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10 Attorneys for Defendant
11 ACCO BRANDS CORPORATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE CITY AND COUNTY OF SAN FRANCISCO
14 UNLIMITED CIVIL JURISDICTION
15

16 RUSSELL BRIMER,

17 Plaintiff,

18 v.

19 ACCO BRANDS CORPORATION, et al.,

20 Defendants.
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) Lead Case No. CGC-09-485784
) (Consolidated with CGC-10-505323)

) Assigned for All Purposes to the
) Honorable Richard A. Kramer

) **[PROPOSED] CONSENT TO
) JUDGMENT**

1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This Consent To Judgment is entered into by and between plaintiff Russell Brimer
4 (“Brimer” or “Plaintiff”) and defendant ACCO Brands Corporation (“ACCO”), with Brimer and
5 ACCO collectively referred to as the “Parties.”

6 **1.2 Plaintiff**

7 Brimer is an individual residing in the State of California who seeks to promote awareness
8 of exposure to toxic chemicals and improve human health by reducing or eliminating hazardous
9 substances contained in consumer products.

10 **1.3 Defendant**

11 ACCO employs ten or more persons, is a person in the course of doing business for
12 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &
13 Safety Code §§ 25249.6 *et seq.* (“Proposition 65”) and distributes or offers certain office,
14 stationery and/or related supplies for sale in the State of California.

15 **1.4 General Allegations**

16 Brimer alleges that ACCO manufactures, distributes, and/or sells in the State of California
17 certain office, stationery, and/or school supply products that expose users to lead, butyl benzyl
18 phthalate (“BBP”), di(2-ethylhexyl)phthalate (“DEHP”), and/or di-n-butyl phthalate (“DBP”),
19 without first providing a “clear and reasonable warning” under Proposition 65; each such
20 allegation ACCO denies. Lead, BBP, DEHP, and DBP are listed as reproductive and
21 developmental toxicants pursuant to Proposition 65, and are collectively referred to herein as
22 “listed chemicals.”

23 **1.5 Notices of Violation and ACCO’s Responses**

24 1.5.1 On December 23, 2008, Brimer served ACCO and various public
25 enforcement agencies with a document entitled “60-Day Notice of Violation” (“December
26 23, 2008 Notice”) that provided the recipients with notice of alleged violations of Health
27 & Safety Code § 25249.6 for failing to warn individuals in California of exposures to lead

1 contained in vinyl coated paperclips sold by ACCO. No public enforcer has commenced
2 or diligently prosecuted the allegations set forth in the December 23, 2008 Notice. ACCO
3 represents that, as of February 2009, it ceased shipping vinyl coated paper clips for sale in
4 California, and has replaced the coating with nylon.

5 1.5.2 On August 5, 2010, Brimer served ACCO and various public
6 enforcement agencies with a document entitled “60-Day Notice of Violation” (“August 5,
7 2010 Notice”) that provided the recipients with notice of alleged violations of Health &
8 Safety Code § 25249.6 for failing to warn individuals in California of exposures to lead
9 contained in zippered document folders sold by ACCO. No public enforcer has
10 commenced or diligently prosecuted the allegations set forth in the August 5, 2010 Notice.

11 1.5.3 On September 1, 2010, Brimer served ACCO and various public
12 enforcement agencies with a document entitled “Supplemental 60-Day Notice of
13 Violation” (“September 1, 2010 Notice”) that provided the recipients with notice of
14 alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in
15 California of exposures to lead contained in zippered document folders and file
16 storage/organizer boxes sold by ACCO. No public enforcer has commenced or diligently
17 prosecuted the allegations set forth in the September 1, 2010 Notice. ACCO represents
18 that, in September 2010, it ceased shipping the specific zippered document folders and file
19 storage/organizer boxes identified in the August 5, 2010 and September 1, 2010 notices
20 for sale in California, and arranged for its customers in California to return such products
21 to ACCO.

