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6 CENTER FOR ENVIRONMENTAL HEALTH

7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF ALAMEDA**

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

12 Plaintiff,

13
14 v.

15 BEAULIEU GROUP, LLC; and Defendant
16 DOES 1 through 200, inclusive,

17 Defendants.
18

Case No.: RG 08-400091

**[PROPOSED] CONSENT JUDGMENT AS
TO DEFENDANT SYNTHETIC TURF
INTERNATIONAL, LLC**

19
20 **1. INTRODUCTION**

21 1.1. On July 24, 2008, plaintiff the Center for Environmental Health (“Plaintiff” or
22 “CEH”), a non-profit corporation acting in the public interest, filed a complaint titled *Center for*
23 *Environmental Health v. Beaulieu Group, LLC, et al.*, Alameda County Superior Court Case
24 Number 08-400091 (the “CEH Action”), for civil penalties and injunctive relief pursuant to the
25 provisions of Cal. Health & Safety Code § 25249.5, *et seq.* (“Proposition 65”). On September 2,
26 2008, CEH filed the First Amended Complaint (“Complaint”) in the CEH Action naming Synthetic
27 Turf International, LLC (“Defendant” or “STI”) as a defendant. CEH and STI are referred to
28 collectively as the “Parties” and individually as a “Party.”

1 1.2. Defendant is a corporation that employs 10 or more persons and that distributes
2 and/or sells Covered Products in the State of California or has done so in the past.

3 1.3. In the course of the CEH Action, Defendant provided information to CEH indicating
4 that Defendant has not manufactured or imported any Covered Products that it distributed or sold to
5 any licensed day care facility, school, public playground or public playing field in California.

6 1.4. On or about June 23, 2008, CEH served Defendant and the appropriate public
7 enforcement agencies with the requisite 60-day Notice (the "Notice") alleging that Defendant was
8 in violation of Proposition 65. CEH's Notice and the Complaint in the CEH Action allege that
9 Defendant exposes people who touch, use or otherwise handle the Covered Products to lead and
10 lead compounds (collectively, "Lead"), chemicals known to the State of California to cause cancer,
11 birth defects and other reproductive harm, without first providing clear and reasonable warning to
12 such persons regarding the carcinogenicity and reproductive toxicity of Lead. The Notice and
13 Complaint allege that Defendant's conduct violates Health & Safety Code § 25249.6, the warning
14 provision of Proposition 65. Defendant disputes such allegations and asserts that all of their
15 Covered Products are safe and comply with all applicable laws.

16 1.5. For purposes of this Consent Judgment as to Synthetic Turf International, LLC
17 ("Consent Judgment") only, the Parties stipulate that this Court has jurisdiction over the subject
18 matter of the violations alleged in CEH's Complaint and personal jurisdiction over Defendant as to
19 the acts alleged in CEH's Complaint, that venue is proper in the County of Alameda, and that this
20 Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims
21 which were or could have been raised in the Complaint based on the facts alleged therein.

22 1.6. The Parties enter into this Consent Judgment pursuant to a settlement of certain
23 disputed claims between the Parties as alleged in the Complaint. By executing this Consent
24 Judgment, the Parties do not admit any facts or conclusions of law. It is the Parties' intent that
25 nothing in this Consent Judgment shall be construed as an admission by the Parties of any fact,
26 conclusion of law, issue of law or violation of law, nor shall compliance with the Consent Judgment
27 constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of
28 law, or violation of law. Nothing in this Consent Judgment shall prejudice, waive or impair any

1 right, remedy, argument or defense the Parties may have in this or any other or future legal
2 proceedings.

3 **2. DEFINITIONS**

4 2.1. The "Effective Date" of this Consent Judgment shall be the date on which the
5 Consent Judgment is entered as a judgment by the trial Court.

6 2.2. "Covered Products" shall mean (a) the products listed in Exhibit A to this Consent
7 Judgment and (b) any other artificial turf products that Defendant or the entities listed in Exhibit C
8 may manufacture or sell after the Effective Date.

