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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, RG 11-603764 and RG 12-658652)

~~[PROPOSED]~~ CONSENT  
JUDGMENT AS TO FASHION  
EDEN

AND CONSOLIDATED CASES.

**1. DEFINITIONS**

- 1.1 "Accessible Component" means a component of a Covered Product that could be touched by a person during normal or reasonably foreseeable use.
- 1.2 "Covered Products" means wallets, handbags, purses, clutches, belts and footwear that are Manufactured, distributed, or sold or offered for sale by Settling Defendant.
- 1.3 "Effective Date" means the date on which this Consent Judgment is entered by the Court.

1           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           “Non-Suspect Materials” means natural materials other than leather that have  
6 been determined not to exceed Lead limits for children’s products by the final rule of the  
7 Consumer Product Safety Commission set for at 16 C.F.R. § 1500.91 (d) and (e).

8           1.7           “Paint or other Surface Coatings” means a fluid, semi-fluid, or other material,  
9 with or without a suspension of finely divided coloring matter, which changes to a solid film  
10 when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface.  
11 This term does not include printing inks or those materials which actually become a part of the  
12 substrate, such as the pigment in a plastic article, or those materials which are actually bonded to  
13 the substrate, such as by electroplating or ceramic glazing.

14           1.8           “Vendor” means a person or entity that Manufactures, imports, distributes, or  
15 supplies a Covered Product to Settling Defendant.

16       **2.     INTRODUCTION**

17           2.1           The parties to this Consent Judgment (“Parties”) are the Center for  
18 Environmental Health (“CEH”) and defendant Fashion Eden Inc. dba MakeMeChic.com  
19 (“Settling Defendant”).

20           2.2           On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,  
21 Case No. RG 09-459448, alleging Proposition 65 violations as to wallets, handbags, purses and  
22 clutches. The Court has consolidated the *Lulu* matter with a number of other related Proposition  
23 65 cases.

24           2.3           On or about March 9, 2012, CEH served multiple 60-Day Notices of Violation  
25 under Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California  
26 Health & Safety Code §§ 25249.5, *et seq.*), alleging that Settling Defendant violated Proposition  
27 65 by exposing persons to Lead contained in wallets, handbags, purses, clutches, belts and  
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1 footwear, without first providing a clear and reasonable Proposition 65 warning. On December 5,  
2 2012, CEH named Settling Defendant as a “Handbags Defendant,” “Footwear Defendant,” and a  
3 “Belts Defendant” in the action entitled *CEH v. Fashion Eden*, Case No. RG 12-658652

4 2.4 Settling Defendant manufactures, distributes or offers Covered Products for  
5 sale in the State of California or has done so in the past.

6 2.5 For purposes of this Consent Judgment only, the Parties stipulate that this  
7 Court has jurisdiction over the allegations of violations contained in the operative Complaint  
8 applicable to Settling Defendant (the “Complaint”) and personal jurisdiction over Settling  
9 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,  
10 and that this Court has jurisdiction to enter this Consent Judgment.

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

19 **3. INJUNCTIVE RELIEF**

20 3.1 **Specification Compliance Date.** To the extent it has not already done so, no  
21 more than 30 days after the Effective Date, Settling Defendant shall provide the Lead Limits to its  
22 Vendors of Covered Products and shall instruct each Vendor to use reasonable efforts to provide  
23 Covered Products that comply with the Lead Limits on a nationwide basis. This Section 3.1 is not  
24 applicable with respect to Non-Suspect Materials.

25 3.2 **Lead Limits.** Commencing on the Effective Date and except as otherwise  
26 provided in this Consent Judgment, Settling Defendant shall not purchase, import, Manufacture,  
27 or supply to an unaffiliated third party any Covered Product that will be sold or offered for sale to  
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1 California consumers that exceeds the following Lead Limits:

2 3.2.1 Paint or other Surface Coatings on Accessible Components: 90 parts per  
3 million (“ppm”).

4 3.2.2 Polyvinyl chloride (“PVC”) Accessible Components: 200 ppm.

5 3.2.3 All other Accessible Components other than cubic zirconia (sometimes  
6 called cubic zirconium, CZ), crystal, glass or rhinestones: 300 ppm.

