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ENDORSED  
FILED  
ALAMEDA COUNTY

DEC 19 2012

K. McCoy, Exec. Off./Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH, )

Plaintiff, )

v. )

LULU NYC LLC, et al., )

Defendants. )

Lead Case No. RG 09-459448

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

~~PROPOSED~~ CONSENT  
JUDGMENT AS TO THE WHEAT  
GROUP, INC.

\_\_\_\_\_  
AND CONSOLIDATED CASES.  
\_\_\_\_\_

1. DEFINITIONS

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

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

1.3 "Lead Limits" means the maximum concentrations of lead and lead compounds ("Lead") by weight specified in Section 3.2.

1.4 "Manufactured" and "Manufactures" means to manufacture, produce, or assemble.

1           1.5           “Paint or other Surface Coatings” means a fluid, semi-fluid, or other material,  
2 with or without a suspension of finely divided coloring matter, which changes to a solid film  
3 when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface.  
4 This term does not include printing inks or those materials which actually become a part of the  
5 substrate, such as the pigment in a plastic article, or those materials which are actually bonded to  
6 the substrate, such as by electroplating or ceramic glazing.

7           1.6           “Vendor” means a person or entity that Manufactures, imports, distributes,  
8 sells or supplies a Covered Product to Settling Defendant.

9           **2. INTRODUCTION**

10          2.1           The parties to this Consent Judgment (“Parties”) are the Center for  
11 Environmental Health (“CEH”) and defendant the Wheat Group, Inc. (“Settling Defendant”).

12          2.2           On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,  
13 Case No. RG 09-459448, alleging Proposition 65 violations as to wallets, handbags, purses and  
14 clutches. The Court consolidated the *Lulu* matter with a number of other related Proposition 65  
15 cases. On February 8, 2012, the following cases were also consolidated for pre-trial purposes  
16 with the *Lulu* consolidated cases: (a) *CEH v. Bioworld Merchandising, Inc.*, Case No. RG 11-  
17 598596; (b) *CEH v. Yoki Shoes LLC*, Case No. RG 11-598595; and (c) *CEH v. Armani Exchange,*  
18 *Inc.*, Case No. RG 11-603764.

19          2.3           On or about March 27, 2012, CEH served a 60-Day Notice of Violation under  
20 Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health  
21 & Safety Code §§ 25249.5, *et seq.*), alleging that Settling Defendant violated Proposition 65 by  
22 exposing persons to Lead contained in wallets, handbags, purses and clutches, without first  
23 providing a clear and reasonable Proposition 65 warning.

24          2.4           On or about October 8, 2012, CEH served a 60-Day Notice of Violation under  
25 Proposition 65, alleging that Settling Defendant violated Proposition 65 by exposing persons to  
26 Lead contained in belts, without first providing a clear and reasonable Proposition 65 warning.

27          2.5           On or about October 24, 2012, CEH named Settling Defendant as a defendant  
28 in the operative First Amended Complaint in the *Bioworld* action via Doe Amendment. On or

1 about December 13, 2012, CEH will name Settling Defendant as a defendant in the operative  
2 Complaint in the *Armani Exchange* action via Doe Amendment.

3 2.6 Settling Defendant manufactures, imports, distributes, supplies and/or offers  
4 for sale Covered Products in the State of California or has done so in the past.

5 2.7 For purposes of this Consent Judgment only, the Parties stipulate that this  
6 Court has jurisdiction over the allegations of violations contained in the operative Complaint  
7 applicable to Settling Defendant (the “Complaint”) and personal jurisdiction over Settling  
8 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,  
9 and that this Court has jurisdiction to enter this Consent Judgment.

10 2.8 Nothing in this Consent Judgment is or shall be construed as an admission by  
11 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance  
12 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
13 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall  
14 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any  
15 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and  
16 is accepted by the Parties for purposes of settling, compromising and resolving issues disputed in  
17 this action.

18 **3. INJUNCTIVE RELIEF**

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

23 3.2 **Lead Limits.**

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

28 3.2.1 Paint or other Surface Coatings: 90 parts per million (“ppm”).

1                   3.2.2 Polyvinyl chloride (“PVC”): 200 ppm.

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

4                   3.3           **Final Retail Compliance Date.** Commencing on December 1, 2012, 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. For purposes of this Section 3.3, when Settling Defendant’s  
7 direct customer sells or offers for sale to California consumers a Covered Product after December  
8 1, 2012, Settling Defendant is deemed to “offer for sale in California” that Covered Product.

