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ENDORSED  
FILED  
ALAMEDA COUNTY

JUN 05 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, and RG 11-603764 and RG 12-658652)

~~PROPOSED~~ CONSENT  
JUDGMENT AS TO T.U.K., 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 and reasonably foreseeable use.

1.2 "Covered Products" means footwear that is 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           “Lead Limits” means the maximum concentrations of lead and lead  
2 compounds (“Lead”) by weight specified in Section 3.2.

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

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

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

## 13    **2.    INTRODUCTION**

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

16          2.2           On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,  
17 Case No. RG 09-459448, alleging Proposition 65 violations as to wallets, handbags, purses and  
18 clutches. Since the initial filing, the Court has consolidated the *Lulu* matter with a number of  
19 other related Proposition 65 cases.

20          2.3           On or about August 24, 2011, CEH served a 60-Day Notice of Violation under  
21 Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health  
22 & Safety Code §§ 25249.5, *et seq.*), alleging that Settling Defendant violated Proposition 65 by  
23 exposing persons to Lead contained in footwear, without first providing a clear and reasonable  
24 Proposition 65 warning.

25          2.4           On or about October 5, 2011, CEH filed the original Complaint in *CEH v.*  
26 *Yoki Shoes LLC*, Case No. RG 11-598595. On or about November 2, 2011, CEH named Settling  
27 Defendant as a defendant in that action via Doe Amendment. On or around April 12, 2012, CEH  
28 filed the operative First Amended Complaint in the *Yoki* action.

1           2.5           Settling Defendant manufactures, distributes and/or offers for sale Covered  
2 Products in the State of California or has done so in the past.

3           2.6           For purposes of this Consent Judgment only, the Parties stipulate that this  
4 Court has jurisdiction over the allegations of violations contained in the operative Complaint  
5 applicable to Settling Defendant (the "Complaint") and personal jurisdiction over Settling  
6 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,  
7 and that this Court has jurisdiction to enter this Consent Judgment.

8           2.7           Nothing in this Consent Judgment is or shall be construed as an admission by  
9 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance  
10 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
11 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall  
12 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any  
13 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and  
14 is accepted by the Parties for purposes of settling, compromising and resolving issues disputed in  
15 this action.

16 **3.    INJUNCTIVE RELIEF**

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

21           3.2           **Lead Limits.**

22                   Commencing on the Effective Date, Settling Defendant shall not purchase, import,  
23 Manufacture, or supply to an unaffiliated third party any Covered Product that will be sold or  
24 offered for sale to California consumers that contains a material or is made of a component that  
25 exceeds the following Lead Limits:

26                   3.2.1   Paint or other Surface Coatings on Accessible Components: 90 parts per  
27 million ("ppm").

28                   3.2.2   Polyvinyl chloride ("PVC") Accessible Components: 200 ppm.

1                   3.2.3 All other Accessible Components made of materials or components other  
2 than cubic zirconia (sometimes called cubic zirconium, CZ), crystal, glass or rhinestones: 300  
3 ppm.

4                   3.3           **Final Retail Compliance Date.** Commencing on the Effective Date, Settling  
5 Defendant shall not sell or offer for sale in California any Covered Product that exceeds the Lead  
6 Limits specified in Section 3.2.

7                   3.4           **Action Regarding Specific Products.**

8                   3.4.1 On or before the Effective Date, Settling Defendant shall cease selling the  
9 T.U.K. Pump in Red, SKU No. 536911-001, Style No. A7725L (the "Section 3.4  
10 Product") in California. On or before the Effective Date, Settling Defendant shall also: (i)  
11 cease shipping the Section 3.4 Product to any of its stores and/or customers that resell the  
12 Section 3.4 Product in California, and (ii) send instructions to its stores and/or customers  
13 that resell the Section 3.4 Product in California instructing them either to: (a) return all the  
14 Section 3.4 Product to Settling Defendant for destruction; or (b) directly destroy the  
15 Section 3.4 Product.

16                   3.4.2 Any destruction of Section 3.4 Product shall be in compliance with all  
17 applicable laws.