7 3.3 **Final Retail Compliance Date.** Commencing on September 1, 2013, Settling  
8 Defendant shall not sell or offer for sale in California any Covered Product that exceeds the Lead  
9 Limits specified in Section 3.2, except as otherwise provided in section 3.4 below and in other  
10 provisions of this Consent Judgement. For purposes of this Section 3.3, when Settling  
11 Defendant’s direct customer sells or offers for sale to California consumers a Covered Product  
12 after the Effective Date, Settling Defendant is deemed to “offer for sale in California” that  
13 Covered Product. Any sale by Settling Defendant of a Covered Product to a customer located  
14 outside of California that does not result in a subsequent sale of that Covered Product to a  
15 consumer located in California is not prohibited by this Consent Judgment.

16 3.4 **Warnings for Covered Products.**

17 3.4.1 **Interim Warning Option.** A Covered Product purchased, imported or  
18 manufactured by Settling Defendant before the Effective Date, may, as an alternative to  
19 meeting the Lead Limits and the requirements set forth in section 3.3 above, be sold or  
20 offered for retail sale in California after the Effective Date and/or after the deadline  
21 imposed in section 3.3 above, with a Clear and Reasonable Warning that complies with  
22 the provisions of Section 3.4.2.

23 3.4.2 **Proposition 65 Warnings.** A Clear and Reasonable Warning under this  
24 Consent Judgment shall state either:

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

1 or

2 WARNING: This product contains lead; a chemical known to the State of  
3 California to cause birth defects or other reproductive harm. Do not mouth or  
4 chew.

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

13 **3.5 Action Regarding Specific Products.**

14 3.5.1 On or before the Effective Date, Settling Defendant shall cease selling the  
15 following specific products in California: (i) Luxcessories Two Tone Mini Handbag in  
16 Red, Item No. PCB1040, (ii) Glaze High Heels in Orange, Style No. Victoria-2, (iii)  
17 Liliana Spike Studs High Heels in Red, SKU No. Jordan-red-8.5, Style name: Jordan, (iv)  
18 Promise Rivera Yellow Platform Stiletto Sandals, SKU No. Rivera-ylw-8.5; (v) Braided  
19 Skinny Belt in Orange, SKU No. 1914-org; and (vi) Elastic Scrunch Belt in Orange and  
20 Gray, SKU No. BRK007-org (collectively, the "Section 3.5 Products"). On or before the  
21 Effective Date, Settling Defendant shall also: (a) cease shipping the Section 3.5 Products  
22 to any of its customers that resell the Section 3.5 Products in California, and (b) send  
23 instructions to its customers that resell the Section 3.5 Products in California instructing  
24 them to cease offering such Section 3.5 Products for sale in California.

25 3.5.2 If Settling Defendant has not complied with Section 3.5.1 prior to  
26 executing this Consent Judgment, it shall instruct its California stores and/or customers  
27 that resell the Section 3.5 Product either to (i) return all the Section 3.5 Product to the  
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1 Settling Defendant for destruction; or (ii) directly destroy the Section 3.5 Product; or (iii)  
2 sell the Section 3.5 Product with a Clear and Reasonable Warning that complies with the  
3 provisions of Section 3.4.2.

4 3.5.3 Any destruction of Section 3.5 Products shall be in compliance with all  
5 applicable laws.

6 3.5.4 Within sixty days of the Effective Date, Settling Defendant shall provide  
7 CEH with written certification from Settling Defendant confirming compliance with the  
8 requirements of this Section 3.5.

9 **4. ENFORCEMENT**

10 4.1 Any Party may, after meeting and conferring, by motion or application for an  
11 order to show cause before this Court, enforce the terms and conditions contained in this Consent  
12 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent  
13 Judgment shall be brought exclusively pursuant to Sections 4.2 and 4.3.

14 4.2 **Notice of Violation.** CEH may seek to enforce the requirements of Sections  
15 3.2 or 3.3 by issuing a Notice of Violation pursuant to this Section 4.2.

16 4.2.1 **Service of Notice.** CEH shall serve the Notice of Violation on Settling  
17 Defendant within 45 days of the date the alleged violation(s) was or were observed,  
18 provided, however, that: (i) CEH may have up to an additional 45 days to provide Settling  
19 Defendant with the test data required by Section 4.2.2(d) below if it has not yet obtained it  
20 from its laboratory; and (ii) CEH may serve a Notice of Violation to a supplier of a  
21 Covered Product so long as: (a) the identity of the supplier cannot be discerned from the  
22 labeling of the Covered Product; and (b) the Notice of Violation to the supplier is served  
23 within 45 days of the date the supplier is identified by CEH.

24 4.2.2 **Supporting Documentation.** The Notice of Violation shall, at a minimum,  
25 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,  
26 (b) the location at which the Covered Product was offered for sale, (c) a description of the  
27 Covered Product giving rise to the alleged violation, and of each Accessible Component  
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1 that is alleged not to comply with the Lead Limits and/or each Accessible Component that  
2 is a Non-Suspect Material that is alleged to contain Lead in excess of 300 ppm, including  
3 a picture of the Covered Product and all identifying information on tags and labels, and  
4 (d) all test data obtained by CEH regarding the Covered Product and related supporting  
5 documentation, including all laboratory reports, quality assurance reports and quality  
6 control reports associated with testing of the Covered Products. Such Notice of Violation  
7 shall be based at least in part upon total acid digest testing performed by an independent  
8 accredited laboratory. Wipe, swipe, x-ray fluorescence, and swab testing are not by  
9 themselves sufficient to support a Notice of Violation, although any such testing may be  
10 used as additional support for a Notice. The Parties agree that the sample Notice of  
11 Violation attached hereto as Exhibit A is sufficient in form to satisfy the requirements of  
12 subsections (c) and (d) of this Section 4.2.2.

13 4.2.3 **Additional Documentation.** CEH shall promptly make available for  
14 inspection and/or copying upon request by and at the expense of Settling Defendant, all  
15 supporting documentation related to the testing of the Covered Products and associated  
16 quality control samples, including chain of custody records, all laboratory logbook entries  
17 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts  
18 from all analytical instruments relating to the testing of Covered Product samples and any  
19 and all calibration, quality assurance, and quality control tests performed or relied upon in  
20 conjunction with the testing of the Covered Products, obtained by or available to CEH that  
21 pertains to the Covered Product's alleged noncompliance with Section 3 and, if available,  
22 any exemplars of Covered Products tested.

23 4.2.4 **Multiple Notices.** If Settling Defendant has received more than four  
24 Notices of Violation in any 12-month period, at CEH's option, CEH may seek whatever  
25 fines, costs, penalties, or remedies are provided by law for failure to comply with the  
26 Consent Judgment. For purposes of determining the number of Notices of Violation  
27 pursuant to this Section 4.2.4, the following shall be excluded:  
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1 (a) Multiple notices identifying Covered Products Manufactured for or  
2 sold to Settling Defendant from the same Vendor; and

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

5 4.3 **Notice of Election.** Within 30 days of receiving a Notice of Violation  
6 pursuant to Section 4.2, including the test data required pursuant to 4.2.2(d), Settling Defendant  
7 shall provide written notice to CEH stating whether it elects to contest the allegations contained in  
8 the Notice of Violation (“Notice of Election”). Failure to provide a Notice of Election shall be  
9 deemed an election to contest the Notice of Violation. Any contributions to the Fashion  
10 Accessory Testing Fund required under this Section 4.3 shall be made payable to The Center for  
11 Environmental Health and included with Settling Defendant’s Notice of Election.

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

25 4.3.2 **Non-Contested Notices.** If the Notice of Violation is not contested,  
26 Settling Defendant shall include in its Notice of Election a detailed description of  
27 corrective action that it has undertaken or proposes to undertake to address the alleged  
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1 violation. Any such correction shall, at a minimum, provide reasonable assurance that the  
2 Covered Product will no longer be offered by Settling Defendant or its customers for sale  
3 in California. If there is a dispute over the sufficiency of the proposed corrective action or  
4 its implementation, CEH shall promptly notify Settling Defendant and the Parties shall  
5 meet and confer before seeking the intervention of the Court to resolve the dispute. In  
6 addition to the corrective action, Settling Defendant shall make a contribution to the  
7 Fashion Accessory Testing Fund in the amount of \$10,000, unless one of the provisions of  
8 Section 4.3.3 applies.