9                   3.4           **Action Regarding Specific Products.**

10                   3.4.1 On or before the Effective Date, Settling Defendant shall cease selling all  
11 units of the Hurley One and Only Bi-Fold Wallet in Red, UPC No. 845301003301, SKU  
12 No. 7655420 (the “Section 3.4 Product”) in California that exceed the Lead Limits.  
13 Settling Defendant may continue selling specific units of the Section 3.4 Product provided  
14 that each such unit has been screened with an XRF test device and demonstrated to  
15 comply with the Lead Limits. Settling Defendant shall keep and maintain documents  
16 including test data and reports demonstrating that any Section 3.4 Products sold after the  
17 Effective Date are compliant with the Lead Limits and provide such documentation to  
18 Plaintiff prior to selling any Section 3.4 Product. On or before the Effective Date, Settling  
19 Defendant shall also: (i) cease shipping the Section 3.4 Product that exceed the Lead  
20 Limits to any of its stores and/or customers that resell the Section 3.4 Product in  
21 California, and (ii) send instructions to its stores and/or customers that resell the Section  
22 3.4 Product that are not demonstrated to be compliant with the Lead Limits in California  
23 instructing them either to: (a) return all such Section 3.4 Product to Settling Defendant for  
24 destruction; or (b) directly destroy such Section 3.4 Product. If the parties disagree on  
25 whether any Section 3.4 Product meets the Lead Limits the parties shall meet and confer  
26 in good faith prior to seeking Court intervention.

27                   3.4.2 Any destruction of Section 3.4 Product shall be in compliance with all  
28 applicable laws.

1                   3.4.3 Within sixty days of the Effective Date, Settling Defendant shall provide  
2 CEH with written certification from Settling Defendant confirming compliance with the  
3 requirements of this Section 3.4.

4 **4. ENFORCEMENT**

5                   4.1 Any Party may, after meeting and conferring, by motion or application for an  
6 order to show cause before this Court, enforce the terms and conditions contained in this Consent  
7 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent  
8 Judgment shall be brought exclusively pursuant to Sections 4.3 through 4.4.

9                   4.2 Within 30 days after the Effective Date, Settling Defendant shall notify CEH  
10 of a means sufficient to allow CEH to identify Covered Products supplied or offered by Settling  
11 Defendant on or after that date, for example, a unique brand name or characteristic system of  
12 product numbering or labeling. Upon written request by CEH, but no more than once in any  
13 calendar year, Settling Defendant shall, within 30 days of receiving a request from CEH, update  
14 the information provided to CEH pursuant to this Section 4.2 by notifying CEH of a means  
15 sufficient to allow CEH to identify Covered Products currently supplied or offered by Settling  
16 Defendant. If CEH is unable to determine whether a particular product is a Covered Product as to  
17 Settling Defendant based on the information provided to CEH pursuant to this Section 4.2,  
18 Settling Defendant shall cooperate in good faith with CEH in determining whether the product at  
19 issue is a Covered Product and, if so, the identity of the Settling Defendant responsible for selling  
20 the product. Information provided to CEH pursuant to this Section 4.2, including but not limited  
21 to the identities of parties to contracts between Settling Defendant and third parties, may be  
22 designated by Settling Defendant as competitively sensitive confidential business information,  
23 and if so designated shall not be disclosed to any person without the written permission of  
24 Settling Defendant. Any motions or pleadings or any other court filings that may reveal  
25 information designated as competitively sensitive confidential business information pursuant to  
26 this Section shall be submitted in accordance with California Rules of Court 8.46 and 2.550, *et*  
27 *seq.*

1           4.3           **Notice of Violation.** CEH may seek to enforce the requirements of Sections  
2 3.2 or 3.3 by issuing a Notice of Violation pursuant to this Section 4.3.

3           4.3.1   **Service of Notice.** CEH shall serve the Notice of Violation on Settling  
4 Defendant within 45 days of the date the alleged violation(s) was or were observed,  
5 provided, however, that CEH may have up to an additional 45 days to provide Settling  
6 Defendant with the test data required by Section 4.3.2(d) below if it has not yet obtained it  
7 from its laboratory.

