

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSED
FILED
ALAMEDA COUNTY

AUG 15 2012

K. McCoy, Exec. Off./Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,)

Plaintiff,)

v.)

LULU NYC LLC, et al.,)

Defendants.)

Lead Case No. RG 09-459448

(Consolidated with Case Nos. RG 10-494289, RG 10-494513, RG 10-494517, RG 11-598595, RG 11-598596, and RG 11-603764)

~~PROPOSED~~ CONSENT
JUDGMENT AS TO AMERICAN
PROCUREMENT COMPANY, INC.

AND CONSOLIDATED CASES.

1. DEFINITIONS

1.1 "Accessible Component" means a component of a Covered Product that could be touched by a person during normal or reasonably foreseeable use.

1.2 "Covered Products" means wallets, handbags, purses and clutches that are Manufactured, distributed, or sold or offered for sale by Settling Defendant.

1.3 "Effective Date" means the date on which this Consent Judgment is entered by the Court.

1.4 "Lead Limits" means the maximum concentrations of lead and lead

1 compounds (“Lead”) by weight specified in Section 3.2.

2 1.5 “Manufactured” and “Manufactures” means to manufacture, produce, or
3 assemble.

4 1.6 “Paint or other Surface Coatings” means a fluid, semi-fluid, or other material,
5 with or without a suspension of finely divided coloring matter, which changes to a solid film
6 when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface.
7 This term does not include printing inks or those materials which actually become a part of the
8 substrate, such as the pigment in a plastic article, or those materials which are actually bonded to
9 the substrate, such as by electroplating or ceramic glazing.

10 1.7 “Vendor” means a person or entity that Manufactures, imports, distributes, or
11 supplies a Covered Product to Settling Defendant.

12 **2. INTRODUCTION**

13 2.1 The parties to this Consent Judgment (“Parties”) are the Center for
14 Environmental Health (“CEH”) and defendant American Procurement Company, Inc. (“Settling
15 Defendant”).

16 2.2 On or about October 14, 2009, CEH served a 60-Day Notice of Violation
17 under Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California
18 Health & Safety Code §§ 25249.5, *et seq.*), alleging that Settling Defendant violated Proposition
19 65 by exposing persons to Lead contained in wallets, handbags, purses and clutches, without first
20 providing a clear and reasonable Proposition 65 warning.

21 2.3 On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,
22 Case No. RG 09-459448, alleging Proposition 65 violations as to wallets, handbags, purses and
23 clutches. On January 19, 2010, CEH filed a related action entitled *CEH v. Bag Bazaar*, Case No.
24 RG 10-494517, naming Settling Defendant as a defendant in that action. Since then, the *Lulu* and
25 *Bag Bazaar* cases have been consolidated for pre-trial purposes with several other related cases.
26 On July 26, 2011, CEH filed the operative Third Amended Complaint in the *Bag Bazaar* action.

27 2.4 Settling Defendant manufactures, distributes or offers Covered Products for
28 sale in the State of California or has done so in the past.

1 2.5 For purposes of this Consent Judgment only, the Parties stipulate that this
2 Court has jurisdiction over the allegations of violations contained in the operative Complaint
3 applicable to Settling Defendant (the “Complaint”) and personal jurisdiction over Settling
4 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,
5 and that this Court has jurisdiction to enter this Consent Judgment.

6 2.6 Nothing in this Consent Judgment is or shall be construed as an admission by
7 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance
8 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
9 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall
10 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any
11 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and
12 is accepted by the Parties for purposes of settling, compromising and resolving issues disputed in
13 this action.

14 **3. INJUNCTIVE RELIEF**

15 3.1 **Specification Compliance Date.** To the extent it has not already done so, no
16 more than 30 days after the Effective Date, Settling Defendant shall provide the Lead Limits to its
17 Vendors of Covered Products and shall instruct each Vendor to use reasonable efforts to provide
18 Covered Products that comply with the Lead Limits on a nationwide basis.

19 3.2 **Lead Limits.**

20 Commencing on the Effective Date, Settling Defendant shall not purchase, import,
21 Manufacture, or supply to an unaffiliated third party any Covered Product that will be sold or
22 offered for sale to California consumers that exceeds the following Lead Limits:

23 3.2.1 Paint or other Surface Coatings on Accessible Components: 90 parts per
24 million (“ppm”).

