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Attorneys for Plaintiff,  
MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION,  
  
PLAINTIFF,  
  
V.  
  
BABY TREND, INC., et al.,  
  
DEFENDANTS.

CASE NO. CGC 05-440721

**[PROPOSED] CONSENT JUDGMENT AS  
TO DEFENDANT J&B IMPORTERS, INC.**

**1. INTRODUCTION**

1.1 On or about January 31, 2005, plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel"), provided a 60-day notice of violation ("Notice") to the California Attorney General, the District Attorneys of every county in California, the City Attorneys of every California city with a population greater than 750,000, and defendant J&B Importers, Inc. ("Defendant"), alleging that Defendant, through sales in California of bicycle locks, cable locks, derailleur cables for bicycles and brake cables for bicycles and jogging strollers, all of which are

1 coated with lead-containing plastic (hereinafter "Cables"), was violating Health & Safety Code  
2 section 25249.6. On January 3, 2006, plaintiff sent a supplemental 60-Day notice, alleging that  
3 Defendant, through sales in California of tools, the handles for which are coated with polyvinyl  
4 chloride ("PVC"), including but not limited to bicycle tools, chain tools, bottom bracket tools,  
5 tool kits, pliers, screwdrivers, pedal tools, cone wrenches, fork tools, wheel tools, wrenches and  
6 frame tools was in violation of Health & Safety Code section 25249.6 (hereinafter "Tools"). To  
7 the extent the aforementioned Cables and Tools are manufactured, distributed or sold by  
8 Defendant they are deemed Covered Products for purposes of this Consent Judgment Seventy  
9 (70) days after the January 3, 2006 supplemental 60-Day notice was sent, provided no public  
10 enforcer has begun an enforcement action with regard to the violations described in that notice,  
11 the Complaint in this action shall be deemed amended to include the allegations made in the  
12 supplemental 60 Day Notice, and the provisions of this Consent Judgment shall apply to the  
13 violations and products described in the supplemental 60-Day notice.

14 1.2 On or about April 25, 2005, plaintiff Mateel, acting in the public interest pursuant  
15 to Health and Safety Code section 25249.7(d) and on behalf of the general public pursuant to  
16 Business and Professions Code section 17204 ("Plaintiff"), filed a Complaint for Civil Penalties  
17 and Injunctive Relief in San Francisco County Superior Court, Case No. 440721 ("Complaint")  
18 against Defendant based on the allegations contained in the Notices

19 1.3 For purposes of this Consent Judgment, the Mateel and Defendant stipulate that this Court  
20 has jurisdiction over the allegations of violations contained in the Complaint and personal  
21 jurisdiction over Defendant as to the acts alleged in the Complaint, that venue is proper in the  
22 County of San Francisco and that this Court has jurisdiction to enter this Consent Judgment as a  
23 full and final settlement and resolution of the allegations contained in the Complaint and of all  
24 claims which were or could have been raised based on the facts alleged therein or arising  
25 therefrom.

26 1.4 Mateel and Defendant enter into this Consent Judgment pursuant to a full and final  
27 settlement of disputed claims between the parties for the purpose of avoiding prolonged litigation.  
28 This Consent Judgment shall not constitute an admission with respect to any allegation made in

1 the Notice or the Complaint, each and every allegation of which Defendant denies, nor may this  
2 Consent Judgment or compliance with it be used as evidence of any wrongdoing, misconduct,  
3 culpability or liability on the part of Defendant.

4 **2. INJUNCTIVE RELIEF — REFORMATION**

5 2.1 Within two hundred and seventy (270) days after entry of this Consent Agreement,  
6 Defendant shall cease sales in California of Covered Products that incorporate plastic unless the  
7 Covered Products meet the following criteria:

- 8 (a) The formulation of the plastic used shall have no intentionally added lead.  
9 (b) A random sample of the bulk plastic used to manufacture the Covered  
10 Products has been tested for lead content and shown lead content by weight of less than  
11 0.02%, or 200 parts per million ("ppm"), using a test method of sufficient sensitivity to  
12 establish a limit of quantification (as distinguished from detection) of less than 200 ppm.  
13 In performing this test, the sample of plastic tested must be completely dissolved before it  
14 is analyzed.

15 2.2 Defendant may comply with the above requirements by relying on information  
16 obtained from its suppliers of the tools and PVC utilized on the handles thereof provided such  
17 reliance is in good faith.