8           4.3.2   **Supporting Documentation.** The Notice of Violation shall, at a minimum,  
9 set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed,  
10 (b) the location at which the Covered Product was offered for sale, (c) a description of the  
11 Covered Product giving rise to the alleged violation, and of each material or component  
12 that is alleged not to comply with the Lead Limits, including a picture of the Covered  
13 Product and all identifying information on tags and labels, and (d) all test data obtained by  
14 CEH regarding the Covered Product and related supporting documentation, including all  
15 laboratory reports, quality assurance reports and quality control reports associated with  
16 testing of the Covered Products. Such Notice of Violation shall be based at least in part  
17 upon total acid digest testing performed by an independent accredited laboratory. Wipe,  
18 swipe, x-ray fluorescence, and swab testing are not by themselves sufficient to support a  
19 Notice of Violation, although any such testing may be used as additional support for a  
20 Notice. The Parties agree that the sample Notice of Violation attached hereto as Exhibit A  
21 is sufficient in form to satisfy the requirements of subsections (c) and (d) of this Section  
22 4.3.2.

23           4.3.3   **Additional Documentation.** CEH shall promptly make available for  
24 inspection and/or copying upon request by and at the expense of Settling Defendant, all  
25 supporting documentation related to the testing of the Covered Products and associated  
26 quality control samples, including chain of custody records, all laboratory logbook entries  
27 for laboratory receiving, sample preparation, and instrumental analysis, and all printouts  
28 from all analytical instruments relating to the testing of Covered Product samples and any

1 and all calibration, quality assurance, and quality control tests performed or relied upon in  
2 conjunction with the testing of the Covered Products, obtained by or available to CEH that  
3 pertains to the Covered Product’s alleged noncompliance with Section 3 and, if available,  
4 any exemplars of Covered Products tested.

5 4.3.4 **Multiple Notices.** If Settling Defendant has received more than four  
6 Notices of Violation in any 12-month period, at CEH’s option, CEH may seek whatever  
7 fines, costs, penalties, or remedies are provided by law for failure to comply with the  
8 Consent Judgment. For purposes of determining the number of Notices of Violation  
9 pursuant to this Section 4.3.4, the following shall be excluded:

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

12 (b) A Notice of Violation that meets one or more of the conditions of  
13 Section 4.4.3(b).

14 4.4 **Notice of Election.** Within 30 days of receiving a Notice of Violation  
15 pursuant to Section 4.3, including the test data required pursuant to 4.3.2(d), Settling Defendant  
16 shall provide written notice to CEH stating whether it elects to contest the allegations contained in  
17 the Notice of Violation (“Notice of Election”). Failure to provide a Notice of Election shall be  
18 deemed an election to contest the Notice of Violation.

19 4.4.1 **Contested Notices.** If the Notice of Violation is contested, the Notice of  
20 Election shall include all then-available documentary evidence regarding the alleged  
21 violation, including any test data. Within 30 days the parties shall meet and confer to  
22 attempt to resolve their dispute. Should such attempts at meeting and conferring fail,  
23 CEH may file an enforcement motion or application pursuant to Section 4.1. If Settling  
24 Defendant withdraws its Notice of Election to contest the Notice of Violation before any  
25 motion concerning the violations alleged in the Notice of Violation is filed pursuant to  
26 Section 4.1, Settling Defendant shall make a contribution to the Proposition 65 Fashion  
27 Accessory Testing Fund in the amount of \$12,500 and shall comply with all of the non-  
28 monetary provisions of Section 4.4.2. If, at any time prior to reaching an agreement or

1 obtaining a decision from the Court, CEH or Settling Defendant acquires additional test or  
2 other data regarding the alleged violation, it shall promptly provide all such data or  
3 information to the other Party.

4 4.4.2 **Non-Contested Notices.** If the Notice of Violation is not contested,  
5 Settling Defendant shall include in its Notice of Election a detailed description of  
6 corrective action that it has undertaken or proposes to undertake to address the alleged  
7 violation. Any such correction shall, at a minimum, provide reasonable assurance that the  
8 Covered Product will no longer be offered by Settling Defendant or its customers for sale  
9 in California. If there is a dispute over the sufficiency of the proposed corrective action or  
10 its implementation, CEH shall promptly notify Settling Defendant and the Parties shall  
11 meet and confer before seeking the intervention of the Court to resolve the dispute. In  
12 addition to the corrective action, Settling Defendant shall make a contribution to the  
13 Fashion Accessory Testing Fund in the amount of \$10,000, unless one of the provisions of  
14 Section 4.4.3 applies.