9 **4.3.3 Limitations in Non-Contested Matters.**

10 (a) If it elects not to contest a Notice of Violation before any motion  
11 concerning the violation(s) at issue has been filed, the monetary liability of Settling  
12 Defendant shall be limited to the contributions required by Section 4.3.2 and this Section  
13 4.3.3, if any, if any.

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

15 (i) One thousand seven hundred fifty dollars (\$1750) if Settling  
16 Defendant, prior to receiving and accepting for distribution or sale the  
17 Covered Product identified in the Notice of Violation, obtained test results  
18 demonstrating that all of the Accessible Components in the Covered  
19 Product identified in the Notice of Violation complied with the applicable  
20 Lead Limits, and further provided that such test results meet the same  
21 quality criteria to support a Notice of Violation as set forth in Section 4.2.2  
22 and that the testing was performed within two years prior to the date of the  
23 sales transaction on which the Notice of Violation is based. Settling  
24 Defendant shall provide copies of such test results and supporting  
25 documentation to CEH with its Notice of Election; or

26 (ii) Not required or payable, if the Notice of Violation concerns a  
27 Non-Suspect Material; provided, however, that the foregoing exemption  
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1 shall not apply if Settling Defendant has received more than three Notices  
2 of Violation in an 18-month period for the same Non-Suspect Material that  
3 was supplied by more than one Vendor; or

4 (iii) One thousand five hundred dollars (\$1500) if Settling  
5 Defendant is in violation of Section 3.3 only insofar as that Section deems  
6 Settling Defendant to have "offered for sale" a product sold at retail by  
7 Settling Defendant's customer, provided however, that no contribution is  
8 required or payable if Settling Defendant has already been required to pay  
9 a total of ten thousand dollars (\$10,000) pursuant to this subsection. This  
10 subsection shall apply only to Covered Products that Settling Defendant  
11 demonstrates were shipped prior to the Effective Date; or

12 (iv) Not required or payable, if the Notice of Violation identifies the  
13 same Covered Product or Covered Products, differing only in size or color,  
14 that have been the subject of another Notice of Violation within the  
15 preceding 12 months.

16 **5. PAYMENTS**

17 5.1 **Payments by Settling Defendant.** On or before June 15, 2013, Settling  
18 Defendant shall pay the sum of \$15,000 by check payable to the Lexington Law Group. On or  
19 before August 15, 2013, Settling Defendant shall pay the sum of \$15,000 by check payable to the  
20 Lexington Law Group, for a total sum of \$30,000 as a settlement payment. Any failure by  
21 Settling Defendant to comply with the payment terms herein shall be subject to a stipulated late  
22 fee in the amount of \$100 for each day after the delivery date the payment is received. The late  
23 fees required under this Section shall be recoverable, together with reasonable attorneys' fees, in  
24 an enforcement proceeding brought pursuant to Section 4.1 of this Consent Judgment. The  
25 settlement payments for Settling Defendant shall be delivered to the offices of the Lexington Law  
26 Group (Attn: Eric Somers), 503 Divisadero Street, San Francisco, California 94117, and allocated  
27 as set forth below between the following categories:

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1                   5.1.1   \$3,930 as a civil penalty pursuant to Health & Safety Code § 25249.7(b),  
2 such money to be apportioned by CEH in accordance with Health & Safety Code § 25249.12  
3 (25% to CEH and 75% to the State of California's Office of Environmental Health Hazard  
4 Assessment).

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

13                   5.1.3   \$20,170 as reimbursement of a portion of CEH's reasonable attorneys' fees  
14 and costs.

15         **6.       MODIFICATION**

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

19                 6.2         **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall  
20 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 RELEASED**

23                 7.1         This Consent Judgment is a full, final and binding resolution between CEH on  
24 behalf of itself and the public interest and Settling Defendant, and its parents, subsidiaries,  
25 affiliated entities that are under common ownership, directors, officers, employees, and attorneys  
26 ("Defendant Releasees"), and each entity to whom they directly or indirectly distribute or sell  
27 Covered Products, including but not limited to distributors, wholesalers, customers, retailers,

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

9 7.3 Nothing in this Section 7 affects CEH’s right to commence or prosecute an  
10 action under Proposition 65 against any person other than a Settling Defendant, Defendant  
11 Releasee, or Downstream Defendant Releasee.

