

**SETTLEMENT AGREEMENT**  
**BETWEEN DARREN KENNY, NATIONAL STORES, INC., AND TRIPLE**  
**ACCESSORIES, INC.**

**1. RECITALS**

**1.1 The Parties**

This Settlement Agreement (“**Settlement**”) is entered into by and between Darren Kenny (“**Kenny**”), Triple Accessories, Inc. (“**Triple**”), and National Stores, Inc. (“**National**”). Kenny, Triple and National shall hereinafter collectively be referred to as the “Parties.”

Kenny is a citizen of the State of California with a stated interest in protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices, which includes promoting awareness of exposure to toxic chemicals and reducing exposure to hazardous substances found in consumer products.

Triple and National each employs ten (10) or more employees, and is a person in the course of doing business as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“**Proposition 65**”).

**1.2 Allegations**

Kenny alleges that each day since August 2, 2010, National and Triple manufactured, distributed, supplied, and/or sold women’s wallets/clutches, including but not limited to the “Croc Wallet” (Product ID 1338144) (hereinafter, the “Products”) in the State of California causing users in California to be exposed to hazardous levels of lead without providing “clear and reasonable warnings”, in violation of Proposition 65. Lead and lead compounds (the “**Listed Chemicals**”) are potentially subject to Proposition 65 warning requirements because they are listed as known to the State of California to cause reproductive harm and cancer respectively.

On August 2, 2013, a sixty-day notice of violation (“**60-Day Notice**”), along with a Certificate of Merit, was provided by Kenny, pursuant to Health and Safety Code Section 25249.7(d), to National and various public enforcement agencies regarding the alleged violation of Proposition 65 with respect to the Listed Chemicals in the Products. To the best of the parties’ knowledge, no public enforcer has diligently prosecuted the allegations set forth in the Notice.

On or about October 8, 2013, Kenny filed a complaint for violation of Proposition 65 against National (the “**Complaint**”), captioned *Darren Kenny v. National Stores, Inc.*, Case No. BC 523832. National filed an Answer to the Complaint, denying the allegations contained therein, and filed a Cross-Complaint against Triple for indemnification. Triple has not yet filed a responsive pleading, but denies the allegations in the Cross-Complaint. Hereinafter the Complaint and National’s Answer and Cross-Complaint shall be referred to as the “**Action**.”

National contends that it purchased the “Croc Wallets” from Triple subject to the terms of a purchase order that provided:

B. CONSUMER PRODUCT SAFETY ACT / CONSUMER PRODUCT SAFETY OR IMPROVEMENT ACT OF 2008 /PROPOSITION 65 COMPLIANCE. Seller is in full and absolute compliance with any and/or all legal and regulatory requirements and guidelines relating to the goods including but not limited to the Consumer Product Safety Act, the Consumer Product Safety Improvement Act of 2008 and California Health and Safety Coda 25249.5 et.seq. ("Proposition 65"). Such compliance shall include but is not limited to testing results for lead and phthalates ensuring goods meet all federal and state guidelines and the affixation of

requisite warnings and production information on all products. Seller shall indemnify, defend and hold harmless Buyer, as specified in this section, in the event any issue whatsoever arising from the Consumer Product Safety Act, the Consumer Product Safety Improvement Act of 2008 and Proposition 65.

Pursuant to the terms of this provision, National has withheld \$14,000 from Triple in order to secure Triple's obligation to indemnify National.

### **1.3 No Admissions**

Triple admits that it is the manufacturer and/or supplier of the "Croc Wallet" (Product ID 1338144) but denies, as does National, all other allegations in Kenny's 60-Day Notice and maintains that the Products have been, and are, in compliance with all laws, and that neither Triple nor National have violated Proposition 65. Nothing in this Settlement is intended to or shall be construed as an admission by Triple or National of any fact, finding, issue of law, or violation of law, nor shall compliance with this Settlement constitute or be construed as an admission by Triple or National of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Triple and National. However, this section shall not diminish or otherwise affect the Parties' respective obligations, responsibilities, and duties under this Settlement.