18                   3.4.3 Within sixty days of the Effective Date, Settling Defendant shall provide  
19 CEH with written certification from Settling Defendant confirming compliance with the  
20 requirements of this Section 3.4.

21                   3.5           **Warnings for Previously-Manufactured Products.**

22                   3.5.1 **Interim Warning Option.** A Covered Product purchased, imported or  
23 Manufactured by Settling Defendant before the Effective Date, may, as an alternative to  
24 meeting the Lead Limits, be distributed, sold, or offered for retail sale in California after  
25 the Effective Date with a Clear and Reasonable Warning that complies with the provisions  
26 of Section 3.5.3.

27                   3.5.2 **Warnings for Previously Distributed Products.** Within 30 days of the  
28 Effective Date, Settling Defendant shall send a letter to all customers to which Settling

1 Defendant shipped Covered Products in 2010, 2011 and 2012 and who sell or offer for  
2 sale Covered Products to customers in California or have California retail operations,  
3 enclosing a sufficient supply of stickers with a Clear and Reasonable Warning that  
4 complies with the provisions of Section 3.5.3, and requesting that such customers apply a  
5 warning sticker to each Covered Product designated by Settling Defendant in order to  
6 comply with Proposition 65.

7 3.5.3 **Proposition 65 Warnings.** A Clear and Reasonable Warning under this  
8 Consent Judgment shall state:

9 WARNING: This product contains chemicals known to the State of California to  
10 cause birth defects or other reproductive harm.

11 This statement shall be prominently displayed on the Covered Product or the packaging of  
12 the Covered Product with such conspicuousness, as compared with other words,  
13 statements or designs as to render it likely to be read and understood by an ordinary  
14 individual prior to sale. For internet, catalog or any other sale where the consumer is not  
15 physically present and cannot see a warning displayed on the Covered Product or the  
16 packaging of the Covered Product prior to purchase or payment, the warning statement  
17 shall be displayed in such a manner that it is likely to be read and understood prior to the  
18 authorization of or actual payment

19 **4. ENFORCEMENT**

20 4.1 Any Party may, after meeting and conferring, by motion or application for an  
21 order to show cause before this Court, enforce the terms and conditions contained in this Consent  
22 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent  
23 Judgment shall be brought exclusively pursuant to Sections 4.2 through 4.3.

24 4.2 **Notice of Violation.** CEH may seek to enforce the requirements of Sections  
25 3.2 or 3.3 by issuing a Notice of Violation pursuant to this Section 4.2.

26 4.2.1 **Service of Notice.** CEH shall serve the Notice of Violation on Settling  
27 Defendant within 45 days of the date the alleged violation(s) was or were observed,  
28 provided, however, that CEH may have up to an additional 45 days to provide Settling

1 Defendant with the test data required by Section 4.2.2(d) below if it has not yet obtained it  
2 from its laboratory. CEH may serve a subsequent Notice of Violation to a supplier of a  
3 Covered Product identified in a previous Notice of Violation so long as: (a) the identity of  
4 the supplier cannot be discerned from the labeling of the Covered Product; and (b) the  
5 Notice of Violation to the supplier is served within 45 days of the date the supplier is  
6 identified in writing to CEH by another Settling Defendant

7           **4.2.2 Supporting Documentation.** The Notice of Violation shall, at a minimum,  
8 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,  
9 (b) the location at which the Covered Product was offered for sale, (c) a description of the  
10 Covered Product giving rise to the alleged violation, and of each material or component  
11 that is alleged not to comply with the Lead Limits, including a picture of the Covered  
12 Product and all identifying information on tags and labels, and (d) all test data obtained by  
13 CEH regarding the Covered Product and related supporting documentation, including all  
14 laboratory reports, quality assurance reports and quality control reports associated with  
15 testing of the Covered Products. Such Notice of Violation shall be based at least in part  
16 upon total acid digest testing performed by an independent accredited laboratory. Wipe,  
17 swipe, x-ray fluorescence, and swab testing are not by themselves sufficient to support a  
18 Notice of Violation, although any such testing may be used as additional support for a  
19 Notice. The Parties agree that the sample Notice of Violation attached hereto as Exhibit A  
20 is sufficient in form to satisfy the requirements of subsections (c) and (d) of this Section  
21 4.2.2.

