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

CENTER FOR ENVIRONMENTAL HEALTH, )  
a non-profit corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
VERY J, INC., *et al.*, )  
 )  
Defendants. )

Case No. RG 15-782612

**[PROPOSED] CONSENT JUDGMENT  
AS TO TILLY’S, INC., WORLD OF  
JEANS & TOPS, AND Y.M.I.  
JEANSWEAR, INC.**

**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 Tilly’s, Inc., World of Jeans & Tops, and Y.M.I. Jeanswear, Inc. (“Defendants”) on the other hand, to settle certain claims asserted by CEH against Defendants as set forth in the operative complaint in the matter entitled *Center for Environmental Health v. Very J, Inc., et al.*, Alameda County Superior Court Case No. RG 15-782612 (the “Action”).

1.2 On April 24, 2015, 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 Defendants  
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 August 19, 2015, CEH filed the Complaint in the Action, naming  
5 Defendants as defendants in the Action.

6 1.4 Defendants manufacture, distribute, and/or sell Covered Products in the State  
7 of California. Defendant Y.M.I. Jeanswear, Inc. is a supplier of Covered Products. Defendants  
8 Tilly’s, Inc. and Word of Jeans & Tops are retailers of Covered Products.

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

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

1 proceedings. This Consent Judgment is the product of negotiation and compromise and is  
2 accepted by the Parties solely for purposes of settling, compromising, and resolving issues  
3 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”), Defendants shall not manufacture, ship, sell, or offer for sale  
7 any Covered Product in California or anywhere else unless such Covered Product complies with  
8 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 Defendants shall cease shipping the YMI Collection Women’s Hidden Zipper Faux Leather  
18 Jacket in Tobacco (the “Recall Covered Product”), to stores and/or customers in California, and  
19 Defendants shall withdraw the Recall Covered Product from the market in California, and, at a  
20 minimum, send instructions to any of its stores and/or customers that offer the Recall Covered  
21 Product for sale in California to cease offering such Recall Covered Product for sale and to either  
22 return all Recall Covered Product to Defendants for destruction, or to directly destroy the Recall  
23 Covered Product. Any destruction of the Recall Covered Product shall be in compliance with all  
24 applicable laws. Defendants shall keep and make available to CEH for inspection and copying  
25 records and correspondence regarding the market withdrawal and destruction of the Recall  
26 Covered Product. If there is a dispute over the corrective action, the Parties shall meet and confer  
27 before seeking any remedy in court.

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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 Defendants.** Within five (5) days of the entry of this  
11 Consent Judgment, Y.M.I. Jeanswear, Inc. shall pay the total sum of \$26,500.

12            **4.2            Allocation of Payments.** The total settlement amount for Defendants shall be  
13 paid in three separate checks delivered to the offices of the Lexington Law Group (Attn: Howard  
14 Hirsch), 503 Divisadero Street, San Francisco, California 94117, and made payable and allocated  
15 as follows:

16                    4.2.1    Y.M.I. Jeanswear, Inc. shall pay the sum of \$3,450 as a penalty pursuant to  
17 Health & Safety Code § 25249.7(b), such money to be apportioned by CEH in accordance with  
18 Health & Safety Code § 25249.12. The penalty check shall be made payable to the Center for  
19 Environmental Health.

20                    4.2.2    Y.M.I. Jeanswear, Inc. shall pay the sum of \$5,200 as payment to CEH in  
21 lieu of penalty pursuant to Health & Safety Code § 25249.7(b), and California Code of  
22 Regulations, Title 11, § 3202(b). CEH will use such funds to continue its work educating and  
23 protecting people from exposures to toxic chemicals, including heavy metals. CEH may also use  
24 a portion of such funds to monitor compliance with the reformulation requirements of this and  
25 other similar Consent Judgments and to purchase and test Covered Products to confirm  
26 compliance with such reformulation requirements. In addition, as part of its *Community*  
27 *Environmental Action and Justice Fund*, CEH will use four percent of such funds to award grants  
28 to grassroots environmental justice groups working to educate and protect people from exposures

1 to toxic chemicals. The method of selection of such groups can be found at the CEH web site at  
2 www.ceh.org/justicefund. The payment in lieu of penalty check shall be made payable to the  
3 Center for Environmental Health.

4 4.2.3 Y.M.I. Jeanswear, Inc. shall pay the sum of \$17,850 as reimbursement of  
5 reasonable attorneys' fees and costs. The attorneys' fees and cost reimbursement check shall be  
6 made payable to the Lexington Law Group.

## 7 **5. MODIFICATION AND DISPUTE RESOLUTION**

8 5.1 **Modification.** This Consent Judgment may be modified from time to time by  
9 express written agreement of the Parties, with the approval of the Court, or by an order of this  
10 Court upon motion and in accordance with law.

11 5.2 **Notice; Meet and Confer.** Any Party seeking to modify this Consent  
12 Judgment shall attempt in good faith to meet and confer with the other Party prior to filing a  
13 motion to modify the Consent Judgment.

## 14 **6. CLAIMS COVERED AND RELEASE**

15 6.1 This Consent Judgment is a full, final, and binding resolution between CEH  
16 and Defendants and Defendants' parents, shareholders, divisions, subdivisions, subsidiaries,  
17 partners, sister companies, and their successors and assigns ("Defendant Releasees"), and all to  
18 whom they distribute or sell Covered Products directly or indirectly including, but not limited to,  
19 distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees  
20 ("Downstream Defendant Releasees"), of any violation of Proposition 65 or any other statutory or  
21 common law claims that have been or could have been asserted in the public interest against  
22 Defendants, Defendant Releasees, and Downstream Defendant Releasees, regarding the failure to  
23 warn about exposure to Lead arising in connection with Covered Products manufactured,  
24 distributed, or sold by Defendants prior to the Effective Date.

25 6.2 CEH, for itself and acting on behalf of the public interest pursuant to Health &  
26 Safety Code § 25249.7(d), releases, waives, and forever discharges any and all claims against  
27 Defendants, Defendant Releasees, and Downstream Defendant Releasees arising from any  
28 violation of Proposition 65 that has been or could have been asserted in the public interest

1 regarding the failure to warn about exposure to Lead arising in connection with Covered Products  
2 manufactured, distributed, or sold by Defendants prior to the Effective Date.

3 6.3 Compliance with the terms of this Consent Judgment by Defendants and the  
4 Defendant Releasees shall constitute compliance with Proposition 65 by Defendants, the  
5 Defendant Releasees, and their Downstream Defendant Releasees with respect to any alleged  
6 failure to warn about Lead in Covered Products manufactured, distributed, or sold by Defendants  
7 after the Effective Date.

8 **7. PROVISION OF NOTICE**

9 7.1 When any Party is entitled to receive any notice under this Consent Judgment,  
10 the notice shall be sent by first class and electronic mail as follows:

11 7.1.1 **Notices to Defendants.** The person for Defendants to receive notices  
12 pursuant to this Consent Judgment shall be:

13 Mark D. Johnson  
14 Snell & Wilmer  
15 Two California Plaza  
16 350 South Grand Avenue, Suite 2600  
17 Los Angeles, CA 90071  
18 majohnson@swlaw.com

19 7.1.2 **Notices to Plaintiff.** The person for CEH to receive notices pursuant to  
20 this Consent Judgment shall be:

21 Howard Hirsch  
22 Lexington Law Group  
23 503 Divisadero Street  
24 San Francisco, CA 94117  
25 hhirsch@lexlawgroup.com

26 7.2 Any Party may modify the person and address to whom the notice is to be sent  
27 by sending the other Party notice by first class and electronic mail.

28 **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  
Defendants shall support approval of such Motion.

1           8.2           If this Consent Judgment is not entered by the Court, it shall be of no force or  
2 effect and shall not be introduced into evidence or otherwise used in any proceeding for any  
3 purpose.

4           **9.       GOVERNING LAW AND CONSTRUCTION**

5           9.1           The terms of this Consent Judgment shall be governed by the laws of the State  
6 of California.

7           **10.     ENTIRE AGREEMENT**

8           10.1          This Consent Judgment contains the sole and entire agreement and  
9 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior  
10 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby  
11 merged herein and therein. There are no warranties, representations, or other agreements between  
12 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or  
13 implied, other than those specifically referred to in this Consent Judgment have been made by any  
14 Party hereto. No other agreements not specifically contained or referenced herein, oral or  
15 otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements  
16 specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind  
17 any of the Parties hereto only to the extent that they are expressly incorporated herein. No  
18 supplementation, modification, waiver, or termination of this Consent Judgment shall be binding  
19 unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions  
20 of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other  
21 provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

22           **11.     RETENTION OF JURISDICTION**

23           11.1          This Court shall retain jurisdiction of this matter to implement or modify the  
24 Consent Judgment.

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

26           12.1          Each signatory to this Consent Judgment certifies that he or she is fully  
27 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into  
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1 and execute the Consent Judgment on behalf of the Party represented and legally to bind that  
2 Party.

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

4 13.1 Nothing in this Consent Judgment shall preclude CEH from resolving any  
5 claim against another entity on terms that are different than those contained in this Consent  
6 Judgment.

7 **14. EXECUTION IN COUNTERPARTS**

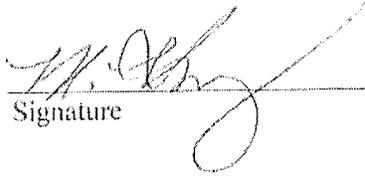
8 14.1 The stipulations to this Consent Judgment may be executed in counterparts  
9 and by means of facsimile, which taken together shall be deemed to constitute one document.

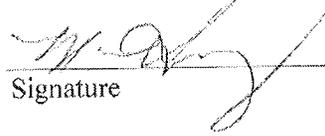
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11 **IT IS SO STIPULATED:**

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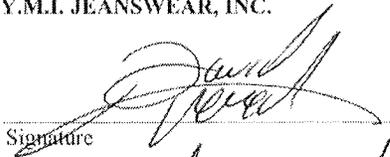
Dated: <u>6 Nov</u> , 2015	<b>CENTER FOR ENVIRONMENTAL HEALTH</b>   _____ Signature   _____ Printed Name   _____ Title
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Dated: <u>November 9</u> , 2015	<b>TILLY'S, INC.</b>   _____ Signature  <u>MICHAEL HENRY</u> _____ Printed Name  <u>CFO</u> _____ Title
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Dated: <u>November 9</u> , 2015	<b>WORLD OF JEANS &amp; TOPS</b>   _____ Signature  <u>MICHAEL HENRY</u> _____ Printed Name  <u>CFO</u> _____ Title
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Dated: <u>11-12</u> . 2015	Y.M.I. JEANSWEAR, INC.
	 Signature
	<u>David Vered</u> Printed Name
	<u>president</u> Title

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

Dated: \_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT OF THE  
STATE OF CALIFORNIA