9 2.3. "Sold in California" means any Covered Product that is sold in the State of
10 California by Defendant or by any, distributor, wholesaler or retailer that is authorized by
11 Defendant, or by any of the entities listed on Exhibit C to this Judgment, to sell the Covered
12 Products. For purposes of this Consent Judgment, the date of sale shall be the later of the
13 following: (a) the date of the sales contract; (b) the date that Defendant or any of the entities listed
14 in Exhibit C transport or dispatch the Covered Product into California; (3) the date that STI or any
15 of the entities listed in Exhibit C deliver, or cause the delivery of, the Covered Product to the
16 installation site.

17 **3. INJUNCTIVE RELIEF: LEAD REDUCTION**

18 3.1. Immediate Product Reformulation. Immediately upon the Effective Date of this
19 Consent Judgment, STI shall reduce the level of Lead in the Covered Products Sold In California
20 from the current levels to a Level no higher than 100 parts per million ("Initial Compliance Level")
21 as determined pursuant to the testing protocol in Exhibit B.

22 3.2. Further Reductions in Lead Levels in Covered Products. Effective June 15, 2010,
23 Covered Products Sold In California shall meet the following additional requirements (which shall
24 be referred to as the "Further Compliance Level"):

- 25 (a) No portion of such Covered Product may have lead levels in excess of 50
26 parts per million, except:
- 27 (b) Field lines and markings (such as yard lines, goal lines, team names or logos)
28 may not have lead levels in excess of 100 parts per million.

1 In the event that Covered Products Sold In California violate the Further Compliance Level, STI
2 will (i) consult with the suppliers and technical consultants; (ii) attempt to locate the source of the
3 elevated lead seen in the laboratory results; and (iii) provide the CEH with a report on this
4 investigation and a proposal to prevent the situation from occurring in the future. On approval by
5 the CEH, STI will implement this proposal. In the event that the CEH incurs laboratory costs in
6 reviewing such a proposal, STI will reimburse CEH for reasonable laboratory costs actually
7 incurred.

8 **4. SETTLEMENT PAYMENTS**

9 4.1. Civil Penalty. STI shall pay to CEH \$5,000 as a civil penalty pursuant to Health and
10 Safety Code § 25249.7(b). CEH shall apportion the payment in accordance with Health and Safety
11 Code § 25249.12.

12 4.2. Monetary Payment in Lieu of Penalty. STI shall pay to CEH \$17,000 in lieu of any
13 additional civil penalty pursuant to Health and Safety Code § 25249.7(b). CEH shall use such funds
14 to continue its work protecting people from exposures to toxic chemicals. The payment required
15 under this section shall be made payable to CEH.

16 4.3. Attorneys' Fees and Costs. STI shall pay \$38,000 to reimburse CEH and its
17 attorneys for their reasonable investigation fees and costs, attorneys' fees, and any other costs
18 incurred as a result of investigating, bringing this matter to STI's attention, litigating and
19 negotiating a settlement in the public interest. The payment required under this section shall be
20 made payable to Lexington Law Group, LLP.

21 4.4. Delivery of Payments. All payments made pursuant to this Section 6 shall be
22 delivered to the Lexington Law Group, LLP at the address set forth in Section 11 below and shall be
23 delivered within 15 days of entry of this Consent Judgment.

24 **5. MODIFICATION OF CONSENT JUDGMENT**

25 5.1. This Consent Judgment may be modified from time to time by express written
26 agreement of the Parties with the approval of the Court; by an order of this Court on noticed motion
27 by CEH or STI in accordance with law; or by the Court in accordance with its inherent authority to
28 modify its own judgments. Grounds for such modification include, but are not limited to, any

1 court-approved consent judgment in this action or in the related action entitled *People of the State of*
2 *California v. Beaulieu Group, LLC, et al.*, Alameda County Superior Court Case No. RG 08-
3 407310, which sets a lead reformulation level less stringent than that in Section 3.1 or 3.2 herein.