22           **4.2.3 Additional Documentation.** CEH shall promptly make available for  
23 inspection and/or copying upon request by and at the expense of Settling Defendant, all  
24 supporting documentation related to the testing of the Covered Products and associated  
25 quality control samples, including chain of custody records, all laboratory logbook entries  
26 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts  
27 from all analytical instruments relating to the testing of Covered Product samples and any  
28 and all calibration, quality assurance, and quality control tests performed or relied upon in

1 conjunction with the testing of the Covered Products, obtained by or available to CEH that  
2 pertains to the Covered Product's alleged noncompliance with Section 3 and, if available,  
3 any exemplars of Covered Products tested.

4 **4.2.4 Multiple Notices.** If Settling Defendant has received more than four  
5 Notices of Violation in any 12-month period, at CEH's option, CEH may seek whatever  
6 fines, costs, penalties, or remedies are provided by law for failure to comply with the  
7 Consent Judgment. For purposes of determining the number of Notices of Violation  
8 pursuant to this Section 4.2.4, the following shall be excluded:

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

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

13 **4.3 Notice of Election.** Within 30 days of receiving a Notice of Violation  
14 pursuant to Section 4.2, including the test data required pursuant to 4.2.2(d), Settling Defendant  
15 shall provide written notice to CEH stating whether it elects to contest the allegations contained in  
16 the Notice of Violation ("Notice of Election"). Failure to provide a Notice of Election shall be  
17 deemed an election to contest the Notice of Violation.

18 **4.3.1 Contested Notices.** If the Notice of Violation is contested, the Notice of  
19 Election shall include all then-available documentary evidence regarding the alleged  
20 violation, including any test data. Within 30 days the parties shall meet and confer to  
21 attempt to resolve their dispute. Should such attempts at meeting and conferring fail,  
22 CEH may file an enforcement motion or application pursuant to Section 4.1. If Settling  
23 Defendant withdraws its Notice of Election to contest the Notice of Violation before any  
24 motion concerning the violations alleged in the Notice of Violation is filed pursuant to  
25 Section 4.1, Settling Defendant shall make a contribution to the Proposition 65 Fashion  
26 Accessory Testing Fund in the amount of \$12,500 and shall comply with all of the non-  
27 monetary provisions of Section 4.3.2. If, at any time prior to reaching an agreement or  
28 obtaining a decision from the Court, CEH or Settling Defendant acquires additional test or

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other data regarding the alleged violation, it shall promptly provide all such data or information to the other Party.

4.3.2 **Non-Contested Notices.** If the Notice of Violation is not contested, Settling Defendant shall include in its Notice of Election a detailed description of corrective action that it has undertaken or proposes to undertake to address the alleged violation. Any such correction shall, at a minimum, provide reasonable assurance that the Covered Product will no longer be offered by Settling Defendant or its customers for sale in California. If there is a dispute over the sufficiency of the proposed corrective action or its implementation, CEH shall promptly notify Settling Defendant and the Parties shall meet and confer before seeking the intervention of the Court to resolve the dispute. In addition to the corrective action, Settling Defendant shall make a contribution to the Fashion Accessory Testing Fund in the amount of \$10,000, unless one of the provisions of Section 4.3.3 applies.



1                   4.3.3 **Limitations in Non-Contested Matters.**

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

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

6                   (i)     One thousand seven hundred fifty dollars (\$1,750) if Settling  
7 Defendant, prior to receiving and accepting for distribution or sale the  
8 Covered Product identified in the Notice of Violation, obtained test results  
9 demonstrating that the materials or components in the Covered Product  
10 identified in the Notice of Violation as exceeding the Lead Limits complied  
11 with the applicable Lead Limits. Such tests results must meet the same  
12 quality criteria to support a Notice of Violation as set forth in Section 4.2.2  
13 and reflect testing that was performed on the same batch or lot as the  
14 Covered Product that is the subject of the Notice of Violation. Settling  
15 Defendant shall provide copies of such test results and documents  
16 sufficient to establish the conditions of this subsection to CEH with its  
17 Notice of Election; or