25 3.2.2 Polyvinyl chloride (“PVC”) Accessible Components: 200 ppm.

26 3.2.3 All other Accessible Components other than cubic zirconia (sometimes
27 called cubic zirconium, CZ), crystal, glass or rhinestones: 300 ppm.

28 3.3 **Final Retail Compliance Date.** Commencing on December 1, 2012, Settling

1 Defendant shall not sell or offer for sale in California any Covered Product that exceeds the Lead
2 Limits specified in Section 3.2. For purposes of this Section 3.3, when Settling Defendant's
3 direct customer sells or offers for sale to California consumers a Covered Product after December
4 1, 2012, Settling Defendant is deemed to "offer for sale in California" that Covered Product.

5 **3.4 Action Regarding Specific Products.**

6 3.4.1 On or before the Effective Date, Settling Defendant shall cease selling the
7 Amerileather Helena Handbag, Item No. 1866-0168 ("Section 3.4 Product") in California.
8 On or before the Effective Date, Settling Defendant shall also: (i) cease shipping the
9 Section 3.4 Product to any of its customers that resell the Section 3.4 Product in
10 California, and (ii) send instructions to its customers that resell the Section 3.4 Product in
11 California instructing them either to (a) return the Section 3.4 Product to the Settling
12 Defendant for destruction; or (b) directly destroy the Section 3.4 Product.

13 3.4.2 Any destruction of Section 3.4 Product shall be in compliance with all
14 applicable laws.

15 3.4.3 Within sixty days of the Effective Date, Settling Defendant shall provide
16 CEH with written certification from Settling Defendant confirming compliance with the
17 requirements of this Section 3.4.

18 **4. ENFORCEMENT**

19 4.1 Any Party may, after meeting and conferring, by motion or application for an
20 order to show cause before this Court, enforce the terms and conditions contained in this Consent
21 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent
22 Judgment shall be brought exclusively pursuant to Sections 4.3 through 4.4.

23 4.2 Within 30 days after the Effective Date, Settling Defendant shall notify CEH
24 of a means sufficient to allow CEH to identify Covered Products supplied or offered by Settling
25 Defendant on or after that date, for example, a unique brand name or characteristic system of
26 product numbering or labeling. Upon written request by CEH, but no more than once in any
27 calendar year, Settling Defendant shall, within 30 days of receiving a request from CEH, update
28 the information provided to CEH pursuant to this Section 4.2 by notifying CEH of a means

1 sufficient to allow CEH to identify Covered Products currently supplied or offered by Settling
2 Defendant. If CEH is unable to determine whether a particular product is a Covered Product as to
3 a Settling Defendant based on the information provided to CEH pursuant to this Section 4.2,
4 Settling Defendant shall cooperate in good faith with CEH in determining whether the product at
5 issue is a Covered Product and, if so, the identity of the Settling Defendant responsible for selling
6 the product. Information provided to CEH pursuant to this Section 4.2, including but not limited
7 to the identities of parties to contracts between Settling Defendant and third parties, may be
8 designated by Settling Defendant as competitively sensitive confidential business information,
9 and if so designated shall not be disclosed to any person without the written permission of
10 Settling Defendant. Any motions or pleadings or any other court filings that may reveal
11 information designated as competitively sensitive confidential business information pursuant to
12 this Section shall be submitted in accordance with California Rules of Court 8.46 and 2.550, *et*
13 *seq.*

14 4.3 **Notice of Violation.** CEH may seek to enforce the requirements of Sections
15 3.2 or 3.3 by issuing a Notice of Violation pursuant to this Section 4.3.

16 4.3.1 **Service of Notice.** CEH shall serve the Notice of Violation on Settling
17 Defendant within 45 days of the date the alleged violation(s) was or were observed,
18 provided, however, that CEH may have up to an additional 45 days to provide Settling
19 Defendant with the test data required by Section 4.3.2(d) below if it has not yet obtained it
20 from its laboratory.

