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5 Attorneys for Plaintiff  
6 CENTER FOR ENVIRONMENTAL HEALTH

ENDORSED  
FILED  
San Francisco County Superior Court

JUL 06 2006

GORDON PARK-LI, Clerk  
BY:           DONNA K. LOK            
Deputy Clerk

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN FRANCISCO

10  
11 CENTER FOR ENVIRONMENTAL HEALTH, )  
a non-profit corporation, )

12 Plaintiff, )

13 v. )

14 )  
15 MICHAELS STORES, INC., HIRSCHBERG )  
SCHUTZ & CO., INC.; and Defendant DOES 1 )  
16 through 200, inclusive, )

17 Defendants. )

Case No. CGC 05-446289

~~PROPOSED~~ ORDER GRANTING  
PLAINTIFF CENTER FOR  
ENVIRONMENTAL HEALTH'S  
MOTION FOR COURT APPROVAL  
OF SETTLEMENT AND ENTRY OF  
CONSENT JUDGMENT AS TO  
MICHAELS STORES, INC. AND  
HORIZON GROUP, USA

(Health & Safety Code §25249.7(f))

Date: July 6, 2006

Time: 9:30 a.m.

Dept.: Dept. 301

Judge: Hon. James L. Warren

Action Filed: November 2, 2005

1                   On July 6, 2006, at 9:30 a.m., Plaintiff Center for Environmental Health's  
2 ("CEH's") Motion for Approval of Settlement and Entry of Judgment As To Defendants  
3 Michaels Stores, Inc. and Horizon Group USA came on regularly for hearing before this Court in  
4 Department 301, the Honorable James L. Warren presiding. After full consideration of the points  
5 and authorities and related pleadings submitted, and having heard oral arguments of counsel, the  
6 Court rules as follows:

7                   IT IS HEREBY ORDERED that CEH's Motion for Approval of Settlement and  
8 Entry of Judgment is GRANTED. Pursuant to and in accordance with Health & Safety Code  
9 §25249.7(f)(4), the Court makes the following findings with respect to the Consent Judgment  
10 agreed to by the parties, and attached hereto as Exhibit 1:

- 11           1.     the Consent Judgment ensures compliance with the Proposition 65 warning  
12                   requirement;
- 13           2.     the attorneys' fee award in the Consent Judgment is reasonable under California  
14                   law; and
- 15           3.     the payment in lieu of penalty in the Consent Judgment is reasonable based on the  
16                   criteria listed in Heath & Safety Code §25249.7(b)(2).

17 In light of the findings set forth herein, the Consent Judgment is hereby APPROVED.

18  
19 **IT IS SO ORDERED.**

20  
21 Dated:           **JUL 0 6 2006**

**PETER J. BUSCH**  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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# **EXHIBIT 1**

1 LEXINGTON LAW GROUP, LLP  
Eric S. Somers, State Bar No. 139050  
2 Mark N. Todzo, State Bar No. 168389  
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3 San Francisco, CA 94122  
Telephone: (415) 759-4111  
4 Facsimile: (415) 759-4112

5 Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH

6 ROBERT L. FALK (S.B. NO. 142007)  
7 MILES H. IMWALLE (S.B. NO. 230244)  
MORRISON & FOERSTER LLP  
8 425 Market Street  
San Francisco, California 94105-2482  
9 Tel: (415) 268-7000  
Fax: (415) 268-7522

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

13

COUNTY OF SAN FRANCISCO

14

15 CENTER FOR ENVIRONMENTAL HEALTH,  
a non-profit corporation,,

16

Plaintiff,

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v.

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19 MICHAELS STORES, INC., HIRSHBERG  
SCHUTZ & CO., INC.; and Defendant DOES 1  
through 150, inclusive,

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Defendants.

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Case No. CGC-05446289

**[PROPOSED] CONSENT JUDGEMNT  
AS TO MICHAELS STORES, INC.  
AND HORIZON GROUP USA, INC.;  
DISMISSAL OF HIRSHBERG  
SCHUTZ & CO., INC.**

1     **1.     INTRODUCTION**

2           1.1     On November 2, 2005, plaintiff the Center for Environmental Health (“CEH”), a non-  
3 profit corporation acting in the public interest, filed a complaint in San Francisco County Superior  
4 Court, entitled *Center for Environmental Health v. Michaels Stores, Inc., et al.*, San Francisco County  
5 Superior Court Case Number CGC-05446289 (the “Action”), for civil penalties and injunctive relief  
6 pursuant to the provisions of California Health & Safety Code §25249.5 *et seq.* (“Proposition 65”).