18                   (ii)    One thousand five hundred dollars (\$1,500) if Settling  
19 Defendant is in violation of Section 3.3 only insofar as that Section deems  
20 Settling Defendant to have “offered for sale” a product sold at retail by  
21 Settling Defendant’s customer, provided however, that no contribution is  
22 required or payable if Settling Defendant has already been required to pay  
23 a total of ten thousand dollars (\$10,000) pursuant to this subsection. This  
24 subsection shall apply only to Covered Products that Settling Defendant  
25 demonstrates were shipped prior to the Effective Date; or

26                   (iii)   Not required or payable, if the Notice of Violation identifies  
27 the same Covered Product or Covered Products, differing only in size or  
28

1 color, that have been the subject of another Notice of Violation within the  
2 preceding 12 months.

3 4.3.4 Any contributions to the Fashion Accessory Testing Fund required under  
4 this Section 4.3 shall be made payable to The Center for Environmental Health and  
5 included with Settling Defendant's Notice of Election.

6 **5. PAYMENTS**

7 5.1 **Payments by Settling Defendant.** Within five (5) business days of the Effective  
8 Date, Settling Defendant shall pay the total sum of \$45,000 as a settlement payment. The total  
9 settlement amount for Settling Defendant shall be paid in three separate checks and delivered to  
10 the offices of the Lexington Law Group (Attn: Eric Somers), 503 Divisadero Street, San  
11 Francisco, California 94117-2212, and made payable and allocated as follows:

12 5.1.1 Settling Defendant shall pay the sum of \$5,930 as a civil penalty pursuant  
13 to Health & Safety Code § 25249.7(b). CEH shall apportion this payment in accordance with  
14 Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California's Office of  
15 Environmental Health Hazard Assessment). The civil penalty check shall be made payable to the  
16 Center For Environmental Health.

17 5.1.2 Settling Defendant shall pay the sum of \$8,900 as a payment in lieu of civil  
18 penalty to CEH pursuant to Health & Safety Code § 25249.7(b), and California Code of  
19 Regulations, Title 11, § 3203(b). CEH shall use such funds to continue its work educating and  
20 protecting people from exposures to toxic chemicals, including heavy metals. In addition, as part  
21 of its Community Environmental Action and Justice Fund, CEH will use four percent of such  
22 funds to award grants to grassroots environmental justice groups working to educate and protect  
23 people from exposures to toxic chemicals. The method of selection of such groups can be found  
24 at the CEH web site at [www.ceh.org/justicefund](http://www.ceh.org/justicefund). The payment pursuant to this Section shall be  
25 made payable to the Center For Environmental Health.

26 5.1.3 Settling Defendant shall also separately pay the sum of \$30,170 to the  
27 Lexington Law Group as reimbursement of a portion of CEH's reasonable attorneys' fees and  
28 costs. The attorneys' fees and cost reimbursement check shall be made payable to the Lexington

1 Law Group.

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 franchisees, cooperative members, licensors, and licensees (“Downstream Defendant Releasees”)  
16 of any violation of Proposition 65 that was or could have been asserted in the Complaint against  
17 Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees, based on failure  
18 to warn about alleged exposure to Lead contained in Covered Products that were sold by Settling  
19 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 by Settling Defendant, Defendant Releasees and  
22 Downstream Defendant Releasees with respect to Lead in Settling Defendant’s Covered Products,  
23 with the exception of a Downstream Defendant Releasee who fails to affix a warning provided by  
24 Settling Defendant pursuant to Section 3.5.2.

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

28

1     **8.     NOTICE**

2             8.1           When CEH is entitled to receive any notice under this Consent Judgment, the  
3 notice shall be sent by first class and electronic mail to:

4                             Eric S. Somers  
5                             Lexington Law Group  
6                             503 Divisadero Street  
7                             San Francisco, CA 94117  
8                             esomers@lexlawgroup.com

9             8.2           When Settling Defendant is entitled to receive any notice under this Consent  
10 Judgment, the notice shall be sent by first class and electronic mail to:

11                             Ian White  
12                             President  
13                             T.U.K., Inc.  
14                             12300 Crosthwaite Circle  
15                             Poway, CA 92064  
16                             ian@tukshoes.com

17                             With a copy to:

18                             Jeffrey B. Margulies  
19                             Fulbright & Jaworski L.L.P.  
20                             555 South Flower Street, 41<sup>st</sup> Floor  
21                             Los Angeles, CA 90071  
22                             jmargulies@fulbright.com

23             8.3           Any Party may modify the person and address to whom the notice is to be sent  
24 by sending each other Party notice by first class and electronic mail.