15 4.4.3 **Limitations in Non-Contested Matters.**

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

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

20 (i) One thousand seven hundred fifty dollars (\$1,750) if Settling  
21 Defendant, prior to receiving and accepting for distribution or sale the  
22 Covered Product identified in the Notice of Violation, obtained test results  
23 demonstrating that all of the materials or components in the Covered  
24 Product identified in the Notice of Violation complied with the applicable  
25 Lead Limits, and further provided that such test results meet the same  
26 quality criteria to support a Notice of Violation as set forth in Section 4.3.2  
27 and that the testing was performed within two years prior to the date of the  
28 sales transaction on which the Notice of Violation is based. Settling



1 Defendant shall provide copies of such test results and supporting  
2 documentation to CEH with its Notice of Election; or

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

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

15 **5. PAYMENTS**

16 5.1 **Payments by Settling Defendant.** Within five (5) business days of the Effective  
17 Date, Settling Defendant shall pay the total sum of \$65,000 as a settlement payment. The total  
18 settlement amount for Settling Defendant shall be paid in three separate checks and delivered to  
19 the offices of the Lexington Law Group (Attn: Eric Somers), 503 Divisadero Street, San  
20 Francisco, California 94117-2212, and made payable and allocated as follows:

21 5.1.1 Settling Defendant shall pay the sum of \$8,600 as a civil penalty pursuant  
22 to Health & Safety Code § 25249.7(b). CEH shall apportion this payment in accordance with  
23 Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California’s Office of  
24 Environmental Health Hazard Assessment). The civil penalty check shall be made payable to the  
25 Center For Environmental Health.

26 5.1.2 Settling Defendant shall pay the sum of \$12,900 as a payment in lieu of  
27 civil penalty to CEH pursuant to Health & Safety Code § 25249.7(b), and California Code of  
28 Regulations, Title 11, § 3203(b). CEH shall use such funds to continue its work educating and

1 protecting people from exposures to toxic chemicals, including heavy metals. In addition, as part  
2 of its Community Environmental Action and Justice Fund, CEH will use four percent of such  
3 funds to award grants to grassroots environmental justice groups working to educate and protect  
4 people from exposures to toxic chemicals. The method of selection of such groups can be found  
5 at the CEH web site at [www.ceh.org/justicefund](http://www.ceh.org/justicefund). The payment pursuant to this Section shall be  
6 made payable to the Center For Environmental Health.

7 5.1.3 Settling Defendant shall also separately pay the sum of \$43,500 to the  
8 Lexington Law Group as reimbursement of a portion of CEH's reasonable attorneys' fees and  
9 costs. The attorneys' fees and cost reimbursement check shall be made payable to the Lexington  
10 Law Group.

## 11 **6. MODIFICATION**

12 6.1 **Written Consent.** This Consent Judgment may be modified from time to  
13 time by express written agreement of the Parties with the approval of the Court, or by an order of  
14 this Court upon motion and in accordance with law.

15 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall  
16 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to  
17 modify the Consent Judgment.

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

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

1           7.2           Compliance with the terms of this Consent Judgment by Settling Defendant  
2 constitutes compliance with Proposition 65 with respect to Lead in Settling Defendant's Covered  
3 Products.

4           7.3           Nothing in this Section 7 affects CEH's right to commence or prosecute an  
5 action under Proposition 65 against any person other than a Settling Defendant, Defendant  
6 Releasee, or Downstream Defendant Releasee.

7           7.4           Nothing in Section 7 affects CEH's right to commence or prosecute an action  
8 under Proposition 65 against a Downstream Defendant Releasee that: (a) is not a direct or indirect  
9 customer of Settling Defendant under Section 3.3; and (b) sells or offers for sale a Covered  
10 Product to California consumers that does not comply with the Lead Limits after the applicable  
11 Final Retail Compliance Date set forth in Section 3.3. For purposes of this Section 7.4 an indirect  
12 customer is a person or entity (regardless of the number of intervening levels) who purchases  
13 Covered Products from Settling defendant.