22 1.5.4 On September 27, 2010, Brimer served ACCO and various public
23 enforcement agencies with another document entitled “60-Day Notice of Violation”
24 (“September 27, 2010 Notice”) that provided the recipients with notice of alleged
25 violations of Health & Safety Code § 25249.6 for failing to warn individuals in California
26 of exposures to DEHP contained in identification card cases, business card holders,
27 protective cases for laptops, and schedule organizers with soft covers sold by ACCO. No
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1 public enforcer has commenced or diligently prosecuted the allegations set forth in the
2 September 27, 2010 Notice.

3 1.5.5 On July 26, 2011, Brimer served ACCO and various public
4 enforcement agencies with a document entitled "Supplemental 60-Day Notice of
5 Violation" ("July 26, 2011 Notice") that provided the recipients with notice of alleged
6 violations of Health & Safety Code § 25249.6 for failing to warn individuals in California
7 of exposures to lead contained in art supply cases/wallets/stands, binder clips, laser
8 pointers, and portable and desktop organizers and schedulers. No public enforcer has
9 commenced or diligently prosecuted the allegations set forth in the July 26, 2011 Notice.

10 1.5.6 On July 29, 2011, Brimer served ACCO and various public
11 enforcement agencies with a document entitled "Supplemental 60-Day Notice of
12 Violation" ("July 29, 2011 Lead Notice") that provided the recipients with notice of
13 alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in
14 California of exposures to lead contained in Pencil cups and Shoulder straps for bags. No
15 public enforcer has commenced or diligently prosecuted the allegations set forth in the
16 July 29, 2011 Lead Notice.

17 1.5.7 On July 29, 2011, Brimer served ACCO and various public
18 enforcement agencies with a document entitled "Supplemental 60-Day Notice of
19 Violation" ("July 29, 2011 DEHP Notice") that provided the recipients with notice of
20 alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in
21 California of exposures to DEHP contained in art supply cases/wallets/stands, binders,
22 marker pouches, and portable and desktop organizers and schedulers. No public enforcer
23 has commenced or diligently prosecuted the allegations set forth in the July 29, 2011
24 DEHP Notice.

25 1.5.8 On August 9, 2011, Brimer served ACCO and various public
26 enforcement agencies with a document entitled "60-Day Notice of Violation" ("August 9,
27 2011 Notice") that provided the recipients with notice of alleged violations of Health &
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1 Safety Code § 25249.6 for failing to warn individuals in California of exposures to DEHP
2 contained in erasers, vinyl neck chain accessories, cables, and headphones. No public
3 enforcer has commenced or diligently prosecuted the allegations set forth in the August 9,
4 2011 Notice.

5 1.5.9 On or about August 29, 2011, Brimer served ACCO and various
6 public enforcement agencies with a second Supplemental Notice that provided public
7 enforcers and ACCO with notice of alleged violations of Health & Safety Code § 25249.6
8 for failing to warn individuals in California of exposures to lead, DEHP, BBP, and DBP
9 contained in various products manufactured, distributed and/or sold by ACCO
10 (“Supplemental Notice”).¹ No public enforcer has commenced or diligently prosecuted
11 the allegations set forth in the Supplemental Notice. The December 23, 2008, August 5,
12 2010 Notice, September 1, 2010, September 27, 2010 Notice, July 26, 2011 Notice, July
13 29, 2011 Lead Notice, July 29, 2011 DEHP Notice, August 9, 2011 Notice, and
14 Supplemental Notice shall hereinafter be referred to collectively as the “Notices.”

15 1.5.10 ACCO represents that, beginning in 2010, and in response, among
16 other things, to the Notices, it implemented a program of (i) requesting that each supplier
17 of products that ACCO distributed for sale in California, including the Released Products,
18 as defined in Section 2.4 below, meet specifications for lead, DEHP, BBP, and DBP in
19 such Released Products in order to reduce any potential exposure below the maximum
20 allowable dose level (“MADL”) under Proposition 65, and (ii) labeling certain products
21 with Proposition 65 warnings.