25     **9.     COURT APPROVAL**

26             9.1           This Consent Judgment shall become effective upon entry by the Court. CEH  
27 shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant  
28 shall support entry of this Consent Judgment.

29             9.2           If this Consent Judgment is not entered by the Court, it shall be of no force or  
30 effect and shall never be introduced into evidence or otherwise used in any proceeding for any  
31 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

32     **10.    ATTORNEYS' FEES**

33             10.1          Should CEH prevail on any motion, application for an order to show cause or

1 other proceeding to enforce a violation of this Consent Judgment, CEH shall be entitled to its  
2 reasonable attorneys' fees and costs incurred as a result of such motion or application. Should  
3 Settling Defendant prevail on any motion application for an order to show cause or other  
4 proceeding, Settling Defendant may be awarded its reasonable attorneys' fees and costs as a result  
5 of such motion or application upon a finding by the Court that CEH's prosecution of the motion  
6 or application lacked substantial justification. For purposes of this Consent Judgment, the term  
7 substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,  
8 Code of Civil Procedure §§ 2016, *et seq.*

9           10.2       Except as otherwise provided in this Consent Judgment, each Party shall bear  
10 its own attorneys' fees and costs.

11           10.3       Nothing in this Section 10 shall preclude a Party from seeking an award of  
12 sanctions pursuant to law.

### 13 **11. TERMINATION**

14           11.1       This Consent Judgment shall be terminable by CEH or by Settling Defendant  
15 at any time after January 1, 2019, upon the provision of 30 days advanced written notice; such  
16 termination shall be effective upon the subsequent filing of a notice of termination with Superior  
17 Court of Alameda County.

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

### 23 **12. OTHER TERMS**

24           12.1       The terms of this Consent Judgment shall be governed by the laws of the State  
25 of California.

26           12.2       This Consent Judgment shall apply to and be binding upon CEH and Settling  
27 Defendant, and the successors or assigns of any of them.

28           12.3       This Consent Judgment contains the sole and entire agreement and

1 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior  
2 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby  
3 merged herein and therein. There are no warranties, representations, or other agreements between  
4 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or  
5 implied, other than those specifically referred to in this Consent Judgment have been made by any  
6 Party hereto. No other agreements not specifically contained or referenced herein, oral or  
7 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,  
8 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in  
9 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent  
10 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof  
11 whether or not similar, nor shall such waiver constitute a continuing waiver.

12           12.4           Nothing in this Consent Judgment shall release, or in any way affect any rights  
13 that Settling Defendant might have against any other party, whether or not that party is a Settling  
14 Defendant.

15           12.5           This Court shall retain jurisdiction of this matter to implement or modify the  
16 Consent Judgment.

17           12.6           The stipulations to this Consent Judgment may be executed in counterparts  
18 and by means of facsimile or portable document format (pdf), which taken together shall be  
19 deemed to constitute one document.

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

24           12.8           The Parties, including their counsel, have participated in the preparation of  
25 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.  
26 This Consent Judgment was subject to revision and modification by the Parties and has been  
27 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any  
28 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any

1 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this  
2 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to  
3 be resolved against the drafting Party should not be employed in the interpretation of this Consent  
4 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

