 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein  
16 and therein. There are no warranties, representations, or other agreements between the Parties  
17 except as expressly set forth herein. No representations, oral or otherwise, express or implied,  
18 other than those specifically referred to in this Consent Judgment have been made by any Party  
19 hereto. No other agreements not specifically contained or referenced herein, oral or otherwise,  
20 shall be deemed to exist or to bind any of the Parties hereto. No supplementation, modification,  
21 waiver, or termination of this Consent Judgment shall be binding unless executed in writing by the  
22 Party to be bound thereby. No waiver of any of the provisions of this Consent Judgment shall be  
23 deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar,  
24 nor shall such waiver constitute a continuing waiver.

## 25 **13. RETENTION OF JURISDICTION**

26 13.1 This Court shall retain jurisdiction of this matter to implement or modify the  
27 Consent Judgment.  
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1 **14. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

2 14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
3 by the party he or she represents to stipulate to this Consent Judgment and to enter into and  
4 execute the Consent Judgment on behalf of the party represented and legally to bind that party.

5 **15. NO EFFECT ON OTHER SETTLEMENTS**

6 15.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim  
7 against an entity that is not Defendant on terms that are different than those contained in this  
8 Consent Judgment.


9 **16. EXECUTION IN COUNTERPARTS**

10 16.1 The stipulations to this Consent Judgment may be executed in counterparts and by  
11 means of facsimile, which taken together shall be deemed to constitute one document.

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13 IT IS SO STIPULATED:

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Dated: January <u>30</u> , 2009	<b>CENTER FOR ENVIRONMENTAL HEALTH</b>   _____ <i>CHARLES PIZARRO</i> _____ Printed Name  <i>ASSOCIATE DIRECTOR</i> _____ Title
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1 **EXHIBIT A (TESTING PROTOCOLS)**

2 The following test methods must be used to determine compliance with the lead standards  
3 set forth in this Consent Judgment. A material shall not meet the applicable lead standard if the  
4 mean lead level of: (1) one or two samples exceeds 300% of the component specification limit;  
5 (2) three samples exceeds 200% of the component specification limit; or (3) four or more samples  
6 exceeds the component specification limit.

7 Laboratory sample preparation protocols specific for testing the lead content of jewelry  
8 components are not readily available. The sample preparation method used in USEPA Method  
9 3050B or Method 3051 shall be followed, as modified in the following table for use with jewelry  
10 samples. The laboratory should make every effort to assure that samples removed from jewelry  
11 pieces are representative of the component to be tested, and are free of contamination from  
12 extraneous dirt and material not related to the jewelry component to be tested. All jewelry  
13 component samples shall be washed prior to testing using standard laboratory detergent, rinsed  
14 with laboratory reagent grade deionized water, and dried in a clean ambient environment. If  
15 components must be cut or scraped to obtain a sample, then metal snips, scissors, or other cutting  
16 tools used must be made of stainless steel and washed and rinsed before each use and between  
17 samples.

18 Samples should be digested in containers that are known to be free of lead using acids that  
19 are not contaminated by lead. Analytical Reagent grade digestion acids and reagent grade  
20 deionized water are required. Method Blanks, consisting of all reagents used in sample  
21 preparation handled, digested and made to volume in the same exact manner and in the same  
22 container type as samples, shall be tested with each group of 20 or fewer samples tested. The  
23 results for the Method Blank shall be reported with each group of sample results, and shall be  
24 below the stated reporting limit for sample results to be considered valid.

