

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

OCT 29 2013

CLERK OF THE SUPERIOR COURT

By S. McMullen Deputy

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

CENTER FOR ENVIRONMENTAL HEALTH,  
A non-profit corporation,  
  
Plaintiff,  
  
vs.  
  
AEROPOSTALE, INC., *et al.*,  
  
Defendants.

) Lead Case No. RG 10-514803  
)  
) (Consolidated with Case Nos.  
) RG 10-545680 and RG 10-545687)  
)  
) ASSIGNED FOR ALL PURPOSES TO:  
) Judge Steven A. Brick, Department 17  
)  
) **[PROPOSED] CONSENT JUDGMENT**  
) **AS TO M&P CENTRAL, INC.**

\_\_\_\_\_  
)  
) And Consolidated Cases.  
)  
\_\_\_\_\_

**1. INTRODUCTION**

1.1 This Consent Judgment is entered into by the Center for Environmental Health, a California non-profit corporation ("CEH") and defendant M&P Central, Inc. ("Settling Defendant"), to settle certain claims asserted by CEH against Settling Defendant as set forth in the operative complaint in the matter entitled *Center for Environmental Health v. Aeropostale, Inc., et al.*, Alameda County Superior Court Case No. RG 10-514803.

1.2 On August 24, 2011, CEH served a Notice of Violation under Proposition 65 alleging that Settling Defendant violated Proposition 65 by exposing persons to cadmium

1 contained in jewelry, without first providing a clear and reasonable warning pursuant to  
2 Proposition 65. On May 24, 2013, CEH served a Notice of Violation under Proposition 65  
3 alleging that Settling Defendant violated Proposition 65 by exposing persons to lead and lead  
4 compounds (collectively, "Lead") contained in jewelry, without first providing a clear and  
5 reasonable warning pursuant to Proposition 65.

6 1.3 On April 8, 2011, CEH filed the operative Second Amended Complaint  
7 ("Complaint") in the *CEH v. Aeropostale* action. On November 2, 2011, CEH amended the  
8 Complaint to name Settling Defendant as Doe 21.

9 1.4 Settling Defendant is a corporation that employs ten or more persons, and which  
10 manufactures, distributes and/or sells Covered Products (as defined herein) in the State of  
11 California.

12 1.5 For purposes of this Consent Judgment only, CEH and Settling Defendant (the  
13 "Parties") stipulate that this Court has jurisdiction over the allegations of violations contained in  
14 the Complaint and personal jurisdiction over Settling Defendant as to the acts alleged in the  
15 Complaint, that the *Aeropostale* Complaint is deemed amended with respect to Settling Defendant  
16 to include allegations regarding Lead-containing jewelry, that venue is proper in the County of  
17 Alameda, and that this Court has jurisdiction to enter this Consent Judgment as a full and final  
18 resolution of all claims which were or could have been raised in the Complaint based on the facts  
19 alleged therein with respect to Covered Products manufactured, distributed, and/or sold by Settling  
20 Defendant.

21 1.6 CEH and Settling Defendant enter into this Consent Judgment as a full and final  
22 settlement of all claims that were raised in the Complaint, or which could have been raised in the  
23 Complaint, arising out of the facts or conduct related to Settling Defendant alleged therein. By  
24 execution of this Consent Judgment and agreeing to comply with its terms, the Parties do not  
25 admit any facts or conclusions of law including, but not limited to, any facts or conclusions of law  
26 suggesting or demonstrating any violations of Proposition 65 (California Health & Safety Code  
27 sections 25249.5, *et seq.*) or any other statutory, common law or equitable requirements relating to  
28 cadmium in jewelry. Nothing in this Consent Judgment is or shall be construed as an admission

1 by the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance  
2 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
3 conclusion of law, issue of law, or violation of law. Settling Defendant denies the material, factual  
4 and legal allegations in CEH's Complaint and expressly denies any wrong doing whatsoever.  
5 Nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument or  
6 defense the Parties may have in this or any other pending or future legal proceedings. This  
7 Consent Judgment is the product of negotiation and compromise and is accepted by the Parties  
8 solely for purposes of settling, compromising and resolving issues disputed in this action.

