

1 LEXINGTON LAW GROUP, LLP
Eric S. Somers, State Bar No. 139050
2 Mark N. Todzo, State Bar No. 168389
Howard Hirsch, State Bar No. 213209
3 1627 Irving Street
San Francisco, CA 94122
4 Telephone: (415) 759-4111
Facsimile: (415) 759-4112

5 Attorneys for Plaintiff
6 CENTER FOR ENVIRONMENTAL HEALTH

7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF ALAMEDA
10

11
12 PEOPLE OF THE STATE OF CALIFORNIA,)
13 ex rel. BILL LOCKYER, Attorney General,)

14 Plaintiffs,)

15 v.)

16 BURLINGTON COAT FACTORY)
17 WAREHOUSE CORPORATION, et. al.,)
Defendants.)

18 _____)
19 And Related and Consolidated Cases)
20
21
22
23
24
25
26
27
28

Lead Case No. RG 04-162075

(Consolidated with Case Nos. RG 04-162037 and RG 04-169511)

**STIPULATED CONSENT JUDGMENT
AS TO ELEMENT SKATEBOARDS,
INC.**

Complaint Filed: June 23, 2004
Trial Date: None

1 Whereas, on April 24, 2006, CEH provided a "Notice of Violation of Proposition
2 65" to the California Attorney General, the District Attorneys of every county in California, the
3 City Attorneys of every California city with a population greater than 750,000, and to Element
4 Skateboards, Inc. ("Element") regarding the presence of lead in jewelry sold, manufactured
5 and/or distributed by Element;

6 Whereas, on May 12, 2006, CEH filed *Center for Environmental Health v. Nadri,*
7 *Inc., et al.*, A.C.S.C. case no. RG 06-269531;

8 Whereas, on July 12, 2006, the Court consolidated *Center for Environmental*
9 *Health v. Nadri, Inc.* with three previously filed cases that had already been consolidated under
10 *People v. Burlington Coat Factory Warehouse Corp., et al.*, lead case no. RG 04-162075;

11 Whereas, on September 21, 2006, the Court granted CEH's *ex parte* application to
12 amend the Complaint in *Center for Environmental Health v. Nadri, Inc.* to name Element and
13 others as defendants;

14 Whereas, on June 15, 2006, upon due notice, the Court entered an Amended
15 Consent Judgment in the three original consolidated cases, under lead case *People v. Burlington*
16 *Coat Factory Warehouse Corp., et al.*, A.C.S.C. case no. RG 04-162075, against a group of
17 different defendants, a true and correct copy of which is attached hereto as Exhibit 1 (in order to
18 minimize the size of the Exhibit, the attached Amended Consent Judgment does not include
19 certain signature pages or Exhibit A (list of initial defendants), Exhibit E (brand names from
20 initial defendants), Exhibit F (initial defendant notice list), Exhibit G (copies of Notices of Intent
21 to Opt In) and Exhibit H (Roman Company signature page) (the "Consent Judgment");

22 Whereas, CEH and Element have agreed to resolve this matter as to Element on
23 the same injunctive terms as those contained in the Amended Master Consent Judgment;

24 Now Therefore, the parties hereto agree as follows:

25 1. Judgment shall be entered against Element in this consolidated action pursuant to
26 the terms of the Amended Master Consent Judgment, except that the following terms shall apply
27 to Element in lieu of Section 5 of the Consent Judgment.

28

1 a. Within seven calendar days of entry of this Stipulated Consent Judgment,
2 Element shall pay the sum of \$40,000 as a settlement payment. The settlement payment shall be
3 by check made payable to the Lexington Law Group, LLP Attorney Client Trust Account. The
4 funds paid by Element shall be distributed as follows:

5 i. The sum of \$12,750 as payment to CEH in lieu of penalty pursuant
6 to Health and Safety Code section 25249.7(b), and California Code
7 of Regulations, title 11, section 3202(b). CEH will use such funds
8 to continue its work educating and protecting people from
9 exposures to toxic chemicals, including heavy metals. In addition,
10 CEH intends to use a portion of such funds to monitor compliance
11 with the reformulation requirements of this and other similar
12 Consent Judgments, to purchase and test jewelry, and to prepare
13 and compile the information and documentation necessary to
14 support a Notice of Violation.

15 ii. The sum of \$1,000 as a civil penalty pursuant to Health & Safety
16 Code §25249.7(b), such money to be apportioned by CEH in
17 accordance with Health & Safety Code §25249.12.

18 iii. The sum of \$26,250 as reimbursement of CEH's reasonable
19 attorneys' fees and investigation costs.

20 b. The last sentence in Section 3.1 shall be replaced with the following
21 sentence:

22 Each Settling Defendant shall provide the requirements of this
23 Consent Judgment to its Suppliers of Covered Products no later
24 than November 30, 2006, and shall request each Supplier to use
25 best efforts to provide compliant product as soon as commercially
26 practicable.

27 2. In all other respects, Element shall be treated as if it were an Initial Settling
28 Defendant, as that term is used in the Consent Judgment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. The persons for Element to receive Notices per § 4.2.2.2 and Exhibit F to the Consent Judgment, until and unless modified per § 8, shall be:

Bryan M. Friedman
Christa D. Perez
Friedman Stroffe & Gerard, PC
1980 MacArthur Boulevard, Suite 1100
Irvine, CA 92612-2425

IT IS SO STIPULATED.

CENTER FOR ENVIRONMENTAL HEALTH

By: 
Michael Green, Executive Director

ELEMENT SKATEBOARDS, INC.

By: _____

Printed Name: _____

Title: _____

JUDGMENT SO RENDERED.

_____, 2007

JUDGE OF THE SUPERIOR COURT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. The persons for Element to receive Notices per § 4.2.2.2 and Exhibit F to the Consent Judgment, until and unless modified per § 8, shall be:

Bryan M. Friedman
Christa D. Perez
Friedman Stroffe & Gerard, PC
19800 MacArthur Boulevard, Suite 1100
Irvine, CA 92612-2425

IT IS SO STIPULATED.

CENTER FOR ENVIRONMENTAL HEALTH

By: _____
Michael Green, Executive Director

ELEMENT SKATEBOARDS, INC.

By: *Paul R. Naude*

Printed Name: PAUL R. NAUDE

Title: CEO

JUDGMENT SO RENDERED.

_____, 2007

JUDGE OF THE SUPERIOR COURT