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**ENDORSED  
FILED  
ALAMEDA COUNTY**

APR 04 2013

CLERK OF THE SUPERIOR COURT

By S. McMullen Deputy

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, RG 11-603764, and RG 12-658652)

**PROPOSED CONSENT  
JUDGMENT AS TO VERSACE USA,  
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 Fashion Accessories that are Manufactured, distributed, 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           1.4           “Fashion Accessories” means (i) wallets, handbags, purses, and clutches; (ii)  
2 belts; and (iii) footwear.

3           1.5           “Lead Limits” means the maximum concentrations of lead and lead  
4 compounds (“Lead”) by weight specified in Section 3.2.

5           1.6           “Manufactured” and “Manufactures” have the meaning defined in Section  
6 3(a)(10) of the Consumer Product Safety Act (“CPSA”) [15 U.S.C. § 2052(a)(10)],<sup>1</sup> as amended  
7 from time to time.

8           1.7           “Paint or other Surface Coatings” has the meaning defined in 16 C.F.R.  
9 § 1303.2(b)<sup>2</sup>, as amended from time to time.

10          1.8           “Vendor” means a person or entity that Manufactures, imports, distributes, or  
11 supplies a Fashion Accessory 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 Versace USA, Inc. (“Settling Defendant”).

15          2.2           Settling Defendant manufactures, distributes or sells Fashion Accessories that  
16 are offered for retail sale in the State of California or has done so in the past.

17          2.3           On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,  
18 Case No. RG 09-459448, and on January 19, 2010, CEH filed the action entitled *CEH v.*  
19 *Zappos.com, Inc.*, Case No. RG 10-494513. On March 3, 2010, the *Lulu* and *Zappos.com* cases  
20 were consolidated for pre-trial purposes with the following related cases: (a) *CEH v. Ashley*  
21 *Stewart*, Case No. RG10-494289; and (b) *CEH v. Bag Bazaar*, Case No. RG 10-494517. On  
22 February 8, 2012, the following cases were also consolidated for pre-trial purposes with the *Lulu*  
23 consolidated cases: (a) *CEH v. Bioworld Merchandising, Inc.*, Case No. RG 11-598596; (b) *CEH*

24 <sup>1</sup> As of May 1, 2011, the term “Manufactured” and “Manufactures” means to manufacture,  
25 produce, or assemble.

26 <sup>2</sup> As of May 1, 2011, “Paint or other Surface Coatings” means a fluid, semi-fluid, or other  
27 material, with or without a suspension of finely divided coloring matter, which changes to a solid  
28 film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other  
surface. This term does not include printing inks or those materials which actually become a part  
of the substrate, such as the pigment in a plastic article, or those materials which are actually  
bonded to the substrate, such as by electroplating or ceramic glazing.

1 v. *Yoki Shoes LLC*, Case No. RG 11-598595; and (c) *CEH v. Armani Exchange, Inc.*, Case No.  
2 RG 11-603764.

3 2.4 More than 60 days prior to naming Settling Defendant as a defendant in the  
4 applicable actions, CEH issued 60-day Notices of Violation under Proposition 65 (The Safe  
5 Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§  
6 25249.5, *et seq.*) to Settling Defendant alleging that it exposed consumers in California to lead in  
7 Fashion Accessories sold by Settling Defendant without first providing a Proposition 65 warning.  
8 On or about November 3, 2010, CEH filed a Second Amended Complaint in *CEH v. Zappos.com*,  
9 naming Settling Defendant as a defendant in that action. On July 26, 2011, CEH filed the  
10 operative Third Amended Complaint in the *Zappos.com* action. On November 9, 2011, CEH  
11 filed the operative Complaint in *CEH v. Armani Exchange*, Case No. RG 11-603764, alleging  
12 Proposition 65 violations as to belts. On October 5, 2011, CEH filed the original Complaint in  
13 *CEH v. Bioworld*. On April 12, 2012, CEH filed the operative First Amended Complaint in *CEH*  
14 *v. Bioworld*. More than sixty days after issuing a 60-day Notice to Settling Defendant, CEH  
15 named Settling Defendant as a defendant in the operative First Amended Complaint in the  
16 *Bioworld* action and the operative Complaint in the *Armani Exchange* action via Doe  
17 Amendments.