9 **2. DEFINITIONS**

10 2.1 The term "Cadmium Limit" means a concentration of 0.03 percent (300 parts per  
11 million ("ppm")) by weight cadmium in any component of a Covered Product, or in any material  
12 used in a Covered Product. The forgoing shall not apply to components of or materials used in  
13 Covered Products made from cubic zirconia (sometimes called cubic zirconium, CZ), glass,  
14 rhinestones or vitrified ceramics except where the Covered Products in question are subject to  
15 California Health & Safety Code section 25214.2(d).

16 2.2 The term "Lead Limit" means:

17 2.2.1 Except as: (i) provided in Section 2.2.2; and (ii) in cubic zirconia  
18 (sometimes called cubic zirconium or CZ), crystal, glass or rhinestones, a concentration of 0.02  
19 percent (200 ppm) by weight Lead in any component of a Covered Product, or in any material  
20 used in a Covered Product; and

21 2.2.2 For Paint or Surface Coating, a concentration of 0.009 percent (90 ppm)  
22 Lead by weight. For purposes of this Consent Judgment, "Paint or Surface Coating" shall carry  
23 the same meaning as "Paint or other similar surface coating" under 16 C.F.R. §1303.2(b)(1)  
24 ("Paint and other similar surface-coating materials means a fluid, semi-fluid, or other material,  
25 with or without a suspension of finely divided coloring matter, which changes to a solid film when  
26 a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface. This  
27 term does not include printing inks or those materials which actually become a part of the  
28 substrate, such as the pigment in a plastic article, or those materials which are actually bonded to

1 the substrate, such as by electroplating or ceramic glazing.”).

2           2.3       The term “Covered Product” means (a) the following ornaments worn by a  
3 person: an anklet, arm cuff, bracelet, charm, brooch, chain, crown, cuff link, watch (excluding the  
4 timepiece itself if removable), decorated hair accessory, earring, necklace, pin, ring; similar  
5 clothing or shoe ornaments which are detachable; and body piercing jewelry; or (b) any bead,  
6 chain, link, pendant, or other component of such an ornament.

7           2.4       The term “Effective Date” means the date of entry of this Consent Judgment.

8 **3.    INJUNCTIVE RELIEF**

9           3.1       **Reformulation of Covered Products.** Settling Defendant shall comply with the  
10 following requirements to achieve expeditious reformulation of the Covered Products to reduce or  
11 eliminate exposures to cadmium and Lead arising from the Covered Products:

12                   3.1.1   **Specification Compliance Date.** To the extent it has not already done so,  
13 no more than 30 days after the Effective Date, Settling Defendant shall provide the Cadmium  
14 Limit and the Lead Limit to its suppliers of Covered Products and shall instruct each supplier to  
15 expeditiously provide Covered Products that do not exceed either the Cadmium Limit or the Lead  
16 Limit on a nationwide basis.

17                   3.1.2   **Cadmium Limit.** After the Effective Date, Settling Defendant shall not  
18 manufacture, purchase, import, sell or offer for sale in California any Covered Product that  
19 exceeds the Cadmium Limit.

20                   3.1.3   **Lead Limit.** After the Effective Date, Settling Defendant shall not  
21 manufacture, purchase, import, sell or offer for sale in California any Covered Product that  
22 exceeds the Lead Limit.

23           3.2       **Market Withdrawal of Covered Products.** On or before the Effective Date,  
24 Settling Defendant shall: (i) cease shipping the specific products identified as Recall Products next  
25 to its name on Exhibit A (the “Recall Products”) to stores in California, (ii) withdraw the Recall  
26 Products from the market in California, and (iii) if the Recall Products were not withdrawn from  
27 sale in California prior to the Effective Date, send instructions to any of its stores to cease offering  
28 such Recall Products for sale and to either return all Recall Products to Settling Defendant for

1 destruction, or to directly destroy the Recall Products. Any destruction of the Recall Products  
2 shall be in compliance with all applicable laws. Within 60 days of the Effective Date, Settling  
3 Defendant shall certify to CEH that it has complied with this Section 3.2. If there is a dispute over  
4 the corrective action, the Parties shall meet and confer before seeking any remedy in court.