21 4.3.2 **Supporting Documentation.** The Notice of Violation shall, at a minimum,
22 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,
23 (b) the location at which the Covered Product was offered for sale, (c) a description of the
24 Covered Product giving rise to the alleged violation, and of each Accessible Component
25 that is alleged not to comply with the Lead Limits, including a picture of the Covered
26 Product and all identifying information on tags and labels, and (d) all test data obtained by
27 CEH regarding the Covered Product and related supporting documentation, including all
28 laboratory reports, quality assurance reports and quality control reports associated with

1 testing of the Covered Products. Such Notice of Violation shall be based at least in part
2 upon total acid digest testing performed by an independent accredited laboratory. Wipe,
3 swipe, x-ray fluorescence, and swab testing are not by themselves sufficient to support a
4 Notice of Violation, although any such testing may be used as additional support for a
5 Notice. The Parties agree that the sample Notice of Violation attached hereto as Exhibit A
6 is sufficient in form to satisfy the requirements of subsections (c) and (d) of this Section
7 4.3.2.

8 **4.3.3 Additional Documentation.** CEH shall promptly make available for
9 inspection and/or copying upon request by and at the expense of Settling Defendant, all
10 supporting documentation related to the testing of the Covered Products and associated
11 quality control samples, including chain of custody records, all laboratory logbook entries
12 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts
13 from all analytical instruments relating to the testing of Covered Product samples and any
14 and all calibration, quality assurance, and quality control tests performed or relied upon in
15 conjunction with the testing of the Covered Products, obtained by or available to CEH that
16 pertains to the Covered Product's alleged noncompliance with Section 3 and, if available,
17 any exemplars of Covered Products tested.

18 **4.3.4 Multiple Notices.** If Settling Defendant has received more than four
19 Notices of Violation in any 12-month period, at CEH's option, CEH may seek whatever
20 fines, costs, penalties, or remedies are provided by law for failure to comply with the
21 Consent Judgment. For purposes of determining the number of Notices of Violation
22 pursuant to this Section 4.3.4, the following shall be excluded:

- 23 (a) Multiple notices identifying Covered Products Manufactured for or
24 sold to Settling Defendant from the same Vendor; and
25 (b) A Notice of Violation that meets one or more of the conditions of
26 Section 4.4.3(b).

27 **4.4 Notice of Election.** Within 30 days of receiving a Notice of Violation
28 pursuant to Section 4.3, including the test data required pursuant to 4.3.2(d), Settling Defendant

1 shall provide written notice to CEH stating whether it elects to contest the allegations contained in
2 the Notice of Violation (“Notice of Election”). Failure to provide a Notice of Election shall be
3 deemed an election to contest the Notice of Violation.

4 **4.4.1 Contested Notices.** If the Notice of Violation is contested, the Notice of
5 Election shall include all then-available documentary evidence regarding the alleged
6 violation, including any test data. Within 30 days the parties shall meet and confer to
7 attempt to resolve their dispute. Should such attempts at meeting and conferring fail,
8 CEH may file an enforcement motion or application pursuant to Section 4.1. If Settling
9 Defendant withdraws its Notice of Election to contest the Notice of Violation before any
10 motion concerning the violations alleged in the Notice of Violation is filed pursuant to
11 Section 4.1, Settling Defendant shall make a contribution to the Proposition 65 Fashion
12 Accessory Testing Fund in the amount of \$12,500 and shall comply with all of the non-
13 monetary provisions of Section 4.4.2. If, at any time prior to reaching an agreement or
14 obtaining a decision from the Court, CEH or Settling Defendant acquires additional test or
15 other data regarding the alleged violation, it shall promptly provide all such data or
16 information to the other Party.

17 **4.4.2 Non-Contested Notices.** If the Notice of Violation is not contested,
18 Settling Defendant shall include in its Notice of Election a detailed description of
19 corrective action that it has undertaken or proposes to undertake to address the alleged
20 violation. Any such correction shall, at a minimum, provide reasonable assurance that the
21 Covered Product will no longer be offered by Settling Defendant or its customers for sale
22 in California. If there is a dispute over the sufficiency of the proposed corrective action or
23 its implementation, CEH shall promptly notify Settling Defendant and the Parties shall
24 meet and confer before seeking the intervention of the Court to resolve the dispute. In
25 addition to the corrective action, Settling Defendant shall make a contribution to the
26 Fashion Accessory Testing Fund in the amount of \$10,000, unless one of the provisions of
27 Section 4.4.3 applies.

28 **4.4.3 Limitations in Non-Contested Matters.**

1 (a) If it elects not to contest a Notice of Violation before any motion
2 concerning the violation(s) at issue has been filed, the monetary liability of Settling
3 Defendant shall be limited to the contributions required by this Section 4.4.3, if any.