18 2.5 For purposes of this Consent Judgment only, the Parties stipulate that this  
19 Court has jurisdiction over the allegations of violations contained in the operative Complaint  
20 applicable to Settling Defendant (the “Complaint”) and personal jurisdiction over Settling  
21 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,  
22 and that this Court has jurisdiction to enter this Consent Judgment.

23 2.6 Nothing in this Consent Judgment is or shall be construed as an admission by  
24 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance  
25 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
26 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall  
27 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any  
28 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and

1 is accepted by the Parties for purposes of settling, compromising and resolving issues disputed in  
2 this action.

3 **3. INJUNCTIVE RELIEF**

4 **3.1 Lead Limits.**

5 As of the Effective Date, Settling Defendant shall not purchase, import,  
6 Manufacture, supply to an unaffiliated third party, sell or offer for sale any Covered Product that  
7 will be sold or offered for sale to California consumers that exceeds the following Lead Limits:

8 3.1.1 Paint or other Surface Coatings on Accessible Components: 90 parts per  
9 million (“ppm”).

10 3.1.2 Polyvinyl chloride (“PVC”) Accessible Components: 200 ppm.

11 3.1.3 All other Accessible Components (including but not limited to leather and  
12 non-PVC imitation leather) other than brass components, cubic zirconia (sometimes called cubic  
13 zirconium, CZ), crystal, glass or rhinestones: 300 ppm.

14 3.1.4 Brass Components on Covered Products: 1.5% Lead, provided that any  
15 such brass components on a Covered Product shall comprise less than the following percentages  
16 by weight of the Covered Products: (a) wallets and Footwear: 10%; (b) handbags, purses and  
17 clutches: 15%; and (c) belts: 20%. Within 30 days of the Effective Date, and at least once per  
18 year thereafter, Settling Defendant shall send a written request to its direct suppliers of brass  
19 components on Covered Products requesting such suppliers to use reasonable commercial efforts  
20 to reduce the level of Lead in the brass components of all Covered Products that will be sold or  
21 offered for sale to California consumers to no more than 300 ppm.

22 **3.2 Final Retail Compliance Date.** As of six months after the Effective Date,  
23 when one of Settling Defendant’s direct customers sells or offers for sale to a California  
24 consumer a Covered Product that does not either meet the Lead Limits or have a Clear and  
25 Reasonable Warning as specified in Section 3.3.1 herein, Settling Defendant is deemed to “sell or  
26 offer for sale in California” that Covered Product in violation of this Consent Judgment, but is  
27 only subject to the payment provisions in Section 4.4.3(b)(ii).

28 **3.3 Warnings for Covered Products.**

1                   3.3.1 **Warning Option.** A Covered Product purchased, imported or  
2 Manufactured by Settling Defendant may, as an alternative to meeting the Lead Limits, be sold or  
3 offered for retail sale in California with a Clear and Reasonable Warning that complies with the  
4 provisions of Section 3.3.2.

5                   3.3.2 **Proposition 65 Warnings.** A Clear and Reasonable Warning under this  
6 Consent Judgment shall state:

7                   WARNING: This product contains lead, a chemical known to the State of  
8 California to cause birth defects or other reproductive harm. Do not allow children  
9 to mouth or chew.

10                  Or

11                  WARNING: This product contains lead, a chemical known to the State of  
12 California to cause birth defects or other reproductive harm. Do not mouth or  
13 chew.

14                  Or

15                  WARNING: This product contains lead, a chemical known to the State of  
16 California to cause birth defects or other reproductive harm.

17                  This statement shall be prominently displayed on the Covered Product or the packaging of  
18 the Covered Product in such a manner that it is likely to be read and understood by an  
19 ordinary individual prior to sale. For internet, catalog or any other sale where the  
20 consumer is not physically present and cannot see a warning displayed on the Covered  
21 Product or the packaging of the Covered Product prior to purchase or payment, the  
22 warning statement shall be displayed in such a manner that it is likely to be read and  
23 understood prior to the authorization of or actual payment.