25 All jewelry components samples shall be prepared for testing in accordance with USEPA  
26 Method 3050B or 3051, with the following additional notes and exceptions:  
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COMPONENT	NOTES AND EXCEPTIONS
Metals plated with suitable undercoats and finish coats	Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be 0.050 g to 1 g. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.1% for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.
Unplated metal and metal substrates not defined as Class 1 Components.	Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be 0.050 g to 1 g. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.01% for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.
Polyvinyl chloride (PVC)	Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be a minimum of 0.05 g if using microwave digestion or 0.5 if using hot plate digestion, and should be chopped or comminuted prior to digestion. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.001% (10 ppm) for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.
Non-PVC Plastic/Rubber (e.g., acrylic, polystyrene, plastic beads/stones).	Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be a minimum of 0.05 g if using microwave digestion or 0.5 if using hot plate digestion and should be chopped or comminuted prior to digestion. Plastic beads or stones should be crushed prior to digestion. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.001% (10 ppm) for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.
Coatings on Glass and Plastic Pearls.	The coating of glass or plastic beads should be scraped onto a surface free of dust, such as a clean weighing paper or pan, using a clean stainless steel razor blade or other clean sharp instrument that will not contaminate the sample with lead. The razor blade or sharp instrument should be rinsed with deionized water, wiped to remove particulate matter, rinsed again, and dried between samples. Weigh the scrapings. A minimum of 50 mg of scraped



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	<p>coating should be used for analysis. If less than 50 mg of scraped coating is obtained from an individual pearl, then multiple pearls from that sample must be scraped and composited to obtain a sufficient sample amount. The number of pearls used to make the composite must be noted. Avoid inclusion of the substrate pearl material in the scrapings. Digest the scrapings according to USEPA Method 3050B or 3051 or equivalent procedure for hot acid digestion in preparation for trace lead analysis. Dilute the digestate in the minimum volume practical for analysis. Analyze the digested sample according to specification of Exhibit A (approved, validated methodology for inductively-coupled plasma mass spectrometry). A reporting limit of 0.001% (10 ppm) in the coating must be obtained for the analysis. The sample result must be reported within the calibrated range of the instrument. If the initial test of the sample is above the highest calibration standard, then the sample must be diluted and re-analyzed within the calibrated range of the instrument.</p>
<p>Dyes, paints, coatings, varnish, printing inks, ceramic glazes, glass, crystal</p>	<p>Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be a minimum of 0.050 g, and should be chopped or comminuted prior to digestion.</p> <p>Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.001% (10 ppm) for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.</p>
<p>Glass and crystal used in Children's Products (for weight)</p>	<p>The components should be free of any extraneous material such as adhesive before they are weighed. The scale used to weigh these components should be calibrated using NIST certified (S-class) weights of 1 and 2 grams immediately before the components are weighed. The calibration should be accurate to within 0.01 gram.</p>

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**EXHIBIT B**  
**(LIST OF ENTITIES NOT SUBJECT**  
**TO DOWNSTREAM DEFENDANT RELEASE)**

1. Albertson's LLC; Albertson's, Inc.; New Albertson's, Inc.
2. A-List, Inc. dba Kitson
3. Amiee Lynn, Inc.
4. AZ3, Inc.
5. BCBG Max Azria Group, Inc.
6. Beena Beauty Holding, Inc.
7. Big A Drug Stores, Inc.
8. Busch Entertainment Corporation
9. Conair Corporation
10. Cousin Corporation of America
11. Elite Distributing Company dba Edco
12. Furla (U.S.A.) Incorporated
13. Georgiou Studio, Inc.
14. Hayun Fashion Investments Corporation dba Planet Funk
15. I Love Bracelets, Inc.
16. Ivorette-Texas, Inc. dba Upstart Crow Trading Company
17. Jacadi USA, Inc.
18. La-Kontra
19. Learning Express, Inc.
20. Legoland California LLC
21. Lisa Kline, Inc.
22. Long Rap, Inc..
23. Mango
24. Marin Beauty Company
25. Max Rave, LLC
26. Peninsula Beauty Supply, Inc.
27. Raley's

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- 28. Scünci International, Inc.
- 29. Sea World, Inc.
- 30. Shoe Pavilion Corporation; Shoe Pavilion, Inc.
- 31. Six Flags Theme Parks, Inc.
- 32. Urban Outfitters West LLC; Urban Outfitters, Inc.
- 33. Venus Fashion Jewelry
- 34. Whole Foods Market California, Inc.