18 **3. MONETARY RELIEF**

19 3.1 Within ten (10) days after entry of this Consent Judgment by the Court, Defendant  
20 shall pay ten thousand dollars (\$10,000) to the Ecological Rights Foundation and ten thousand  
21 dollars (\$10,000) to Californians for Alternatives to Toxics. Both groups are California  
22 non-profit organizations that advocate for workers' and consumers' safety and for awareness and  
23 reduction of toxic exposures. The foregoing settlement payments shall be mailed to the attention  
24 of William Verick, Klamath Environmental Law Center, 424 First Street, Eureka, California  
25 95501, who shall provide them to the respective organizations within fifteen (15) days of receipt.

26 **4. ATTORNEYS' FEES**

27 4.1 Within ten (10) days after entry of this Consent Judgment, Defendant shall pay  
28 Twenty thousand dollars (\$20,000) to the Klamath Environmental Law Center to cover plaintiffs

1 attorneys' fees and costs. The above payment shall be mailed to the attention of William Verick,  
2 Klamath Environmental Law Center, 424 First Street, Eureka, California 95501.

3 4.2 Except as specifically provided in this Consent Judgment, plaintiff and Defendant  
4 shall bear their own costs and attorneys' fees.

5 **5. ENFORCEMENT OF JUDGMENT/STIPULATED REMEDIES**

6 5.1 The terms of this Consent Judgment are enforceable by and among the parties  
7 hereto or, with respect to the injunctive relief provided for herein, by the California Attorney  
8 General.

9 **6. MATTERS COVERED BY THIS CONSENT JUDGMENT**

10 6.1 This Consent Judgment is a full, final and binding resolution between the Plaintiff  
11 acting on behalf of itself and, (as to those matters referenced in the Notice Letters) in the public  
12 interest pursuant to Health and Safety Code section 25249.7(d) and on behalf of the general  
13 public pursuant to Business and Professions Code section 17204, and Defendant concerning any  
14 violation of Proposition 65 and/or the Unfair Competition Act regarding any claims made or  
15 which could have been made in the Notice and/or the Complaint, or any other statutory or  
16 common law claim that could have been asserted against Defendant and/or its affiliates, parent or  
17 subsidiary corporations, divisions, successors, officers, directors, assigns, distributors, retailers,  
18 and/or customers for failure to provide clear, reasonable, and lawful warnings of exposure to lead  
19 contained in or otherwise associated with Covered Products manufactured, sold or distributed by,  
20 for, or on behalf of, Defendant. Compliance with the terms of this Consent Judgment resolves  
21 any issue, now and in the future, concerning compliance by Defendant and/or its affiliates, parent  
22 or subsidiary corporations, divisions, successors, officers, directors, assigns, distributors, retailers,  
23 and/or customers with the requirements of Proposition 65 and the Unfair Competition Act with  
24 respect to lead contained in or otherwise associated with Covered Products.

25 6.2 As to any claims, violations (except violations of this Consent Judgment), actions,  
26 damages, costs, penalties or causes of action which may arise or have arisen after the original date  
27 of entry of this consent judgment, compliance by Defendant with the terms of this consent  
28 judgment shall be deemed to be full and complete compliance with Proposition 65 and the Unfair

1 Competition Act as to claims regarding exposure to lead in Covered Products.

2 6.3 In furtherance of the foregoing, Plaintiff hereby waives any and all rights and  
3 benefits that it now has, or in the future may have, conferred upon it with respect to the Covered  
4 Products by virtue of the provisions of Section 1542 of the California Civil Code, which provides  
5 as follows:

6 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR  
7 DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF  
8 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY  
9 AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

10 Plaintiff understands and acknowledges that the significance and consequence of this waiver of  
11 California Civil Code Section 1542 is that even if Plaintiff suffers future damages arising out of  
12 or resulting from, or related directly or indirectly to, in whole or in part, the Covered Products,  
13 they will not be able to make any claim for those damages against Defendant, or its parent,  
14 subsidiaries or affiliates, or any of its customers, distributors, wholesalers, retailers or any other  
15 person in the course of doing business who may manufacture, use, maintain, distribute, market or  
16 sell the Covered Products. Furthermore, Plaintiff acknowledges that it intends these  
17 consequences for any such claims which may exist as of the date of this release but which  
18 Plaintiff does not know exist, and which, if known, would materially affect its decision to enter  
19 into this Consent Judgment, regardless of whether its lack of knowledge is the result of ignorance,  
20 oversight, error, negligence, or any other cause.