5 **4. ENFORCEMENT**

6 4.1 **General Enforcement Provisions.** CEH may, by motion or application for an  
7 order to show cause before this Court, enforce the terms and conditions contained in this Consent  
8 Judgment. Any action to enforce alleged violations of the Cadmium Limit and/or Lead Limit by  
9 Settling Defendant shall be brought exclusively pursuant to this Section 4.

10 4.2 **Enforcement of Materials Violation.**

11 4.2.1 **Notice of Violation.** In the event that, at any time following the Effective  
12 Date, CEH identifies one or more Covered Products manufactured, distributed, or sold by Settling  
13 Defendant that CEH believes in good faith exceed the Cadmium Limit and/or Lead Limit, CEH  
14 may issue a Notice of Violation pursuant to this Section.

15 4.2.2 **Service of Notice of Violation and Supporting Documentation.**

16 4.2.2.1 The Notice of Violation shall be sent to the person(s) identified in  
17 Section 8.1.1 to receive notices for Settling Defendant, and must be served within 75 days of the  
18 date the Covered Product at issue was purchased or otherwise acquired by CEH, provided,  
19 however, that CEH may have up to an additional 45 days to provide Settling Defendant with the  
20 test data required by Section 4.2.2.2 below if it has not yet obtained it from its laboratory.

21 4.2.2.2 The Notice of Violation shall, at a minimum, set forth for each  
22 Covered Product: (a) the date the alleged violation was observed, (b) the location at which the  
23 Covered Product was offered for sale, (c) a description of the Covered Product giving rise to the  
24 alleged violation, and (d) all test data obtained by CEH regarding the Covered Product and  
25 supporting documentation sufficient for validation of the test results, including any laboratory  
26 reports, quality assurance reports and quality control reports associated with testing of the Covered  
27 Products. Such Notice of Violation shall be based upon total acid digest test data from an  
28 independent laboratory. Wipe, swipe, and swab testing are not sufficient to support a Notice of

1 Violation.

2 4.2.2.3 CEH shall promptly make available for inspection and/or copying  
3 upon request by and at the expense of Settling Defendant, any supporting documentation related to  
4 the testing of the Covered Products and associated quality control samples, including chain of  
5 custody records, all laboratory logbook entries for laboratory receiving, sample preparation, and  
6 instrumental analysis, and all printouts from all analytical instruments relating to the testing of  
7 Covered Product samples and any and all calibration tests performed or relied upon in conjunction  
8 with the testing of the Covered Products, obtained by or available to CEH that pertains to the  
9 Covered Product's alleged exceedance of the Cadmium Limit and/or Lead Limit, and, if available,  
10 any exemplars of Covered Products tested.

11 4.2.3 **Notice of Election of Response.** No more than 30 days after service of a  
12 Notice of Violation, Settling Defendant shall provide written notice to CEH whether it elects to  
13 contest the allegations contained in a Notice of Violation ("Notice of Election"). Failure to  
14 provide a Notice of Election within 30 days of service of a Notice of Violation shall be deemed an  
15 election to contest the Notice of Violation.

16 4.2.3.1 If a Notice of Violation is contested, the Notice of Election shall  
17 include all then-available documentary evidence regarding the alleged violation, including all test  
18 data, if any. If Settling Defendant or CEH later acquires additional test or other data regarding the  
19 alleged violation, it shall notify the other Party and promptly provide all such data or information  
20 to the Party. Any test data used to contest a Notice of Violation shall meet the criteria of Section  
21 4.2.2.2.

22 4.2.4 **Meet and Confer.** If a Notice of Violation is contested, CEH and Settling  
23 Defendant shall meet and confer to attempt to resolve their dispute. Within 30 days of serving a  
24 Notice of Election contesting a Notice of Violation, and if no enforcement motion or application  
25 has been filed by CEH pursuant to Section 4.1, Settling Defendant may withdraw the original  
26 Notice of Election contesting the violation and serve a new Notice of Election conceding the  
27 violation, provided however that Settling Defendant shall pay \$5,000 in addition to any payment  
28 required under Section 4.2.7. At any time, CEH may withdraw a Notice of Violation, in which

1 case for purposes of this Section 4 the result shall be as if CEH never issued any such Notice of  
2 Violation. If no informal resolution of a Notice of Violation results within 30 days of a Notice of  
3 Election to contest, CEH may file an enforcement motion or application pursuant to Section 4.1.  
4 In any such proceeding, CEH may seek whatever fines, costs, penalties attorneys' fees or remedies  
5 are provided by law for failure to comply with the Consent Judgment.