12 7.4 Nothing in Section 7 affects CEH’s right to commence or prosecute an action  
13 under Proposition 65 against a Downstream Defendant Releasee that: (a) is not a direct customer  
14 of Settling Defendant under Section 3.3; and (b) sells or offers for sale a Covered Product to  
15 California consumers that does not comply with the Lead Limits after the applicable Final Retail  
16 Compliance Date set forth in Section 3.3; and (c) is not sold or offered for sale with compliant  
17 Proposition 65 warnings under this Consent Judgment.

18 **8. NOTICE**

19 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the  
20 notice shall be sent by first class and electronic mail to:

21 Howard Hirsch  
22 Lexington Law Group  
23 503 Divisadero Street  
24 San Francisco, CA 94117  
25 hhirsch@lexlawgroup.com

26 8.2 When Settling Defendant is entitled to receive any notice under this Consent  
27 Judgment, the notice shall be sent by certified mail with signature requirement by the recipient  
28 and electronic mail to:

Julie Yuh  
Fashion Eden, Inc.

19913 Harrison Avenue  
City of Industry CA 91789  
Email: julie.yuh@makemechic.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.*

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

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

## 11. TERMINATION

11.1 This Consent Judgment shall be terminable by CEH or by Settling Defendant at any time after January 1, 2019, upon the provision of 30 days advanced written notice; such

1 termination shall be effective upon the subsequent filing of a notice of termination with Superior  
2 Court of Alameda County.

3 11.2 Should this Consent Judgment be terminated pursuant to this Section, it shall  
4 be of no further force or effect as to the terminated parties; provided, however that if CEH is the  
5 terminating Party, the provisions of Sections 5,7 and 12.1 shall survive any termination and  
6 provided further that if Settling Defendant is the terminating Party, the provisions of Sections  
7 5,7.1 and 12.1 shall survive any termination.

8 **12. OTHER TERMS**

9 12.1 The terms of this Consent Judgment shall be governed by the laws of the State  
10 of California.

11 12.2 This Consent Judgment shall apply to and be binding upon CEH and Settling  
12 Defendant, and its respective divisions, subdivisions, and subsidiaries and the successors or  
13 assigns of any of them.

14 12.3 This Consent Judgment contains the sole and entire agreement and  
15 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior  
16 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby  
17 merged herein and therein. There are no warranties, representations, or other agreements between  
18 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or  
19 implied, other than those specifically referred to in this Consent Judgment have been made by any  
20 Party hereto. No other agreements not specifically contained or referenced herein, oral or  
21 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,  
22 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in  
23 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent  
24 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof  
25 whether or not similar, nor shall such waiver constitute a continuing waiver.

26 12.4 Nothing in this Consent Judgment shall release, or in any way affect any rights  
27 that any Settling Defendant might have against any other party, whether or not that party is a

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1 Settling Defendant.

2 12.5 This Court shall retain jurisdiction of this matter to implement or modify the  
3 Consent Judgment.

4 12.6 The stipulations to this Consent Judgment may be executed in counterparts  
5 and by means of facsimile or portable document format (pdf), which taken together shall be  
6 deemed to constitute one document.

7 12.7 Each signatory to this Consent Judgment certifies that he or she is fully  
8 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into  
9 and execute the Consent Judgment on behalf of the Party represented and legally to bind that  
10 Party.

11 12.8 The Parties, including their counsel, have participated in the preparation of  
12 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.  
13 This Consent Judgment was subject to revision and modification by the Parties and has been  
14 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any  
15 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any  
16 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this  
17 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to  
18 be resolved against the drafting Party should not be employed in the interpretation of this Consent  
19 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

20 **IT IS SO ORDERED:**

21 22 Dated: <u>        JUN 05 2013        </u> , 2013	23 24 25 26 27 28 <b>STEVEN A. BRICK</b> The Honorable Steven A. Brick Judge of the Superior Court
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**IT IS SO STIPULATED:**