7           1.2     Defendant Michaels Stores, Inc. (“Michaels”) is a corporation that employs 10 or  
8 more persons and manufactures, distributes and/or sells imitation pearls and imitation pearl buttons  
9 and accessories made of materials containing lead and/or lead compounds (the “Products”) in the  
10 State of California. Products with respect to Horizon Group USA, Inc. include Products sold  
11 anywhere in California, not just at Michaels stores, and are more specifically defined in Exhibit A.

12           1.3     Defendant Horizon Group USA, Inc. (“Horizon”) is the parent corporation of  
13 Hirschberg Schutz and Co., Inc.; it employs 10 or more persons and manufactures, distributes and/or  
14 sells the Products in the State of California. Michaels and Horizon are referred to herein as  
15 Defendants. Defendants and CEH are referred to as the Parties.

16           1.4     On or about March 28, 2005, CEH served Michaels and Hirschberg Schutz and Co.,  
17 Inc. and the appropriate public enforcement agencies with the requisite 60-day notice that Michaels  
18 and Hirschberg Schutz and Co., Inc. were in violation of Proposition 65. On or about November 4,  
19 2005, CEH served Horizon and the appropriate public enforcement agencies with the requisite 60-day  
20 notice that Horizon was in violation of Proposition 65. Given that more than 60 days will have  
21 passed prior to the Court’s consideration of a motion for approval and entry of this Consent  
22 Judgment, concurrently with the entry of this Consent Judgment, Horizon Group U.S.A., Inc. shall be  
23 deemed to have been added to the complaint CEH filed in this Action (“Complaint”) as a named  
24 defendant and Hirschberg Schutz and Co., Inc. shall be deemed to have been dismissed without  
25 prejudice from the Complaint.

26           1.5     CEH’s notices and the Complaint allege that Defendants expose individuals who use  
27 or otherwise handle the Products to lead and/or lead compounds (referred to interchangeably herein  
28 as “Lead”), chemicals known to the State of California to cause cancer, birth defects and other

1 reproductive harm, without first providing clear and reasonable warning to such persons regarding  
2 the carcinogenicity and reproductive toxicity of Lead. The notices and Complaint allege that  
3 Defendants' conduct violates Health & Safety Code §25249.6, the warning provision of Proposition  
4 65.

5       1.6 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
6 jurisdiction over the subject matter of the violations alleged in the Complaint and personal  
7 jurisdiction over Defendants as to the acts alleged in the Complaint, that venue is proper in the  
8 County of San Francisco, and that this Court has jurisdiction to enter this Consent Judgment as a full  
9 and final resolution of all claims which were or could have been raised in the Complaint based on the  
10 facts alleged therein.

11       1.7 The Parties enter into this Consent Judgment pursuant to a settlement of all disputed  
12 claims between the Parties as alleged in the Complaint. By executing this Consent Judgment, the  
13 Parties and each of them do not admit any facts or conclusions of law, including, but not limited to,  
14 any facts or conclusions of law suggesting or demonstrating any violations of Proposition 65 or any  
15 other statutory, common law or equitable requirements relating to the Products. It is the Parties'  
16 intent that nothing in this Consent Judgment shall be construed as an admission by the Parties of any  
17 fact, conclusion of law, issue of law or violation of law, nor shall compliance with the Consent  
18 Judgment constitute or be construed as an admission by the Parties of any fact, conclusion of law,  
19 issue of law, or violation of law. Except as otherwise provided herein, nothing in this Consent  
20 Judgment shall prejudice, waive or impair any right, remedy, argument or defense the Parties may  
21 have in this or any other or future legal proceedings. This Consent Judgment is the product of  
22 negotiation and compromise and is accepted by the Parties, for purposes of settling, compromising  
23 and resolving issues disputed in the Action, including future compliance by Defendants with Section  
24 2 of this Consent Judgment and shall not be used for any other purpose, or in any other matter.

25 **2. COMPLIANCE - REFORMULATION**

26       2.1 **Lead Reformulation.** After May 31, 2006 (the "Initial Compliance Date"),  
27 Defendants shall not manufacture, or purchase for distribution or sale in California, any Product that  
28 contains Lead in concentrations that exceed 600 parts per million ("ppm") in total or in any of its

1 components (including, but not limited to, the surface coating, the substrate to which the surface  
2 coating is attached, or any string or wire upon which the Product may be strung). After December  
3 31, 2006 (the "Reformulation Date"), Defendants shall not manufacture, or purchase for distribution  
4 or sale in California, any Product that contains Lead in concentrations that exceed 200 ppm or which  
5 is comprised of any component that contains Lead in concentrations that exceed 200 ppm.

6           **2.1.1 Requirements as to Products in Inventory.** As of September 30, 2006,  
7 neither Horizon or Michaels shall sell in California, Products which do not meet the 600 ppm Lead  
8 standard set forth above unless such Products are accompanied by the warning language set forth in  
9 paragraph 2.3.2 below. As of September 30, 2007, neither Horizon or Michaels shall sell Products in  
10 California that do not meet the 200 ppm Lead standard set forth above unless such Products are  
11 accompanied by the warning language set forth in paragraph 2.3.2 below.

12           **2.2 Certification of level from suppliers.** For all Products obtained after the Initial  
13 Compliance Date, Defendants shall obtain written certification with corresponding test results from  
14 their suppliers of the Products at least on an annual basis certifying that the Products and any  
15 components from which the Products are comprised contain Lead concentrations that are less than  
16 600 ppm; after the Reformulation Date, this certification shall be obtained at a level at or below 200  
17 ppm of Lead. A written certification received by one Defendant may be relied on by other  
18 Defendants that sell the certified Products. Horizon shall maintain records of the certifications and  
19 make them available to Plaintiff on request. Michaels shall only be required to maintain records of  
20 the certifications for Products purchased from entities other than Horizon, if any.

21           **2.3 Testing.** In order to help ensure compliance with the requirements of Sections 2.1,  
22 Horizon shall conduct periodic testing to confirm that the Products and the components thereof  
23 contain less than 600 ppm of Lead following the Initial Compliance Date and 200 ppm or less of  
24 Lead following the Reformulation Date. Testing pursuant to this Section shall be conducted pursuant  
25 to the testing protocol attached hereto as Exhibit B (the "Test Protocol"). All testing pursuant to this  
26 Section shall be performed by an independent, accredited laboratory; such a laboratory may be  
27 located overseas, provided that it is internationally accredited and also has offices located in the  
28 United States. The results of all testing performed pursuant to this Section shall be retained for a

1 period of three years and made available to CEH upon reasonable request. The frequency and  
2 amount of testing required shall vary as follows:

3           **2.3.1 Sample Testing.** Starting in 2006, for shipments initially received from each  
4 supplier after the Initial Compliance Date, and at least once per calendar year for each supplier for  
5 any shipments received thereafter, Horizon must test five randomly selected Product lines per  
6 supplier (unless less than five Product lines have been received from a supplier, in which instance all  
7 Product lines shall be tested) using the Test Protocol. For Products supplied to Defendant Michaels  
8 by entities other than Horizon, if any, Michaels must either conduct the testing itself or require that its  
9 supplier conduct the testing according to the same terms as are prescribed for Horizon in this Consent  
10 Judgment. For any Product Michaels obtains directly from a supplier located outside the United  
11 States, if any, Michaels must arrange to conduct the testing itself according to the same terms as are  
12 prescribed for Horizon in this Consent Judgment.