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

9           4.2.6    **Corrective Action in Non-Contested Matters.** If Settling Defendant  
10 elects not to contest the allegation, it shall include in its Notice of Election a detailed description  
11 with supporting documentation of the corrective action that it has undertaken or proposes to  
12 undertake to address the alleged violation. Any such correction shall, at a minimum, provide  
13 reasonable assurance that the Covered Product will no longer be offered for sale in California.  
14 Corrective action must include instructions to Settling Defendant's stores and/or customers that  
15 offer the Covered Product for sale to consumers to cease offering the Covered Product(s)  
16 identified in the Notice of Violation for sale in California as soon as practicable. The Notice of  
17 Election shall also include the name, address, telephone number, and other contact information, of  
18 Settling Defendant's supplier(s) of each Covered Product identified in the Notice of Violation and  
19 any retailers to whom Settling Defendant sold any Covered Product(s) identified in the Notice of  
20 Violation. Settling Defendant shall make available to CEH for inspection and/or copying records  
21 and correspondence regarding the corrective action. If there is a dispute over the corrective action,  
22 the Parties shall meet and confer pursuant to Section 4.2.4 before seeking any remedy in court.

23           4.2.7    **Payments in Non-Contested Matters.** In addition to the corrective  
24 action, Settling Defendant shall be required to make a payment as reimbursement for costs for  
25 investigating, preparing, sending and prosecuting Notices of Violation, and to reimburse  
26 attorneys' fees and costs incurred in connection with these activities, as specified below:

27           4.2.7.1    If Settling Defendant previously received a Notice of Violation that  
28 was not successfully contested or withdrawn, and Settling Defendant serves a Notice of Election

1 not to contest the allegations in the instant Notice of Violation, it shall be required to make a  
2 payment of \$10,000. This payment shall, however, be reduced to \$5,000 if Settling Defendant  
3 produces with its Notice of Election test data showing that the Covered Product that is the subject  
4 of the Notice of Violation did not exceed the Cadmium Limit and/or Lead Limit. For purposes of  
5 this Section 4.2.7.1 only, “test data” shall mean (i) total cadmium or total Lead by acid digest  
6 performed by an accredited laboratory on the Covered Product alleged to be in violation of the  
7 Cadmium Limit and/or Lead Limit where the test was conducted within one year prior to the date  
8 the Covered Product that is the subject of the Notice of Violation was purchased or obtained by  
9 CEH; or (ii) total cadmium or total Lead by X-ray fluorescence (XRF) performed on the Covered  
10 Product alleged to be in violation of the Cadmium Limit and/or Lead Limit by Settling Defendant  
11 pursuant to an existing written screening policy for cadmium and/or Lead in Covered Products  
12 where the test was conducted within eighteen months prior to the date the Covered Product that is  
13 the subject of the Notice of Violation was purchased or obtained by CEH.

14 4.2.7.2 The payment shall be made by check payable to the “Lexington Law  
15 Group” and shall be paid within 15 days of service of a Notice of Election triggering a payment.

16 4.3 **Repeat Violations.** If Settling Defendant has received three or more Notices of  
17 Violation that were not successfully contested or withdrawn in any 12-month period then, at  
18 CEH’s option, CEH may seek whatever fines, costs, penalties, attorneys’ fees or other remedies  
19 that are provided by law for failure to comply with the Consent Judgment. Prior to seeking such  
20 relief, CEH shall meet and confer with Settling Defendant for a period not to exceed 30 days  
21 (unless extended by mutual agreement) to determine if the Parties can agree on measures Settling  
22 Defendant can undertake to prevent future violations.