14 **8. NOTICE**

15           8.1           When CEH is entitled to receive any notice under this Consent Judgment, the  
16 notice shall be sent by first class and electronic mail to:

17                           Eric S. Somers  
18                           Lexington Law Group  
19                           503 Divisadero Street  
20                           San Francisco, CA 94117  
21                           esomers@lexlawgroup.com

22           8.2           When Settling Defendant is entitled to receive any notice under this Consent  
23 Judgment, the notice shall be sent by first class and electronic mail to:

24                           Douglas M. Vickery  
25                           401 West A. Street, Suite 1400  
26                           San Diego, CA 92101  
27                           dmvsurf@cox.net

28           8.3           Any Party may modify the person and address to whom the notice is to be sent  
29 by sending each other Party notice by first class and electronic mail.

30 **9. COURT APPROVAL**

31           9.1           This Consent Judgment shall become effective upon entry by the Court. CEH

1 shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant  
2 shall support entry of this Consent Judgment.

3 9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or  
4 effect and shall never be introduced into evidence or otherwise used in any proceeding for any  
5 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

6 **10. ATTORNEYS' FEES**

7 10.1 Should CEH prevail on any motion, application for an order to show cause or  
8 other proceeding to enforce a violation of this Consent Judgment, CEH shall be entitled to its  
9 reasonable attorneys' fees and costs incurred as a result of such motion or application. Should  
10 Settling Defendant prevail on any motion application for an order to show cause or other  
11 proceeding, Settling Defendant may be awarded its reasonable attorneys' fees and costs as a result  
12 of such motion or application upon a finding by the Court that CEH's prosecution of the motion  
13 or application lacked substantial justification. For purposes of this Consent Judgment, the term  
14 substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,  
15 Code of Civil Procedure §§ 2016, *et seq.*

16 10.2 Except as otherwise provided in this Consent Judgment, each Party shall bear  
17 its own attorneys' fees and costs.

18 10.3 Nothing in this Section 10 shall preclude a Party from seeking an award of  
19 sanctions pursuant to law.

20 **11. TERMINATION**

21 11.1 This Consent Judgment shall be terminable by CEH or by Settling Defendant  
22 at any time after September 1, 2017, upon the provision of 30 days advanced written notice; such  
23 termination shall be effective upon the subsequent filing of a notice of termination with Superior  
24 Court of Alameda County.

25 11.2 Should this Consent Judgment be terminated pursuant to this Section, it shall  
26 be of no further force or effect as to the terminated parties; provided, however that if CEH is the  
27 terminating Party, the provisions of Sections 5 and 7 shall survive any termination and provided  
28 further that if Settling Defendant is the terminating Party, the provisions of Sections 5 and 7.1

1 shall survive any termination.

2 **12. OTHER TERMS**

3 12.1 The terms of this Consent Judgment shall be governed by the laws of the State  
4 of California.

5 12.2 This Consent Judgment shall apply to and be binding upon CEH and Settling  
6 Defendant, and the successors or assigns of any of them.

7 12.3 This Consent Judgment contains the sole and entire agreement and  
8 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior  
9 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby  
10 merged herein and therein. There are no warranties, representations, or other agreements between  
11 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or  
12 implied, other than those specifically referred to in this Consent Judgment have been made by any  
13 Party hereto. No other agreements not specifically contained or referenced herein, oral or  
14 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,  
15 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in  
16 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent  
17 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof  
18 whether or not similar, nor shall such waiver constitute a continuing waiver.

19 12.4 Nothing in this Consent Judgment shall release, or in any way affect any rights  
20 that Settling Defendant might have against any other party, whether or not that party is a Settling  
21 Defendant.

22 12.5 This Court shall retain jurisdiction of this matter to implement or modify the  
23 Consent Judgment.

24 12.6 The stipulations to this Consent Judgment may be executed in counterparts  
25 and by means of facsimile or portable document format (pdf), which taken together shall be  
26 deemed to constitute one document.

27 12.7 Each signatory to this Consent Judgment certifies that he or she is fully  
28 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into

1 and execute the Consent Judgment on behalf of the Party represented and legally to bind that  
2 Party.