### **1.4 Compromise**

The Parties enter into this Settlement in order to resolve the controversy described above in a manner consistent with prior Proposition 65 consent judgments on the Listed Chemicals in the Products that were entered on behalf of the public interest and to avoid prolonged and costly litigation between them.

## **1.5 Effective Date**

The “Effective Date” shall be the date upon which a complete and fully executed copy of the Settlement is delivered to each Party’s counsel and approved by the Court.

## **2. INJUNCTIVE RELIEF AND REFORMULATION**

### **2.1 Consent Judgment**

On March 26, 2013, Triple entered into a Consent Judgment in *Center For Environmental Health v. Lulu NYC LLC*, et al., lead case no. RG 09-459448 (“CEH Consent Judgment”), which provides for certain injunctive relief and reformulation requirements.<sup>1</sup> Kenny alleges that Triple subsequently continued to violate Proposition 65 and the lead limits for the Products as specified in the CEH Consent Judgment. Triple agrees that it will continue to be bound by the lead limits for the Products as specified in the CEH Consent Judgment. Triple agrees that nothing contained herein shall be construed as limiting or relieving it from its obligations in the CEH Consent Agreement.

## **3. PAYMENTS**

### **3.1 Civil Penalty Pursuant To Proposition 65**

In settlement of all claims referred to in this Settlement, Triple shall pay a total civil penalty of one thousand five hundred dollars (\$1,500.00) to be apportioned in accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$1,125.00) paid to State of California Office of Environmental Health Hazard Assessment, and the remaining 25% (\$375.00) paid to Kenny.

National, who is currently holding funds otherwise due and owing to Triple, shall, on behalf of Triple, issue two (2) checks for the civil penalty: (1) a check or money order made

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<sup>1</sup> A copy of Section 3.2 of the Consent Judgment is attached hereto as Exhibit 1.

payable to “Law Offices of Lucas T. Novak in Trust for Office of Environmental Health Hazard Assessment” in the amount of \$1,125.00; and (2) a check or money order made payable to “Law Offices of Lucas T. Novak in Trust for Darren Kenny” in the amount of \$375.00. National shall remit the payments within ten (10) business days of the Effective Date, to:

Lucas T. Novak, Esq.  
LAW OFFICES OF LUCAS T. NOVAK  
8335 W Sunset Blvd., Suite 217  
Los Angeles, CA 90069

### **3.2 Reimbursement Of Kenny’s Fees And Costs**

Triple shall reimburse Kenny’s reasonable experts’ and attorney’s fees and costs incurred in prosecuting the instant action, for all work performed through execution of this Settlement. Accordingly, National shall, on behalf of Triple, issue a check or money order made payable to “Law Offices of Lucas T. Novak” in the amount of eight thousand five hundred dollars (\$8,500.00). National shall remit the payment within ten (10) business days of the Effective Date, to:

Lucas T. Novak, Esq.  
LAW OFFICES OF LUCAS T. NOVAK  
8335 W Sunset Blvd., Suite 217  
Los Angeles, CA 90069

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### **3.3 Remaining Funds**

National will retain the remaining \$4,000 it has withheld as security from Triple as partial payment for reasonable attorneys’ fees National has incurred in defending against the claims made by Kenny. National and Triple agree that in the event National ever makes another purchase from Triple, National shall be entitled to withhold \$4,500 from payments that would

otherwise be due, to compensate National for the attorneys' fees reasonable incurred in defending against the claims made by Kenny.

#### **4. RELEASES AND DISMISSAL OF ACTION**

##### **4.1 Full, Final and Binding Resolution of Proposition 65 Allegations**

Upon receipt of the fully executed Settlement, Court approval, and the monetary payments called for above, Kenny, on his own behalf and on behalf of each of his agents, representatives, assigns, successors, heirs, insurers, and attorneys, , in their capacities as such, and each of them, and in the public interest, fully and forever releases, acquits and discharges Triple and National, and each of their respective subsidiaries, agents, parents, representatives, assigns, executives, employees, officers, directors, shareholders, owners, , successors, heirs, insurers, and all downstream entities to whom Defendants directly or indirectly distribute or sell the Products, in their capacities as such, and each of them (the "Released Parties"), of and from, and forever withdraws, retracts and waives, any and all manner of claims (contractual and extra-contractual), rights, actions, contentions, allegations, charges, complaints, demands, causes of action, defenses, liabilities, potential liabilities, suits, debts, accounts, liens, contracts, agreements, promises, losses, damages, judgments, offsets, indemnities, obligations, benefits, claims for sums of money, claims for injunctive relief, claims for declaratory relief, controversies, costs, settlement costs, attorney's fees, court costs and expenses, of every kind and nature whatsoever, in law or in equity, whether known or unknown, whether suspected or unsuspected, whether fixed or contingent, that now exist, may exist, or may be claimed to have existed, with respect to the allegations of Proposition 65 violations from the Products sold and/or offered for sale by National Stores, as specified in the 60-Day Notice, up through the Effective Date of this Agreement.

#### **4.2 Triple and National's Release Of Kenny**

Upon receipt of the fully executed Agreement and Court approval of the same, Triple and National, and each of their respective subsidiaries, agents, parents, representatives, assigns, executives, employees, officers, directors, shareholders, owners, successors, heirs, insurers, and all downstream entities to whom Defendants directly or indirectly distribute or sell the Products, in their capacities as such, by this Settlement, waive all rights to institute any form of legal action, including claims for reimbursement of attorneys' fees and costs, against Kenny, his past and current agents, representatives, attorneys, experts, successors, and/or assignees, for actions or statements made or undertaken, whether in the course of investigating claims or seeking enforcement of Proposition 65 against Triple and/or National in this matter.

#### **4.3 Triple and National's Mutual Release**

Other than the obligations, terms and conditions created by the Settlement, upon receipt of the fully executed Agreement, Court approval, and the monetary payments called for above, Triple and National, on their own behalf and on behalf of each of their respective agents, representatives, assigns, employees, partners, predecessors, successors, heirs, insurers, attorneys, and any other person or entity claiming by or through him, in their capacities as such, and each of them, fully and forever releases, acquits and discharges each other, and each of their respective affiliated entities, subsidiaries, agents, parents, representatives, assigns, executives, employees, officers, directors, shareholders, owners, partners, principals, predecessors, successors, heirs, insurers, customers, and any other person or entity claiming by or through it, in their capacities as such, and each of them, of and from, and forever withdraws, retracts and waives, any and all manner of claims (contractual and extra-contractual), rights, actions, contentions, allegations, charges, complaints, demands, causes of action, defenses, liabilities,

potential liabilities, suits, debts, accounts, liens, contracts, agreements, promises, losses, damages, judgments, offsets, indemnities, obligations, benefits, claims for sums of money, claims for injunctive relief, claims for declaratory relief, controversies, costs, settlement costs, attorney's fees, court costs and expenses, of every kind and nature whatsoever, in law or in equity, whether known or unknown, whether suspected or unsuspected, whether fixed or contingent, that now exist, may exist, or may be claimed to have existed, including but not limited to those arising out of or related to the Action.

#### **4.4 Dismissal of the Complaint.**

Upon Court approval of this Agreement, and upon receipt of the sums identified in Section 3, Kenny will cause to be filed with the Court a dismissal without prejudice of the Doe Defendants and a Dismissal with prejudice of the balance of his Complaint. In addition, National will dismiss its cross-complaint with prejudice.

#### **5. Additional Representations and Warranties.**

**5.1** Each Party acknowledges the risk that subsequent to the execution of this Agreement, a Party may discover facts or may incur, suffer or discover losses, damage or injuries which are unknown and unanticipated at the time this Agreement is signed, which if known on the date of this Agreement, may have materially affected its decision to give the release contained in this Agreement. Despite this knowledge and understanding, each Party hereby assumes the risk of such unknown and unanticipated facts and claims, and, except as otherwise provided in this Agreement, hereby waives any alleged right to set aside or rescind this Agreement and any and all rights under California Civil Code § 1542 (and similar laws in other jurisdictions), which section has been duly explained to and is understood by each Party, and which reads as follows:

**“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.”**

**5.2** Each of the undersigned Parties represents and warrants that with respect to the respective releases given by the Parties hereto, no portion of any claim, right, demand, action or cause of action released hereunder, and no portion of any recovery or settlement to which any Party might be entitled based upon any such claim, right, demand, action or cause of action, has been assigned or transferred to any other person, firm or corporation, in any manner, including by way of subrogation, operation of law, attorneys’ lien, or otherwise.

**5.3** Each of the Parties represents and warrants that it has been represented by or had an opportunity to consult legal counsel as to its rights and the consequences of signing this Agreement. The Parties further represent and acknowledge that they fully understand and appreciate the meaning of each of the terms of this Agreement and that they understand that they may be waiving legal rights or claims by signing this Agreement and that they are voluntarily entering into this Agreement with a full and complete understanding of its terms and legal effect and with the intent to be legally bound by this Agreement.

**5.4** Each of the Parties represents and warrants that, in executing this Agreement, it has relied solely on the statements expressly set forth herein, and has placed no reliance whatsoever on any statement, representation, or promise of any other Party, or any other person or entity, not expressly set forth herein, or upon the failure of any other Party or any other person or entity to make any statement, representation or disclosure of anything whatsoever. The discovery by any Party, subsequent to the execution of this Agreement, of any facts not

heretofore known to that Party, or that the facts or law upon which any Party relied in executing this Agreement was not as that Party believed it to be (other than as expressly set forth herein), shall not constitute grounds for declaring this Agreement void, avoidable or otherwise unenforceable.

**6. SEVERABILITY**

Should any part or provision of this Settlement for any reason be declared by a Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue in full force and effect.

**7. GOVERNING LAW**

All questions with respect to the construction of this Agreement and the rights and liabilities of the Parties hereto shall be governed by the substantive laws of the State of California, or where pre-empted, by the appropriate body of federal law.

**8. NOTICES**

All correspondence and notices required to be provided under this Settlement shall be in writing and delivered personally or sent by certified mail or a FedEx addressed as follows:

<p>TO TRIPLE:</p> <p>Andrew V. Jablon, Esq. RESCH POLSTER &amp; BERGER LLP 1840 Century Park East, 17<sup>th</sup> Floor Los Angeles, California 90067</p>	<p>TO KENNY:</p> <p>Lucas T. Novak, Esq. LAW OFFICES OF LUCAS T. NOVAK 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069</p>
<p>TO NATIONAL</p> <p>Jason L. Weisberg, Esq. ROXBOROUGH BOMERANCE NYE &amp; ADREANI 5820 Canoga Ave., Suite 250 Woodland Hills, CA 91367</p>	

**9. INTEGRATION**

This Settlement represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. Each of the Parties hereto covenants that it has not entered into this Agreement as a result of any representation, agreement, inducement or coercion, except to the extent specifically provided herein. Each Party hereto further covenants that the consideration recited herein is the only consideration for entering into this Agreement, and that no promises or representations of other or further consideration have been made by any person.

**10. COUNTERPARTS**

This Settlement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute the same document. Execution and delivery of this Settlement by e-mail, facsimile, or other electronic means shall constitute legal and binding execution and delivery. Any photocopy of the executed Settlement shall have the same force and effect as the originals.

**11. AUTHORIZATION**

The undersigned are authorized to execute this Settlement on behalf of their respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions of this Settlement. Each Party warrants to the other that it is free to enter into this Settlement and not subject to any conflicting obligation which will or might prevent or interfere with the execution or performance of this Settlement by said party.

**12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

Kenny and his attorneys agree to comply with the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

**13. Miscellaneous.**

**13.1** The terms of this Agreement have been negotiated at arm's length between sophisticated Parties. As a result, the rule of "interpretation against the draftsman" shall not apply in any dispute over interpretation of the terms of this Agreement.

**13.2** When necessary, all terms used in the singular shall apply to the plural, the masculine shall include the feminine, and all terms used in the plural shall apply to the singular.

**AGREED TO:**

Date: 7/5/14

By: 

Authorized Officer of Triple Accessories, Inc.

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Authorized Officer of National Stores, Inc.

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Darren Kenny

**13. Miscellaneous.**

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**13.2** When necessary, all terms used in the singular shall apply to the plural, the masculine shall include the feminine, and all terms used in the plural shall apply to the singular.

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Authorized Officer of Triple Accessories, Inc.

**AGREED TO:**

Date: 7/7/14 \_\_\_\_\_

By:  \_\_\_\_\_

Authorized Officer of National Stores, Inc.

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Darren Kenny

**13. Miscellaneous.**

**13.1** The terms of this Agreement have been negotiated at arm's length between sophisticated Parties. As a result, the rule of "interpretation against the draftsman" shall not apply in any dispute over interpretation of the terms of this Agreement.

**13.2** When necessary, all terms used in the singular shall apply to the plural, the masculine shall include the feminine, and all terms used in the plural shall apply to the singular.

**AGREED TO:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Authorized Officer of Triple Accessories, Inc.

**AGREED TO:**

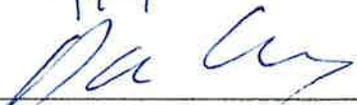
Date: \_\_\_\_\_

By: \_\_\_\_\_

Authorized Officer of National Stores, Inc.

**AGREED TO:**

Date: 7/6/14

By: 

Darren Kenny

# **EXHIBIT 1**



**FILED**  
ALAMEDA COUNTY

MAR 26 2013

CLERK OF THE SUPERIOR COURT  
By [Signature] Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,  
Plaintiff,  
v.  
LULU NYC LLC, et al.,  
Defendants.

Lead Case No. RG 09-459448

(Consolidated with Case Nos. RG 10-494289, RG 10-494513, RG 10-494517, RG 11-598595, RG 11-598596, RG 11-603764, RG 12-658652)

[Signature]  
**[PROPOSED] CONSENT JUDGMENT AS TO TRIPLE ACCESSORIES, INC.**

AND CONSOLIDATED CASES.

**1. DEFINITIONS**

1.1 "Covered Products" means belts and wallets, handbags, purses and clutches that are Manufactured, distributed, sold or offered for sale by Settling Defendant.

1.2 "Effective Date" means the date on which this Consent Judgment is entered by the Court.

1.3 "Lead Limits" means the maximum concentrations of lead and lead compounds ("Lead") by weight specified in Section 3.2.

1           1.4           “Manufactured” and “Manufactures” means to manufacture, produce, or  
2 assemble.

3           1.5           “Paint or other Surface Coatings” means a fluid, semi-fluid, or other material,  
4 with or without a suspension of finely divided coloring matter, which changes to a solid film  
5 when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface.  
6 This term does not include printing inks or those materials which actually become a part of the  
7 substrate, such as the pigment in a plastic article, or those materials which are actually bonded to  
8 the substrate, such as by electroplating or ceramic glazing.

9           1.6           “Vendor” means a person or entity that Manufactures, imports, distributes, or  
10 supplies a Covered Product to Settling Defendant.

## 11   2.    INTRODUCTION

12           2.1           The parties to this Consent Judgment (“Parties”) are the Center for  
13 Environmental Health (“CEH”) and defendant Triple Accessories, Inc. (“Settling Defendant”).

14           2.2           On June 24, 2009, CEH filed the action entitled *CEH v. Lulu NYC LLC, et al.*,  
15 Case No. RG 09-459448, alleging Proposition 65 violations as to wallets, handbags, purses and  
16 clutches. The Court has consolidated the *Lulu* matter with a number of other related Proposition  
17 65 cases.

18           2.3           On September 14, 2012, CEH served a 60-Day Notice of Violation under  
19 Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health  
20 & Safety Code §§ 25249.5, *et seq.*), alleging that Settling Defendant violated Proposition 65 by  
21 exposing persons to Lead contained in wallets, handbags, purses and clutches, without first  
22 providing a clear and reasonable Proposition 65 warning. On November 29, 2012, CEH served a  
23 60-Day Notice of Violation under Proposition 65, alleging that Settling Defendant violated  
24 Proposition 65 by exposing persons to Lead contained in belts, without first providing a clear and  
25 reasonable Proposition 65 warning. On December 5, 2012, CEH filed the action entitled *CEH v.*  
26 *Fashion Eden*, Case No. RG 09-459448, naming Settling Defendant as a “Handbags Defendant.”  
27 Upon entry of this Consent Judgment by the Court, the operative *Fashion Eden* complaint shall  
28 be deemed amended to also name Settling Defendant as a “Belts Defendant.”

1           2.4           Settling Defendant manufactures, distributes and/or offers for sale Covered  
2 Products in the State of California or has done so in the past.

3           2.5           For purposes of this Consent Judgment only, the Parties stipulate that this  
4 Court has jurisdiction over the allegations of violations contained in the operative Complaint  
5 applicable to Settling Defendant (the "Complaint") and personal jurisdiction over Settling  
6 Defendant as to the acts alleged in the Complaint, that venue is proper in the County of Alameda,  
7 and that this Court has jurisdiction to enter this Consent Judgment.

8           2.6           Nothing in this Consent Judgment is or shall be construed as an admission by  
9 the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance  
10 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
11 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall  
12 prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any  
13 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and  
14 is accepted by the Parties for purposes of settling, compromising and resolving issues disputed in  
15 this action.

16 **3.    INJUNCTIVE RELIEF**

17           3.1           **Specification Compliance Date.** To the extent it has not already done so, no  
18 more than 30 days after the Effective Date, Settling Defendant shall provide the Lead Limits to its  
19 Vendors of Covered Products and shall instruct each Vendor to use reasonable efforts to provide  
20 Covered Products that comply with the Lead Limits on a nationwide basis.

21           3.2           **Lead Limits.**

22                       Commencing on the Effective Date, Settling Defendant shall not purchase, import,  
23 Manufacture, or supply to an unaffiliated third party any Covered Product that will be sold or  
24 offered for sale to California consumers that contains a material or is made of a component that  
25 exceeds the following Lead Limits:

26                       3.2.1   Paint or other Surface Coatings: 90 parts per million ("ppm").

27                       3.2.2   Polyvinyl chloride ("PVC"): 200 ppm.

28                       3.2.3   All other materials or components other than cubic zirconia (sometimes

1 called cubic zirconium, CZ), crystal, glass or rhinestones: 300 ppm.  
2       **3.3 Final Retail Compliance Date.** Commencing on December 1, 2012, Settling  
3 Defendant shall not sell or offer for sale in California any Covered Product that exceeds the Lead  
4 Limits specified in Section 3.2. For purposes of this Section 3.3, when Settling Defendant's  
5 direct customer sells or offers for sale to California consumers a Covered Product after December  
6 1, 2012, Settling Defendant is deemed to "offer for sale in California" that Covered Product.

7       **3.4 Action Regarding Specific Products.**

8               **3.4.1** On or before the Effective Date, Settling Defendant shall cease selling the  
9 following Covered Products in California: (1) Nine West Foldover Wallet in Yellow, SKU  
10 No. 7-37444-78501-8, Style Name MINIKISS01, Style No. 60191101, and (2) Patent  
11 Wallet in Yellow, SKU No. 400074245428 (the "Section 3.4 Products"). On or before the  
12 Effective Date, Settling Defendant shall also: (i) cease shipping the Section 3.4 Products  
13 to any of its stores and/or customers that resell the Section 3.4 Products in California, and  
14 (ii) send instructions to its stores and/or customers that resell the Section 3.4 Products in  
15 California instructing them either to: (a) return all of the Section 3.4 Products to Settling  
16 Defendant for destruction; or (b) directly destroy the Section 3.4 Products.

17               **3.4.2** Any destruction of the Section 3.4 Products shall be in compliance with all  
18 applicable laws.

19               **3.4.3** Within sixty days of the Effective Date, Settling Defendant shall provide  
20 CEH with written certification from Settling Defendant confirming compliance with the  
21 requirements of this Section 3.4.

22 **4. ENFORCEMENT**

23               **4.1** Any Party may, after meeting and conferring, by motion or application for an  
24 order to show cause before this Court, enforce the terms and conditions contained in this Consent  
25 Judgment. Enforcement of the terms and conditions of Sections 3.2 and 3.3 of this Consent  
26 Judgment shall be brought exclusively pursuant to Sections 4.3 through 4.4.

27               **4.2** Within 30 days after the Effective Date, Settling Defendant shall notify CEH  
28 of a means sufficient to allow CEH to identify Covered Products supplied or offered by Settling