**CENTER FOR ENVIRONMENTAL HEALTH**



Signature

CHARLIE PIZZANO

Printed Name

ASSOCIATE DIRECTOR

Title

**FASHION EDEN**

Signature

Printed Name

Title



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IT IS SO STIPULATED:

CENTER FOR ENVIRONMENTAL HEALTH

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Signature

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

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Title

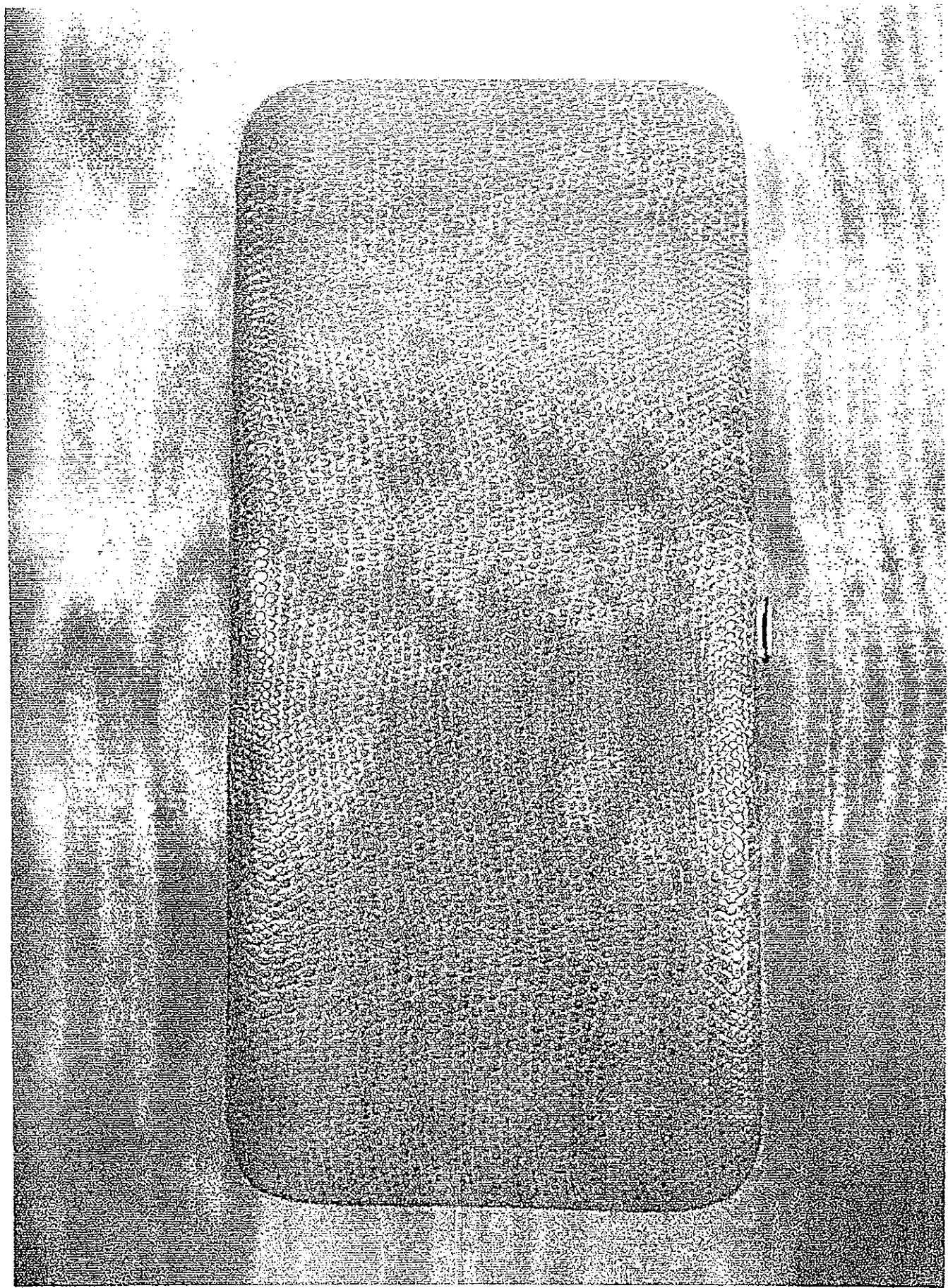
FASHION EDEN

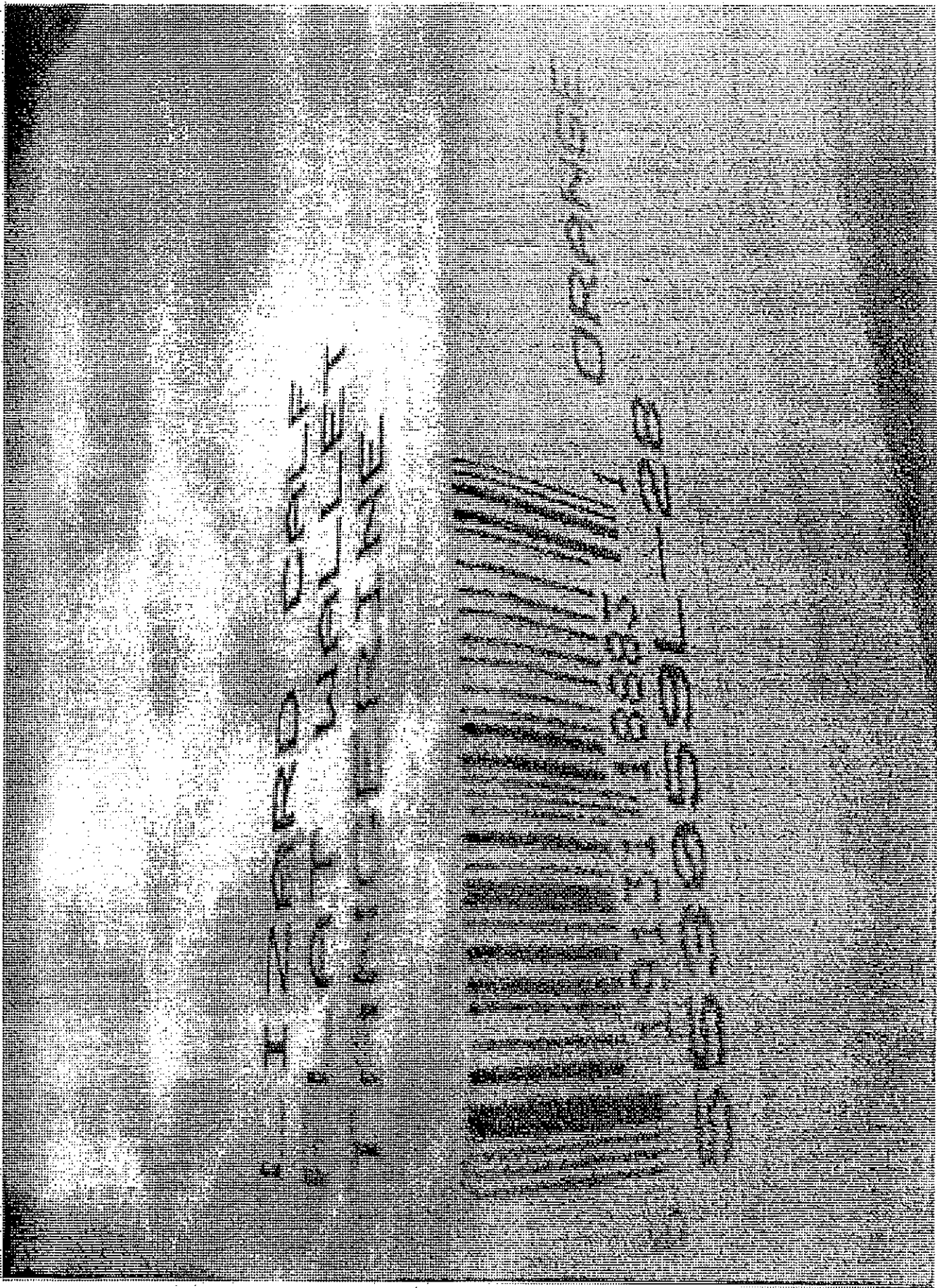
*[Handwritten Signature]*  
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Signature

*Jube Yell*  
\_\_\_\_\_  
Printed Name

*CEO*  
\_\_\_\_\_  
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