

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is between the Center for Environmental Health ("CEH") and Lulu's Fashion Lounge, Inc. and Lulu's Fashion Lounge Holdings, Inc. (collectively, "Lulu's Fashion") (together, the "Parties").

1. INTRODUCTION

1.1. On February 6, 2018, CEH, a non-profit corporation acting in the public interest, served a 60-Day Notice of Violation of Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.5, *et seq.*) (the "Notice") to Lulu's Fashion, the California Attorney General, the District Attorneys of every county in California, and the City Attorneys of every California city with a population greater than 750,000. The Notice alleges that Lulu's Fashion violated Proposition 65 by exposing persons to lead and lead compounds (collectively, "Lead") contained in belts without first providing a clear and reasonable warning to such persons regarding the carcinogenic or reproductive toxicity of Lead.

1.2. The Parties enter into this Agreement for the purpose of avoiding prolonged and costly litigation regarding Covered Products manufactured, distributed, and/or sold by Lulu's Fashion. By executing this Agreement, the Parties do not admit any facts or conclusions of law. Nothing in this Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with the Agreement constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in this or any other or future legal proceedings.

2. DEFINITIONS

2.1. “Accessible Component” means a component of a Covered Product that could be touched by a person during normal and reasonably foreseeable use.

2.2 “Compliance Date” means the date that is 60 days after execution of this Agreement.

2.3. “Covered Products” means belts that are Manufactured, distributed, sold, or offered for sale by Lulu’s Fashion.

2.4. “Lead Limits” means the maximum concentrations of lead and lead compounds by weight specified in Section 3.2.

2.5. “Manufactured” and “Manufactures” means to manufacture, produce, or assemble.

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

2.7. “Supplier” means a person or entity that Manufactures, imports, distributes, or supplies a Covered Product to Lulu’s Fashion.

3. INJUNCTIVE RELIEF

3.1. Specification Compliance Date. To the extent it has not already done so, no more than thirty (30) days after execution of this Agreement, Lulu’s Fashion shall provide the Lead Limits to its Suppliers of Covered Products and shall instruct each Supplier to use

reasonable efforts to provide Covered Products to Lulus that comply with the Lead Limits.

3.2. Lead Limits. Upon the Compliance Date, Lulu's Fashion shall not purchase, import, or Manufacture, or supply to an unaffiliated third party any Covered Product that will be sold or offered for sale to California consumers that exceeds the following Lead Limits:

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

3.2.2. Polyvinyl chloride ("PVC") Accessible Components: 200 ppm.

3.2.3 All other Accessible Components other than cubic zirconia (sometimes called cubic zirconium, CZ), crystal, glass, or rhinestones: 300 ppm.

For avoidance of doubt, Covered Products either purchased, imported or Manufactured by Lulu's Fashion prior to the Compliance Date are not subject to the Lead Limits, even if such products are sold in California or to California consumers after the Compliance Date

3.3. Action Regarding Specific Products.

3.3.1. Upon execution of this Agreement, Lulu's Fashion shall cease selling the Lulu's Show Time Waist Belt in Brown, Style No. 502322, Item No. PB6907, SKU No. 1AA-03-C-00 (the "Recall Covered Products") to California consumers.

3.3.2. Lulu's Fashion hereby certifies that it no longer has any of the Recall Covered Products in its inventory.

4. SETTLEMENT PAYMENTS

4.1. In consideration of the mutual covenants and releases provided in this Agreement, Lulu's Fashion shall send a total of \$25,000 as a settlement payment within five (5) days of execution of this Agreement. Any failure by Lulu's Fashion to comply with the payment terms herein shall be subject to a stipulated late payment fee of \$100 per day, which amount shall be

recoverable by CEH, together with its reasonable attorneys' fees and costs, in an enforcement proceeding brought pursuant to Section 6.1. The total payment shall be made payable and allocated as follows:

4.1.1. Civil Penalty. Lulu's Fashion shall pay the total sum of \$4,670 as a civil penalty pursuant to Health & Safety Code § 25249.7(b). The civil penalty payment shall be apportioned in accordance with Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA")).