4 (b) The contribution to the Fashion Accessory Testing Fund shall be:

5 (i) One thousand seven hundred fifty dollars (\$1750) if Settling
6 Defendant, prior to receiving and accepting for distribution or sale the
7 Covered Product identified in the Notice of Violation, obtained test results
8 demonstrating that all of the Accessible Components in the Covered
9 Product identified in the Notice of Violation complied with the applicable
10 Lead Limits, and further provided that such test results meet the same
11 quality criteria to support a Notice of Violation as set forth in Section 4.3.2
12 and that the testing was performed within two years prior to the date of the
13 sales transaction on which the Notice of Violation is based. Settling
14 Defendant shall provide copies of such test results and supporting
15 documentation to CEH with its Notice of Election; or

16 (ii) One thousand five hundred dollars (\$1500) if Settling
17 Defendant is in violation of Section 3.3 only insofar as that Section deems
18 Settling Defendant to have “offered for sale” a product sold at retail by
19 Settling Defendant’s customer, provided however, that no contribution is
20 required or payable if Settling Defendant has already been required to pay
21 a total of ten thousand dollars (\$10,000) pursuant to this subsection. This
22 subsection shall apply only to Covered Products that Settling Defendant
23 demonstrates were shipped prior to the applicable Shipping Compliance
24 Date specified in Section 3.2.

25 (iii) Not required or payable, if the Notice of Violation identifies
26 the same Covered Product or Covered Products, differing only in size or
27 color, that have been the subject of another Notice of Violation within the
28 preceding 12 months.

1 **5. PAYMENTS**

2 **5.1 Payments by Settling Defendant.** On or before May 1, 2012, Settling Defendant
3 shall pay the sum of \$7,500 by check payable to the Lexington Law Group. On or before October
4 1, 2012, Settling Defendant shall pay the sum of \$7,500 by check payable to the Lexington Law
5 Group, for a total sum of \$15,000 as a settlement payment. To the extent the Court does not
6 approve this Consent Judgment before a payment is due, the funds paid by Settling Defendant
7 shall be held in trust pending the Court’s approval of this Consent Judgment or returned if the
8 Court issues a final Order denying CEH’s motion for entry of the Consent Judgment. Any failure
9 by Settling Defendant to comply with the payment terms herein shall be subject to a stipulated
10 late fee in the amount of \$100 for each day after the delivery date the payment is received. The
11 late fees required under this Section shall be recoverable, together with reasonable attorneys’ fees,
12 in an enforcement proceeding brought pursuant to Section 4.1 of this Consent Judgment. The
13 settlement payments for Settling Defendant shall be delivered to the offices of the Lexington Law
14 Group (Attn: Eric Somers), 503 Divisadero Street, San Francisco, California 94117, and allocated
15 as set forth below between the following categories:

16 5.1.1 Settling Defendant shall pay the sum of \$1,930 as a civil penalty pursuant
17 to Health & Safety Code § 25249.7(b), such money to be apportioned by CEH in accordance with
18 Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California’s Office of
19 Environmental Health Hazard Assessment).

20 5.1.2 Settling Defendant shall also pay the sum of \$2,900 as a payment in lieu of
21 civil penalty to CEH pursuant to Health & Safety Code § 25249.7(b), and California Code of
22 Regulations, Title 11, § 3203(b). CEH will use such funds to continue its work educating and
23 protecting people from exposures to toxic chemicals, including heavy metals. In addition, as part
24 of its Community Environmental Action and Justice Fund, CEH will use four percent of such
25 funds to award grants to grassroots environmental justice groups working to educate and protect
26 people from exposures to toxic chemicals. The method of selection of such groups can be found
27 at the CEH web site at www.ceh.org/justicefund.

28 5.1.3 Settling Defendant shall also separately pay to the Lexington Law Group

1 the sum of \$10,170 as reimbursement of a portion of CEH’s reasonable attorneys’ fees and costs.

2 **6. MODIFICATION**

3 6.1 **Written Consent.** This Consent Judgment may be modified from time to
4 time by express written agreement of the Parties with the approval of the Court, or by an order of
5 this Court upon motion and in accordance with law.

6 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall
7 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to
8 modify the Consent Judgment.

9 **7. CLAIMS COVERED AND RELEASED**

10 7.1 This Consent Judgment is a full, final and binding resolution between CEH on
11 behalf of itself and the public interest and Settling Defendant, and its parents, subsidiaries,
12 affiliated entities that are under common ownership, directors, officers, employees, and attorneys
13 (“Defendant Releasees”), and each entity to whom they directly or indirectly distribute or sell
14 Covered Products, including but not limited to distributors, wholesalers, customers, retailers
15 (including but not limited to Overstock.com), franchisees, cooperative members, licensors, and
16 licensees (“Downstream Defendant Releasees”) of any violation of Proposition 65 that was or
17 could have been asserted in the Complaint against Settling Defendant, Defendant Releasees, and
18 Downstream Defendant Releasees, based on failure to warn about alleged exposure to Lead
19 contained in Covered Products that were sold by Settling Defendant prior to the Effective Date.

20 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant
21 constitutes compliance with Proposition 65 with respect to Lead in Settling Defendant’s Covered
22 Products.

23 7.3 Nothing in this Section 7 affects CEH’s right to commence or prosecute an
24 action under Proposition 65 against any person other than a Settling Defendant, Defendant
25 Releasee, or Downstream Defendant Releasee.

26 7.4 Nothing in Section 7 affects CEH’s right to commence or prosecute an action
27 under Proposition 65 against a Downstream Defendant Releasee that: (a) is not a direct customer
28 of Settling Defendant under Section 3.3; and (b) sells or offers for sale a Covered Product to

1 California consumers that does not comply with the Lead Limits after the applicable Final Retail
2 Compliance Date set forth in Section 3.3.

3 **8. NOTICE**

4 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the
5 notice shall be sent by first class and electronic mail to:

6 Howard Hirsch
7 Lexington Law Group
8 503 Divisadero Street
9 San Francisco, CA 94117
10 hhirsch@lexlawgroup.com

11 8.2 When Settling Defendant is entitled to receive any notice under this Consent
12 Judgment, the notice shall be sent by first class and electronic mail to:

13 Sarah Esmaili
14 Arnold & Porter LLP
15 Three Embarcadero Center, 7th Floor
16 San Francisco, CA 94111
17 Sarah.Esmaili@aporter.com

18 8.3 Any Party may modify the person and address to whom the notice is to be sent
19 by sending each other Party notice by first class and electronic mail.

20 **9. COURT APPROVAL**

21 9.1 This Consent Judgment shall become effective upon entry by the Court. CEH
22 shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant
23 shall support entry of this Consent Judgment.

24 9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or
25 effect and shall never be introduced into evidence or otherwise used in any proceeding for any
26 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

27 **10. ATTORNEYS' FEES**

28 10.1 Should CEH prevail on any motion, application for an order to show cause or
other proceeding to enforce a violation of this Consent Judgment, CEH shall be entitled to its
reasonable attorneys' fees and costs incurred as a result of such motion or application. Should
Settling Defendant prevail on any motion application for an order to show cause or other

1 proceeding, Settling Defendant may be awarded its reasonable attorneys' fees and costs as a result
2 of such motion or application upon a finding by the Court that CEH's prosecution of the motion
3 or application lacked substantial justification. For purposes of this Consent Judgment, the term
4 substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,
5 Code of Civil Procedure §§ 2016, *et seq.*

6 10.2 Except as otherwise provided in this Consent Judgment, each Party shall bear
7 its own attorneys' fees and costs.

8 10.3 Nothing in this Section 10 shall preclude a Party from seeking an award of
9 sanctions pursuant to law.

10 **11. TERMINATION**

11 11.1 This Consent Judgment shall be terminable by CEH or by Settling Defendant
12 at any time after September 1, 2017, upon the provision of 30 days advanced written notice; such
13 termination shall be effective upon the subsequent filing of a notice of termination with Superior
14 Court of Alameda County.

15 11.2 Should this Consent Judgment be terminated pursuant to this Section, it shall
16 be of no further force or effect as to the terminated parties; provided, however that if CEH is the
17 terminating Party, the provisions of Sections 5 and 7 shall survive any termination and provided
18 further that if Settling Defendant is the terminating Party, the provisions of Sections 5 and 7.1
19 shall survive any termination.

20 **12. OTHER TERMS**

21 12.1 The terms of this Consent Judgment shall be governed by the laws of the State
22 of California.

23 12.2 This Consent Judgment shall apply to and be binding upon CEH and Settling
24 Defendant, and the successors or assigns of any of them.

25 12.3 This Consent Judgment contains the sole and entire agreement and
26 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior
27 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby
28 merged herein and therein. There are no warranties, representations, or other agreements between

1 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or
2 implied, other than those specifically referred to in this Consent Judgment have been made by any
3 Party hereto. No other agreements not specifically contained or referenced herein, oral or
4 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,
5 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in
6 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent
7 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof
8 whether or not similar, nor shall such waiver constitute a continuing waiver.

9 12.4 Nothing in this Consent Judgment shall release, or in any way affect any rights
10 that any Settling Defendant might have against any other party, whether or not that party is a
11 Settling Defendant.

12 12.5 This Court shall retain jurisdiction of this matter to implement or modify the
13 Consent Judgment.

14 12.6 The stipulations to this Consent Judgment may be executed in counterparts
15 and by means of facsimile or portable document format (pdf), which taken together shall be
16 deemed to constitute one document.

17 12.7 Each signatory to this Consent Judgment certifies that he or she is fully
18 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into
19 and execute the Consent Judgment on behalf of the Party represented and legally to bind that
20 Party.

21 12.8 The Parties, including their counsel, have participated in the preparation of
22 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.
23 This Consent Judgment was subject to revision and modification by the Parties and has been
24 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any
25 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any
26 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this
27 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to
28 be resolved against the drafting Party should not be employed in the interpretation of this Consent

1 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

2 **IT IS SO ORDERED:**

3 4 Dated: <u>Aug 15</u> , 2012	5 STEVEN A. BRICK The Honorable Steven A. Brick Judge of the Superior Court
------------------------------------	---

6 **IT IS SO STIPULATED:**

7
8 **CENTER FOR ENVIRONMENTAL HEALTH**

9
10
11 
Signature

12
13 CHARLIE PIZARRO
Printed Name

14
15 ASSOCIATE DIRECTOR
Title

16
17
18
19 **AMERICAN PROCUREMENT COMPANY, INC.**

20
21
22
23 _____
Signature

24
25 _____
Printed Name

26
27
28 _____
Title

1 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

2 IT IS SO ORDERED:

3 4 Dated: _____, 2012	The Honorable Steven A. Brick Judge of the Superior Court
---------------------------	--

6 IT IS SO STIPULATED:


8 CENTER FOR ENVIRONMENTAL HEALTH

11 _____
Signature

14 _____
Printed Name

16 _____
Title

19 AMERICAN PROCUREMENT COMPANY, INC.

22 
Signature

24 Louis Chau
Printed Name

27 president
Title

Exhibit A



H
N
D
R
D
S
T
H
O
U
S
A
N
D
S
O
F
T
W
A
R
E
S
E
R
V
E
R
S

U
N
I
T
E
D
S
T
A
T
E
S
O
F
A
M
E
R
I
C
A
A
N
D
C
A
N
A
D
I
A
N
P
R
O
V
I
N
C
E
S

OFFICE

20

1000

1000

1000

1000

365 North Canyons Parkway, Suite 201
Tech Center: 2441 Constitution Drive
Livermore CA 94551



925-828-1440
www.TheNFL.com

Analytical Report

August 03, 2011

Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117

Analytical Report No.: CL3573-33
Analysis Dates: 07/26/11 - 08/03/11

Listed below are the results of our analyses for sample(s) received on July 26, 2011.

CEH ID#AB789L, [REDACTED] Wallet (Orange Surface Material On Main Part Of W
NFL ID AF02363

Analyte	Result	Units	Method Ref.
Lead	67500	ppm	NIOSH 7082

A portion of the sample was digested in a microwave oven with concentrated nitric acid and analyzed by ICP-MS.

Sample(s) were received in good condition unless and results are reported based on the sample(s) as received, unless otherwise noted. Please note that these results apply only to the sample(s) submitted for this report. Samples from a different portion of the same lot may produce different results.

The National Food Lab services are provided subject to our standard terms and conditions, which can be found on our website, www.TheNFL.com. Should you have any questions concerning these results, please do not hesitate to contact us. Thank you for using the services of the National Food Lab.

Sincerely,

Grace Bandong, Division Manager, Food Contaminants -Chemistry

cc: The NFL's Accounts Receivable