## 23 **5. PAYMENTS**

24 5.1 **Payments by Settling Defendant.** On or before the dates set forth on Exhibit A,  
25 Settling Defendant shall pay a total of \$85,000, as further specified in Section 5.2 below and on  
26 Exhibit A. Any failure by Settling Defendant to comply with the payment terms herein shall be  
27 subject to a stipulated late fee to be paid by Settling Defendant in the amount of \$100 for each day  
28 the full payment is not received after applicable due date set forth on Exhibit A. The late fees



1 required under this Section shall be recoverable, together with reasonable attorneys' fees, in an  
2 enforcement proceeding brought pursuant to Section 4.1 of this Consent Judgment.

3           **5.2 Allocation of Payments.** The total settlement amount for Settling Defendant shall  
4 be paid in separate checks delivered to the offices of the Lexington Law Group (Attn: Eric  
5 Somers), 503 Divisadero Street, San Francisco, California 94117, and made payable and allocated  
6 pursuant to the schedule on Exhibit A and as follows:

7           5.2.1 Settling Defendant shall pay the amounts designated on Exhibit A as a  
8 Penalty pursuant to Health & Safety Code §25249.7(b,) to be apportioned in accordance with  
9 California Health & Safety Code §25249.12(c) & (d), with 75% of these funds remitted to the  
10 State of California's Office of Environmental Health Hazard Assessment ("OEHHA") and the  
11 remaining 25% of the penalty remitted to CEH. Accordingly, the penalty payment checks for the  
12 amount designated on Exhibit A as Civil Penalty shall be made payable to the "Center for  
13 Environmental Health" and associated with taxpayer identification number 94-3251981.

14           5.2.2 Settling Defendant shall also separately pay to CEH the amounts designated  
15 on Exhibit A as Payment In Lieu of Civil Penalty pursuant to Health & Safety Code §25249.7(b),  
16 and California Code of Regulations, Title 11, §3203(b). CEH will restrict the use of such funds to  
17 the following purposes: (a) monitoring compliance with the reformulation requirements of this  
18 and other similar Consent Judgments; (b) purchasing and testing jewelry; (c) preparing and  
19 compiling the information and documentation necessary to support enforcement efforts under this  
20 Consent Judgment; (d) contributions to CEH's Community Environmental Action and Justice  
21 Fund; and (e) supporting CEH programs and activities that seek to reduce the public health  
22 impacts or risks of exposure to heavy metals, including cadmium, known to the State of California  
23 to cause cancer or reproductive harm. Such programs and activities currently include (i) CEH's  
24 membership on the ASTM toy safety committee and participation in a workgroup that is drafting a  
25 standard to limit cadmium and other heavy metals in toys; (ii) CEH's work in support of policy  
26 initiatives at the state and federal level to restrict the use of cadmium and other heavy metals in  
27 consumer products; and (iii) CEH's advocacy for a reduction in the use of toxic chemicals,  
28 including heavy metals such as cadmium, in electronic devices and standards for the

1 disposal/recycling of such products, including CEH's participation in an EPA-sponsored multi-  
2 stakeholder workgroup seeking to set standards for the design, manufacture, sale, labeling and  
3 disposal of televisions and printers. CEH will maintain records that document how these funds  
4 were spent. As part of its Community Environmental Action and Justice Fund, CEH will use four  
5 percent of such funds to award grants to grassroots environmental justice groups working to  
6 educate and protect people from exposures to toxic chemicals. The method of selection of such  
7 groups can be found at the CEH web site at [www.ceh.org/justicefund](http://www.ceh.org/justicefund). The payment in lieu of  
8 penalty checks shall be made payable to the "Center For Environmental Health" and associated  
9 with taxpayer identification number 94-3251981.

10           5.2.3 Settling Defendant shall also separately pay to the Lexington Law Group  
11 the amounts designated on Exhibit A as Attorneys' Fees and Costs as reimbursement for a portion  
12 of reasonable attorneys' fees and costs. The attorneys' fees and cost reimbursement checks shall  
13 be made payable to the "Lexington Law Group" and associated with taxpayer identification  
14 number 94-3317175.

## 15 **6. MODIFICATION AND DISPUTE RESOLUTION**

16           6.1 **Modification.** This Consent Judgment may be modified from time to time by  
17 express written agreement of the Parties with the approval of the Court, or by an order of this  
18 Court upon motion and in accordance with law.