Accordingly, the OEHHA portion of the civil penalty payment in the amount of \$3,502.50 shall be made payable to OEHHA and associated with taxpayer identification number 68-0284486.

This payment shall be delivered as follows:

For United States Postal Service Delivery:

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

For Non-United States Postal Service Delivery:

Attn: Mike Gyurics
Fiscal Operations Branch Chief
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 \$1,167.50 shall be made payable to the Center for Environmental Health and associated with taxpayer identification number 94-3251981. This payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117.

4.1.2. Attorneys' Fees and Costs. Lulu's Fashion shall pay \$20,330 to reimburse CEH and its attorneys for their reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating the alleged violations, bringing this matter to Lulu's Fashion's attention, and negotiating a settlement in the public interest. The payment made pursuant to this section shall be made in two separate checks as follows: (a) \$16,830 payable to the Lexington Law Group and associated with taxpayer identification number 94-3317175; and (b) \$3,500 payable to the Center For Environmental Health and associated with taxpayer identification number 94-3251981. These payments shall be delivered to Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117.

5. MODIFICATION OF SETTLEMENT AGREEMENT

5.1. This Agreement may be modified only by written agreement of the Parties.

6. ENFORCEMENT OF SETTLEMENT AGREEMENT

6.1. The Parties agree that any action based on a violation of this Agreement shall be brought in the Superior Court of California in Alameda County. For purposes of this Agreement, notwithstanding Section 1.2 above, the Parties agree that the Superior Court of California in Alameda County has subject matter jurisdiction over any disputes arising from this Agreement and personal jurisdiction over each of the Parties, and that venue is proper in the County of Alameda. Should a party to this Agreement prevail on any action to enforce the terms of this Agreement, it shall be entitled to reasonable attorneys' fees and costs associated with such enforcement.

6.2. Enforcement Procedures. Any Party may, after meeting and conferring, seek to enforce the terms and conditions contained in this Agreement by new action before the Superior

Court of California in Alameda County. Enforcement of the terms and conditions of Section 3.2 of this Agreement shall be brought exclusively pursuant to Sections 6.3 through 6.4.

6.3. Notice of Violation. CEH may seek to enforce the requirements of Section 3.2 by issuing a Notice of Violation pursuant to this Section 6.3.

6.3.1. Service of Notice. CEH shall serve the Notice of Violation on Lulu's Fashion within 45 days of the date the alleged violation(s) was or were observed, provided, however, that: (i) CEH may have up to an additional 45 days to provide Lulu's Fashion with the test data required by Section 6.3.2(d) below if it has not yet obtained it from its laboratory; and (ii) CEH may serve a Notice of Violation to a supplier of a Covered Product so long as: (a) the identity of the supplier cannot be discerned from the labeling of the Covered Product; and (b) the Notice of Violation to the supplier is served within 45 days of the date the supplier is identified by CEH.

6.3.2. Supporting Documentation. The Notice of Violation shall, at a minimum, set forth for each Covered Product: (a) the date(s) the alleged violation(s) was observed, (b) the location at which the Covered Product was offered for sale, (c) a description of the Covered Product giving rise to the alleged violation, and of each material or component that is alleged not to comply with the Lead Limits, including a picture of the Covered Product and all identifying information on tags and labels, and (d) all test data obtained by CEH regarding the Covered Product and related supporting documentation, including all laboratory reports, quality assurance reports and quality control reports associated with testing of the Covered Products. Such Notice of Violation shall be based at least in part upon total acid digest testing performed by an independent accredited laboratory. Wipe, swipe, x-ray fluorescence, and swab testing are not by themselves sufficient to support a Notice of Violation, although any such testing may be

used as additional support for a Notice. The Parties agree that the sample Notice of Violation attached hereto as Exhibit A is sufficient in form to satisfy the requirements of subsections (c) and (d) of this Section 6.3.2.