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**IT IS SO ORDERED:**

Dated:     **JUN 05**    , 2013

~~The Honorable Steven A. Brick~~  
Judge of the Superior Court

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**IT IS SO STIPULATED:**

**CENTER FOR ENVIRONMENTAL HEALTH**



Signature

CHARLES P. ZAPPO

Printed Name

ASSOCIATE DIRECTOR

Title

**T.U.K., INC.**

Signature

Printed Name

Title



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**IT IS SO STIPULATED:**

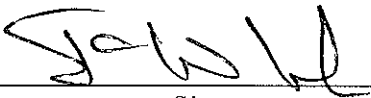
**CENTER FOR ENVIRONMENTAL HEALTH**

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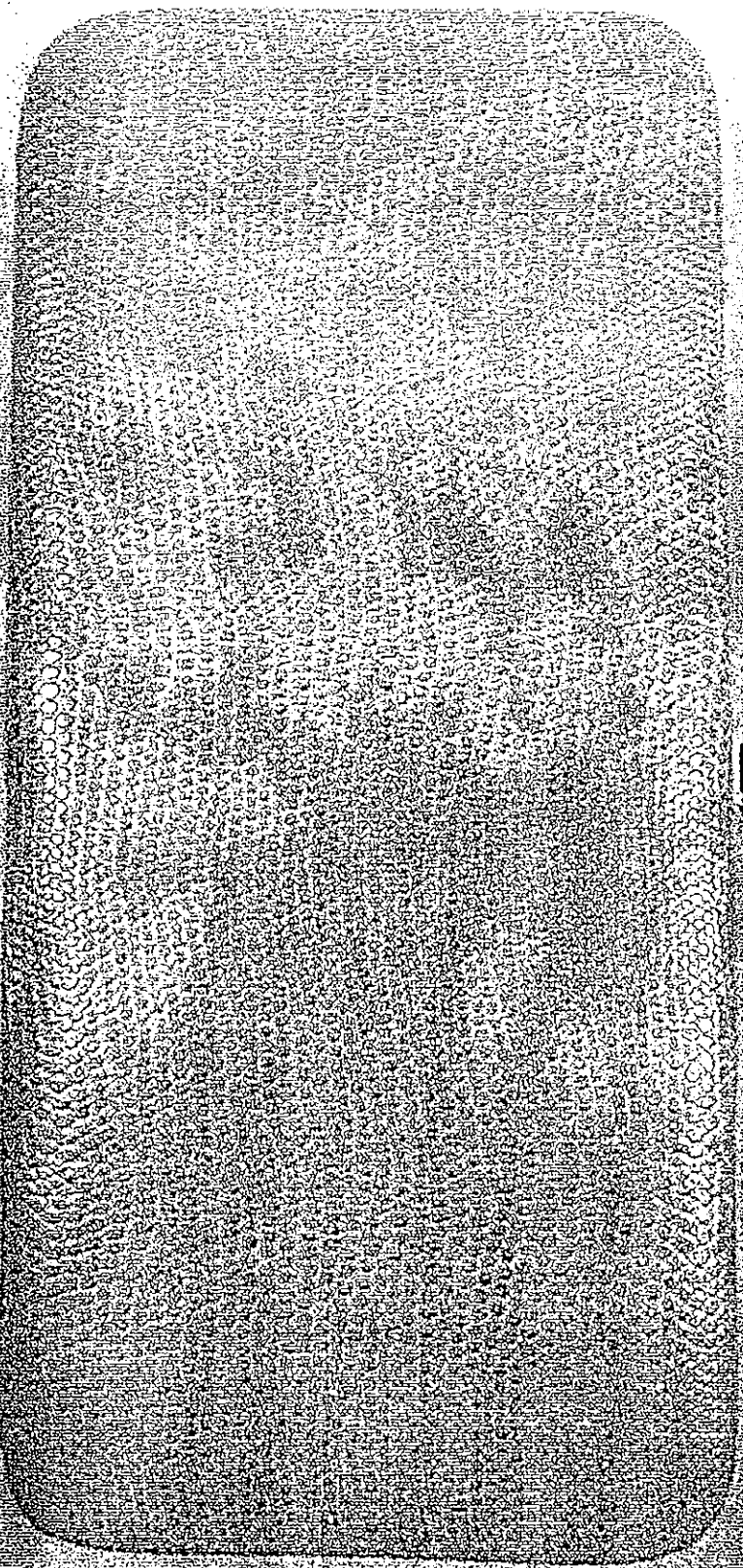
**T.U.K., INC.**

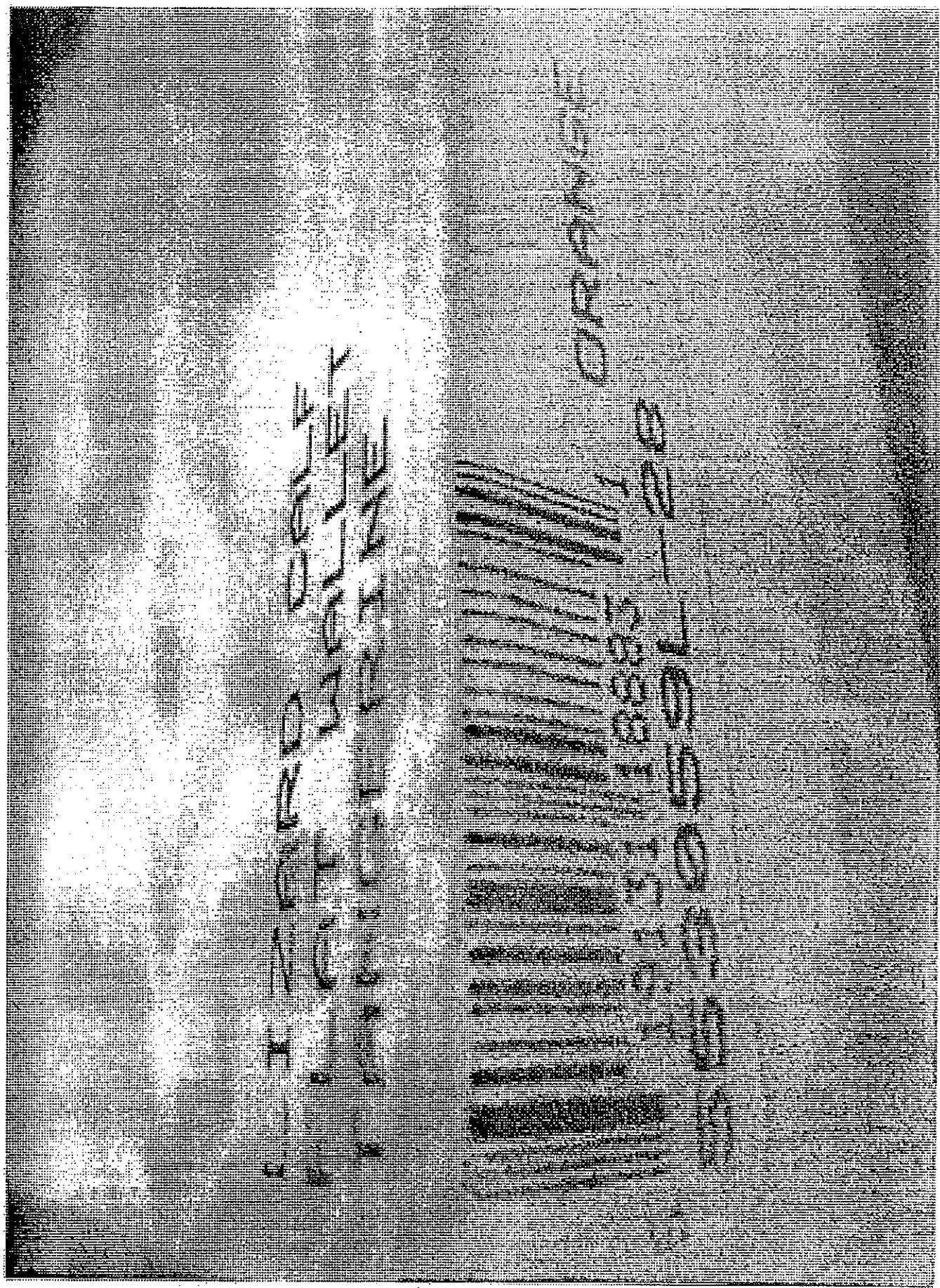
  
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Signature

**IAN WHITE**  
\_\_\_\_\_  
Printed Name

**PRESIDENT, TUK INC.**  
\_\_\_\_\_  
Title

# **Exhibit A**





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