22 1.6 Complaints

23 1.6.1 On March 5, 2009, Plaintiff filed an action against various entities,
24 including ACCO, entitled *Brimer v. ACCO Brands Corp.*, Case No. CGC-09-485784, and
25 thereafter filed amended complaints, alleging Proposition 65 violations as to certain
26 office, stationery, school, and arts and crafts supply products including, at various times,

27 ¹ As clarified in a January 18, 2012, letter from Clifford A. Chanler to Deputy Attorney General Harrison Pollack,
28 attached hereto as Exhibit B.

1 paper fasteners, measuring tapes and tape measures, craft wire, tape measures with hand
2 straps, and stationery packs/kits with vinyl components (“ACCO I”).

3 1.6.2 On November 10, 2010, Plaintiff filed the action entitled *Brimer v.*
4 *ACCO Brands Corp.*, Case No. CGC-10-505323, against various entities including
5 ACCO, in San Francisco County Superior Court, alleging Proposition 65 violations as to
6 certain office and stationery supplies in the form of zippered document folders and file
7 storage/organizer boxes, sold in California (“ACCO II,” together with ACCO I, “the
8 Complaints”).

9 1.6.3 On December 6, 2010, the Court designated ACCO II complex and
10 assigned it for all purposes to Department 304, to be heard concurrently with ACCO I.

11 1.6.4 Upon approval and entry of this Consent To Judgment by the Court,
12 ACCO I and ACCO II shall be deemed to have been consolidated by the Court for all
13 purposes on its own motion, the complaints amended to add allegations with respect to
14 Released Products as defined in Section 2.4, and judgment shall be entered on all claims.

15 1.6.5 On June 20, 2011, Brimer and ACCO commenced trial of Phase I
16 in ACCO I. As of the execution of this Consent To Judgment by Brimer and ACCO, the
17 Court had not made any factual or legal findings as to whether ACCO vinyl paper clips
18 expose users to lead or whether any such exposure exceeded the MADL.

19 **1.7 No Admission**

20 This Consent To Judgment resolves allegations and claims that are denied and disputed by
21 ACCO. The Parties enter into this Consent To Judgment pursuant to a full and final settlement of
22 any and all claims between the Parties, as they relate to lead, DEHP, BBP and DBP in Released
23 Products, as defined in Section 2.4 below. ACCO denies the material factual and legal
24 allegations contained in the Notices and Complaints and maintains that all products it has
25 distributed and/or sold in California have been and are in compliance with all applicable laws.
26 Nothing in this Consent To Judgment shall be construed as an admission by ACCO of any fact,
27 finding, issue of law, or violation of law; nor shall compliance with this Consent To Judgment

1 constitute or be construed as an admission by any party of any fact, finding, conclusion, issue of
2 law, or violation of law. However, notwithstanding the foregoing, this section shall not diminish
3 or otherwise affect ACCO's obligations, responsibilities, and duties under this Consent To
4 Judgment.

5 **1.8 Consent to Jurisdiction**

6 For purposes of this Consent To Judgment only, the Parties stipulate that this Court has
7 jurisdiction over ACCO as to the allegations contained in the Complaints, that venue is proper in
8 the City and County of San Francisco, and that this Court has, and will retain, jurisdiction to enter
9 and enforce the provisions of this Consent To Judgment pursuant to Code of Civil Procedure §
10 664.6.

11 **2. Definitions**

12 2.1 "Accessible Component" means any component of a Released Product that could
13 be touched by a person during reasonably foreseeable use.

14 2.2 "3P Standard" means a maximum concentration of DEHP, BBP, and DBP, each,
15 of 1,000 parts per million by weight ("ppm"), in each Accessible Component.

16 2.3 "Lead Standard" means a maximum concentration of lead of 100 ppm in each
17 Accessible Component.

18 2.4 "Released Products" means the product categories in Exhibit A to this Consent To
19 Judgment for use by or sale to individuals in California. The term Released Products shall not
20 include any products that are Fashion Accessories for which ACCO is already subject to
21 injunctive relief in a consent judgment in *Held v. Aldo U.S., Inc. et al.*, San Francisco County
22 Consolidated Case No. CGC-10-497729.

23 2.5 "Effective Date" means the date on which a judgment based on this Consent To
24 Judgment is entered by the Court.

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1 2.6 “Manufactured,” “Manufactures,” and “Manufacturer” have the meaning defined
2 in Section 3(a)(10) of the Consumer Product Safety Act (“CPSA”) [15 U.S.C. § 2052(a)(10),
3 (11)], as amended from time to time.²

4 2.7 “Vendor” means a third party that Manufactures, imports, distributes, or otherwise
5 supplies a Released Product to ACCO.

6 **3. INJUNCTIVE RELIEF — REFORMULATION AND WARNINGS**

7 3.1 **Notification to Vendors of Released Products.**

8 No later than 30 days after the Effective Date, ACCO shall provide the 3P Standard and
9 Lead Standard to its then-current Vendors of the Released Products that will be sold or offered for
10 sale to California citizens.

11 3.2 **Lead, BBP, DBP, and DEHP in Certain Products.**

12 Commencing on December 15, 2011, or the Effective Date, whichever is later, ACCO
13 shall not purchase, import, sell, or ship for sale in California any vinyl coated paper clips or Work
14 Style by Wilson Jones Zip Folders or File Boxes that do not comply with the Lead Standard and
15 the 3P Standard.

16 **4. ENFORCEMENT**

17 4.1 A Party may, by motion or application for an order to show cause before this
18 Court, enforce the terms and conditions contained in this Consent To Judgment. A Party may file
19 such a motion or application, or bring a new enforcement action for alleged violations occurring
20 after the Effective Date, against ACCO, a Defendant Releasee, or a Downstream Defendant
21 Releasee only after that Party first provides notice to the Party allegedly failing to comply with
22 the terms and conditions of this Consent To Judgment and attempts to resolve such Party’s failure
23 to comply in an open and good faith manner for a period of no less than 30 days from the date
24 that the alleged violator receives notice of the alleged violation.

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26 _____
27 ² As of the date of this Consent To Judgment, the term “Manufactured” and “Manufactures” means to manufacture,
28 produce, or assemble. 15 U.S.C. § 2052(a)(10). The term “Manufacturer” means “any person who manufactures or
imports a consumer product.” 15 U.S.C. § 2052(a)(11).

1 **5. MONETARY PAYMENTS**

2 5.1 Within five days of the Effective Date, ACCO shall pay a settlement amount of
3 \$50,000, as follows:

4 5.1.1 \$10,000 of the \$50,000 is for a civil penalty pursuant to Health and Safety
5 Code Section 25249.7(b).³

6 5.1.2 \$40,000 of the \$50,000 is for reimbursement of a portion of Plaintiff's
7 attorneys' fees and costs.

8 5.2 **Civil Penalties:** Civil Penalties shall be apportioned in accordance with California
9 Health & Safety Code § 25249.12(c) & (d), with 75% of these funds remitted to the California
10 Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining 25% of the
11 penalty remitted to Plaintiff. ACCO shall issue two separate checks for the penalty payment: (a)
12 one check for \$7,500 made payable to OEHHA; and (b) one check for \$2,500 made payable to
13 "The Chanler Group in Trust For Russell Brimer." Each penalty payment shall be made within
14 five days of the Effective Date and be delivered to the addresses listed in Section 5.4 below.

15 5.3 **Attorneys' Fees:** Attorneys' fees shall be paid by means of a check made payable
16 to "The Chanler Group."

17 5.4 **Payment Delivery:**

18 5.4.1 All payments owed to Plaintiff and his counsel shall be delivered to the
19 following payment address:

20 The Chanler Group
21 Attn: Proposition 65 Controller
22 2560 Ninth Street
23 Parker Plaza, Suite 214
24 Berkeley, CA 94710

25 5.4.2 All payments owed to OEHHA (EIN: 68-0284486), pursuant to Section
26 4.1, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at one of the
27 following addresses, as appropriate:

28 ³ All statutory civil penalties shall be allocated, as follows: 75% shall be paid to the State of California's Office of
Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% shall be paid to Plaintiff Brimer.

1 For United States Postal Service Delivery:
2 Mike Gyurics
3 Fiscal Operations Branch Chief
4 Office of Environmental Health Hazard Assessment
5 P.O. Box 4010
6 Sacramento, CA 95812-4010

7 For Non-United States Postal Service Delivery:
8 Mike Gyurics
9 Fiscal Operations Branch Chief
10 Office of Environmental Health Hazard Assessment
11 1001 I Street
12 Sacramento, CA 95814

13 5.5 **Tax Documentation.** ACCO shall issue a separate 1099 form for each payment
14 required by this Section to: (a) Russell Brimer, whose address and tax identification number shall
15 be furnished upon request after this Consent Judgment has been fully executed by the Parties; (b)
16 OEHHA, who shall be identified as “California Office of Environmental Health Hazard
17 Assessment” (EIN: 68-0284486) in the 1099 form, to be delivered directly to OEHHA, P.O. Box
18 4010, Sacramento, CA 95814; and (c) “The Chanler Group” (EIN: 94-3171522) to the address
19 set forth in Section 5.4.1 above.

20 **6. CLAIMS COVERED AND RELEASE**

21 6.1 This Consent To Judgment is a full, final, and binding resolution between Brimer
22 and ACCO and its subsidiaries, affiliates, sister and related companies, employees, shareholders,
23 directors, insurers, attorneys, successors, assigns, licensees, and licensors (collectively
24 “Defendant Releasees”), and all entities to whom they directly or indirectly distribute or sell
25 Released Products, including but not limited to distributors, wholesalers, resellers, customers,
26 retailers, franchisees, cooperative members that sold or distributed the Released Products
27 (“Downstream Defendant Releasees”) of violations of Proposition 65 regarding the failure to
28 warn about exposure to lead, BBP, DBP, and/or DEHP in Released Products manufactured,
sourced, distributed, or sold by ACCO and Defendant Releasees prior to the Effective Date based
on the Notices, but only as to those categories of Released Products that are designated on Exhibit
A, and only for those chemicals (lead, DEHP, BBP, and/or DBP) selected.

1 6.2 In further consideration of the promises and agreements herein contained, the
2 representations in Section 1 and the injunctive relief commitments set forth in Section 3, Brimer,
3 on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or
4 assignees, and in the interest of the general public, hereby waives all rights to institute or
5 participate in, directly or indirectly, any form of legal action and releases all claims, including,
6 without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands,
7 obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to,
8 investigation fees, expert fees, and attorneys' fees) of any nature whatsoever, fixed or contingent
9 (collectively "Claims"), against ACCO, Defendant Releasees, and Downstream Defendant
10 Releasees. This release is limited to those Claims that arise under Proposition 65 with respect to
11 lead, BBP, DBP, and/or DEHP in the Released Products manufactured, distributed or sold by
12 ACCO, as such claims relate to the alleged failure to warn under Health & Safety Code §
13 25249.6, to only those categories of Released Products in Exhibit A, and only for those chemicals
14 (lead, DEHP, BBP, and/or DBP) selected.

15 6.3 Plaintiff also, in his individual capacity *only* and *not* in his representative capacity,
16 provides a release herein which shall be effective as a full and final accord and satisfaction, as a
17 bar to all Claims, known or unknown, suspected or unsuspected, arising out of alleged or actual
18 exposure now and in the future to lead, DEHP, BBP, and/or DBP in Released Products
19 manufactured, distributed or sold by ACCO, to ACCO, its Defendant Releasees, and, to the extent
20 supplied by ACCO, its Downstream Defendant Releasees.

21 6.4 Upon entry of this Consent To Judgment, Brimer shall dismiss without prejudice
22 all named defendants that are not otherwise a party to this Consent To Judgment or a previously
23 entered consent judgment in this case. ACCO I and ACCO II will be fully resolved, subject to
24 the Court's continued jurisdiction pursuant to Code of Civil Procedure § 664.6.

25 6.5 ACCO waives any and all claims against Plaintiff, his attorneys, and other
26 representatives for any and all actions taken or statements made (or those that could have been
27 taken or made) by Plaintiff and his attorneys and other representatives, whether in the course of
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1 investigating claims or otherwise seeking enforcement of Proposition 65 against them in this
2 matter with respect to the Claims resolved and released in Sections 6.1 through 6.3.

3 6.6 Upon entry of this Consent To Judgment, Brimer and ACCO waive their rights to
4 trial of the issues raised by the Notices and Complaints, and to enforcement or appeal of any
5 ruling or order issued by the Court in ACCO I or ACCO II prior to the Effective Date.

6 6.7 Compliance with the terms of this Consent To Judgment by ACCO constitutes
7 compliance with Proposition 65 with respect to lead, DEHP, BBP, and DBP in Released Products
8 with respect to the Claims resolved and released in Sections 6.1 through 6.3.

9 6.8 Nothing in this Section 5 affects Plaintiff's rights to commence or prosecute an
10 action under Proposition 65 against any person other than ACCO, Defendant Releasees, and
11 Downstream Defendant Releasees.

12 6.9 Nothing in this Section 5 affects Plaintiff's rights to commence or prosecute an
13 action under Proposition 65 against a Downstream Defendant Releasee that does not involve
14 ACCO's Released Product.

15 **7. NOTICES**

16 When any Party is entitled to receive any notice under this Consent To Judgment, the
17 notice shall be sent by certified mail or electronic mail to the following:

18 For ACCO:

19 General Counsel
20 ACCO Brands Corporation
21 Four Corporate Drive
22 Lake Zurich, IL 60047-2997
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1 With a copy to:

2 Jeffrey B. Margulies
3 Fulbright & Jaworski LLP
4 555 South Flower Street, 41st Floor
5 Los Angeles, CA 90071
6 E-mail: jmarginulies@fulbright.com

7 For Brimer:

8 Proposition 65 Coordinator
9 The Chanler Group
10 2560 Ninth Street
11 Parker Plaza, Suite 214
12 Berkeley, CA 94710-2565

13 Any Party may modify the person and address to whom the notice is to be sent by sending each
14 other Party notice by certified mail and/or other verifiable form of written communication.

15 **8. COURT APPROVAL**

16 8.1 The Parties acknowledge that, pursuant to California Health & Safety Code §
17 25249.7, a noticed motion is required to obtain judicial approval of this Consent To Judgment,
18 and shall file a joint motion for approval. ACCO shall prepare and provide to Brimer the initial
19 draft joint motion, notice of motion, and declaration in support of the joint motion. If this
20 Consent To Judgment is not approved by the Court in its entirety, the Parties shall meet and
21 confer to determine whether to modify the terms of the Consent To Judgment and to resubmit it
22 for approval. ACCO and its counsel agree to support Brimer's effort to obtain final entry of this
23 Consent To Judgment by the trial court and to undertake any actions reasonably necessary to
24 implement and/or modify this Consent To Judgment in order to further the mutual intention of the
25 Parties in entering into this Consent To Judgment.

26 8.2 If this Consent To Judgment is not entered by the Court, it shall be of no force or
27 effect and shall never be introduced into evidence or otherwise used in any proceeding for any
28 purpose other than to determine the rights or obligations of a Party as a result of the fact that the
Consent To Judgment was not approved.

9. **MODIFICATION OR AMENDMENT**

This Consent To Judgment may be modified or amended only: (1) by written agreement
of the Parties and upon entry of a Stipulation and Order by the court thereon; or (2) upon a

1 successful motion or application of any Party pursuant to Code of Civil Procedure § 1005 or
2 California Rule of Court, Rule 3.1200, which motion or application shall not be unreasonably
3 opposed unless a material term affecting the opposing Party is as issue.

4 **10. OTHER TERMS**

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

7 10.2 This Consent To Judgment shall apply to and be binding upon Plaintiff and
8 ACCO, and their respective divisions, subdivisions, and subsidiaries, and the successors or
9 assigns of any of them.

10 10.3 Nothing in this Consent To Judgment shall release, or in any way affect any rights
11 that ACCO might have against any other party.

12 10.4 The stipulations to this Consent To Judgment may be executed in counterparts and
13 by means of facsimile or portable document format (.pdf), which taken together shall be deemed
14 to constitute one document.

15 10.5 Each signatory to this Consent To Judgment certifies that he or she is fully
16 authorized by the Party he or she represents to stipulate to this Consent To Judgment and to enter
17 into and execute the Consent To Judgment on behalf of the Party represented and to legally bind
18 that Party.

19 10.6 The Parties, including their counsel, have participated in the preparation of this
20 Consent To Judgment and this Consent To Judgment is the result of the joint efforts of the
21 Parties. This Consent To Judgment was subject to revision and modification by the Parties and
22 has been accepted and approved as to its final form by all Parties and their counsel. Accordingly,
23 any uncertainty or ambiguity existing in this Consent To Judgment shall not be interpreted against
24 any Party as a result of the manner of the preparation of this Consent To Judgment. Each Party to
25 this Consent To Judgment agrees that any statute or rule of construction providing that
26 ambiguities are to be resolved against the drafting Party should not be employed in the
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1 interpretation of this Consent To Judgment and, in this regard, the Parties hereby waive California
2 Civil Code Section 1654.

3 **11. ATTORNEYS' FEES**

4 11.1 Should Brimer prevail on any motion, application for an order to show cause or
5 other proceeding to enforce a violation of this Consent To Judgment, he shall be entitled to his
6 reasonable attorneys' fees and costs incurred as a result of such motion or application. Should
7 ACCO prevail on any motion, application for an order to show cause or other proceeding, it may
8 be awarded its reasonable attorneys' fees and costs as a result of such motion or application upon
9 a finding by the court that Brimer's defense of the motion or application lacked substantial
10 justification. For purposes of this Consent To Judgment, the term substantial justification shall
11 carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure
12 Section 2016, *et seq.*

13 11.2 Except as provided in Section 11.1 of this Consent To Judgment, each Party shall
14 bear its own attorneys' fees and costs in connection with the Notices and Complaint through entry
15 of final judgment.

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11.3 Nothing in this Section 11 shall preclude a Party from seeking an award of sanctions pursuant to law.

IT IS SO STIPULATED:

AGREED TO:

AGREED TO:

Date: November 22, 2013

Date: _____



By: _____
Plaintiff Russell Brimer

By: _____
Defendant ACCO Brands Corporation

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11.3 Nothing in this Section 11 shall preclude a Party from seeking an award of sanctions pursuant to law.

IT IS SO STIPULATED:

AGREED TO:

AGREED TO:

Date: _____

Date: November 25, 2013

By: _____
Plaintiff Russell Brimer

By: Michael O. Wood
Defendant ACCO Brands Corporation

EXHIBIT A

RELEASED PRODUCTS FOR DEFENDANT ACCO BRANDS CORPORATION

The Released Products applicable to ACCO, listed below, are limited to those containing lead, DEHP, DBP and/or BBP as to the checked boxes.

Released Product	DEHP	DBP	BBP	Lead
1. Art, Craft and Drafting Supply cases, portfolios, pouches, stands, and wraps:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Identification Products				
I.D. Holders, tags, badges, and laminate:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
I.D. Lanyards, clips, cords, cables, chains, and reels:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Calendars, Planners and Appointment Books:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Computer and Electronics Accessories				
Battery packs:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bags/cases/sleeves for electronics:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Power cords, adapters, and charging docks:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cables:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Headphones and headsets:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Laser pointers:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mice, keyboards, trackballs, trackpads, touchpads, and mouse pads:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Speakers:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Locks and security anchors:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Storage covers, bags, cases, sleeves, and straps:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Document Storage/Organization/Presentation Products				
Binders, folders, filers, sorters and portfolios, albums/photo albums, notebooks, and checkbook covers:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Index dividers and guides tabs:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sleeves, protectors, and pouches:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Ergonomic Products				
Stands, folios, monitor arms, monitor stands, keyboard stands, and keyboard drawers and holders:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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Footrests, wrist rests, back rests, wrist bands, and gloves:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Fasteners and hangers Paper and binder clips:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Picture, storage, and cup hooks and wires; suction cups/devices:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Writing Instruments Erasers, pens, pencils, markers, highlighters, sharpeners, and pencil cups:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Set/kit in self-contained pouches/bags:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>