6.3.3. Additional Documentation. CEH shall promptly make available for inspection and/or copying upon request by and at the expense of Lulu's Fashion, all supporting documentation related to the testing of the Covered Products and associated quality control samples, including chain of custody records, all laboratory logbook entries for laboratory receiving, sample preparation, and instrumental analysis, and all printouts from all analytical instruments relating to the testing of Covered Product samples and any and all calibration, quality assurance, and quality control tests performed or relied upon in conjunction with the testing of the Covered Products, obtained by or available to CEH that pertains to the Covered Product's alleged noncompliance with Section 3 and, if available, any exemplars of Covered Products tested.

6.3.4. Multiple Notices. If Lulu's Fashion has received more than four Notices of Violation in any 12-month period, at CEH's option, CEH may seek whatever fines, costs, penalties, or remedies are provided by law for failure to comply with this Agreement. For purposes of determining the number of Notices of Violation pursuant to this Section 6.3.4, the following shall be excluded:

- (a) Multiple notices identifying Covered Products Manufactured for or sold to Lulu's Fashion from the same Vendor; and
- (b) A Notice of Violation that meets one or more of the conditions of Section 6.4.3(c).

6.4. Notice of Election. Within thirty (30) days of receiving a Notice of Violation

pursuant to Section 6.3, including the test data required pursuant to 6.3.2(d), Lulu's Fashion shall provide written notice to CEH stating whether it elects to contest the allegations contained in the Notice of Violation ("Notice of Election"). Failure to provide a Notice of Election shall be deemed an election to contest the Notice of Violation. Any contributions to the Fashion Accessory Testing Fund required under this Section 6.4 shall be made payable to The Center for Environmental Health and included with Lulu's Fashion's Notice of Election.

6.4.1. Contested Notices. If the Notice of Violation is contested, the Notice of Election shall include all then-available documentary evidence regarding the alleged violation, including any test data. Within thirty (30) days the Parties shall meet and confer to attempt to resolve their dispute. Should such attempts at meeting and conferring fail, CEH may file an enforcement action pursuant to Section 6.2. If Lulu's Fashion withdraws its Notice of Election to contest the Notice of Violation before any action concerning the violations alleged in the Notice of Violation is filed pursuant to Section 6.2, Lulu's Fashion shall make a contribution to the Proposition 65 Fashion Accessory Testing Fund in the amount of \$12,500 and shall comply with all of the non-monetary provisions of Section 6.4.2. If, at any time prior to reaching an agreement or obtaining a decision from the Court, CEH or Lulu's Fashion acquires additional test or other data regarding the alleged violation, it shall promptly provide all such data or information to the other Party.

6.4.2. Non-Contested Notices. If the Notice of Violation is not contested, Lulu's Fashion shall include in its Notice of Election a detailed description of corrective action that it has undertaken or proposes to undertake to address the alleged violation. Any such correction shall, at a minimum, provide reasonable assurance that the Covered Product will no longer be offered by Lulu's Fashion or its customers for sale in California. If there is a dispute

over the sufficiency of the proposed corrective action or its implementation, CEH shall promptly notify Lulu's Fashion and the Parties shall meet and confer before seeking the intervention of a Court to resolve the dispute. In addition to the corrective action, Lulu's Fashion shall make a contribution to the Fashion Accessory Testing Fund in the amount of \$10,000, unless one of the provisions of Section 6.4.3 applies.

6.4.3. Limitations in Non-Contested Matters.

(a) If it elects not to contest a Notice of Violation before any motion concerning the violation(s) at issue has been filed, the monetary liability of Lulu's Fashion shall be limited to the contributions required by Section 6.4.2 and this Section 6.4.3, if any.

(b) For non-contested Notices of Violation, only one required contribution may be assessed as to any particular Covered Product.

(c) The contribution to the Fashion Accessory Testing Fund shall be:

(i) One thousand seven hundred fifty dollars (\$1,750) if Lulu's Fashion, prior to receiving and accepting for distribution or sale the Covered Product identified in the Notice of Violation, obtained test results demonstrating that all of the materials or components in the Covered Product identified in the Notice of Violation complied with the applicable Lead Limits, and further provided that (a) such test results meet the same quality criteria to support a Notice of Violation as set forth in Section 6.3.2 or are otherwise considered an appropriate method of testing and (b) that the testing was performed within two years prior to the date of the

sales transaction on which the Notice of Violation is based. Lulu's Fashion shall provide copies of such test results and supporting documentation to CEH with its Notice of Election;

(ii) Not required or payable, if the Notice of Violation identifies the same Covered Product or Covered Products, differing only in size or color, that have been the subject of another Notice of Violation within the preceding 12 months; or

(iii) Not required or payable, if the Notice of Violation identifies a Covered Product that was purchased, imported or Manufactured by Lulu's Fashion prior to the Compliance Date. Lulu's Fashion may demonstrate the applicability of this provision through documentary evidence, for example, a purchase order or invoice.

7. APPLICATION OF SETTLEMENT AGREEMENT

7.1. This Agreement shall apply to and be binding upon the Parties hereto, their divisions, subdivisions, and subsidiaries, and the successors or assigns of any of them.

8. CLAIMS COVERED

8.1. To the extent that Lulu's Fashion has complied with all of its obligations under Section 4 hereof, this Settlement Agreement is a full, final and binding resolution between CEH on behalf of itself and the public interest and Lulu's Fashion, and its parents, subsidiaries, affiliated entities that are under common ownership, directors, officers, employees, and attorneys ("Defendant Releasees"), and each entity to whom they directly or indirectly distribute or sell Covered Products, including but not limited to distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees ("Downstream Defendant Releasees")

of any violation of Proposition 65 that was or could have been asserted against Lulu's Fashion, Defendant Releasees, and Downstream Defendant Releasees, based on failure to warn about alleged exposure to Lead contained in Covered Products that were sold by Lulu's Fashion prior to the Compliance Date.

8.2. Compliance with the terms of this Agreement by Lulu's Fashion constitutes compliance by Lulu's Fashion with Proposition 65 for purposes of exposures to Lead from the Covered Products.

9. SPECIFIC PERFORMANCE

9.1. The Parties expressly recognize that Lulu's Fashion's obligations under this Agreement are unique. In the event that Lulu's Fashion is found to be in breach of this Agreement for failure to comply with the provisions of Section 3 hereto, the Parties agree that it would be extremely impracticable to measure any resulting damages and that such breach would cause irreparable damage. Accordingly, CEH, in addition to any other available rights or remedies, may sue in equity for specific performance, and Lulu's Fashion expressly waives the defense that a remedy in damages will be adequate.

10. GOVERNING LAW

10.1. The terms of this Agreement shall be governed by the laws of the State of California.

11. PROVISION OF NOTICE

11.1. All notices required pursuant to this Agreement and correspondence shall be sent by first class mail and electronic mail to the following:

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

For Lulu's Fashion: Aaron M. Wais
Mitchell Silberberg & Knupp LLP
11377 W. Olympic Blvd.
Los Angeles, California 90064
amw@msk.com

12. ENTIRE AGREEMENT

12.1. This Agreement 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. 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 Agreement have been made by any Party hereto. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto only to the extent that they are expressly incorporated herein. No supplementation, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

13. NO EFFECT ON OTHER SETTLEMENTS

13.1. Nothing in this Agreement shall preclude CEH from resolving any claim against any entity that is not Lulu's Fashion on terms that are different from those contained in this Agreement.