19           6.2 **Notice; Meet and Confer.** Any Party seeking to modify this Consent Judgment  
20 shall attempt in good faith to meet and confer with all affected Parties prior to filing a motion to  
21 modify the Consent Judgment.

## 22 **7. CLAIMS COVERED AND RELEASE**

23           7.1 This Consent Judgment is a full, final, and binding resolution between CEH acting  
24 in the public interest and Settling Defendant and Settling Defendant's parents, shareholders,  
25 subsidiaries and their successors and assigns ("Defendant Releasees"), and all entities other than  
26 those entities listed on Exhibit B to whom they distribute or sell Covered Products including, but  
27 not limited to, distributors, wholesalers, customers, retailers, franchisees, cooperative members,  
28 and licensees ("Downstream Defendant Releasees"), of any violation of Proposition 65 up through

1 the Effective Date based on the failure to warn about exposure to cadmium and/or Lead in  
2 Covered Products manufactured, distributed, or sold by Settling Defendant prior to the Effective  
3 Date as set forth in the Notice of Violation.

4 7.2 CEH, for itself releases, waives, and forever discharges any and all claims against  
5 Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees arising from any  
6 violation of Proposition 65 or any other statutory or common law claims that have been or could  
7 have been asserted in the public interest regarding the failure to warn about exposure to cadmium  
8 and/or Lead arising in connection with Covered Products manufactured, distributed or sold by  
9 Settling Defendant prior to the Effective Date.

10 7.3 Compliance with the terms of this Consent Judgment by Settling Defendant and the  
11 Defendant Releasees shall constitute compliance with Proposition 65 by Settling Defendant, the  
12 Defendant Releasees and the Downstream Defendant Releasees with respect to any alleged failure  
13 to warn about cadmium and Lead in Covered Products manufactured, distributed or sold by  
14 Settling Defendant after the Effective Date.

15 **8. PROVISION OF NOTICE**

16 8.1 When any Party is entitled to receive any notice under this Consent Judgment, the  
17 notice shall be sent by first class and electronic mail as follows:

18 8.1.1 **Notices to Settling Defendant.** The person(s) for Settling Defendant to  
19 receive Notice pursuant to this Consent Judgment shall be:

20 Michelle Lyu Cheng  
21 Reed Smith  
22 355 South Grand Avenue  
23 Suite 2900  
24 Los Angeles, CA 90071  
25 [mcheng@reedsmith.com](mailto:mcheng@reedsmith.com)

26 8.1.2 **Notices to Plaintiff.** The person for CEH to receive Notices pursuant to  
27 this Consent Judgment shall be:

28 Eric S. Somers  
Lexington Law Group  
503 Divisadero Street  
San Francisco, CA 94117  
esomers@lexlawgroup.com

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

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

**9. COURT APPROVAL**

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

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

**10. GOVERNING LAW AND CONSTRUCTION**

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

**11. ENTIRE AGREEMENT**

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

**12. RETENTION OF JURISDICTION**

1           12.1 This Court shall retain jurisdiction of this matter to implement, enforce or modify  
2 the Consent Judgment.

3 **13. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

4           13.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
5 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and  
6 execute the Consent Judgment on behalf of the Party represented and legally to bind that Party.

7 **14. NO EFFECT ON OTHER SETTLEMENTS**

8           14.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim  
9 against any other entity on terms that are different than those contained in this Consent Judgment.

10 **15. EXECUTION IN COUNTERPARTS**

11           15.1 The stipulations to this Consent Judgment may be executed in counterparts and by  
12 means of facsimile, which taken together shall be deemed to constitute one document.

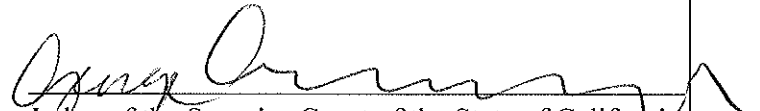
13

14 **IT IS SO ORDERED, ADJUDGED,  
15 AND DECREED**

15

16 Dated:

10/29/2013

  
Judge of the Superior Court of the State of California

17

18

19

20

21

22

23

24

25

26

27

28

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

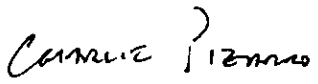
**IT IS SO STIPULATED:**

**CENTER FOR ENVIRONMENTAL HEALTH**



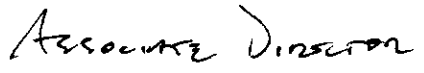
---

Signature



---

Printed Name



---

Title

**M&P CENTRAL, INC.**

---

Signature

---

Printed Name

---

Title

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

**IT IS SO STIPULATED:**

**CENTER FOR ENVIRONMENTAL HEALTH**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**M&P CENTRAL, INC.**

*Dan Seong*  
\_\_\_\_\_  
Signature

*DAN SEONG*  
\_\_\_\_\_  
Printed Name

*President*  
\_\_\_\_\_  
Title

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

**EXHIBIT A**

**1. Section 3.2 Recall Products:**

Necklace and Earrings Set with Roses and Ribbon, SKU No. 8750914621  
Silver Necklace with Black Cord, SKU No. 8950218721, Style No. 00/ DsC2187

**2. Settling Defendant's Settlement Payment, Allocation and Due Dates:**

|                                  |          |
|----------------------------------|----------|
| Total Settlement Payment         | \$85,000 |
| Civil Penalty                    | \$11,270 |
| Payment in Lieu of Civil Penalty | \$16,900 |
| Attorneys' Fees and Costs        | \$56,830 |

**Payment Schedule**

**June 5, 2013**

Attorneys' Fees and Costs \$4,560 (CEH acknowledges receipt of this payment)

**August 5, 2013**

Civil Penalty \$5,500 (check to Center for Environmental Health)  
Payment in Lieu of Civil Penalty \$10,000 (check to Center for Environmental Health)  
Attorneys' Fees and Costs \$27,000 (check to Lexington Law Group)

**October 5, 2013**

Civil Penalty \$5,770 (check to Center for Environmental Health)  
Payment in Lieu of Civil Penalty \$6,900 (check to Center for Environmental Health)  
Attorneys' Fees and Costs \$25,270 (check to Lexington Law Group)



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

**EXHIBIT B**

**List of Entities Not Subject to Downstream Release**

- Amazon.com, Inc.
- Ana Accessories Corporation and Ana Trading Company
- Any Time Costumes.com, Inc.
- Artini Accessories Inc.
- Athenian Fashions, Inc.
- Basic
- Beadniks
- Bien Bien, Inc.
- Broadview Distributing, LLC
- BuySeasons, Inc.
- C2:8
- California Dream Co., Inc.
- Cascade Marketing, Inc.
- Cilla Collection
- Creativity, Inc. and Creativity Crafts, Inc.
- Crystal Mania
- DCWV Acquisition Corporation
- Fashion Fantasia, Inc.
- Fashion Plaza
- First Fantasies-Costume Cuzzins, Inc.
- Forever NYC Fashion Accessory Import LLC
- Forplay, Inc. and For Play Catalog, Inc.
- Gags and Games, Inc.
- GTG Collection
- Halloween Express

- 1 • Hollywood Accessories
- 2 • In Chul Park (dba Basic and Basic Plus)
- 3 • INVU Accessories
- 4 • Jasper International Inc.
- 5 • Joppa, Inc.
- 6 • Kaymen B, Inc.
- 7 • Kerissa Creations, Inc.
- 8 • LB's Fashion, Inc. and Lb's Fashion
- 9 • Love Culture Inc. and Love Culture LLC
- 10 • Macy's, Inc. and Macy's West Stores, Inc,
- 11 • Metropark USA, Inc.
- 12 • Nima Accessories, Inc.
- 13 • NY Style
- 14 • Pink Ice, Inc.
- 15 • Saum Accessories Inc.
- 16 • Siman Trio Trading LLC
- 17 • Simply You
- 18 • Toykn Toys, LLC
- 19 • Unbeatable Sale.Com Inc.
- 20 • Urban Brands, Inc.
- 21 • Wal-Mart Stores Inc.
- 22 • Western Fashion, Inc.
- 23 • Westrim, Inc.
- 24 • Windsor Fashions, Inc.
- 25 • Xpose
- 26
- 27
- 28