24 **4. ENFORCEMENT**

25                  4.1                  Any Party may, after meeting and conferring, by motion or application for an  
26 order to show cause before this Court, enforce the terms and conditions contained in this Consent  
27 Judgment. Enforcement of the terms and conditions of Sections 3.1 and 3.2 of this Consent  
28 Judgment shall be brought exclusively pursuant to Sections 4.3 through 4.3.

1           4.2           **Notice of Violation.** If CEH alleges that Settling Defendant sold or offered  
2 for retail sale to California consumers a Covered Product that (i) contains Lead in an amount that  
3 exceeds any of the applicable Lead Limits, and (ii) for which Settling Defendant did not provide a  
4 Clear and Reasonable Warning that complies with Section 3.3, and (iii) providing that CEH  
5 within 120 days has not previously provided Settling Defendant with a Notice of Violation as to  
6 the same Covered Product, CEH may issue a Notice of Violation pursuant to this Section 4.2.

7           4.2.1   **Service of Notice.** CEH shall serve the Notice of Violation on Settling  
8 Defendant within 45 days of the date the alleged violation(s) was or were observed,  
9 provided, however, that CEH may have up to an additional 45 days to provide Settling  
10 Defendant with the test data required by Section 4.2.2(d) below if it has not yet obtained it  
11 from its laboratory.

12           4.2.2   **Supporting Documentation.** The Notice of Violation shall, at a minimum,  
13 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,  
14 (b) the location at which the Covered Product was offered for sale, (c) a description of the  
15 Covered Product, and of each Accessible Component that is alleged not to comply with  
16 the Lead Limits, giving rise to the alleged violation, including a picture of the Covered  
17 Product and all identifying information on tags and labels, (d) all test data obtained by  
18 CEH regarding the Covered Product and related supporting documentation, including all  
19 laboratory reports, quality assurance reports and quality control reports associated with  
20 testing of the Covered Products, and (e) documentary evidence that CEH reasonably  
21 concludes would be admissible establishing that no Proposition 65 warning was provided.  
22 Such Notice of Violation shall be based at least in part upon total acid digest testing  
23 performed by an independent accredited laboratory. Wipe, swipe, x-ray fluorescence, and  
24 swab testing are not by themselves sufficient to support a Notice of Violation, although  
25 any such testing may be used as additional support for a Notice. The Parties agree that the  
26 sample Notice of Violation attached hereto as Exhibit A is sufficient in form to satisfy the  
27 requirements of subsections (c) and (d) of this Section 4.2.2.  
28

1           4.2.3 **Additional Documentation.** CEH shall promptly make available for  
2 inspection and/or copying upon request by and at the expense of Settling Defendant, all  
3 supporting documentation related to the testing of the Covered Products and associated  
4 quality control samples, including chain of custody records, all laboratory logbook entries  
5 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts  
6 from all analytical instruments relating to the testing of Covered Product samples and any  
7 and all calibration, quality assurance, and quality control tests performed or relied upon in  
8 conjunction with the testing of the Covered Products, obtained by or available to CEH that  
9 pertains to the Covered Product’s alleged noncompliance with Section 3 and, if available,  
10 any exemplars of Covered Products tested.

11           4.2.4 **Multiple Notices.** If Settling Defendant has received more than four  
12 Notices of Violation in any 12-month period, at CEH’s option, CEH may seek whatever  
13 fines, costs, penalties, or remedies are provided by law for failure to comply with the  
14 Consent Judgment. For purposes of determining the number of Notices of Violation  
15 pursuant to this Section 4.2.4, the following shall be excluded:

16                   (a) Multiple notices identifying Covered Products Manufactured for or  
17 sold to Settling Defendant from the same Vendor; and

18                   (b) A Notice of Violation that meets one or more of the conditions of  
19 Section 4.3.3(b).

20           4.3 **Notice of Election.** Within 30 days of receiving a Notice of Violation  
21 pursuant to Section 4.2, including the test data required pursuant to 4.2.2(d), Settling Defendant  
22 shall provide written notice to CEH stating whether it elects to contest the allegations contained in  
23 the Notice of Violation (“Notice of Election”). Failure to provide a Notice of Election shall be  
24 deemed an election to contest the Notice of Violation.

25           4.3.1 **Contested Notices.** If the Notice of Violation is contested, the Notice of  
26 Election shall include all then-available documentary evidence regarding the alleged  
27 violation, including any test data. Within 30 days the parties shall meet and confer to  
28 attempt to resolve their dispute. Should such attempts at meeting and conferring fail,

1 CEH may file an enforcement motion or application pursuant to Section 4.1. If Settling  
2 Defendant withdraws its Notice of Election to contest the Notice of Violation before any  
3 motion concerning the violations alleged in the Notice of Violation is filed pursuant to  
4 Section 4.1, Settling Defendant shall make a contribution to the Proposition 65 Fashion  
5 Accessory Testing Fund in the amount of \$12,500 and shall comply with all of the non-  
6 monetary provisions of Section 4.3.2.

7 4.3.2 **Non-Contested Notices.** If the Notice of Violation is not contested,  
8 Settling Defendant shall include in its Notice of Election a detailed description of  
9 corrective action that it has undertaken or proposes to undertake to address the alleged  
10 violation. Any such correction shall, at a minimum, provide reasonable assurance that the  
11 Accessible Component allegedly in violation of the Consent Judgment will no longer be  
12 offered by Settling Defendant or its customers for sale in California or alternatively that  
13 the Prop 65 Warning specified herein will be provided. In addition to the corrective  
14 action, Settling Defendant shall make a contribution to the Fashion Accessory Testing  
15 Fund in the amount of \$10,000, unless one of the provisions of Section 4.3.3 applies. If  
16 there is a dispute over the sufficiency of the proposed corrective action or its  
17 implementation (including any allegation by CEH that Settling Defendant is continuing to  
18 sell the same Covered Product or Accessible Component that was subject to a previous  
19 Notice of Violation), CEH shall promptly notify Settling Defendant and the Parties shall  
20 meet and confer before seeking the intervention of the Court to resolve the dispute.

21 4.3.3 **Limitations in Non-Contested Matters.**

22 (a) If it elects not to contest a Notice of Violation before any motion  
23 concerning the violation(s) at issue has been filed, the monetary liability of Settling  
24 Defendant shall be limited to the contributions required by this Section 4.3.3, if any.

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

26 (i) One thousand seven hundred fifty dollars (\$1750) if Settling  
27 Defendant, prior to receiving and accepting for distribution or sale the  
28 Covered Product identified in the Notice of Violation, obtained test results



1 demonstrating that all of the Accessible Components in the Covered  
2 Product identified in the Notice of Violation complied with the applicable  
3 Lead Limits, and further provided that such test results meet the same  
4 quality criteria to support a Notice of Violation as set forth in Section 4.2.2  
5 and that the testing was performed within two years prior to the date of the  
6 sales transaction on which the Notice of Violation is based. Settling  
7 Defendant shall provide copies of such test results and supporting  
8 documentation to CEH with its Notice of Election; or

9 (ii) One thousand five hundred dollars (\$1500) if Settling  
10 Defendant is in violation of Section 3.2, provided however, that no  
11 contribution is required or payable if Settling Defendant has already been  
12 required to pay a total of ten thousand dollars (\$10,000) pursuant to this  
13 subsection. This subsection shall apply only to Covered Products that  
14 Settling Defendant demonstrates were shipped prior to the Effective Date;  
15 or

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

## 20 **5. PAYMENTS**

21 **5.1 Payments by Settling Defendant.** Within five (5) days of entry of this Consent  
22 Judgment, Settling Defendant shall pay the total sum of \$125,000 as a settlement payment. The  
23 total settlement amount for Settling Defendant shall be paid in three separate checks delivered to  
24 the offices of the Lexington Law Group (Attn: Eric Somers), 503 Divisadero Street, San  
25 Francisco, California 94117, and made payable and allocated as follows:

26 5.1.1 Settling Defendant shall pay the sum of \$16,600 as a civil penalty pursuant  
27 to Health & Safety Code § 25249.7(b), such money to be apportioned by CEH in accordance with  
28 Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California's Office of

1 Environmental Health Hazard Assessment). The civil penalty check shall be made payable to the  
2 Center For Environmental Health.

3 5.1.2 Settling Defendant shall also pay the sum of \$24,900 as a payment in lieu  
4 of civil penalty to CEH pursuant to Health & Safety Code § 25249.7(b), and California Code of  
5 Regulations, Title 11, § 3203(b). CEH will use such funds to continue its work educating and  
6 protecting people from exposures to toxic chemicals, including heavy metals. In addition, as part  
7 of its Community Environmental Action and Justice Fund, CEH will use four percent of such  
8 funds to award grants to grassroots environmental justice groups working to educate and protect  
9 people from exposures to toxic chemicals. The method of selection of such groups can be found  
10 at the CEH web site at [www.ceh.org/justicefund](http://www.ceh.org/justicefund). The payment pursuant to this Section shall be  
11 made payable to the Center For Environmental Health.

12 5.1.3 Settling Defendant shall also separately pay to the Lexington Law Group  
13 the sum of \$83,500 as reimbursement of a portion of CEH's reasonable attorneys' fees and costs.  
14 The attorneys' fees and cost reimbursement check shall be made payable to the Lexington Law  
15 Group.

## 16 **6. MODIFICATION**

17 6.1 **Written Consent.** This Consent Judgment may be modified from time to  
18 time by express written agreement of the Parties with the approval of the Court, or by an order of  
19 this Court upon motion and in accordance with law.

20 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall  
21 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to  
22 modify the Consent Judgment.

## 23 **7. CLAIMS COVERED AND RELEASED**

24 7.1 This Consent Judgment is a full, final and binding resolution between CEH on  
25 behalf of itself and the public interest and Settling Defendant, and its parents, subsidiaries,  
26 affiliated entities that are under common ownership or common control, directors, officers,  
27 employees, and attorneys ("Defendant Releasees"), and each entity to whom they directly or  
28 indirectly distribute or sell Covered Products, including but not limited to distributors,

1 wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees  
2 (“Downstream Defendant Releasees”) of any violation of Proposition 65 that was or could have  
3 been asserted in the Complaint against Settling Defendant, Defendant Releasees, and  
4 Downstream Defendant Releasees, based on failure to warn about alleged exposure to Lead  
5 contained in Fashion Accessories that were sold by Settling Defendant prior to the Effective Date.

6 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant  
7 constitutes compliance with Proposition 65 with respect to Lead in Settling Defendant’s Covered  
8 Products. Furthermore, to the extent Settling Defendant notifies CEH of its intent to provide a  
9 Clear and Reasonable Warning as to a particular Covered Product pursuant to Section 3.4.1, CEH  
10 agrees as to any such Covered Product the Downstream Defendant Releasees as defined in  
11 Section 7.1 hereof shall have the same rights as does Settling Defendant under Section 3.4, and  
12 these rights shall supersede as to those Covered Product(s) any provisions in Consent Judgments  
13 or other agreements between any of the Downstream Defendant Releasees and CEH which  
14 include prohibitions on any of the Downstream Defendant Releasees having any commerce with  
15 Covered Products exceeding the Lead Limits set forth above.

16 7.3 Nothing in this Section 7 affects CEH’s right to commence or prosecute an  
17 action under Proposition 65 against any person other than a Settling Defendant, Defendant  
18 Releasee, or Downstream Defendant Releasee.

19 7.4 Nothing in Section 7 affects CEH’s right to commence or prosecute an action  
20 under Proposition 65 against a Downstream Defendant Releasee that: (a) is not a direct customer  
21 of Settling Defendant under Section 3.3; and (b) sells or offers for sale a Covered Product to  
22 California consumers that does not comply with the Lead Limits after the applicable Final Retail  
23 Compliance Date set forth in Section 3.3.

24 **8. NOTICE**

25 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the  
26 notice shall be sent by first class and electronic mail to:  
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Eric S. Somers  
Lexington Law Group  
503 Divisadero Street  
San Francisco, CA 94117  
esomers@lexlawgroup.com

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

Arthur Fine  
Mitchell Silberberg & Knupp LLP  
11377 W. Olympic Blvd.  
Los Angeles, CA 90064-1683  
abf@msk.com

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

**9. COURT APPROVAL**

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

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

**10. ATTORNEYS' FEES**

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

1           10.2       Except as otherwise provided in this Consent Judgment, each Party shall bear  
2 its own attorneys' fees and costs.

3           10.3       Nothing in this Section 10 shall preclude a Party from seeking an award of  
4 sanctions pursuant to law.

5       **11.    TERMINATION**

6           11.1       This Consent Judgment shall be terminable by CEH or by Settling Defendant  
7 at any time after September 1, 2017, upon the provision of 30 days advanced written notice; such  
8 termination shall be effective upon the subsequent filing of a notice of termination with Superior  
9 Court of Alameda County.

10          11.2       Should this Consent Judgment be terminated pursuant to this Section, it shall  
11 be of no further force or effect as to the terminated parties; provided, however that if CEH is the  
12 terminating Party, the provisions of Sections 5, 7, and 12.1 shall survive any termination and  
13 provided further that if Settling Defendant is the terminating Party, the provisions of Sections 5,  
14 7.1 and 12.1 shall survive any termination.

15       **12.    OTHER TERMS**

16          12.1       The terms of this Consent Judgment shall be governed by the laws of the State  
17 of California.

18          12.2       This Consent Judgment shall apply to and be binding upon CEH and Settling  
19 Defendant, and its respective divisions, subdivisions, and subsidiaries, and the successors or  
20 assigns of any of them.

21          12.3       This Consent Judgment contains the sole and entire agreement and  
22 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior  
23 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby  
24 merged herein and therein. There are no warranties, representations, or other agreements between  
25 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or  
26 implied, other than those specifically referred to in this Consent Judgment have been made by any  
27 Party hereto. No other agreements not specifically contained or referenced herein, oral or  
28 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,

1 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in  
2 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent  
3 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof  
4 whether or not similar, nor shall such waiver constitute a continuing waiver.

5           12.4           Nothing in this Consent Judgment shall release, or in any way affect any rights  
6 that any Settling Defendant might have against any other party, whether or not that party is a  
7 Settling Defendant.

8           12.5           This Court shall retain jurisdiction of this matter to implement or modify the  
9 Consent Judgment.

10           12.6           The stipulations to this Consent Judgment may be executed in counterparts  
11 and by means of facsimile or portable document format (pdf), which taken together shall be  
12 deemed to constitute one document.

13           12.7           Each signatory to this Consent Judgment certifies that he or she is fully  
14 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into  
15 and execute the Consent Judgment on behalf of the Party represented and legally to bind that  
16 Party.

17           12.8           The Parties, including their counsel, have participated in the preparation of  
18 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.  
19 This Consent Judgment was subject to revision and modification by the Parties and has been  
20 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any  
21 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any  
22 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this  
23 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to

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1 be resolved against the drafting Party should not be employed in the interpretation of this Consent  
2 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

3 **IT IS SO ORDERED:**

4 <b>APR 04 2013</b> 5 Dated: _____, 2013	<b>STEVEN A. BRICK</b> The Honorable Steven A. Brick Judge of the Superior Court
--	--

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8 **IT IS SO STIPULATED:**

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10 **CENTER FOR ENVIRONMENTAL HEALTH**

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13 \_\_\_\_\_  
Signature

14 **CHARLIE PIZANO**  
15 \_\_\_\_\_  
Printed Name

16  
17 **ASSOCIATE DIRECTOR**  
18 \_\_\_\_\_  
Title

19 **VERSACE USA, INC.**

20  
21  
22 \_\_\_\_\_  
Signature

23  
24 \_\_\_\_\_  
Printed Name

25  
26  
27 \_\_\_\_\_  
Title

28

1 be resolved against the drafting Party should not be employed in the interpretation of this Consent  
2 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

3 **IT IS SO ORDERED:**

4 5 Dated: _____, 2013	6 7 8 The Honorable Steven A. Brick 9 Judge of the Superior Court
---------------------------	--

10 **IT IS SO STIPULATED:**

11 **CENTER FOR ENVIRONMENTAL HEALTH**

12  
13 \_\_\_\_\_  
14 Signature

15 \_\_\_\_\_  
16 Printed Name

17 \_\_\_\_\_  
18 Title

19 **VERSACE USA, INC.**

20  
21 *M. Sopi*  
22 \_\_\_\_\_  
23 Signature

24 *MICHELE SOPI*  
25 \_\_\_\_\_  
26 Printed Name

27 *C.E.O.*  
28 \_\_\_\_\_  
Title



# **Exhibit A**



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ORANGE

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](http://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