4 5.2. Before filing an application with the Court for a modification to this Consent
5 Judgment, the Party seeking modification shall meet and confer with the other Party to determine
6 whether the modification may be achieved by consent. If a proposed modification is agreed upon,
7 then the Parties will present the modification to the Court by means of a stipulated modification to
8 the Consent Judgment.

9 **6. ENFORCEMENT**

10 6.1. Any Party may, by motion or application for an order to show cause before this
11 Court, enforce the terms and conditions contained in this Consent Judgment. In any such
12 proceeding, any Party may seek whatever fines, costs, penalties, or remedies are provided by law
13 for failure to comply with the Consent Judgment.

14 6.2. Before instituting any legal proceeding as referenced in Section 6.1, the enforcing
15 Party shall first attempt to meet and confer in good faith with the other Party to resolve the
16 underlying dispute. Furthermore, if CEH alleges that STI or any company listed in Exhibit C has
17 failed to comply with the required terms of this Consent Judgment, CEH shall provide STI with
18 reasonable prior written notice, which shall include evidence supporting CEH's allegations
19 including, but not limited to, test results sufficient to identify the Covered Product(s) at issue. STI
20 and/or such company listed in Exhibit C shall have the right during the meet and confer period to
21 dispute and attempt to resolve CEH's allegations through an informal meet and confer which shall
22 be conducted in good faith.

23 **7. CLAIMS COVERED**

24 7.1. Full and Binding Resolution. Except as reserved in Sections 7.2 and 7.3, CEH, on
25 behalf of itself and its past and current directors, officers, employees, agents, representatives,
26 attorneys, successors, and assigns, and in the interest of the general public, hereby waives all rights
27 to participate in any form of legal action, and releases all claims, actions, suits, liabilities, demands,
28 obligations, damages, costs, fines, penalties, expenses (including but not limited to investigation

1 fees, expert fees, and attorneys' fees) and losses (collectively, "Claims"), against STI and all of
2 STI's parents, officers, directors, shareholders, divisions, subdivisions, subsidiaries, sister
3 companies, affiliates, franchisees, cooperative members, licensees, distributors, wholesalers,
4 retailers, and customers (collectively, "Defendant Releasees") for failure to provide clear and
5 reasonable warnings of exposure to Lead from the use of the Covered Products, or any other claim
6 based on the facts or conduct alleged in the Complaint, whether based on actions committed by STI
7 or by any other Defendant Releasee (collectively, "Covered Claims"); provided, however, that
8 nothing in this paragraph shall be construed to waive or release any Claims against a Defendant
9 Releasee arising from its failure to comply with Section 3 of this Consent Judgment. This Consent
10 Judgment is a full, final, and binding resolution between CEH and any Defendant Releasee
11 concerning the Covered Claims. Compliance with the terms of this Consent Judgment resolves any
12 issue now, in the past, and in the future, concerning compliance by any Defendant Releasee with the
13 requirements of Proposition 65 arising from exposures to Lead in or from the Covered Products.
14 This Consent Judgment does not resolve any claims that CEH may assert with respect to (i)
15 products other than the Covered Products, or (ii) chemicals other than Lead.

16 7.2. Affiliates and Subsidiaries. A list of the STI's current subsidiaries, sister
17 corporations, and affiliates is attached hereto as Exhibit C. In the event that any company listed in
18 Exhibit C fails to comply with Section 3 (Injunctive Relief: Lead Reduction), then in addition to
19 CEH's other remedies, CEH reserves the right to bring an action, seeking penalties, injunctive and
20 other relief, directly against such company to redress that company's non-compliance, subject to the
21 meet and confer requirements of Section 6.2. In that event, no other Defendant Releasee, including
22 but not limited to STI, shall be liable for any Claims that may arise from or relate to such
23 company's the failure to comply with Section 3 of this Consent Judgment.

24 7.3. Further Reservations: Without limiting the rights reserved to CEH in the preceding
25 paragraphs, CEH also reserves the right to bring actions, seeking penalties, injunctive and other
26 relief, against the following persons:

27 (a) Downstream Sellers. Distributors, wholesalers, and/or retailers who, after the
28 Effective Date of this Judgment, sell Covered Products that contain Lead levels in excess of the

1 applicable levels set forth in Section 3.1 of this Judgment (Injunctive Relief: Lead Reduction); and
2 (b) Undisclosed Affiliates. Any affiliate or subsidiary of STI that is not listed on
3 Exhibit C.

4 7.4. Not Applicable to Cushioning and Infill Products. This Consent Judgment does not
5 apply to any cushioning or infill products that are installed under or in connection with the Covered
6 Products but are not attached to the Covered Products (“Cushioning Products”), including, without
7 limitation: granular products, such as crumb and tire crumb, and layered materials such as foam.
8 CEH expressly reserves the right to bring claims against STI, the companies listed on Exhibit C, or
9 any distributors, wholesalers, or retailers of Cushioning Products, for any violation of Proposition
10 65, the Unfair Competition Law or any other applicable law or regulation, arising from the sale, use
11 of, or exposure to the Cushioning Products.

12 **8. ONGOING INVESTIGATION**

13 8.1. CEH is conducting an ongoing investigation of Lead and other chemicals in artificial
14 turf and related products sold by companies other than STI and the companies listed in Exhibit C.
15 In connection with this investigation, STI and the companies listed in Exhibit C will, upon
16 reasonable request and notice, provide CEH with information, product samples, and other
17 information and materials within their possession, custody or control, or that are readily available to
18 them, relevant to such investigation, except to the extent that such information is privileged or
19 otherwise protected from disclosure; provided however, such samples, information, and materials
20 subject to this Section shall not pertain to any Covered Products supplied, distributed or sold by STI
21 or any of the companies listed in Exhibit C.

22 **9. PROVISION OF NOTICE**

23 9.1. When any Party is entitled to receive any notice under this Consent Judgment, the
24 notice shall be sent by overnight courier service to the person and address set forth in this section.
25 Any Party may modify the person and address to whom the notice is to be sent by sending each
26 other Party notice by certified mail, return receipt requested. Said change shall take effect for any
27 notice mailed at least five days after the date the return receipt is signed by the Party receiving the
28 change.

1 9.2. Notices shall be sent by First Class Mail or overnight delivery to the following when
2 required:

3 For Center for Environmental Health:

4 Mark N. Todzo
5 Lexington Law Group LLP
6 1627 Irving Street
7 San Francisco, CA 94122

8 For Defendant Synthetic Turf International, LLC:

9 Trenton H. Norris
10 Arnold & Porter, LLP
11 275 Battery Street
12 San Francisco, CA 94111-3823

13 9.3. Written Certification. Within 15 days of any completing any action required by this
14 Consent Judgment, and also on CEH's written request, STI will provide CEH with written
15 certification that the required action has been completed.

16 **10. SEVERABILITY**

17 10.1. In the event that any of the provisions of this Consent Judgment are held by a court
18 to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

19 **11. GOVERNING LAW**

20 11.1. The terms of this Consent Judgment shall be governed by the laws of the State of
21 California.

22 **12. COURT APPROVAL**

23 12.1. CEH will comply with the settlement notice provisions of Health and Safety Code §
24 25249.7(f) and Title 11 of the California Code of Regulations § 3003.

25 **13. ENTIRE AGREEMENT**

26 13.1. This Consent Judgment contains the sole and entire agreement and understanding of
27 the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
28 negotiations, commitments and understandings related hereto. No representations, oral or
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 deemed
to exist or to bind any of the Parties.

1 **14. RETENTION OF JURISDICTION**

2 14.1. This Court shall retain jurisdiction of this matter to implement and enforce the
3 Consent Judgment, and to resolve any disputes that may arise as to the implementation of this
4 Judgment.

5 **15. EXECUTION IN COUNTERPARTS**

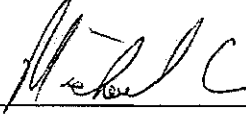
6 15.1. The stipulations to this Consent Judgment may be executed in counterparts and by
7 means of facsimile, which taken together shall be deemed to constitute one document.

8 **16. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

9 16.1. Each signatory to this Consent Judgment certifies that he or she is fully authorized
10 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and execute
11 the Consent Judgment on behalf of the Party represented and legally to bind that Party.

12 **AGREED TO:**

13 CENTER FOR ENVIRONMENTAL HEALTH

14 
15 _____

Dated: 10/26/09

16 Michael Green, Executive Director
17 Center for Environmental Health

18 SYNTHETIC TURF INTERNATIONAL, LLC

19 _____
20 _____

Dated: _____

21 Printed Name
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13 CENTER FOR ENVIRONMENTAL HEALTH

14
15 _____
16 Michael Green, Executive Director
17 Center for Environmental Health

Dated: _____

18 SYNTHETIC TURF INTERNATIONAL, LLC

19
20 *William E. Campbell*

Dated: 10-26-09

21 WILLIAM E. CAMPBELL
22 Printed Name

ORDER AND JUDGMENT

Based upon the stipulated Consent Judgment between CEH and Synthetic Turf International, LLC, the settlement is approved and the clerk is hereby directed to enter judgment according to the terms herein.

Dated: _____
Judge, Superior Court of the State of California

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Exhibit A

Covered Products

<u>Item ID</u>	<u>Item ID</u>	<u>Item ID</u>	<u>Item ID</u>
995002	HG726/Blue	Water Turf	SoftLawn Series
995003	HG726/White	XP70	SUP Series
995004	JFS527	XPPE	TTEK
995005	KC595	AC Series	TL Line Series
995006	KnitNylon	AP Series	True Grass Series
995007	LS04	AFT Series	Vista Series
995008	MF46	Baseball Series	
995009	Mono40	CO Series	
995010	Mylar	COL Series	
995011	NatSlide	CE Series	
995013	NO480	CT Series	
995014	NPSP250	CX Series	
995015	ODC6	Classic Series	
995016	OldStAug	Dura Turf Series	
995018	OT586	Empire Series	
995028	PB625	EXP Series	
995029	PC725	Field Sport Series	
995030	PE835	FT Series	
995031	PitMou6x12	Future Lawn Series	
A/B Mats	PN33	GM Series	
AllPla	ProPutt	GS Series	
AugustaP357	PutPut	GSP Series	
BB37	RanTur(Blue or White	HP Series	
BB46	RanTur(Green)	Infinity Series	
BlenTurf	RecTur	MAJ Series	
Bunker Turf	RedClay XP	MED Series	
CE1000	RouGra	MN Series	
CG260	RoyTee	NF Series	
CouClub	S6501	NP Series	
Crick	SB100	NuLawn Series	
Cricket	SF1250PC	P Series	
CricketPC	SG632	PG Series	
Croquet	SKB150	PP Series	
DBMat	SkiTur	PEF Series	
DowHillXP	SmartGra l	PEL Series	
DurSof	SofCourt	Premier Series	
EasyLa	SofPla	Pro Series	
EasyTur	SofPutt	Pro Field Series	
EmePointAB	SofTee	Pro Lawn Series	
EmerPoint	SpeT300	Pro Putt Series	
Epic100PC	SPV726	PL Series	
Epic200	SPW726	PM Series	
Euro	ST-1	PT Series	
EXP	ST-1A	PS Series	
EZTEE	StAugust	RD Series	
Fair play	Style830PC	S Series	
Fairway	SynlonB	SF7 Series	
Fescue Softlawn	SZ175	SF8 Series	

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Item ID
FH50
FieCho
FLW
Fringe
GE500
GE700
GreMasTurf

Item ID
TC725
TL
TopFlight
TopTee
TourPutt
TrueRoll350
TurHou

Item ID
SP Series
SPE Series
SPO Series
SofStep Series
ST Series
Softrac Series
SofSport Series

1 Exhibit B

2 Testing Protocol for Use in Determining Compliance Level

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4 Sample preparation and analysis will be in accordance with EPA Method 3050B. The
5 digestate will be analyzed using ICP spectrometry in accordance with EPA Method 6010c or
6 alternatively EPA Method 6020A.
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Exhibit C
List of Affiliated Companies
Controlled Products, LLC