3 12.8 The Parties, including their counsel, have participated in the preparation of  
4 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.  
5 This Consent Judgment was subject to revision and modification by the Parties and has been  
6 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any  
7 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any  
8 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this  
9 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to  
10 be resolved against the drafting Party should not be employed in the interpretation of this Consent  
11 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

12

13 **IT IS SO ORDERED:**

14

15 Dated: DEC. 19, 2012

STEVEN A. BRICK  
The Honorable Steven A. Brick  
Judge of the Superior Court

16

17

18 **IT IS SO STIPULATED:**

19

20 **CENTER FOR ENVIRONMENTAL HEALTH**

21

22



Signature

23

24

CHARLES PIZARRO

Printed Name

25

26

27


ASSOCIATE DIRECTOR

Title

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**THE WHEAT GROUP, INC.**

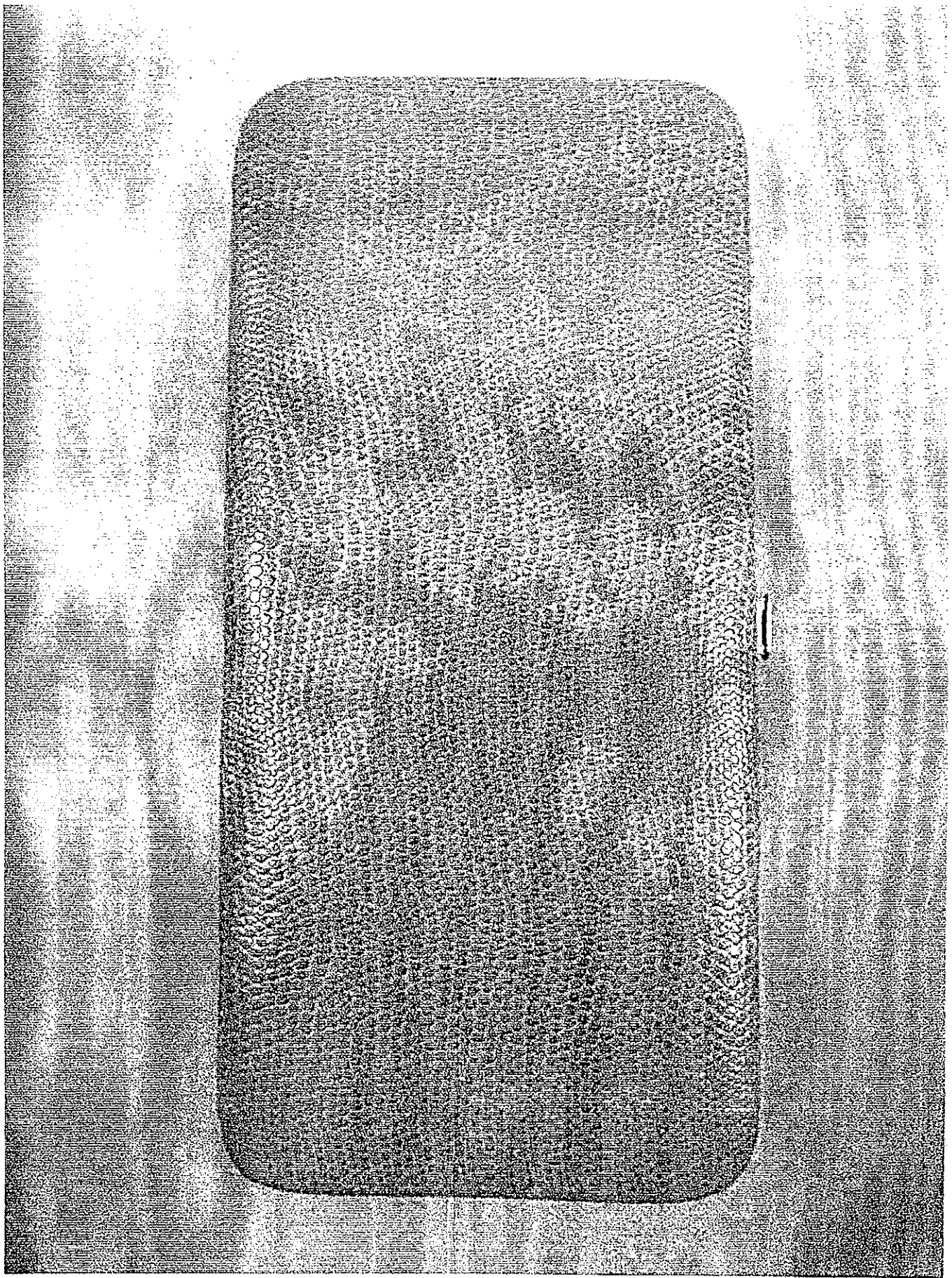
  
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Kelly Grismer  
Printed Name

President  
Title

# **Exhibit A**





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## 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