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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. )  
CECICO, INC., *et al.*, )  
 )  
Defendants. )

Case No. RG 14-722774  
**[PROPOSED] CONSENT JUDGMENT  
AS TO CAVALINI, 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 Cavalini, 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. RG 14-722774 (the “Action”).

1.2 On June 10, 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 Attorneys of every California city with a population greater than 750,000, and to Defendant regarding the

1 presence of lead and lead compounds (collectively referred to herein as “Lead”) in clothing made  
2 with leather, vinyl, or imitation leather materials (“Covered Products”).

3 1.3 On April 24, 2014, CEH filed the original Complaint in the Action. On March 9,  
4 2015, CEH filed the First Amended Complaint in the Action. On September 9, 2015, CEH filed a  
5 Doe Amendment adding Defendant to the Action.

6 1.4 Defendant is a corporation that employs ten (10) or more persons and that  
7 manufactures, distributes, and/or sells Covered Products in the State of California.

8 1.5 For purposes of this Consent Judgment only, CEH and Defendant (the “Parties”)  
9 stipulate that this Court has jurisdiction over the allegations of violations contained in the  
10 Complaint and personal jurisdiction over Defendant as to the acts alleged in the Complaint, that  
11 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 settlement  
16 of all claims that were raised in the Complaint, or which could have been raised in the Complaint,  
17 arising out of the facts or conduct related to Defendant alleged therein. By execution of this  
18 Consent Judgment and agreeing to comply with its terms, the Parties do not admit any facts or  
19 conclusions of law including, but not limited to, any facts or conclusions of law suggesting or  
20 demonstrating any violations of Proposition 65 or any other statutory, common law, or equitable  
21 requirements. Nothing in this Consent Judgment is or shall be construed as an admission by the  
22 Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with  
23 the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
24 conclusion of law, issue of law, or violation of law. Defendant denies the material, factual and  
25 legal allegations in CEH’s Complaint and expressly denies any wrong doing whatsoever.  
26 Nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument,  
27 or defense the Parties may have in this or any other pending or future legal proceedings. This  
28 Consent Judgment is the product of negotiation and compromise and is accepted by the Parties

1 solely for purposes of settling, compromising, and resolving issues disputed in this action.

2 **2. INJUNCTIVE RELIEF**

3 2.1 **Reformulation of Covered Products.** As of the date of entry of this Consent  
4 Judgment (the “Effective Date”), Defendant shall not manufacture, ship, sell, or offer for sale any  
5 Covered Product in California or anywhere else unless such Covered Product complies with the  
6 following Lead Limits:

7 2.1.1 “Paint or other Surface Coatings” as that term is defined in 16 C.F.R. §  
8 1303.2(b): no more than 0.009 percent Lead by weight (90 parts per million) (“ppm”).

9 2.1.2 Polyvinyl chloride (“PVC”): no more than 0.02 percent Lead by weight  
10 (200 ppm).

11 2.1.3 All other materials other than cubic zirconia (sometimes called cubic  
12 zirconium, CZ), crystal, glass, or rhinestones: no more than 0.03 percent Lead by weight (300  
13 ppm).

14 2.2 **Market Withdrawal of Covered Products.** On or before the Effective Date,  
15 Defendant shall cease shipping the A Game Hooded Varsity Jacket in Red, SKU No. 4-10008-  
16 88908-6, Item No. 31110-13667, Style No. J632LTH (the “Recall Covered Product”), to stores  
17 and/or customers in California, and Defendant shall withdraw the Recall Covered Product from  
18 the market in California, and, at a minimum, send instructions to any of its stores and/or  
19 customers that offer the Recall Covered Product for sale in California to cease offering such  
20 Recall Covered Product for sale and to return all Recall Covered Product to Defendant.  
21 Defendant shall keep and make available to CEH for inspection and copying records and  
22 correspondence regarding the market withdrawal of the Recall Covered Product. If there is a  
23 dispute over the corrective action, the Parties shall meet and confer before seeking any remedy in  
24 court.

25 **3. ENFORCEMENT**

26 3.1 **Enforcement Procedures.** Prior to bringing any motion or order to show cause to  
27 enforce the terms set forth in Section 2 of this Consent Judgment, a Party seeking to enforce shall  
28 provide the violating party thirty (30) days advanced written notice of the alleged violation. The

1 Parties shall meet and confer during such thirty (30) day period in an effort to try to reach  
2 agreement on an appropriate cure for the alleged violation. After such thirty (30) day period, the  
3 Party seeking to enforce may, by new action, motion, or order to show cause before the Superior  
4 Court of Alameda, seek to enforce the terms and conditions contained in this Consent Judgment.  
5 The prevailing party on any motion to enforce this Consent Judgment shall be entitled to recover  
6 its reasonable attorney's fees and costs incurred as a result of such motion or action.

7 **4. PAYMENTS**

8 4.1 **Payments from Defendant.** Within five (5) days of the entry of this Consent  
9 Judgment, Defendant shall pay the total sum of \$45,000.

10 4.2 **Allocation of Payments.** The total settlement amount for Defendant shall be paid  
11 in four (4) separate checks made payable and allocated as follows:

12 4.2.1 Defendant shall pay the sum of \$5,900 as a civil penalty pursuant to Health  
13 & Safety Code § 25249.7(b). The civil penalty payment shall be apportioned in accordance with  
14 Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California's Office of  
15 Environmental Health Hazard Assessment ("OEHHA")). Accordingly, the OEHHA portion of  
16 the civil penalty payment in the amount of \$4,425 shall be made payable to OEHHA and  
17 associated with taxpayer identification number 68-0284486. This payment shall be delivered as  
18 follows:

19 For United States Postal Service Delivery:

20 Attn: Mike Gyurics  
21 Fiscal Operations Branch Chief  
22 Office of Environmental Health Hazard Assessment  
23 P.O. Box 4010, MS #19B  
24 Sacramento, CA 95812-4010

25 For Non-United States Postal Service Delivery:

26 Attn: Mike Gyurics  
27 Fiscal Operations Branch Chief  
28 Office of Environmental Health Hazard Assessment  
1001 I Street, MS #19B  
Sacramento, CA 95814

The CEH portion of the civil penalty payment in the amount of \$1,475 shall be made  
payable to the Center for Environmental Health and associated with taxpayer identification

1 number 94-3251981. This payment shall be delivered to Lexington Law Group, 503 Divisadero  
2 Street, San Francisco, CA 94117.

3 4.2.2 Defendant shall pay the sum of \$8,850 as payment to CEH in lieu of  
4 penalty pursuant to Health & Safety Code § 25249.7(b), and California Code of Regulations, Title  
5 11, § 3202(b). CEH will use such funds to continue its work educating and protecting people  
6 from exposures to toxic chemicals, including heavy metals. CEH may also use a portion of such  
7 funds to monitor compliance with the reformulation requirements of this and other similar  
8 Consent Judgments and to purchase and test Covered Products to confirm compliance with such  
9 reformulation requirements. In addition, as part of its *Community Environmental Action and*  
10 *Justice Fund*, CEH will use four percent (4%) of such funds to award grants to grassroots  
11 environmental justice groups working to educate and protect people from exposures to toxic  
12 chemicals. The method of selection of such groups can be found at the CEH web site at  
13 [www.ceh.org/justicefund](http://www.ceh.org/justicefund). The payment in lieu of penalty check shall be made payable to the  
14 Center for Environmental Health and associated with taxpayer identification number 94-3251981.  
15 This payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San Francisco,  
16 CA 94117.

17 4.2.3 Defendant shall pay the sum of \$30,250 as reimbursement of reasonable  
18 attorneys' fees and costs. The attorneys' fees and cost reimbursement check shall be made  
19 payable to the Lexington Law Group and associated with taxpayer identification number 94-  
20 3317175. This payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San  
21 Francisco, CA 94117.

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

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

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

1       **6.       CLAIMS COVERED AND RELEASE**

2           6.1       This Consent Judgment is a full, final, and binding resolution between CEH and  
3 Defendant and Defendant’s parents, shareholders, divisions, subdivisions, subsidiaries, partners,  
4 sister companies, and their successors and assigns (“Defendant Releasees”), and all to whom they  
5 distribute or sell Covered Products directly or indirectly 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, the  
26 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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Fred Bahari, CEO  
Cavalini, Inc.  
1536 S. Alameda Street  
Los Angeles CA 90021

Thomas H. Clarke, Jr.  
Attn.: Roxana Riedell  
Ropers Majeski Kohn & Bentley  
1001 Marshall Street, Suite 500  
Redwood City, CA 94063-2052  
Thomas.Clarke@rmkb.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,

1 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein  
2 and therein. There are no warranties, representations, or other agreements between the Parties  
3 except as expressly set forth herein. No representations, oral or otherwise, express or implied,  
4 other than those specifically referred to in this Consent Judgment have been made by any Party  
5 hereto. No other agreements not specifically contained or referenced herein, oral or otherwise,  
6 shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically  
7 contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the  
8 Parties hereto only to the extent that they are expressly incorporated herein. No supplementation,  
9 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in  
10 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent  
11 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof  
12 whether or not similar, nor shall such waiver constitute a continuing waiver.

13 **11. RETENTION OF JURISDICTION**

14 11.1 This Court shall retain jurisdiction of this matter to implement or modify the  
15 Consent Judgment.

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

17 12.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
18 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and  
19 execute the Consent Judgment on behalf of the Party represented and legally to bind that Party.

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

21 13.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim  
22 against another entity on terms that are different than those contained in this Consent Judgment.

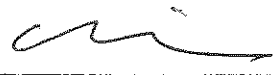
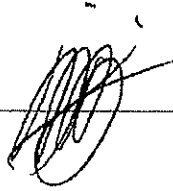
23 **14. EXECUTION IN COUNTERPARTS**

24 14.1 The stipulations to this Consent Judgment may be executed in counterparts and by  
25 means of facsimile, which taken together shall be deemed to constitute one document.

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**IT IS SO STIPULATED:**

Dated: <u>22 APRIL</u> , 2016	<b>CENTER FOR ENVIRONMENTAL HEALTH</b>   _____ Signature  <u>CHARLIE PIZZANO</u> _____ Printed Name  <u>ASSOCIATE DIRECTOR</u> _____ Title
Dated: <u>Apr. 12</u> , 2016	<b>CAVALINI, INC.</b>   _____ Signature  <u>HAIM BAHARI</u> _____ Printed Name  <u>DIRECTOR</u> _____ Title

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

Dated:

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