14. EXECUTION IN COUNTERPARTS


14.1. The stipulations to this Agreement may be executed in counterparts by electronic mail, which taken together shall be deemed to constitute one document.

15. AUTHORIZATION

15.1. Each signatory to this Agreement certifies that he or she is fully authorized by the party he or she represents to stipulate to this Agreement and to enter into and execute the Agreement on behalf of the party represented and legally bind that party. The undersigned have read, understand, and agree to all of the terms and conditions of this Agreement. Except as explicitly provided herein, each party is to bear its own fees and costs.

AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH



Charlie Pizarro
Associate Director

Dated: 16 Nov 2018

**LULU'S FASHION LOUNGE, LLC AND
LULU'S FASHION LOUNGE HOLDINGS, INC.**

Signature

Dated: _____

Printed Name

Title

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AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH

Charlie Pizarro
Associate Director

Dated: _____

**LULU'S FASHION LOUNGE, INC. AND
LULU'S FASHION LOUNGE HOLDINGS, INC.**

Crystal Landsem

Signature

Dated: Nov 15, 2018

Crystal Landsem

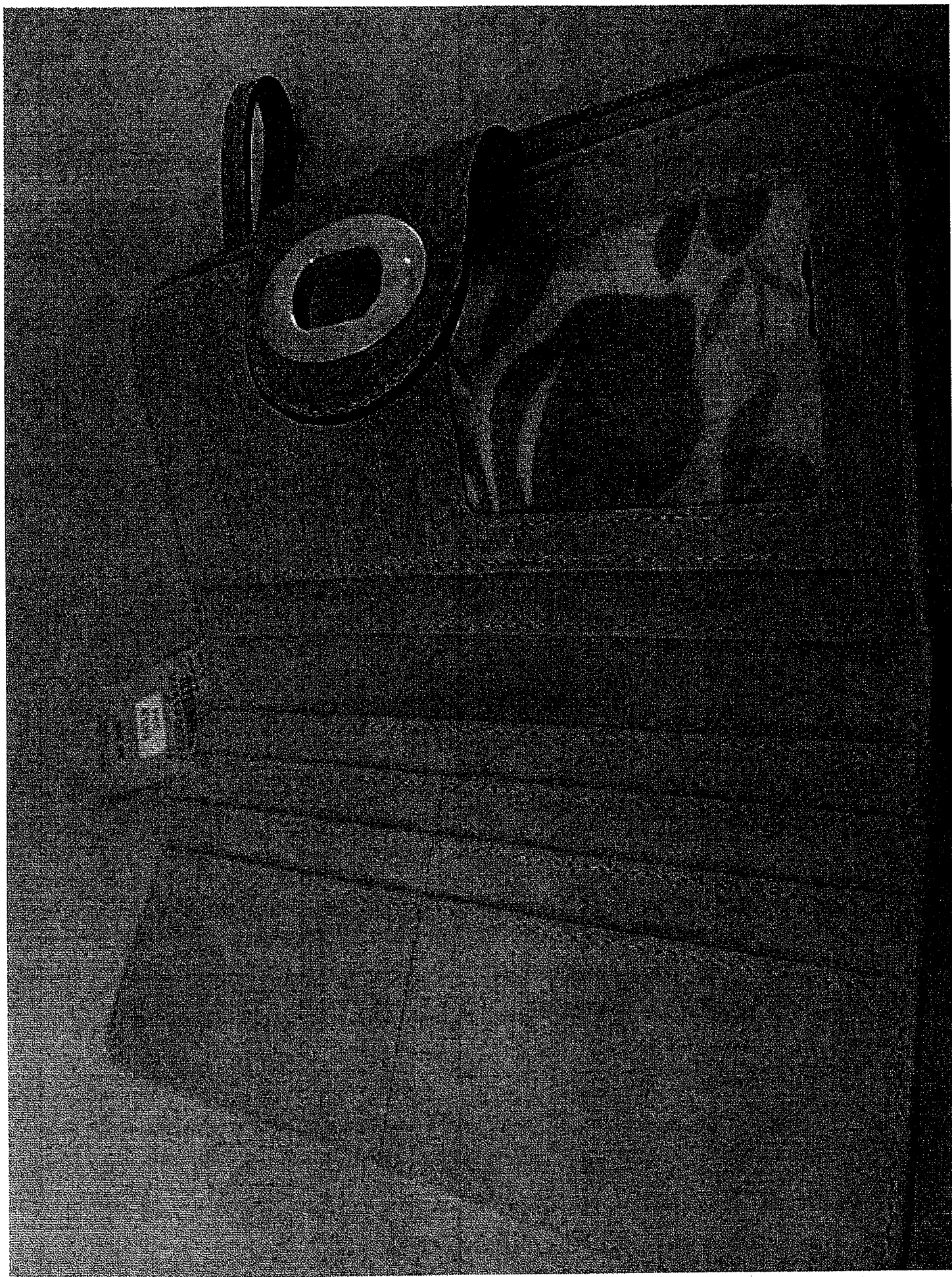
Printed Name

CFO

Title

Exhibit A





Lead			
Lab #:	281148	Location:	Lead in Fashion Accessories
Client:	Center for Environmental Health	Prep:	EPA 3050B
Project#:	FASHION ACCESSORIES	Analysis:	EPA 6020
Analyte:	Lead	Diln Fac:	100.0
Field ID:	FAT5243-BLUSH ZIP WALLET	Batch#:	240126
Lab ID:	281148-001	Sampled:	09/14/16
Matrix:	Miscell.	Received:	09/15/16
Units:	mg/Kg	Prepared:	10/13/16
Basis:	as received	Analyzed:	10/20/16

Result	RL
1,800	220

RL= Reporting Limit

Batch QC Report

Lead			
Lab #:	281148	Location:	Lead in Fashion Accessories
Client:	Center for Environmental Health	Prep:	EPA 3050B
Project#:	FASHION ACCESSORIES	Analysis:	EPA 6020
Analyte:	Lead	Diln Fac:	100.0
Type:	BLANK	Batch#:	240126
Lab ID:	QC855565	Prepared:	10/13/16
Matrix:	Miscell.	Analyzed:	10/20/16
Units:	mg/Kg		

Result	RL
ND	0.52

ND= Not Detected
RL= Reporting Limit

Batch QC Report

Lead			
Lab #:	281148	Location:	Lead in Fashion Accessories
Client:	Center for Environmental Health	Prep:	EPA 3050B
Project#:	FASHION ACCESSORIES	Analysis:	EPA 6020
Analyte:	Lead	Batch#:	240126
Matrix:	Miscell.	Prepared:	10/13/16
Units:	mg/Kg	Analyzed:	10/20/16
Diln Fac:	25.00		

Type	Lab ID	Spiked	Result	%REC	Limits	RPD	Lim
BS	QC855566	26.82	30.31	113	80-125		
BSD	QC855567	25.16	29.33	117	80-125	3	20

RPD= Relative Percent Difference

FILE: /home/robert/Downloads/Agreement%20-%2020200625.doc

11/15/2018

Created: 11/15/2018

By: Naomi Beckman-Straus (naomi.beckmanstraus@lulus.com)

Status: Signed

Transaction ID: CBJCHBCAABAA0DkvgjCgjCcAzTHBdR-0_E8V0Fmtb9PG

11/15/2018 - 3:35:53 PM PST- IP address: 50.236.24.122



11/15/2018 - 3:36:23 PM PST



11/15/2018 - 3:37:18 PM PST- IP address: 66.249.84.196



Signature Date: 11/15/2018 - 3:37:34 PM PST - Time Source: server- IP address: 50.232.189.138



11/15/2018 - 3:37:34 PM PST