13           **2.3.2 Products that exceed 600 ppm/200 ppm Lead Standard pursuant to**  
14 **Defendants' Testing.** If, following the Initial Compliance Date, the results of the testing required  
15 pursuant to Section 2.3.1 shows levels of Lead in any of the Products tested exceeding 600 ppm for a  
16 Product or a component thereof, or if, following the Reformulation Date, the results of the testing  
17 required pursuant to Section 2.3.1 show levels of Lead in any of the Products tested exceeding 200  
18 ppm for a Product or a component thereof, Defendants shall not allow such Products to be made  
19 available for sale to consumers in California unless the following warning is affixed to the Product or  
20 its immediate packaging such that it is likely to be read and understood by a consumer prior to  
21 purchase or use:

22           **WARNING:** This product contains lead, a chemical known to the  
23 State of California to cause birth defects or other reproductive harm.  
24 Wash hands after handling.

25 In the event that Horizon thereafter chooses to sell Products from that supplier in the future, it must  
26 first conduct testing on a per shipment basis for a quarterly period and verify compliance with the  
27 then applicable 600 ppm or 200 ppm Lead standard according to the terms described in this  
28 paragraph.

1           **2.4 Confirmatory testing by CEH.** CEH intends to conduct periodic testing of the  
2 Products. Any such testing will be conducted pursuant to the Test Protocol at an independent,  
3 accredited laboratory with offices located in the United States. In the event that CEH's testing  
4 demonstrates Lead levels in excess of 600 ppm or 200 ppm for the Products following the Initial  
5 Compliance Date and Reformulation Date respectively, CEH shall, unless such Products have been  
6 sold with the warning set forth in paragraph 2.3.2 above or CEH otherwise determines it not  
7 necessary to raise an issue, inform Defendants of the situation and provide them with the test results  
8 and any reasonably available information permitting Defendants to identify the Product(s), their  
9 supplier, and if the date of manufacture of the Product(s) in question preceded or followed the Initial  
10 Compliance Date or Reformulation Date. Defendants shall, within 10 business days of receipt of  
11 CEH's notice, provide CEH, at the address listed in Section 12, with its supplier certification and  
12 testing information demonstrating its compliance with Sections 2.2 and 2.3 of this Consent Judgment.  
13 Within thirty (30) days following such notice, the Parties shall meet and confer with respect to the  
14 situation that gave rise to CEH's notice.

15           **2.4.1 Horizon's further testing obligations if CEH gives notice.** If, after meeting  
16 and conferring regarding a notice CEH provides pursuant to Section 2.4, CEH and Horizon do not  
17 mutually conclude that a Product is in material compliance with the standard set forth in Section 2.1  
18 above then as applicable, Horizon shall temporarily terminate its further distribution of the Products  
19 for sale in California from the supplier in question and provide CEH with confirmation thereof. If  
20 Horizon thereafter wishes to resume sales of Products acquired from such supplier, it shall test five  
21 (5) randomly selected Products from each shipment of Products received from the supplier. If during  
22 the ensuing quarterly period, no Product or any component thereof produces test results greater than  
23 600 ppm of Lead or 200 ppm of Lead as then applicable, Horizon may, upon the provision of notice  
24 to CEH attaching the relevant test results, resume testing on a yearly basis as per Section 2.3. If  
25 during the quarterly period, test results exceed the 600 ppm or 200 ppm Lead standards as then  
26 applicable, Horizon may not distribute Products from such supplier for sale in California for at least  
27 one year, unless the following warning is affixed to the Product or its immediate packaging such that  
28 it is likely to be read and understood by a consumer prior to purchase or use:

1                   **WARNING:** This product contains lead, a chemical known to the  
2   State of California to cause birth defects or other  
   reproductive harm. Wash hands after handling.

3 In the event that Horizon thereafter chooses to sell Products from that supplier in the future without  
4 the foregoing warning, it must first conduct testing on a per shipment basis for a quarterly period and  
5 verify compliance with the then applicable 600 ppm or 200 ppm Lead standard according to the terms  
6 described in this paragraph.

7                   **2.4.2 Michaels' obligations if CEH gives it notice of noncompliance for Products**  
8 **supplied by entities other than Horizon.** If CEH notifies Michaels that its testing of Products  
9 supplied to Michaels by an entity other than Horizon produced results in excess of the 600 ppm or  
10 200 ppm Lead standard as then applicable, and after meeting and conferring CEH and Michaels do  
11 not mutually conclude that a Product is in material compliance with the standard set forth in Section  
12 2.1 above, Michaels must terminate sales of that supplier's Products to consumers in California and  
13 disqualify the supplier for at least one quarter, after which it shall require that supplier to test and  
14 certify that all Products meet the standard set forth in Section 2.1 above on a per shipment basis for at  
15 least the following quarter.

16                   **2.4.3 Stipulated penalties.** If Defendants are in compliance with Sections 2.2 and  
17 2.3, Defendants shall not be liable for civil penalties for Products for which CEH demonstrates non-  
18 compliance, but shall take such remedial actions as are prescribed in subsections 2.4.1 and 2.4.2  
19 above (as applicable) and reimburse CEH for its reasonable investigatory, testing, and legal expenses  
20 associated therewith. However, if CEH provides notice pursuant to Section 2.4 and a Defendant is  
21 not in compliance with Sections 2.2 and 2.3, such Defendant shall, in addition to reimbursing CEH  
22 for its reasonable investigatory, testing, and legal expenses associated therewith, also be liable for  
23 stipulated payments to CEH as follows:

24                   First Occurrence:       \$5,000  
                      Second Occurrence:   \$10,000  
25                   Third Occurrence:     \$15,000  
                      Thereafter:               \$20,000  
26

27                   **2.4.4 Recall of Products testing in excess of 600 ppm Lead.** Should, after  
28 September 30, 2007, CEH's testing demonstrate that a Product or any components thereof contain

1 Lead levels in excess of 600 ppm ("Recall Product"), upon CEH's request, Michaels shall send a  
2 recall letter in the form attached hereto as Exhibit C to all of its California distribution facilities and  
3 retail outlets that may have received the Recall Product informing them that they must pull all items  
4 of the Recall Product from public distribution. Michaels shall send certification to CEH that they  
5 have completed this process as applicable. Such certification shall indicate how many units of the  
6 Products were removed from public distribution via the recall.

7 **3. SETTLEMENT PAYMENTS**

8 **3.1 Monetary Payment in Lieu of Penalty.** A total of \$10,000 shall be paid to CEH by  
9 Horizon in lieu of any penalties to be levied against Defendants (other than as specified in subsection  
10 2.4.3 above) pursuant to Health and Safety Code § 25249.7(b). CEH shall use such funds to continue  
11 its work protecting people from exposures to toxic chemicals. As part of this work, CEH intends to  
12 conduct periodic testing of the Products as set forth in Section 2.4.

13 **3.2 Attorneys' Fees and Costs.** A total of \$20,000 to be paid by Horizon to the  
14 Lexington Law Group shall be used to reimburse CEH and its attorneys for their reasonable  
15 investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating,  
16 bringing this matter to Defendants' attention, and litigating and negotiating a settlement in the public  
17 interest. Except as set forth in subsection 2.4.3 above, Defendants shall have no responsibility to  
18 reimburse CEH or its attorneys for any other costs or fees.

19 **3.3 Timing of payments.** The payments required under this Section shall be delivered to  
20 the address set forth in Section 12 below within fifteen (15) days of entry of this Consent Judgment  
21 by the Court. Any failure by Defendants to comply with the payment terms herein shall be subject to  
22 a stipulated late fee in the amount of \$100 for each day after the delivery date the payment is  
23 received. The late fees required under this Section shall be recoverable, together with reasonable  
24 attorneys' fees, in an enforcement proceeding brought pursuant to Section 5 of this Consent  
25 Judgment.

26 **4. MODIFICATION OF CONSENT JUDGMENT**

27 **4.1** This Consent Judgment may be modified by written agreement of CEH and  
28 Defendant, or upon motion of CEH or Defendant as provided by law.

1     **5.     ENFORCEMENT OF CONSENT JUDGMENT**

2             5.1     CEH may, by motion or application for an order to show cause before the Superior  
3     Court of the County of San Francisco, enforce the terms and conditions contained in this Consent  
4     Judgment. Should CEH prevail on any motion or application under this Section, CEH shall be  
5     entitled to its reasonable attorneys' fees and costs associated with such motion or application. Prior  
6     to bringing any such motion for a violation of Section 2 of this Consent Judgment, CEH shall provide  
7     notice and meet and confer with a Defendant in an informal attempt to resolve such dispute.

8     **6.     APPLICATION OF CONSENT JUDGMENT**

9             6.1     This Consent Judgment shall apply to and be binding upon the Parties hereto, their  
10    divisions, subdivisions and subsidiaries, and the successors or assigns of any of them.

11    **7.     CLAIMS COVERED/RELEASE OF LIABILITY**

12            7.1     This Consent Judgment is a full, final and binding resolution between CEH, acting on  
13    behalf of itself and the general public, and Defendants of any violation of Proposition 65 or any other  
14    statutory or common law claim that was or could have been asserted in the Complaint against  
15    Defendants or each of their parents, subsidiaries, affiliates, directors, officers, employees, agents,  
16    attorneys, distributors, retailers or customers (collectively, "Defendant Releasees") based on failure  
17    to warn about exposure to Lead contained in any Products manufactured, distributed or sold by  
18    Defendants on or prior to the date of entry of this Consent Judgment. Compliance with this Consent  
19    Judgment by a Defendant shall hereinafter constitute compliance with Proposition 65 by that  
20    Defendant and its Defendant Releasees with respect to Lead in that Defendant's Products. This  
21    release does not limit or effect the obligations of any party created under this Consent Judgment.

22    **8.     SEVERABILITY**

23            8.1     In the event that any of the provisions of this Consent Judgment are held by a court to  
24    be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

25    **9.     SPECIFIC PERFORMANCE**

26            9.1     The Parties expressly recognize that Defendants' obligations under this Consent  
27    Judgment are unique. In the event that any Defendant is found to be in breach of this Consent  
28    Judgment for failure to comply with the provisions of Section 2 hereof, CEH, in addition to any other

1 available rights or remedies, may sue in equity for specific performance, and each Defendant  
2 expressly waives the defense that a remedy in damages will be adequate.

3 **10. GOVERNING LAW**

4 10.1 The terms of this Consent Judgment shall be governed by the laws of the State of  
5 California.

6 **11. RETENTION OF JURISDICTION**

7 11.1 This Court shall retain jurisdiction of this matter to implement and enforce the terms  
8 this Consent Judgment.

9 **12. PROVISION OF NOTICE**

10 12.1 All notices required pursuant to this Consent Judgment and correspondence shall be  
11 sent to the following:

12 For CEH: Eric S. Somers  
13 Lexington Law Group, LLP  
14 1627 Irving Street  
San Francisco, CA 94122

15 For Defendants: Robert Falk  
16 Morrison & Foerster LLP  
17 425 Market Street  
San Francisco, CA 94105

18 For Horizon/  
Hirschberg Raymond Bialick  
19 Horizon Group USA, Inc.  
76 Stirling Road, Suite 101  
Warren, New Jersey 07059

20 For Michaels Marjorie Powell  
21 Michaels Stores, Inc.  
22 8000 Bent Branch Drive  
Irving, Texas 75063-6023

23 **13. COURT APPROVAL**

24 13.1 If this Consent Judgment is not approved by the Court, it shall be of no further force or  
25 effect. The Parties agree to support a Motion for Approval of this Consent Judgment.

26 **14. EXECUTION AND COUNTERPARTS**

27 14.1 The stipulations to this Consent Judgment may be executed in counterparts and by  
28 means of facsimile, which taken together shall be deemed to constitute one document.

1 **15. AUTHORIZATION**

2 15.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by  
3 the party he or she represents to stipulate to this Consent Judgment and to enter into and execute the  
4 Consent Judgment on behalf of the Party represented and legally bind that Party. The undersigned  
5 have read, understand and agree to all of the terms and conditions of this Consent Judgment. Except  
6 as explicitly provided herein, each party is to bear its own fees and costs.

7 **AGREED TO:**

8 **CENTER FOR ENVIRONMENTAL HEALTH**

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11 \_\_\_\_\_  
12 Michael Green, Executive Director  
13 Center for Environmental Health

12 **MICHAELS STORES, INC.**

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15 \_\_\_\_\_  
16 Signature

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17 \_\_\_\_\_  
18 Printed Name

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20 Title

21 **HORIZON GROUP USA, INC.**

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23 \_\_\_\_\_  
24 Signature

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26 Printed Name

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6 as explicitly provided herein, each party is to bear its own fees and costs.

7 **AGREED TO:**

8 **CENTER FOR ENVIRONMENTAL HEALTH**

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\_\_\_\_\_  
Michael Green, Executive Director  
Center for Environmental Health

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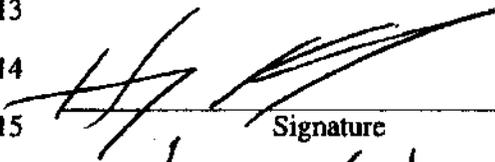
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**MICHAELS STORES, INC.**

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\_\_\_\_\_  
Signature

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Harvey Kauten  
\_\_\_\_\_  
Printed Name

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*EVP - Chief Merchant*  
\_\_\_\_\_  
Title

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21 **HORIZON GROUP USA, INC.**

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Signature

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Printed Name

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5 have read, understand and agree to all of the terms and conditions of this Consent Judgment. Except  
6 as explicitly provided herein, each party is to bear its own fees and costs.

7 **AGREED TO:**

8 **CENTER FOR ENVIRONMENTAL HEALTH**

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\_\_\_\_\_  
Michael Green, Executive Director  
Center for Environmental Health

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**MICHAELS STORES, INC.**

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Signature

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Printed Name

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**HORIZON GROUP USA, INC.**

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*Raymond Bialick*  
Signature

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RAYMOND BIALICK  
Printed Name

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\_\_\_\_\_  
PRESIDENT  
Title

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**ORDER AND JUDGMENT**

Based upon the stipulated Consent Judgment between the Parties, the settlement is approved and judgment is hereby entered according to the terms herein.

Dated: JUL 0 6 2006

**PETER J. BUSCH**

Judge, Superior Court of the State of California

EXHIBIT A

Products Covered as to Horizon

<u>Item #</u>	<u>Description</u>
EAP12488-79	Lattice w/Pearls
EAP8793-12	SHEER BAND W/ROUND & CYLINDER
EAP8793-96	SHEER BAND W/ROUND & CYLINDER
EAP12489-29	Lattice w/Pearls
EAP8781-12	NARROW BAND W/MINI FLWS & PEAR
EAP8781-79	NARROW BAND W/MINI FLWS & PEAR
EAP8792-12	SHEER BAND W/PEARLS & SHEER FL
EAP8789-23	SEQUIN CLUSTERS W/PEARL
MR10886-12	Wired Beaded Flowers w/Pearl C
MR10886-79	Wired Beaded Flowers w/Pearl C
MR5081-12	PICK-TULLE W/PEARL SPRAY
MR5081-79	Pck Tulle with Pearl Spray Lav
MR5121-112	SPRAYF-FLOWER SPRAY W/PEARLS
MR5121-12	SPRAYF-FLOWER SPRAY W/PEARLS
MR5138-96	SPRAYF SATIN FLOWER BLOOM
MR6995-96	PICK SATIN STAR PEARL CLUSTER
MRP10825-05	Spray component gold w/pearl a
MRP10826-01	Spray component silver w/pearl
MRP10893-12	Mega Pack Tulle with Pearl Spr
MRP11225-12	Wed-Fvr Ties Prl Spray Wht. 8p
MRP11323-12	Pearl Spray Mega Pack 72pk
MRP5100-12	SPRAY PEARL LONG 3MM
MRP5103-12	SPRAY-PEARL LOOP X6
MRP5104-12	SPRAY PEARL PIPS X12
MRP5105-12	SPRAY PEARL PIPS SINGLES X72
MRP5111-12	SPRAY PEARL SPRAY 3MM X 10 X2
MRP5112-12	SPRAY PEARL SPRAY 3MM X 6
MRP5114-12	SPRAY PEARL W/FACETED BEADS
MRP8754-12	PEARL DROP & BUGLE BEADS BEADE
MRP8757-12	PEARL & BUGLE BEADES BEADED
MRP8768-12	PEARL & SEED BEADS BAND
MRP8769-112	PEARL AND SEED BEAD LOOPING FR
MRP8923-12	3mm Pearl Canister
MRP8924-112	4mm Pearl Canister
MRP8924-12	4mm Pearl Canister
MRSP3979-12	BRIDAL TRIM CORD W/PEARLS
MRSP3980-112	Bridal Trim 6mm Wired Pearls
MRSP3982-96	Bridal Trim 3mm unwired Pearls
MRSP3985-12	Bridal Trim Pearls with Lace
MRSP3986-12	Bridal Trim Pearls with Lace P
MRSP3986-96	Bridal Trim Pears with Lace Pe
MRT460	ACCES-3MM PEARL ASST WT 30 FT
MRT462	ACCES-3MM PEARL ASST CI 30FT
MRT617WHT	RUFFLED LACE W/PEARLS 6FT WHT
TCP0927-12	3-D Decor Sm-Petite Pearl Bows

1 EXHIBIT B  
2 Test Protocol

3 The following protocol shall be applied to a representative sample of the imitation pearl  
4 product itself as well as any coating on the product.

- 5 1. Cut 5 small, discreet portions of the material to be analyzed.
- 6 2. Metal snips, scissors, or other cutting tools used must be made of stainless steel and  
7 washed and rinsed before each use and between samples.
- 8 3. Sample size should be a minimum of 0.05 g using microwave digestion
- 9 4. Combine the portions into a composite sample.
- 10 5. Samples should be digested in containers that are known to be free of lead using acids  
11 that are not contaminated by lead. Analytical Reagent grade digestion acids and reagent grade  
12 deionized water are required.
- 13 6. Method Blanks, consisting of all reagents used in sample preparation handled,  
14 digested and made to volume in the same exact manner and in the same container type as samples,  
15 shall be tested with each group of 20 or fewer samples tested.

16 The results for the Method Blank shall be reported with each group of sample results, and  
17 shall be below the stated reporting limit for sample results to be considered valid.

18 7. Prepare the sample for analysis using microwave digestion or electrothermal digestion.  
19 If electrothermal digestion is used, it should be done under USEPA Method 3050B. Microwave  
20 digestion protocols from the following two methods may be used provided that the samples are  
21 completely digested:

- 22 a. AOAC Official Method 999.10 (Lead, Cadmium, Zinc, Copper, and Iron in  
23 Foods)
  - 24 b. USEPA Method 3050B or 3051
- 25 8. Analyze the sample for total Lead (Pb) content using Inductively Coupled Plasma  
26 Mass Spectrometry (ICP-MS), Atomic Emission Spectrometry (ICP-AES), or Atomic Absorption  
27 Spectrometry, using standard operating procedures.

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1           9.     Digestion and analysis should achieve a reported detection limit no greater than  
2 0.001% (10 ppm) for samples. Any necessary dilutions shall be made to assure that measurements are  
3 made within the calibrated range of the analytical instrument.

4           10.    Lead content shall be expressed in parts per million (ppm).  
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EXHIBIT C  
Letter of Instruction re Recall Notice

[Defendant Letterhead]

IMPORTANT LEGAL NOTICE

Date: [       ]

**Subject: Recall of Imitation “Pearls” and Imitation “Pearl” Products Pursuant to California Proposition 65 Judgment**

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This letter is to advise you that the imitation “pearls” and imitation “pearl” products (the “Products”) identified on the attachment to this letter allegedly expose users to lead, a chemical known to the State of California to cause birth defects and other reproductive harm.

Although suppliers of the Products have already begun reformulating them to remove amounts of lead in excess of that allowed under Proposition 65, the imitation “pearl” items listed on the attachment to this letter are likely to contain higher levels of lead and may no longer legally be sold in California without a warning.

Please pull the imitation “pearl” items listed on the attached from public distribution immediately and contact us concerning arrangements for their return or destruction. If needed, we will then ensure that you are provided with replacement Products that can be legally sold in California without Proposition 65 warnings.

It is important for you to follow these instructions promptly because the sale of the items listed on the attached without a proper Proposition 65 warning could subject your store to legal action by the California Attorney General, other public prosecutors, or any person acting in the public interest, wherein monetary penalties of up to \$2,500 per violation may be sought.

Should you have any questions or concerns about this matter, please do not hesitate to contact [   ] at [   ] by phone, or by mail at the above address.