21 **7. APPLICATION OF JUDGMENT**

22 7.1 The obligations of this Consent Judgment shall apply to and be binding upon any  
23 and all plaintiffs, acting in the public interest pursuant to Health and Safety Code section  
24 25249.7(d) and on behalf of the general public pursuant to Business and Professions Code section  
25 17204, and Defendant and the successors or assigns of any of them.

26 **8. MODIFICATION OF JUDGMENT**

27 8.1 This Consent Judgment may be modified only upon written agreement of the  
28 parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of

1 any party as provided by law and upon entry of a modified Consent Judgment by the Court.

2 **9. NOTICE**

3 9.1 When any Party is entitled to receive any notice or report under this Consent  
4 Judgment, the notice or report shall be sent by U.S. mail or overnight courier service to:

5 (a) For Mateel: William Verick, Esq., Klamath Environmental Law Center,  
6 424 First Street, Eureka, California 95501; and

7 (b) For J&B: Ben Joannou,  
8 J&B Importers, Inc.  
9 11925 SW 128<sup>th</sup> Street  
10 Miami, FL 33186

11 with a copy to: Thomas Clarke, Ropers Majeski, Kohn & Bentley, 333 Market  
12 Street, Suite 3150, San Francisco, CA 94105. After January 15, 2006, to Thomas  
13 H. Clarke, Jr., Ropers Majeski Kohn & Bentley, 201 Spear St., 10<sup>th</sup> Floor, San  
14 Francisco, CA 94105.

15 9.2 Any Party may modify the person and address to whom notice is to be sent by  
16 sending each other Party notice in accordance with this Paragraph.

17 **10. AUTHORITY TO STIPULATE**

18 10.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
19 by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of  
20 the party represented and legally to bind that party.

21 **11. RETENTION OF JURISDICTION**

22 11.1 This Court shall retain jurisdiction over the matters covered herein and the  
23 enforcement and/or application of this Consent Judgment.

24 **12. ENTIRE AGREEMENT**

25 12.1 This Consent Judgment contains the sole and entire, agreement and understanding  
26 of the parties with respect to the entire subject matter hereof, and any and all prior discussions,  
27 negotiations, commitments and understandings related hereto. No representations, oral or  
28 otherwise, express or implied, other than those contained herein have been made by any party  
hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be

1 deemed to exist or to bind any of the parties.

2 13. GOVERNING LAW

3 13.1 The validity, construction and performance of this Consent Judgment shall be  
4 governed by the laws of the State of California.

5 14. COURT APPROVAL

6 14.1 If this Consent Judgment is not approved by the Court, it shall be of no force or  
7 effect, and cannot be used in any proceeding for any purpose.

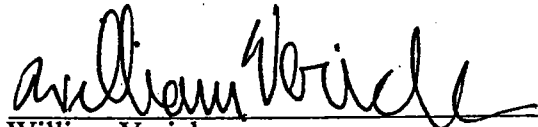
8 **IT IS SO STIPULATED**

9 Dated: December \_\_\_\_\_, 2005 ROPERS, MAJESKI, KOHN & BENTLEY

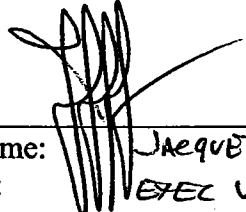
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By: \_\_\_\_\_  
THOMAS H. CLARKE, JR.  
Attorneys for Defendant J&B Importers, Inc.

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14 Dated: <sup>Jan. 13,</sup> December \_\_\_\_\_, 2005

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16 By:  \_\_\_\_\_  
William Verick  
Attorney for  
MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

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21 Dated: December \_\_\_\_\_, 2005 FOR J&B IMPORTERS INC.

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23 By:  \_\_\_\_\_  
Name: JACQUES GOUDREAU  
Its: EXEC VICE PRESIDENT

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Dated: Jan. 13, 2006  
~~December \_\_\_\_\_, 2005~~

FOR MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION

By: William Vernele  
Name:  
Its: CEO

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION,  
  
PLAINTIFF,  
  
V.  
  
BABY TREND, INC., et al.,  
  
DEFENDANTS.

CASE NO. CGC 05-440721  
  
**[PROPOSED] CONSENT JUDGMENT AS  
TO DEFENDANT J&B IMPORTERS, INC.**

IT IS SO ORDERED, ADJUDGED AND DECREED:

DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT