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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH, a non-profit corporation,)	Case No. RG14722774
)	
Plaintiff,)	[PROPOSED] CONSENT JUDGMENT
)	AS TO COALITION APPAREL, INC.
vs.)	
)	
CECICO, INC., <i>et al.</i> ,)	
)	
Defendants.)	
)	

1. INTRODUCTION

1.1 This Consent Judgment is entered into by the Center For Environmental Health, a California non-profit corporation (“CEH”) on the one hand, and Coalition Apparel, Inc. (“Defendant”) on the other hand, to settle certain claims asserted by CEH against Defendant as set forth in the operative complaint in the matter entitled *Center for Environmental Health v. Cecico, Inc., et al.*, Alameda County Superior Court Case No. RG14722774 (the “Action”).

1.2 On October 31, 2014, CEH provided a “Notice of Violation” relating to the California Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”) to the California Attorney General, the District Attorneys of every county in California, the City

1 Attorneys of every California city with a population greater than 750,000, and to Defendant
2 regarding the presence of lead and lead compounds (collectively referred to herein as “Lead”) in
3 clothing made with leather, vinyl, or imitation leather materials (“Covered Products”).

4 1.3 On April 24, 2014, CEH filed the Complaint in the Action. On or about April
5 1, 2015, CEH amended the Complaint to name Defendant as a defendant in the Action.

6 1.4 Defendant manufactures, distributes, and/or sells Covered Products in the
7 State of California.

8 1.5 For purposes of this Consent Judgment only, CEH and Defendant (the
9 “Parties”) stipulate that this Court has jurisdiction over the allegations of violations contained in
10 the Complaint and personal jurisdiction over Defendant as to the acts alleged in the Complaint,
11 that venue is proper in the County of Alameda, and that this Court has jurisdiction to enter this
12 Consent Judgment as a full and final resolution of all claims which were or could have been
13 raised in the Complaint based on the facts alleged therein with respect to Covered Products
14 manufactured, distributed, and/or sold by Defendant.

15 1.6 CEH and Defendant enter into this Consent Judgment as a full and final
16 settlement of all claims that were raised in the Complaint, or which could have been raised in the
17 Complaint, arising out of the facts or conduct related to Defendant alleged therein. By execution
18 of this Consent Judgment and agreeing to comply with its terms, the Parties do not admit any
19 facts or conclusions of law including, but not limited to, any facts or conclusions of law
20 suggesting or demonstrating any violations of Proposition 65 or any other statutory, common law,
21 or equitable requirements. Nothing in this Consent Judgment is or shall be construed as an
22 admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall
23 compliance with the Consent Judgment constitute or be construed as an admission by the Parties
24 of any fact, conclusion of law, issue of law, or violation of law, including whether Defendant is a
25 “person in the course of doing business” as defined in Health and Safety Code section
26 25249.11(b). Defendant denies the material, factual and legal allegations in CEH’s Complaint
27 and expressly denies any wrong doing whatsoever. Nothing in this Consent Judgment shall
28 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in this

1 or any other pending or future legal proceedings. This Consent Judgment is the product of
2 negotiation and compromise and is accepted by the Parties solely for purposes of settling,
3 compromising, and resolving issues disputed in this action.

4 **2. INJUNCTIVE RELIEF**

5 2.1 **Reformulation of Covered Products.** As of the date of entry of this Consent
6 Judgment (the “Effective Date”), Defendant shall not manufacture, ship, sell, or offer for sale any
7 Covered Product that will be sold or offered for sale to consumers in California unless such
8 Covered Product complies with the following Lead Limits:

9 2.1.1 “Paint or other Surface Coatings” as that term is defined in 16 C.F.R.
10 § 1303.2(b): no more than 0.009 percent Lead by weight (90 parts per million (“ppm”).

11 2.1.2 Polyvinyl chloride (“PVC”): no more than 0.02 percent Lead by weight
12 (200 ppm).

13 2.1.3 All other materials other than cubic zirconia (sometimes called cubic
14 zirconium, CZ), crystal, glass or rhinestones: no more than 0.03 percent Lead by weight (300
15 ppm).

16 2.2 **Market Withdrawal of Covered Products.** On or before the Effective Date,
17 Defendant shall cease shipping the Downtown Coalition Faux Leather Junior Bomber Jacket in
18 Camel, SKU No. 1-002-182528238, Item No. 182528238, Style No. DPJ003B, as identified in
19 CEH’s pre-suit Notice of Violation to Defendant (the “Recall Covered Products”), to stores
20 and/or customers in California, and Defendant shall withdraw the Recall Covered Products from
21 the market in California, and, at a minimum, send instructions to any of its stores and/or
22 customers that offer the Recall Covered Products for sale in California to cease offering such
23 Recall Covered Products for sale and to either return all Recall Covered Products to Defendant
24 for destruction, or to directly destroy the Recall Covered Products. Any destruction of the Recall
25 Covered Products shall be in compliance with all applicable laws. Defendant shall keep and
26 make available to CEH for inspection and copying records and correspondence regarding the
27 market withdrawal and destruction of the Recall Covered Products. If there is a dispute over the
28 corrective action, the Parties shall meet and confer before seeking any remedy in court.

1 **3. ENFORCEMENT**

2 **3.1 Enforcement Procedures.** Prior to bringing any motion or order to show
3 cause to enforce the terms of this Consent Judgment, a Party seeking to enforce shall provide the
4 violating party thirty (30) days advanced written notice of the alleged violation. The Parties shall
5 meet and confer during such thirty (30) day period in an effort to try to reach agreement on an
6 appropriate cure for the alleged violation. After such thirty (30) day period, the Party seeking to
7 enforce may, by new action, motion, or order to show cause before the Superior Court of
8 Alameda, seek to enforce the terms and conditions contained in this Consent Judgment.

9 **4. PAYMENTS**

10 **4.1 Payments From Defendant.** Defendant shall pay the total sum of \$30,000 as
11 a settlement payment. This total payment shall be made in two installments according to the
12 following schedule: (a) on or before five (5) days after the Effective Date, Defendant shall pay
13 \$15,000 as a settlement payment; and (b) on or before August 20, 2015, Defendant shall pay
14 \$15,000 as a settlement payment. Each of these payments shall be paid in three separate checks
15 delivered to the address set forth in Section 7.1.2 and shall be made payable and allocated as set
16 forth in Section 4.2. Any failure by Defendant to comply with the payment terms herein shall be
17 subject to a stipulated late payment fee of \$100 per day, which amount shall be recoverable by
18 CEH, together with its reasonable attorneys' fees and costs, in an enforcement proceeding
19 brought pursuant to Section 3.

20 **4.2 Allocation of Payments.** The total settlement amount for Defendant shall be
21 paid in three separate checks delivered to the offices of the Lexington Law Group (Attn: Howard
22 Hirsch), 503 Divisadero Street, San Francisco, California 94117, and made payable and allocated
23 as follows:

24 **4.2.1** Defendant shall pay a total sum of \$3,900 as a penalty pursuant to Health
25 & Safety Code § 25249.7(b), such money to be apportioned by CEH in accordance with Health &
26 Safety Code § 25249.12. \$1,950 of this amount shall be included with the first payment due five
27 (5) days after the Effective Date, and \$1,950 of this amount shall be included with the second
28 payment due on August 20, 2015. Each penalty check shall be made payable to the Center for

1 Environmental Health.

2 4.2.2 Defendant shall pay a total sum of \$5,900 as payment to CEH in lieu of
3 penalty pursuant to Health & Safety Code § 25249.7(b), and California Code of Regulations, Title
4 11, § 3202(b). CEH will use such funds to continue its work educating and protecting people
5 from exposures to toxic chemicals, including heavy metals. CEH may also use a portion of such
6 funds to monitor compliance with the reformulation requirements of this and other similar
7 Consent Judgments and to purchase and test Covered Products to confirm compliance with such
8 reformulation requirements. In addition, as part of its *Community Environmental Action and*
9 *Justice Fund*, CEH will use four percent of such funds to award grants to grassroots
10 environmental justice groups working to educate and protect people from exposures to toxic
11 chemicals. The method of selection of such groups can be found at the CEH web site at
12 www.ceh.org/justicefund. \$2,950 of this amount shall be included with the first payment due five
13 (5) days after the Effective Date, and \$2,950 of this amount shall be included with the second
14 payment due on August 20, 2015. Each payment in lieu of penalty check shall be made payable
15 to the Center for Environmental Health.

16 4.2.3 Defendant shall pay a total sum of \$20,200 as reimbursement of reasonable
17 attorneys' fees and costs. \$10,100 of this amount shall be included with the first payment due
18 five (5) days after the Effective Date, and \$10,100 of this amount shall be included with the
19 second payment due on August 20, 2015. Each check pursuant to this section shall be made
20 payable to the Lexington Law Group.

21 **5. MODIFICATION AND DISPUTE RESOLUTION**

22 5.1 **Modification.** This Consent Judgment may be modified from time to time by
23 express written agreement of the Parties, with the approval of the Court, or by an order of this
24 Court upon motion and in accordance with law.

25 5.2 **Notice; Meet and Confer.** Any Party seeking to modify this Consent
26 Judgment shall attempt in good faith to meet and confer with the other Party prior to filing a
27 motion to modify the Consent Judgment.

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1 **6. CLAIMS COVERED AND RELEASE**

2 6.1 This Consent Judgment is a full, final, and binding resolution between CEH
3 and Defendant and Defendant’s parents, shareholders, divisions, subdivisions, subsidiaries,
4 partners, sister companies, and their successors and assigns (“Defendant Releasees”), and all to
5 whom they distribute or sell Covered Products including, but not limited to, distributors,
6 wholesalers, customers, retailers, franchisees, cooperative members, and licensees (“Downstream
7 Defendant Releasees”), of any violation of Proposition 65 or any other statutory or common law
8 claims that have been or could have been asserted in the public interest against Defendant,
9 Defendant Releasees, and Downstream Defendant Releasees, regarding the failure to warn about
10 exposure to Lead arising in connection with Covered Products manufactured, distributed, or sold
11 by Defendant prior to the Effective Date.

12 6.2 CEH, for itself and acting on behalf of the public interest pursuant to Health &
13 Safety Code § 25249.7(d), releases, waives, and forever discharges any and all claims against
14 Defendant, Defendant Releasees, and Downstream Defendant Releasees arising from any
15 violation of Proposition 65 or any other statutory or common law claims that have been or could
16 have been asserted in the public interest regarding the failure to warn about exposure to Lead
17 arising in connection with Covered Products manufactured, distributed, or sold by Defendant
18 prior to the Effective Date.

19 6.3 Compliance with the terms of this Consent Judgment by Defendant and the
20 Defendant Releasees shall constitute compliance with Proposition 65 by Defendant, the
21 Defendant Releasees, and their Downstream Defendant Releasees with respect to any alleged
22 failure to warn about Lead in Covered Products manufactured, distributed, or sold by Defendant
23 after the Effective Date.

24 **7. PROVISION OF NOTICE**

25 7.1 When any Party is entitled to receive any notice under this Consent Judgment,
26 the notice shall be sent by first class and electronic mail as follows:

27 7.1.1 **Notices to Defendant.** The person for Defendant to receive notices
28 pursuant to this Consent Judgment shall be:

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Joshua A. Bloom
Barg Coffin Lewis & Trapp, LLP
350 California Street, 22nd Floor
San Francisco, CA 94104
jab@bcltlaw.com

7.1.2 **Notices to Plaintiff.** The person for CEH to receive notices pursuant to this Consent Judgment shall be:

Howard Hirsch
Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117
hhirsch@lexlawgroup.com

7.2 Any Party may modify the person and address to whom the notice is to be sent by sending the other Party notice by first class and electronic mail.

8. COURT APPROVAL

8.1 This Consent Judgment shall become effective on the Effective Date, provided however, that CEH shall prepare and file a Motion for Approval of this Consent Judgment and Defendant shall support approval of such Motion.

8.2 If this Consent Judgment is not entered by the Court, it shall be of no force or effect and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

9. GOVERNING LAW AND CONSTRUCTION

9.1 The terms of this Consent Judgment shall be governed by the laws of the State of California.

10. ENTIRE AGREEMENT

10.1 This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Consent Judgment have been made by any Party hereto. No other agreements not specifically contained or referenced herein, oral or

1 otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements
2 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind
3 any of the Parties hereto only to the extent that they are expressly incorporated herein. No
4 supplementation, modification, waiver, or termination of this Consent Judgment shall be binding
5 unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions
6 of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other
7 provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

8 **11. RETENTION OF JURISDICTION**

9 11.1 This Court shall retain jurisdiction of this matter to implement or modify the
10 Consent Judgment.

11 **12. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

12 12.1 Each signatory to this Consent Judgment certifies that he or she is fully
13 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into
14 and execute the Consent Judgment on behalf of the Party represented and legally to bind that
15 Party.

16 **13. NO EFFECT ON OTHER SETTLEMENTS**

17 13.1 Nothing in this Consent Judgment shall preclude CEH from resolving any
18 claim against another entity on terms that are different than those contained in this Consent
19 Judgment.


20 **14. EXECUTION IN COUNTERPARTS**

21 14.1 The stipulations to this Consent Judgment may be executed in counterparts
22 and by means of facsimile, which taken together shall be deemed to constitute one document.

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IT IS SO STIPULATED:

<p>Dated: <u>April 17</u>, 2015</p>	<p>CENTER FOR ENVIRONMENTAL HEALTH</p> <p></p> <hr/> <p><i>Chariz Pizarro</i></p> <hr/> <p>Printed Name</p> <hr/> <p><i>ASSOCIATE DIRECTOR</i></p> <hr/> <p>Title</p>
<p>Dated: _____, 2015</p>	<p>COALITION APPAREL, INC.</p> <hr/> <hr/> <hr/> <p>Printed Name</p> <hr/> <hr/> <p>Title</p>

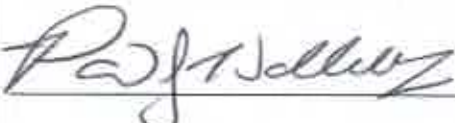
**IT IS SO ORDERED, ADJUDGED,
AND DECREED**

Dated: _____

JUDGE OF THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA

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IT IS SO STIPULATED:

Dated: _____, 2015	<p>CENTER FOR ENVIRONMENTAL HEALTH</p> <hr/> <hr/> Printed Name
Dated: <u>3/30</u> , 2015	<p>COALITION APPAREL, INC.</p>  <hr/> PATRICK HALLETT Printed Name
	<hr/> President Title

**IT IS SO ORDERED, ADJUDGED,
AND DECREED**

Dated: _____

JUDGE OF THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA