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10 Attorneys for Defendant  
11 HERMES OF PARIS, INC.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF SAN FRANCISCO**

14 MATEEL ENVIRONMENTAL JUSTICE  
15 FOUNDATION,

16 Plaintiff,

17 v.

18 HERMES OF PARIS, INC.,

19 Defendant.

Case No. CGC-23-607957

**[PROPOSED] CONSENT JUDGMENT**

Complaint Filed: July 27, 2023

First Amended Complaint Filed: November 9, 2023

1 **1. INTRODUCTION**

2 1.1 On or about April 5, 2023 and November 7, 2023, plaintiff MATEEL  
3 ENVIRONMENTAL JUSTICE FOUNDATION ("MEJF" or "Plaintiff") served 60-Day Notices of  
4 Violation ("Notices") on the California Attorney General, the district attorneys for the counties of Los  
5 Angeles, Orange, San Diego, San Francisco and Santa Clara; and the city attorneys for the cities of: Los  
6 Angeles, San Francisco, San Jose and San Diego, as well as on HERMES OF PARIS, INC. ("Hermes"  
7 or "Settling Defendant"). The Notices alleged that Hermes violated Proposition 65 (Health & Saf. Code  
8 § 25249.6, et seq. or the "Act") by marketing in California, crystal glassware that are commonly used as  
9 drinking vessels, including, but not limited to tumblers, decanters, wine glasses, champagne flutes, and  
10 cocktail glasses in each case that contain intentionally added lead ("Covered Products"), without  
11 providing clear and reasonable Proposition 65 warnings to its customers. On July 27, 2023, MEJF filed  
12 the present Proposition 65 complaint initiating an enforcement action seeking civil penalties and to enjoin  
13 Hermes from violating the warning provisions of Health & Safety Code section 25249.6 ("Complaint").  
14 Plaintiff and Hermes are hereafter sometimes referred to collectively as the "Parties."

15 1.2 Hermes denies all material, factual and legal allegations contained in the Complaint and  
16 maintains that all Covered Products that were sold and distributed in California have been and are in  
17 compliance with all laws and further contends that no violation of Proposition 65 has occurred. Nothing  
18 in this Consent Judgment shall be construed as an admission by Hermes of any fact, finding, issue of law  
19 or violation of Proposition 65 or any other law; nor shall compliance with this Consent Judgment  
20 constitute or be construed as an admission by Hermes of any fact, finding, conclusion, issue of law or  
21 violation of Proposition 65 or any other law. Hermes maintains that it has at all times complied with the  
22 warning requirements of Proposition 65. Plaintiff and Hermes stipulate to this Consent Judgment to  
23 resolve all allegations that Hermes violated Proposition 65.

24 1.3 Glassware made from crystal glass as defined by categories 3 and/or 4 of Annex I of the  
25 European Union's Council Directive 69/493 EEC and that contain no intentionally added lead as any  
26 ingredient in the product shall be referred to herein as "Crystalline." Crystalline may sometimes contain  
27 occasional and inadvertent trace amounts of lead.  
28

1.4 MEJF has tested dozens of examples of Crystalline. The analytical results of these tests reveal that Crystalline does not leach lead into food or beverages stored in or served from it in amounts that would cause lead exposures that require a Proposition 65 warning. Ten identical samples of crystalline wine glasses were subjected to a leach test using 4% (pH 2.1, which is the pH of common cola drinks) acetic acid as a leaching solution. Ten additional identical samples of Crystalline were subjected to a leach test using an acetic acid solution with a pH of 3.1, the approximate pH of white wine. The analytical method's detection limit for the analysis on both sets of samples was 0.6 micrograms per liter. Test results for all twenty samples of Crystalline were uniformly non-detect for lead. These results demonstrate that, even assuming lead was present in the leaching solution just below the 0.6 microgram per liter detection limit, a person would have to drink more than a full bottle of wine per day, every day to result in a potential exposure of 0.5 micrograms of lead.

1.5 For purposes of this Consent Judgment, "Covered Products" does not include Crystalline nor decorative objects such as by way of example vases and candleholders.

1.6 The "Effective Date" of this Consent Judgment shall be the date Hermes receives notice from MEJF that it has been entered by the Court.

1.7 "Authorized Retailer" means an entity to which Hermes sells Covered Products and that may sell Covered Products to California consumers.

## 2. CLEAR AND REASONABLE WARNINGS

### 2.1 Leaded Crystal

2.1.1 No later than 180 days after the Effective Date of this Consent Judgment, clear and reasonable warnings that use of Covered Products expose persons to lead, a chemical known to the State of California to cause cancer and birth defects or other reproductive harm, shall be provided by Settling Defendant in the manner provided in either subsections 2.1.2 (Option A) or 2.1.3 (Option B) in the sole and absolute discretion of Settling Defendant, and 2.1.4 below.

2.1.2 Option A: On-Package or On-Product Warnings. Settling Defendant shall ensure that Covered Products offered for sale by Settling Defendant and its Authorized Retailers, in each case in their California retail stores, bear either on-product *or* on-package Proposition 65 warnings as to cancer and reproductive toxicity, at the discretion of Hermes. Such warnings shall meet the content requirements

described in 27 Cal. Code Regs. § 25603 and the type size requirements described in 27 Cal. Code Regs. § 25602, or as the applicable warning regulations may be amended by the Office of Environmental Health Hazard Assessment. If “consumer information,” as that term is defined 27 Cal. Code Regs. § 25600.1(c) or as it may be amended, is provided on the label in a language other than English, then the warning must also be provided in that language in addition to English. If Settling Defendant complies with the requirements contained in this Section 2.1.2 (Option A), then Settling Defendant is not required to display warning signs by complying with requirements in Section 2.1.3 (Option B) et seq. even if Settling Defendant offers for sale both Covered Products and Crystalline.

2.1.3. **Option B: Warning Signs**. If Settling Defendant does not provide a Proposition 65 warning on the Covered Products and/or their packaging as described in Section 2.1.2 (Option A), then Settling Defendant may comply with the terms of the Mangini Consent Judgment, which shall be deemed compliant with this Consent Judgment, by notifying its Authorized Retailers of their warning obligations in accordance with Section 2.1.3.3 below and by posting Warning Signs (as defined in Paragraph 13 of Mangini) in Settling Defendant’s California stores in accordance with Section 2.1.3.4. below. The Mangini Consent Judgment, as entered August 23, 2001, is attached hereto as **Exhibit 1**. The size of the Warning Signs may vary, as described in Paragraph 13 of the Mangini Consent Judgment.

2.1.3.1. **Covered Product AND Crystalline Sales**. Where Settling Defendant elects to comply with Section 2.1.3 (Option B), for Covered Products displayed and offered for sale at Settling Defendant’s stores located in California that sell both Covered Products and Crystalline, Settling Defendant shall post Warning Signs of the same size, and bearing the same warning message as required by Paragraph 13 of the Mangini Consent Judgment and placed in California retail establishments pursuant to Paragraph 14 of the Mangini Consent Judgment. In addition, except as provided below, Covered Products sold in such stores shall have on the glassware itself a sticker/sign identifying them as Leaded Crystal, stating either “Lead”, “Lead Crystal”, “Leaded Crystal”, or some combination of the foregoing (“Leaded Crystal Identification”). Such Leaded Crystal Identification must be visible to an average consumer at an arm’s length distance.

2.1.3.2. **Covered Product Sales Only**. For Settling Defendant’s California locations that display and offer for sale Covered Product only, and no Crystalline, there is no requirement that Settling Defendant provide the Leaded Crystal Identification if the Mangini warning is modified to state: “**WARNING:** The

glassware sold in this store can expose you to lead, a chemical known to the State of California to cause birth defects and other reproductive harm.”

2.1.3.3. **Authorized Retailers.** Settling Defendant will notify its Authorized Retailer of their warning obligations pursuant to Paragraphs 13 and 15 of the Mangini Consent Judgment by providing a copy of the Warning Sign and a letter providing instruction for display of the warnings to California consumers. Settling Defendant shall also provide to its Authorized Retailers a list of Covered Product SKUs to which the Warning Sign or other warnings to California consumers pertain, unless the only glassware Settling Defendant sells to its Authorized Retailers are Covered Products (no Crystalline), in which case the notice shall so state. Settling Defendant’s notification to Authorized Retailers will also state that Authorized Retailers should comply with Sections 2.1.3.1. or 2.1.3.2., or otherwise provide information that allows ordinary consumers to understand while shopping which specific products are subject to the warning. Attached as **Exhibit 2** is a template letter that Hermes may use to comply with this Section.

2.1.3.4. Warning Signs or signs with the modified alternate warning under subsections 2.1.3.1. or 2.1.3.2. shall be placed in accordance with Paragraph 14 of the Mangini Consent Judgment, which means they must be posted in every place in the store in which Covered Products are displayed and offered for sale, and Warning Signs shall not be covered or obscured, and shall be placed and displayed in a manner rendering them likely to be read and understood by an ordinary individual under customary conditions of purchase.

2.1.4 **Online or Catalogue Sales.** For online or catalogue sales of Covered Products shipped to California consumers from websites owned or operated by Settling Defendant or its affiliates, Settling Defendant agrees to provide clear and reasonable warnings on the product display page [or that are otherwise compliant with Proposition 65’s implementing regulations, including California Code of Regulations, title 27, § 25602(b)-(c), or as may be amended by OEHHA]. For online or catalogue sales of Covered Products by Authorized Retailers, Hermes shall provide the notifications detailed in Paragraph 16 of the Mangini Consent Judgment.

## 2.2 **Crystalline**

2.2.1 Proposition 65 warnings are not required for Crystalline.

3. **MONETARY TERMS**

3.1 Settling Defendant shall pay a total sum of \$210,000 to resolve MEJF's claims.

3.2 **Attorneys' Fees:** No later than thirty (30) business days after the Effective Date of this Consent Judgment (as defined in Section 1.6 hereof), Hermes shall pay the sum of \$190,000 by ACH wire transfer to the "Klamath Environmental Law Center" as complete reimbursement for any and all expenses and attorneys' fees incurred by MEJF in this matter relating to allegations of violations of the Consent Judgment. The reimbursement shall cover all attorneys' fees, investigative fees, testing and expert fees, and all other fees and expenses of any kind incurred by MEJF investigating, bringing this matter to Settling Defendant's attention, negotiating the settlement of the matter, and obtaining court approval of this Consent Judgment.

3.3 **Civil Penalty:** No later than thirty (30) business days after the Effective Date of this Consent Judgment, the sum of \$ 20,000 in civil penalties shall become due. This civil penalty payment shall be divided as follows: \$15,000 shall be paid to the Office of Environmental Health Hazard Assessment ("OEHHA") as California's share of the civil penalties assessed in this case; and \$5,000 shall be paid to plaintiff, MEJF, as MEJF's share of the civil penalties assessed in this case. The payments required by this Section 3 shall be made by separate payments via ACH or wire transfer.

4. **FURTHER MITIGATION**

4.1 An additional \$40,000 of the Civil Penalty (the "Additional Civil Penalty") will be held in abeyance by Hermes. If within twelve (12) months after this Consent Judgment is approved and entered by the Court, Hermes certifies to Plaintiff in writing (the "Cessation Letter") that it will stop selling Covered Products into California within twenty-four (24) months of the date of the Cessation Letter, then the Additional Civil Penalty shall be further held in abeyance for that twenty-four (24) month period. Upon Settling Defendant's compliance with the cessation of sales of Covered Products into California, then the Additional Civil Penalty held in abeyance shall no longer be due or payable. After the cessation of sales of Covered Products into the state, Settling Defendant shall be entitled to sell through existing California inventory of Covered Products.

If Hermes does not (1) send the Cessation Letter, or (2) in fact cease sales of Covered Products in accordance with the Cessation Letter, then the Additional Civil Penalty shall be paid within thirty (30)

1 days of the end of the twelve (12) month notice period or the twenty four (24) month cessation period,  
2 and shall be made payable as follows: \$30,000 shall be paid to OEHHA as California's share of the civil  
3 penalties assessed in this case; and \$10,000 shall be paid to plaintiff, MEJF, as MEJF's share of the civil  
4 penalties assessed in this case.

5 **5. ENFORCEMENT**

6 5.1 Plaintiff agrees that before initiating any enforcement action under this Consent Judgment,  
7 which cannot occur until 180 days after the Effective Date, it will provide written notice of the alleged  
8 violation to Settling Defendant. The notice of alleged violation shall include an identification of each of  
9 Settling Defendant's California stores that allegedly sold or are selling Covered Products without a  
10 compliant warning under this Consent Judgment, or otherwise identify the Covered Product at issue sold  
11 by an Authorized Retailer. The notice shall include all allegations of sales of Covered Products without a  
12 warning as of the date of such notice, including any alleged brands or styles of such Covered Products sold  
13 without a warning, photographic evidence and the specific dates of such alleged sales. Provided that after  
14 the first notice of alleged violation of this Consent Judgment, Settling Defendant corrects such alleged  
15 violation and provides evidence to MEJF at the address specified in Section 8.4 hereof within 30 days of  
16 that first notice, Settling Defendant shall have no monetary or other liability of any kind for such alleged  
17 violation. Should the alleged violation be based on sales of Covered Products by Authorized Retailers or  
18 other retailers that Hermes does not sell to directly, Hermes shall not be liable assuming it has complied  
19 with either Option A or Option B of Section 2 of this Consent Judgment. Any subsequent notice of alleged  
20 violation of this Consent Judgment ("Subsequent Alleged Violations") shall provide information that  
21 specifically identifies (such as the product number or UPC Code) the Covered Products that are the subject  
22 of the Subsequent Alleged Violation and photographic evidence of such Subsequent Alleged Violation.  
23 Within 14 days of the Settling Defendant's receipt of any notice of Subsequent Alleged Violation, the  
24 Parties shall meet and confer in good faith (which so called meet and confer may be by telephone or virtual  
25 meeting) for a period of up to 45 days to determine if an appropriate resolution can be reached. If no  
26 resolution can be reached concerning any Subsequent Alleged Violation, MEJF may bring a motion to  
27 enforce the terms of this Consent Judgment. If as part of the motion to enforce the terms of this Consent  
28 Judgment, MEJF establishes that the Settling Defendant was in violation of this Consent Judgment, then



MEJF may file a motion under Civil Procedure Code section 1021.5 for an award of attorneys' fees and costs to compensate MEJF for its attorneys reasonable time and costs of investigating and prosecuting the Subsequent Alleged Violation. No Party shall bring a motion to enforce the terms of this Consent Judgment without first providing written notice to the other Party and substantively meeting and conferring about the alleged violation for a period of at least 45 days. Only the Parties or a public prosecutor of Proposition 65 may enforce this Consent Judgment.

**6. MATTERS COVERED BY THIS CONSENT JUDGMENT/PUBLIC RELEASE**

6.1 Plaintiff acting on its own behalf and, with regard to those matters raised in any NOV and/or Complaint in this matter, in the public interest, releases Hermes, as well as its affiliates, subsidiaries, divisions, successors, assigns, suppliers, distributors, licensors, licensees, retailers, and/or customers (collectively, "Releasees"), from any and all claims for violations of Proposition 65 up through and including 180 days after the Effective Date based on actual sales and alleged exposure to lead and lead compounds from Covered Products. As to Covered Products, this Consent Judgment is a full, final and binding resolution between Plaintiff, acting on its own behalf on the one hand, and Hermes and its Releasees on the other hand, of any actual or alleged violation of Proposition 65 and of any other statutory, regulatory or common law claim that could have been asserted against Hermes and/or its Releasees, including those alleged in the NOVs and/or the Complaint (as may be amended) in this matter, and/or its failure to provide clear, reasonable, and lawful warnings of alleged or actual exposure to lead in Covered Products manufactured, sold, offered for sale or distributed by, for, or on behalf of Settling Defendant. As to Covered Products and Crystalline products, compliance with the terms of this Consent Judgment resolves any issue, now and in the future, concerning compliance by Settling Defendant and/or its Releasees with the requirements of Proposition 65 and the Unfair Competition Act with respect to Covered Products. On and after the Effective Date, as to Covered Products, compliance by Hermes with the terms of this Consent Judgment resolves any issue, past, present and in the future, concerning compliance by Hermes and non-retailer Releasees with the requirements of Proposition 65, subject to the terms of Section 2. On and after the Effective Date, as to Covered Products sold by retailer Releasees, including Authorized Retailers, to the extent (1) Hermes complies with Section 2.1.2, or (2) the Authorized Retailers comply with Settling Defendant's instruction as described in Section 2.1.3.3 above), this Consent Judgment resolves any issue,



1 past, present and in the future, concerning compliance by that retailer Releasee with the requirements of  
2 Proposition 65.

3 **7. COMPREHENSIVE AND GLOBAL RELEASE**

4 7.1 As to Covered Products, and on behalf of itself, its agents and attorneys, MEJF, releases  
5 and forever discharges any and all claims against Settling Defendant, and fully discharges Settling  
6 Defendant and its Releasees from all claims for violations of Proposition 65 prior to and including 180  
7 days after the Effective Date of this Consent Judgment based on exposure to lead and lead compounds from  
8 Covered Products including but not limited to as set forth in the Notices. Compliance with the terms of  
9 this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to lead and  
10 lead compounds from Covered Products as set forth in the Notices.

11 7.2 As to Covered Products, this Consent Judgment shall be effective as a full and final accord,  
12 satisfaction and release by MEJF on its own behalf (and not on behalf of the public interest) as to Hermes  
13 and its past, present, and future parents, subsidiaries, divisions, successors, assigns, suppliers, distributors,  
14 licensors, licensees, retailers, and/or customers of and from any and all matters hereby released, MEJF, on  
15 its own, and on behalf of its agents and attorneys, acknowledges familiarity with and understanding of  
16 California Civil Code § 1542, which provides as follows:

17 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
18 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
19 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE  
20 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED  
PARTY.

21 To the extent that Section 1542 or any similar law or statute may otherwise apply to this Consent Judgment,  
22 or the claims released, MEJF hereby waives and relinquishes as to all matters released hereunder all rights  
23 and benefits it has, or may have, under Section 1542 or under the laws or common law of any other  
24 jurisdiction to the same or similar effect. MEJF further acknowledges on its own behalf (and not on behalf  
25 of the public interest) that subsequent to the execution of this Consent Judgment, MEJF may discover  
26 claims that were unsuspected at the time this Consent Judgment was executed, and which might have  
27 materially affected its decision to execute this Consent Judgment, but nevertheless MEJF on its own behalf  
28 (and not on behalf of the public interest) releases Hermes and its past, present, and future parents,

1 subsidiaries, divisions, successors, assigns, suppliers, distributors, licensors, licensees, retailers, and/or  
2 customers from any and all such claims whether known or unknown, suspected or unsuspected, at the time  
3 of the execution of this Consent Judgment.

4 **8. MISCELLANEOUS**

5 8.1 This Consent Judgment is entered into to resolve disputed claims concerning Hermes's  
6 compliance with Proposition 65 and this Consent Judgment. Nothing in this Consent Judgment shall be  
7 construed as an admission of any fact, conclusion of law, issue of law, or violation of law or the Consent  
8 Judgment, nor shall compliance with the Consent Judgment or this Consent Judgment constitute or be  
9 construed as an admission of any fact, conclusion of law, issue of law, or violation of law. This Consent  
10 Judgment and/or compliance with its terms may not be used in any proceeding as an admission or evidence  
11 of any fact, wrongdoing, violation, misconduct, culpability, or liability on the part of Hermes.

12 8.2 Governing Law: The terms of this Consent Judgment shall be governed by the laws of the  
13 State of California and apply within the State of California. In the event that Proposition 65 is repealed,  
14 preempted, or is otherwise amended or rendered inapplicable by reason of law generally, or as to any of  
15 the Covered Products or any of the alleged violations set forth in any of the Notice and Action, then Hermes  
16 may provide Plaintiff with written notice of any asserted change in the law, and shall have no further  
17 injunctive obligations pursuant to this Consent Judgment, with respect to, and to the extent that, the  
18 Products and/or any requirement set forth in this Consent Judgment is affected by such a change in the law.  
19 Nothing in this Consent Judgment shall be interpreted to relieve Hermes from its obligation to comply with  
20 any other applicable state or federal law or regulation.

21 The Parties agree that if the Office of Environmental Health Hazard Assessment ("Lead Agency")  
22 changes any of its applicable regulations, including its warning regulations, then the Parties shall meet  
23 and confer to determine whether they can stipulate that Hermes may either conform with the revised  
24 regulations or continue to conform with the terms provided in this Consent Judgment if the new  
25 implementing regulations so allow. If the Parties cannot reach agreement, then Hermes may file a motion  
26 to modify this Consent Judgment to permit it the option to warn by conforming with the Lead Agency's  
27 revised warning regulation.

8.3 Joint Preparation: The Parties have jointly participated in the preparation of this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. Accordingly, any uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to be resolved against the drafting Party should not be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

8.4 Notice: Unless specified herein, all correspondence and notice required or permitted by this Consent Judgment shall be in writing and sent by: (a) personal delivery; (b) first-class registered or certified mail, return receipt requested; or (c) a recognized overnight courier to any Party by the other at the following addresses. In addition to (a), (b), or (c) above, any notice required or permitted by this Consent Judgment shall also be provided via electronic mail if an email address is provided for the recipient below:

To Hermes:  
Hermes Legal Department  
550 Madison Avenue  
New York, NY 10022

To MEJF:  
William Verick, Esq.  
Klamath Environmental Law Center  
P.O. Box 1128  
Arcata, CA 95518  
wverick@igc.org

With a copy to:  
Will Wagner, Esq.  
Greenberg Traurig  
400 Capitol Mall, Suite 2400  
Sacramento, CA 95814  
Will.Wagner@gtlaw.com

Any Party may, from time to time, specify in writing to the other Party a change of address to which all notices and other communications shall be sent.

8.5 Modification: This Consent Judgment may be modified only by: (a) written agreement of the Parties and entry of a modified Consent Judgment by the Court thereon; (b) upon a successful motion of any Party and the entry of a modified Consent Judgment by the Court thereon. Any Party seeking to modify this Consent Judgment shall attempt in good faith to meet and confer with all affected Parties prior to filing a motion to modify the Consent Judgment.

1        8.6    Sole and Entire Agreement: Except as stated above, this Consent Judgment contains the  
2 sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof,  
3 and any and all prior discussions, negotiations, commitments and understandings related hereto are merged  
4 herein. No representations, oral or otherwise, express or implied, other than those contained herein have  
5 been made by any Party hereto with respect to the subject matter hereof. No other agreements not  
6 specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties with  
7 respect to the subject matter hereof.

8        8.7    Authority to Stipulate: Each signatory to this Consent Judgment certifies that he or she is  
9 fully authorized by the Party he or she represents to enter into this Consent Judgment and to execute it on  
10 behalf of the Party represented and legally to bind that Party.

11       8.8    Execution in Counterparts: This Consent Judgment may be executed in counterparts and/or  
12 by facsimile or pdf, which taken together shall be deemed to constitute one original document.

13       8.9    Continuing Jurisdiction: The court shall retain jurisdiction in this Action for the purposes  
14 of enforcing this Consent Judgment and/or, at the request of one or both of the parties and on noticed  
15 motion, to modify its terms.

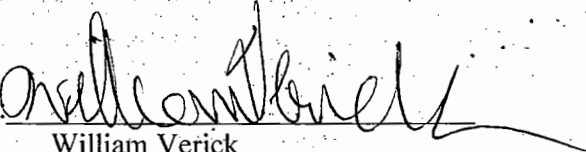
16       8.10   Court Approval: If the Court does not approve this Consent Judgment within one (1) year  
17 after it is submitted to the Court for approval, it shall be of no force or effect and cannot be used in any  
18 proceeding for any purpose.

19       8.12   Compliance with Reporting Requirements: Plaintiff and its counsel agree to comply with  
20 the reporting form requirements referenced in California Health & Safety Code § 25249.7(f).

21       IT IS SO STIPULATED:

22  
23       DATED: 12-12-2024

KLAMATH ENVIRONMENTAL LAW CENTER

24  
25       By:   
26           William Verick  
27           Attorneys for Plaintiff  
28           MATEEL ENVIRONMENTAL  
                JUSTICE FOUNDATION

HERMES OF PARIS, INC.

DATED: 12 December 2024

DocuSigned by:  
Philippe Bruere  
19DD46FBDE864EE  
By: Philippe Bruere, EVP and CFO

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

**EXHIBIT 1**

ROBERT L. FALK (BAR NO. 142007)  
AARON P. AVILA (BAR NO. 211722)  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, California 94105-2482  
Telephone: (415) 268-7000

Lead Attorneys for Defendants

ENDORSED  
FILED  
San Francisco County Superior Court

AUG 23 2001

GOREN BARKLI, Clerk  
BY: \_\_\_\_\_  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

JANET C. MANGINI, on behalf of the general  
public,

Plaintiff,

v.

ACTION INDUSTRIES, INC.; ACTION  
INTERNATIONAL, LTD.; AEGIS  
ENTERPRISE, INC. d/b/a OFNAH TRADING  
CO.; ALEXANDER INDUSTRIES CORP.;  
ALEXANDER INDUSTRIES LTD.;  
AMERICAN COMMERCIAL  
INCORPORATED; AMERICAN CUT  
CRYSTAL CORP.; ANCHOR HOCKING  
GLASS CORP. (a Member of the Newell  
Group); ANNA HUTTE GmbH  
KRISTALLGLASFABRIK; AVON  
PRODUCTS, INC.; BACCARAT, INC.;  
BADASH, JACK INC.; BEYER & CO. GmbH  
KRISTAUGLASFABRIKEN; BLOCK CHINA  
CORPORATION; BORMIOLI ROCCO GLASS  
CO., INC.; BUFFALO CHINA, INC.;  
BUNRATTY CRYSTAL LTD.; C.A.L.P. SpA.  
CARTIER, INCORPORATED; CAVAN  
CRYSTAL GROUP LTD.; CAVAN IRISH  
CRYSTAL LTD; CESKA, INC.; CFC DAUM  
INC.; CFC DAUM ITALIA SpA; CFC DAUM  
PTL LTD; CLAUS JOSEPH RIEDEL,  
TIROLER GLASSHUTTE Ges.M.G.H.;  
COLLE SRL; COLONY (a Division of  
Lancaster Colony Corp.); COMPAGNIE des  
CRISTALLERIES de BACCARAT;  
COMPAGNIE des CRISTALLERIES de SAINT  
LOUIS; COMPAGNIE FRANCAISE du

(Consolidated Matters)  
Nos. 932724, 931884, 938173

**[PROPOSED] ORDER ENTERING  
MODIFIED CONSENT JUDGMENT**

Hearing Date: August 23, 2001  
Time: 9:30 a.m.  
Dept.: 302  
Judge: A. James Robertson, II  
Date Action Filed: May 30, 1991  
Trial Date: N/A

Document received by the CA 1st District Court of Appeal.

[Proposed] Order Entering Modified Consent Judgment

sf-1138904

AA00062



- 1 CRISTAL-DAUM; CRISA CORPORATION;
- 2 CRISAL-CRISTAIS DE ALCOBACA, S.A.;
- 3 CRISTALLERIE ARTISTICA LA PIANA SpA;
- 4 CRISTALLERIES DE LORRAINE; CRYSTAL
- 5 CLEAR INDUSTRIES; CRYSTAL DESIGNS
- 6 OF TIPPERARY, LTD.; CRYSTAL
- 7 GIFTWARE INC.; DANSK INTERNATIONAL
- 8 DESIGNS, LTD.; DARTINGTON CRYSTAL
- 9 LIMITED; DAUM BOUTIQUE; DESIGN
- 10 GUILD; DEVON CRYSTAL LIMITED;
- 11 DINNERWARE PLUS, (CA) INC.; D. J.
- 12 TABLEWARE, INC.; DONEGAL CRYSTAL
- 13 USA INC.; DUBLIN CRYSTAL GLASS CO.
- 14 (IRELAND) LIMITED; THE EDINBURGH
- 15 CRYSTAL GLASS COMPANY LTD.; ESSEX
- 16 MARKETING INC.; EUFORT, INC.; 5TH
- 17 (FIFTH) AVENUE CRYSTAL LTD; F.X
- 18 NACHTMANN BLEIKRISTALLWERKE
- 19 GmbH; GALLO DESIGN GmbH; GALWAY
- 20 CRYSTAL US, INC.; GLASSEXPOT CO.,
- 21 LTD.; GLASWERKE WARMENSTEINACH;
- 22 GODINGER INTERNATIONAL INC.;
- 23 GODINGER SILVER ART, LTD.; GOEBEL
- 24 ART GmbH; GOEBEL UNITED STATES (a
- 25 Division of Goebel Art GmbH); GOLD LEAF
- 26 TRADING INC.; GORHAM, INC.;
- 27 HOFBAUER BLEIKRISTALL; HOYA
- 28 CORPORATION-CRYSTAL DIVISION;
- HOYA CRYSTAL USA; IMPERIAL
- CRYSTALS & CHINA CO., INC.; IMPORT
- ASSOCIATES (a Division of Imtrac Industries,
- Inc.); IMPORT ASSOCIATES, INC.;
- IMPORTS BY ASTRAL, INC.; IMTRAC
- INDUSTRIES, INC.; INN CRYSTAL GLASS
- GmbH; INN CRYSTAL VERTRIEBSQES &
- CO. GmbH; JACQUES JUGEAT, INC.; JONAL
- CRYSTAL LTD.; KAGAMI CRYSTAL CO.,
- LTD.; K&M MOSTNY, INC.; KENWOOD
- SILVER COMPANY, INC.; KILLYBEGS
- CRYSTAL, LTD.; KOSTA BODA USA, LTD.;
- KRISTALLGLASFABRIK SPIEGELAU
- GmbH; LALIQUE; LALIQUE S.A.;
- LANCASTER COLONY CORPORATION;
- LENOX, INCORPORATED; M. LEUPOLD
- GmbH; LIBBEY GLASS, INC.; LOUISE
- GLASS COMPANY, INC.; MANUFACTURE
- DE CRISTAUX DU VAL SAINT LAMBERT
- SA/NU; MAXWELL CRYSTAL, INC.;
- MIKASA, INC.; MILLER IMPORT CORP.
- MILLER ROGASKA, CRYSTAL; MILLER-
- ROGASKA INC.; MOSTNY, INC.;
- NACHTMANN U.S.A., INC.; NANCY
- CALHCUN INC.; NEUWIRTH CO. INC.;
- NEWELL COMPANY; NORITAKE CO., INC.
- (USA); NORITAKE CO., LIMITED (JAPAN).

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1 ONEIDA DISTRIBUTION SERVICES, INC.;  
 2 ONEIDA FACTORY STORES; ONEIDA  
 3 FOOD SERVICE DIVISION; ONEIDA  
 4 INTERNATIONAL, INC.; ONEIDA LTD.;  
 5 ONEIDA SAVINGS PLAN; ONEIDA  
 6 SILVERSMITHS DIVISION; ORREFORS,  
 7 INC.; PASABAHCE; PASABAHCE TICARET  
 8 LIMITED SIRKETI; PITMAN-DREITZER;  
 9 POLO RALPH LAUREN CORPORATION;  
 10 PRINCESS HOUSE, INC.; RCR, INC.;  
 11 ROGASKA CRYSTAL BY MILLER  
 12 ROGASKA; ROSENTHAL NORTH  
 13 AMERICA; ROSENTHAL USA LIMITED;  
 14 ROYAL BRIERLEY; ROYAL BRIERLEY  
 15 CRYSTAL INC.; ROYAL BRIERLEY  
 16 CRISTAL LTD.; ROYAL CRYSTAL ROCK,  
 17 INC.; ROYAL DOULTON USA INC.; ROYAL  
 18 MONARCH, LTD.; RUSSIAN AMERICAN  
 19 COMMERCIAL CORP.; SAINT LOUIS  
 20 CRISTAL DE FRANCE, INC.; SANT'  
 21 ANDREA S.r.l.; SASAKI GLASS CO. LTD.;  
 22 SASAKI, INC.; SAXONY, INC.; SCHOTT  
 23 CORPORATION; SCHOTT-ZWIESEL  
 24 GLASS, INC.; SCHOTT-ZWIESEL-  
 25 GLASWERKE AG; SCULPTURED CRYSTAL  
 (IRELAND) LTD.; SOCIETE NOUVELLE  
 DES CRISTALLERIES DE LORRAINE;  
 STEKLARNA BORIS KIDRIC ROGASKA  
 SLATINA SLOVENIJA; ST. GEORGE  
 CRYSTAL LTD.; STUART & SONS  
 LIMITED; STYLESETTERS; SULLIVAN  
 INC.; SVEND JENSEN OF DENMARK, INC.;  
 TABLEWARE & GIFTS, INC.; TAMCON  
 AND COMPANY; TAMCON INC.; TIFFANY  
 AND COMPANY; THE LIGHTERS; THE LS  
 COLLECTION; TOSCANY CLASSICS LTD.;  
 TUDOR CRYSTAL LIMITED; TYRONE  
 CRYSTAL LIMITED; ULLMANNGLASS;  
 U.S.T.I., INCORPORATED; VAL SAINT  
 LAMBERT USA, INC.; VERWALTUNGS  
 GmbH; VILLEROY & BOCH AG;  
 VILLEROY & BOCH S.a.r.l.; VILLEROY &  
 BOCH TABLEWARE LTD.; VITROCRISA  
 KRISTAL S.A. DE C.V.; WATERFORD  
 WEDGWOOD P.L.C. (and its subsidiaries and  
 affiliates); WMF/HUTSCHENREUTHER  
 PARTNERSHIP USA (d/b/a WMF  
 HUTSCHENREUTHER USA),

Defendants.

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# **MODIFIED CONSENT JUDGMENT**

## **I. INTRODUCTION**

1. On May 30, 1991, Plaintiff Janet C. Mangini (hereinafter, "Plaintiff") filed a Complaint for Damages and Injunctive Relief (No. 932724, hereinafter, the "Mangini II Complaint") in this court (hereinafter, "Court"), naming BACCARAT, INC.; LALIQUE; GALWAY IRISH CRYSTAL U.S.A., INC.; JJF MARTEL; WATERFORD WEDGEWOOD; WATERFORD WEDGEWOOD RETAIL, INC.; ORREFORS; MACY'S CALIFORNIA, INC.; SHREVE & CO.; GUMPS; and DOES 1 through 200 as defendants (hereinafter "Defendants").

2. Plaintiff previously filed, and subsequently amended, two additional complaints in this Court (respectively, Nos. 931884 and 938173, hereinafter, the "Mangini I and Mangini III Amended Complaints") against some or all of the Defendants, as well as against HOYA CRYSTAL, KOSTA BODA, and SAKS & COMPANY.

3. Prior to filing this Consent Judgment, Plaintiff amended the Mangini II Complaint to include additional named defendants and legal theories. Upon further motion, this Court entered an order allowing the amended Mangini II Complaint to be consolidated with the Mangini I and III Amended Complaints for the purposes of this Consent Judgment. (The amended Mangini II Complaint and the Mangini I and III Amended Complaints are hereinafter referred to as the "Consolidated Complaints" and the defendants named in the Consolidated Complaints are hereinafter referred to as the "Settling Defendants".)

4. The Settling Defendants are deemed to have appeared in this action and are beneficiaries of this Consent Judgment. The names of the Settling Defendants to which the modifications of this Consent Judgment proposed in July 2001 apply appear on Exhibit 1 hereto and shall be deemed to include their successors and assigns, all of whom shall be deemed to have intervened and have been joined in the Consolidated Complaints pursuant to sections of the Code of Civil Procedure 387 and 379.

5. Those Defendants named in the Mangini II Complaint and/or in the Mangini I and III Amended Complaints, but not in the Consolidated Complaints are not appearing in this action, but nevertheless may be beneficiaries of the Consent Judgment pursuant to Section V herein.

6. The Consolidated Complaints are based on allegations that the Settling Defendants violated certain provisions of Cal. Business and Professions Code §§ 17200 et seq. (hereinafter, "Unfair Competition Act") and the Safe Drinking Water and Toxic Enforcement Act of 1986, Cal. Health & Safety Code §§ 25249.6 et seq. (hereinafter, "Proposition 65"), by knowingly exposing individuals in the State of California to lead through the manufacture, distribution, and sale of crystal products containing lead used with food or beverages (hereinafter, "Leaded Crystal Products"), including, among others, certain decanters, glasses, and other serveware, without first providing clear and reasonable warnings to persons who could potentially be exposed to lead through the use of such products.

7. Since the filing of the Mangini I Complaint, the Settling Defendants have implemented a system which is intended to provide potential purchasers of Leaded Crystal Products with warnings pursuant to Proposition 65. The language and format of the warnings were discussed by representatives of the Settling Defendants with the Attorney General's Office prior to their implementation. Since the entry of this Consent Judgment, the Settling Defendants have also reviewed the language, format, and placement of the warnings originally required by this Consent Judgment with the Attorney General's office on several occasions, including subsequent to the following: 1) the effective date that Proposition 65 warnings became required for exposures to lead with respect to its listing as a carcinogen under 22 Cal. Code Regs. section 12000, and 2) the receipt by certain Settling Defendants and Subsidiary Settling Parties (as defined in Paragraph 31 below) of 60-day notices issued pursuant to Health and Safety Code section 25249.7(d) alleging that such notice recipients had failed to comply with Proposition 65's warning requirements and the terms of the Consent Judgment with respect to exposures

1 to lead from Leaded Crystal Products. The modified warning requirements appearing in  
2 Section II below reflect the outcome of these discussions and have been approved of by  
3 the Attorney General's office (see Exhibit 2).

4 8. For purposes of this Consent Judgment only, Plaintiff and the Settling  
5 Defendants stipulate that this Court has jurisdiction over the allegations of violations  
6 contained in the Consolidated Complaints and personal jurisdiction over the Settling  
7 Defendants as to the acts alleged in the Consolidated Complaints, that venue is proper in  
8 the City and County of San Francisco, and that this Court has jurisdiction to enter this  
9 Consent Judgment as a full and final resolution of the allegations contained in the  
10 Consolidated Complaints and any and all causes of action that may have been or were  
11 asserted therein.

12 9. Plaintiff and the Settling Defendants enter into this Consent Judgment to  
13 resolve the disputed claims of the Consolidated Complaints and all matters raised by the  
14 facts alleged therein or otherwise implicated by exposures to lead in Leaded Crystal  
15 Products, to avoid prolonged litigation, and to insure that the objectives of Proposition 65  
16 and the Unfair Competition Act are expeditiously carried out in furtherance of the public  
17 interest. The Modification of this Consent Judgment moved for by Settling Defendants in  
18 July 2001 addresses certain developments that have transpired following the entry of the  
19 Consent Judgment (such as the entrance of new companies into the business of  
20 manufacturing, distributing, selling and/or using Leaded Crystal Products; lessons  
21 learned regarding the distribution, placement, and viewing of warning signs; the advent  
22 of sales via the Internet; etc.) and also serves to ensure that the objectives of  
23 Proposition 65 and the Unfair Competition Act will continue to be expeditiously carried  
24 out in furtherance of the public interest.

25 10. By execution of this Order, the Settling Defendants do not admit any  
26 violations of Proposition 65, the Unfair Competition Act, or other statutes or causes of  
27 action that may apply to the facts alleged in the Consolidated Complaints. Nothing in  
28 this Consent Judgment shall be construed as an admission by the Settling Defendants of

1 any fact, issue of law or violation of law, nor shall compliance with this Consent  
2 Judgment constitute or be construed as an admission by the Settling Defendants of any  
3 fact, issue of law or violation of law. Nothing in this Consent Judgment shall prejudice,  
4 waive or impair any right, remedy or defense the Settling Defendants may have in any  
5 other or future legal proceeding. However, this Paragraph shall not diminish or otherwise  
6 affect the obligations, responsibilities and duties of the Settling Defendants under this  
7 Consent Judgment.

8 11. The agreement reflected in this Consent Judgment has been reviewed and  
9 approved of by the California Attorney General in a letter dated April 2, 1993. The  
10 Modifications to this Consent Judgment moved for in July 2001 have also been submitted  
11 to and reviewed by the California Attorney General, who has approved of the  
12 Modifications to the Warning Program as described below (see Exhibit 2).

13 II. WARNING PROGRAM/CONTINUING INJUNCTIVE RELIEF

14 12. Clear and reasonable warning that use of Leaded Crystal Products exposes  
15 persons to lead, a chemical known to the State of California to cause cancer and birth  
16 defects or other reproductive harm, shall be provided by the Settling Defendants in the  
17 manner provided in Paragraphs 13, 15, and 17 below. Upon receiving the written  
18 agreement of the Attorney General's Office, a Settling Defendant may provide warnings  
19 in an alternative manner to the requirements of this Paragraph. No warnings shall be  
20 required pursuant to this Paragraph where a Settling Defendant has provided the Attorney  
21 General's Office with data demonstrating that there is no detectable leaching of lead  
22 from a Leaded Crystal Product at least sixty (60) days in advance of making such product  
23 available for sale in the State of California.

24 13. By no later than June 30, 1993, each Settling Defendant, or an entity  
25 acting on its behalf, shall mail to the central purchasing office for all distributors and  
26 retail stores with whom it transacts business for sale of Leaded Crystal Products in  
27 California: 1) at least five copies of the sign contained in Exhibit A (hereinafter, the  
28 "Warning Sign"), printed on 65-pound cover stock and 2) a letter explaining the warning

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1 program and providing posting instructions. The Warning Sign shall be 8-1/2" by 11" in  
2 size and shall have the exact content, form, and print style as Exhibit A. The letter and  
3 warning instructions referred to in this Paragraph shall contain the text shown in  
4 Exhibit B, and shall contain no further information or statements without the advance  
5 written approval of the California Attorney General's Office. Beginning in 2001, the  
6 Warning Signs and posting instructions contained in Exhibits 3 and 4 may be used by  
7 sellers of Leaded Crystal Products in California in lieu of those contained in Exhibits A  
8 and B. The size of this Warning Sign may vary between 4 x 6 inches and 8 x 10 inches  
9 as described in the posting instructions contained in Paragraph 14 and Exhibit 4 below.  
10 The exact content of the language appearing on the Warning Sign shown on Exhibit 3  
11 must be employed unless: (a) the seller does not offer for sale in stores located in  
12 California, any of the goods appearing in the asterisk-marked footnoted list of  
13 exemptions (in which case it may, at its option, omit the footnote), or (b) the California  
14 Attorney General's office has otherwise provided written authorization allowing for  
15 variance. Notwithstanding the foregoing, minor variances concerning the general form  
16 and print style used for the Warning Sign may occur, provided that the variance does not  
17 materially alter the general layout or overall conspicuousness or legibility of the Warning  
18 Sign. Beginning no later than September 1, 2001, Settling Defendants or an entity acting  
19 on their behalf, shall, provide at least one copy each of the Warning Sign contained in  
20 Exhibit 3 and the posting instructions contained on Exhibit 4, free of charge, to the  
21 central purchasing office (or other designated representative) of each person with whom  
22 they then, or at any time in the future begin: 1) to do business and 2) can reasonably  
23 foresee the likelihood of selling Leaded Crystal Products in California based upon the  
24 acquisition of knowledge (if any) concerning the location to which the Leaded Crystal  
25 Products will be shipped and the location of the retail outlets at which the Leaded Crystal  
26 Products are most likely to be sold ("In-State Distributors and Retailers"). Thereafter,  
27 Settling Defendants or an entity acting on their behalf, shall provide such In-State  
28 Distributors and Retailers with such additional copies of the Warning Sign and posting



1 instructions contained in Exhibits 3 and 4 as these In-State Distributors and Retailers may  
 2 reasonably request. Beginning no later than September 1, 2002, Settling Defendants or  
 3 an entity acting on their behalf, shall also, at least annually, provide such In-State  
 4 Distributors and Retailers, free of charge, with a written reminder in the form of Exhibit 5  
 5 (or its reasonable equivalent) of the need for compliance with warning requirements  
 6 defined by this Consent Judgment (as modified). Settling Defendants, or an entity acting  
 7 on their behalf, may choose to supplement any the warning materials required to be  
 8 disseminated pursuant to this paragraph with an overall summary describing the  
 9 Proposition 65 warning program for Leaded Crystal Products; unless otherwise approved  
 10 in advance by the California Attorney General's office, such summary shall be in the  
 11 form shown on Exhibit 6 (or its reasonable equivalent).

12 14. Warning Signs shall be placed in each California retail establishment in  
 13 which any of the Settling Defendants' Leaded Crystal Products are sold by no later than  
 14 July 31, 1993. Where a retail establishment sells only leaded crystal products that do not  
 15 require a warning, it is not required to post the Warning Sign. Warning Signs shall not be  
 16 covered or obscured, and shall be placed and displayed in a manner rendering them likely  
 17 to be read and understood by an ordinary individual under customary conditions of  
 18 purchase. Specifically, unless otherwise approved in advance by the California Attorney  
 19 General, such signs shall be placed as follows:

20 a. Department stores or other stores with separate check-out for  
 21 tableware department: For a store selling Leaded Crystal Products in a physically  
 22 separate department or section, which contains cash registers within such department or  
 23 section that are used primarily to purchase items sold in that department or section, signs  
 24 shall be placed at each cash register in that section or department, and at a minimum of  
 25 two additional locations where Leaded Crystal Products are displayed within the section  
 26 or department. Alternatively, the warning may be provided through: (a) a 4-inch by 6-  
 27 inch warning sign with the language in Exhibit 3 at, on, or adjacent to each check-out  
 28 counter, sales register, cash stand, or cash wrap in that section or department, or (b) on a

1 shelf where the Leaded Crystal Product is displayed; or (c) as specified in subparagraph  
2 14.b (as modified) below.

3 b. Large stores without a separate check-out for tableware  
4 department: any store that sells Leaded Crystal Products and has more than 7,500 square  
5 feet of floor space and that uses one or more check-out stands for all merchandise  
6 purchased at the store, a single sign shall be posted at each location where Leaded Crystal  
7 Products are displayed, plus as many additional signs as are necessary to assure that any  
8 potential purchaser of tableware would be reasonably likely to see a Warning Sign.  
9 Alternatively, the warning may be provided either by: (a) posting an 8-inch by 10-inch  
10 warning sign with the language shown in Exhibit 3 at each location where Leaded Crystal  
11 Products are or may be displayed, in a manner such that any potential purchaser of  
12 Covered Products would be reasonably likely to see a warning sign, and the warning  
13 signs may be free-standing, placed on the wall, hung, or displayed in any manner; or (b)  
14 posting a 4-inch by 6-inch warning sign with the language shown in Exhibit 3 on a shelf  
15 where the Leaded Crystal Product is displayed.

16 c. Small stores without a separate check-out for tableware  
17 department: any store that sells Leaded Crystal Products and has 7,500 square feet or less  
18 of total floor space, and uses one or more check-out stands for all merchandise purchased  
19 at the store, shall post signs in the manner provided in (a) or (b) above (as modified).

20 15. By no later than June 30, 1993, each Settling Defendant, or an entity  
21 acting on its behalf, shall mail to the central purchasing office for each company which it  
22 knows or has reason to know sells such a Settling Defendant's Leaded Crystal Products to  
23 residents of California by mail: 1) a copy of the Warning Sign and 2) a letter explaining  
24 the warning program and providing instructions for distribution of the warnings to  
25 California consumers. The letter and instructions referred to in this Paragraph shall  
26 contain the text shown in Exhibit C and shall contain no further information or statements  
27 without the advance written approval of the California Attorney General's Office.  
28 Beginning in 2001, the instructions contained in Exhibit 7 may be used by mail order,

1 Internet, and other direct marketers of Leaded Crystal Products in lieu of those contained  
2 in Exhibit C. Beginning no later than September 1, 2001, Settling Defendants or an  
3 entity acting on their behalf, shall provide at least one copy of the instructions contained  
4 on Exhibit 7, free of charge, to the central purchasing office (or other designated  
5 representative) of each person with whom they then, or at any time in the future begin: 1)  
6 to do business and 2) can reasonably foresee the likelihood of selling Leaded Crystal  
7 Products to customers located in California through direct marketing vehicles such as  
8 mail order or Internet sales based upon: a) authorizations given to the seller allowing  
9 them to offer such Leaded Crystal Products for sale to customers located in California, b)  
10 the geographical location of the seller within the United States, and c) extent of  
11 knowledge (if any) that the seller has in fact previously shipped the supplied Leaded  
12 Crystal Products to customers located in California ("Mail Order/Internet Direct  
13 Marketers"). Thereafter, Settling Defendants or an entity acting on their behalf, shall  
14 provide such Mail Order/Internet Direct Marketers with such additional copies of the  
15 instructions contained in Exhibit 7 as these Mail Order/Internet Direct Marketers may  
16 reasonably request. Beginning no later than September 1, 2002, Settling Defendants or  
17 an entity acting on their behalf, shall also, at least annually, provide such Covered Mail  
18 Order/Internet Direct Marketers with a written reminder in the form of Exhibit 5 (or its  
19 reasonable equivalent) of the need for compliance with warning requirements defined by  
20 this Consent Judgment (as modified). Settling Defendants, or an entity acting on their  
21 behalf, may choose to supplement any the warning materials required to be disseminated  
22 pursuant to this paragraph with an overall summary describing the Proposition 65  
23 warning program for Leaded Crystal Products; unless otherwise approved in advance by  
24 the California Attorney General's office, such summary shall be in the form shown on  
25 Exhibit 6 (or its reasonable equivalent).

26 16. Where a Settling Defendant's Leaded Crystal Products are available for  
27 sale by mail order/Internet Direct Marketers to residents of the State of California, clear  
28 and reasonable warning shall be provided by no later than July 31, 1993 by including a

1 warning, either in the mail order catalog or brochure/Internet Website or with the Leaded  
2 Crystal Product when it is shipped to California customers as follows:

3 a. Mail Order Catalog or Brochure/Internet Website. The following  
4 warning message shall be stated within the catalog or brochure, on the inside front cover,  
5 on the same page as any order form, or on the same page as the price, in at least 12 point  
6 type: "Prop 65 WARNING: Use of the leaded crystal tableware for sale in this catalog  
7 or brochure will expose you to lead, a chemical known to the State of California to cause  
8 birth defects or other reproductive harm." If not all of the items for sale in the catalog or  
9 brochure require a warning, the following shall be used as an alternative to the preceding  
10 warning message: "Prop 65 WARNING: Use of the following brands of leaded crystal  
11 tableware for sale in this catalog or brochure will expose you to lead, a chemical known  
12 to the State of California to cause birth defects or other reproductive harm: [Insert  
13 Listing of Brand Names and Exceptions]." Beginning in 2001, the warning language  
14 described in this paragraph may also be used by Internet sellers of Leaded Crystal  
15 Products sold to California residents, provided that the warning message shall be  
16 displayed (or, upon the internet site user's identification that they are either a California  
17 resident or that they are placing an order to be provided to a California resident,  
18 automatically appear) either: (a) on the same page on which a Leaded Crystal Product is  
19 displayed, (b) on the same page as any order form for a Leaded Crystal Product, or (c) on  
20 the same page as the price for any Leaded Crystal Product.

21 b. Package Insert or Label. Alternatively, a warning may be provided  
22 with the Leaded Crystal Products when they are shipped by Mail Order/Internet Direct  
23 Marketers, by (a) inserting a card or slip of paper measuring at least 4" by 6" in a  
24 shipping carton, (b) affixing a pressure-sensitive label measuring at least standard  
25 business-card size on the face of the shipping carton, or (c) printing the warning on the  
26 packing slip or customer invoice identifying the Leaded Crystal Product in lettering of  
27 the same size as the description of the Leaded Crystal Product. The warning shall read as  
28 follows: "Prop 65 WARNING: Use of this product will expose you to lead, a chemical

1 known to the State of California to cause birth defects or other reproductive harm. You  
2 may return this product for a full refund within 30 days of receipt, if you wish. You may  
3 also obtain a list of each brand of leaded crystal tableware for which the same warning is  
4 given." Beginning in 2001, the quoted sentence immediately preceding this sentence  
5 may be deleted from the required language.

6 17. By no later than June 30, 1993, each Settling Defendant, or an entity  
7 acting on its behalf, shall mail to the central purchasing office for all restaurant suppliers  
8 or each restaurant or other food service establishment with whom it transacts business for  
9 the commercial use of Leaded Crystal Products in California: 1) at least two copies of the  
10 warning sign contained in Exhibit D, printed on 65-pound cover stock and 2) a letter  
11 explaining the warning program and providing posting instructions. The warning sign  
12 referred to in this paragraph shall be 8-1/2" by 11" in size and shall have the exact  
13 content, form, and print style as Exhibit D. The letter and instructions referred to in this  
14 Paragraph shall contain the text shown in Exhibit E and shall contain no further  
15 information or statements without the advance written approval of the California  
16 Attorney General's Office. Beginning in 2001, the Warning Signs contained in Exhibit 8  
17 may be used by restaurants, wineries, and other food service establishments in California  
18 in lieu of that contained in Exhibits D. For wineries, the size of the Warning Sign may  
19 vary between 4 x 6 inches and 8 x 10 inches in a manner consistent with that described in  
20 the posting instructions contained in Exhibit 9. Beginning no later than September 1,  
21 2001, Settling Defendants or an entity acting on their behalf, shall, provide at least one  
22 copy each of the Warning Sign contained in Exhibit 8 and the posting instructions  
23 contained in either Exhibit 9 (for ultimate use at a winery) or Exhibit 10 (for ultimate use  
24 at a restaurant or food service establishment other than at a winery) to the central  
25 purchasing office (or other designated representative) of each person with whom they  
26 then, or at any time in the future begin: 1) to do business and 2) can reasonably foresee  
27 the likelihood of selling or using Leaded Crystal Products at a restaurant, winery or other  
28 food service establishment in California based upon the acquisition of knowledge (if any)

1 concerning the location to which the Leaded Crystal Products will be shipped and the  
 2 location of the restaurant/winery/food service outlets at which the Leaded Crystal  
 3 Products are most likely to be sold or used ("California Food Service Distributors and  
 4 Establishments"). Thereafter, Settling Defendants or an entity acting on their behalf,  
 5 shall provide such California Food Service Distributors and Establishments with such  
 6 additional copies of the Warning Sign and posting instructions contained in Exhibits 8, 9,  
 7 and/or 10, as these California Food Service Distributors and Establishments may  
 8 reasonably request. Beginning no later than September 1, 2002, Settling Defendants, or  
 9 an entity acting on their behalf, shall also, at least annually, provide such California Food  
 10 Service Distributors and Establishments, free of charge, with a written reminder in the  
 11 form of Exhibit 5 (or its reasonable equivalent) of the need for compliance with warning  
 12 requirements defined by this Consent Judgment (as modified). Settling Defendants, or an  
 13 entity acting on their behalf, may choose to supplement any the warning materials  
 14 required to be disseminated pursuant to this paragraph with an overall summary  
 15 describing the Proposition 65 warning program for Leaded Crystal Products; unless  
 16 otherwise approved in advance by the California Attorney General's office, such  
 17 summary shall be in the form shown on Exhibit 6 (or its reasonable equivalent).

18 18. Restaurants, hotels, and other food service establishments in California  
 19 shall provide clear and reasonable warning, whenever a Settling Defendant's Leaded  
 20 Crystal Products are used for service of food consumed by their customers, by posting an  
 21 8-1/2" by 11" sign with the exact content, form, and print style as Exhibit D by no later  
 22 than July 31, 1993. The sign shall be printed on at least 65-pound cover stock.  
 23 Beginning in 2001, the Warning Sign contained in Exhibit 8 may be used by restaurants,  
 24 other food service establishments, or wineries in California in lieu of those contained in  
 25 Exhibits D and, for wineries, the size of the Warning Signs may vary between 4 x 6  
 26 inches and 8 x 10 inches in a manner consistent with that described in the posting  
 27 instructions contained in Exhibit 9.

28 19. A Settling Defendant that has complied with the terms of Paragraphs 13,

1 15, and 17 above (including as modified) shall not be found to have violated this Consent  
 2 Judgment where a retail store, distributor, mail order supplier, Internet seller, restaurant  
 3 supplier, restaurant, winery, or any other person required to provide Proposition 65  
 4 warnings for Leaded Crystal Products (including another Settling Defendant) fails to  
 5 provide such warnings.

6 III. SETTLEMENT CONSIDERATION, FEES, AND COSTS

7 20. Within sixty (60) days of entry of this Consent Judgment, the Settling  
 8 Defendants shall pay the sum of \$362,500.00 to the University of California  
 9 San Francisco School of Pharmacy, San Francisco, California, a tax-exempt, educational  
 10 organization under Section 501(c)(3) of the Internal Revenue Code.

11 21. The funds paid pursuant to Paragraph 20 shall be used in support of the  
 12 School of Pharmacy's lead research and lead-related programs as specified in Exhibit F.

13 22. Payment shall be made by certified check delivered to the School of  
 14 Pharmacy, University of California -- San Francisco, San Francisco, California 94143-  
 15 0446 (Attn. George L. Kenyon, Dean).

16 23. Within sixty (60) days of entry of this Consent Judgment, the Settling  
 17 Defendants shall also pay the sum of \$60,000 to the California Public Health Foundation,  
 18 Berkeley, California, a tax-exempt, charitable organization under Section 501(c)(3) of the  
 19 Internal Revenue Code.

20 24. The funds paid pursuant to Paragraph 23 shall be used for scientific,  
 21 educational, and research purposes relating to educating the public, health professionals,  
 22 and others about the risks of exposure to lead. Specific decisions as to the education,  
 23 prevention, and research program will be made by the California Public Health  
 24 Foundation in consultation with experts in public health, health education, and risk  
 25 communication, including prior consultation with a representative or designee of the  
 26 Settling Defendants.

27 25. Payment shall be made by certified check delivered to the California  
 28 Public Health Foundation, 2001 Addison Street, Suite 210, Berkeley, California 94704



(Attn. James B. Simpson, General Counsel).

26. Within 60 days of entry of this Consent Judgment, the Settling Defendants shall also pay the sum of \$322,500.00 in attorney fees and \$50,000 in costs to Plaintiff's attorneys.

27. Payment shall be tendered jointly to Bushnell, Caplan & Fielding and Milberg Weiss Bershad Spechtrie & Lerach and mailed to the attention of Alan M. Caplan, Esq., Bushnell, Caplan & Fielding, 901 Market Street, Suite 230, San Francisco, California 94103.

#### IV. ENTRY OF JUDGMENT

28. This Consent Judgment shall be effective only upon the determination by this Court, made on motion and with the opportunity for hearing, that this is a good faith settlement in the public interest. None of the terms of this Consent Judgment will be binding unless and until this Consent Judgment is entered. Likewise the Modification to this Consent Judgment moved for in July 2001 shall be effective only upon the determination by this Court, made on motion and with the opportunity for hearing, that, this Consent Judgment, as modified, remains a good faith settlement in the public interest.

#### V. MATTERS COVERED BY THIS CONSENT JUDGMENT

29. This Consent Judgment is a full and final judgment and settlement applying to all Settling Defendants and all Subsidiary Settling Parties (as defined by Paragraph 31 below) for all claims, violations, actions, damages, costs, penalties or causes of action under Proposition 65, the Unfair Competition Act, and any other statutes and causes of action that may apply to the facts alleged by Plaintiff or otherwise may have arisen from any exposures to lead in Leaded Crystal Products which may have occurred up to the date on which warnings are required to be issued pursuant to Section II of this Consent Judgment, including all violations alleged in the Consolidated Complaints. However, this Consent Judgment does not in any way cover or resolve any claim alleged by the People of the State of California in People v. Baccarat, Inc., et al.,

1 S.F. Superior Court No. 932292 as to defendants named in the case as of March 24, 1993.  
2 Nevertheless, modifications to this Consent Judgment moved for subsequent to entry of  
3 judgment in People v. Baccarat, Inc., et al., S.F. Superior Court No. 932292 may be  
4 applied by defendants in People v. Baccarat, Inc., et al., S.F. Superior Court No. 932292  
5 to the same extent that such defendants are entitled to comply with this Consent  
6 Judgment as a means of complying with the judgments entered in People v. Baccarat,  
7 Inc., et al., S.F. Superior Court No. 932292.

8 30. Upon entry of this Consent Judgment, the Settling Defendants and  
9 Subsidiary Settling Parties (as defined by Paragraph 31 below) and the directors, officers,  
10 employees, agents, parents, affiliates, divisions, and subsidiaries, and the successors or  
11 assigns of any of them, are hereby released from all claims, violations, actions, damages,  
12 costs, penalties, or causes of action set forth in Paragraph 29 which may hereafter be  
13 asserted by Plaintiff or any other person, corporation, or other entity whatsoever claiming  
14 by, through, or in place of the Plaintiff. As to any claims, violations, actions, damages,  
15 costs, penalties, or causes of action which may arise or have arisen after the original date  
16 of entry of this Consent Judgment, compliance with those terms of Section II of this  
17 Consent Judgment applicable to a Settling Defendant or Subsidiary Settling Party  
18 (including as modified) shall be deemed to constitute that entity's full and complete  
19 compliance with Proposition 65 and the Unfair Competition Act with respect to the  
20 provision of warnings for lead in Leaded Crystal Products, provided, however, that no  
21 Settling Defendant or Subsidiary Settling Party (or the directors, officers, employees,  
22 agents, parents, affiliates, divisions, and subsidiaries, and the successors or assigns of any  
23 of them) shall be deemed to be in or have been in such compliance and released from  
24 future claims if it or an entity acting on its behalf had not, as of the date of the alleged  
25 violation, implemented the requirements applicable to them as set forth in Section II  
26 above (including as modified).

27 31. Subsidiary Settling Parties, as used herein, shall mean the manufacturers,  
28 distributors, wholesalers, retailers, mail order and Internet sellers, restaurant suppliers,

Document received by the CA 1st District Court of Appeal.

1 restaurants, wineries, and others who may be deemed responsible for exposures of  
2 persons to lead in Leaded Crystal Products manufactured or marketed by or acquired  
3 from a Settling Defendant. The releases from liability provided for by this Consent  
4 Judgment to such Subsidiary Settling Parties shall extend only to liability associated with  
5 exposures to Leaded Crystal Products manufactured or marketed by or acquired from one  
6 or more Settling Defendants and shall not extend to any liability associated with  
7 exposures to the products of any other party or entity.

8 VI. ADDITIONAL ENFORCEMENT ACTIONS

9 32. By entering into this Consent Judgment, Plaintiff does not waive any right  
10 to take further enforcement action on matters not covered by Section V of this Consent  
11 Judgment (as modified).

12 33. Nothing in this Consent Judgment shall be construed as diminishing the  
13 Settling Defendants' continuing obligation to insure compliance with Proposition 65 with  
14 respect to the issuance of warnings for lead in Leaded Crystal Products as such  
15 compliance is defined in and by Section II of this Consent Judgment (as modified) with  
16 respect to the relevant obligations of that Settling Defendant.

17 VII. ENFORCEMENT OF JUDGMENT

18 34. The terms and conditions contained in Section II herein (as modified) shall  
19 be enforceable only and exclusively by the California Attorney General's Office.

20 35. Plaintiff may, by motion or order to show cause before the Superior Court  
21 of the City and County of San Francisco, enforce the terms and conditions contained in  
22 Section III herein. In any action brought by Plaintiff to enforce this Consent Judgment,  
23 Plaintiff may seek whatever fines, costs, penalties or remedies are provided by law.

24 VIII. MODIFICATION OF JUDGMENT

25 36. This Consent Judgment may be modified upon written approval of  
26 Plaintiff and Settling Defendants or upon motion of any party as provided by law for  
27 good cause shown.

28

IX. EXECUTION IN COUNTERPARTS

37. This Consent Judgment may be executed in one or more counterparts which taken together shall be deemed to constitute one and the same document.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

DATED: 8-23-01

[Signature]  
JUDGE OF THE SUPERIOR COURT

Footnote: \* Exhibit G contains the Settling Defendants' individual executions.

## EXHIBIT 3

(Exemplars of Updated In-Store Warning Signs)

Document received by the CA 1st District Court of Appeal.

**PROP 65**  
**WARNING**

Consuming foods or beverages that have been kept or served  
in leaded crystal products will expose you to lead, a  
chemical known to the State of California to cause  
birth defects or other reproductive harm.

AA00146

d by the CA 1st District Court of Appeal.

# **PROP 65 WARNING**

**Consuming foods or beverages that have been kept or served in leaded crystal products will expose you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm.\***

*\* This does not apply to: Baccarat decanters, flacons, stoppered pitchers, mustard and jam pots.*

AA00147

d by the CA 1st District Court of Appeal.



**PROP 65**  
**WARNING**

Consuming foods or beverages that have been kept or served  
in leaded crystal products will expose you to lead, a  
chemical known to the State of California to cause  
birth defects or other reproductive harm.\*

*\* This does not apply to: Baccarat decanters, flacons, stoppered pitchers, mustard and  
jam pots.*

AA00148

ed by the CA 1st District Court of Appeal.

# **PROP 65 WARNING**

**Consuming foods or beverages that have been kept or served in leaded crystal products will expose you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm.**

AA00149

d by the CA 1st District Court of Appeal.

## **EXHIBIT 4**

**(Updated In-Store Posting Instructions)**

Document received by the CA 1st District Court of Appeal.

AA00150

**Retail Store Warning Instructions for Leaded Crystal**  
**(effective May 2001)**

In order to comply with the court-ordered warning program, retailers selling leaded crystal tableware (including glasses, decanters, plates, bowls and other food contact items, but not including leaded crystal items not used with food, such as vases, candlesticks, sculpture, etc.) must provide Proposition 65 warnings by posting signs at every retail outlet they own or principally operate in the State of California at which leaded crystal tableware is sold.<sup>1</sup> There are two basic signs – one that has a footnote noting that Baccarat decanters, flacons, stoppered pitchers, mustard and jam pots are exempt from the warning (Appendix 1) and one that does not (Appendix 2).

You may use the sign as is (i.e., on heavy cardboard stock) or you may reprint it in another medium (e.g., in the form of a decal or a plaque). The signs you post must contain the same language and format as the enclosed sign. You must also ensure that the signs are, at all times, posted where required, legible and in good condition.

The type and size of sign and where you post them depend on the leaded crystal products you carry and the type of store you operate. There are three basic groups:

***A. Department Stores or Other Stores With a Separate Check-Out for Tableware***

If you sell leaded crystal tableware in a physically separate or distinct department or section which contains its own cash registers intended for purchase of items sold in that department or section, you have the option of (a) posting a 4-inch by 6-inch warning sign substantially similar to Appendix 1 (or Appendix 2 if none of the Baccarat products identified in the footnote in Appendix 1 are or may be sold at the store) at, on, or adjacent to each checkout counter, sales register, cash stand, or cash wrap in that section or department, or on the shelf where the leaded crystal is displayed; or (b) in the manner specified for "large stores without a separate checkout" below.

---

<sup>1</sup>The May 2001 Consent Judgments also allow a retailer to provide a Proposition 65 warning by labeling the crystal tableware article or its packaging, in lieu of using point-of-sale signs. The warning on the label must read "Consuming foods or beverages that have been kept or served in leaded crystal products exposes you to leaded, a chemical known to the State of California to cause birth defects or other reproductive harm." The warning must be affixed to the packaging, labeling, or the article itself in the condition the product is given to or chosen by the customer, and displayed in a size and manner that is likely to be read and understood by an ordinary individual under customary conditions of purchase.

***B. Large Stores Without A Separate Check-Out for Tableware***

If you have more than 7,500 square feet of floor space and use one or more checkout stands for all merchandise purchased at the store, you may either (a) post an 8-inch by 10-inch version of the warning sign attached as Appendix 1 (or Appendix 2 if none of the Baccarat products identified in the footnote in Appendix 1 are or may be sold at the store) at each location where leaded crystal tableware is or may be displayed (the signs may be free-standing, placed on the wall, hung, or displayed in any manner, so long as a potential purchaser would be reasonably likely to see it), or (b) post a 4-inch by 6-inch version of the warning sign on the shelf where leaded crystal tableware is displayed.

***C. Small Stores Without A Separate Check-Out For Tableware***

If you have 7,500 square feet of floor space or less and use one or more check-out stands for all merchandise purchased, you may either (a) post 4-inch by 6-inch signs at, on or adjacent to each check-out counter, sales register, cash stand or cash wrap in the store, or on the shelf where leaded crystal tableware is displayed, or (b) post an 8-inch by 10-inch sign at each location where leaded crystal tableware is or may be displayed (the signs may be free-standing, placed on the wall, hung, or displayed in any manner, so long as a potential purchaser would be reasonably likely to see it). You do not need to do both (a) and (b).<sup>2</sup>

---

<sup>2</sup>The May 2001 Consent Judgments also allow retailers who sell both leaded crystal and ceramic tableware (which is subject to a separate Proposition 65 warning program) to deliver point-of-sale warnings through the use of "hybrid" signs covering both products. If you would like additional information on this warning option, please contact your company's general counsel, your company's attorneys, or Michael R. Kershow, counsel to the International Crystal Federation and the Coalition for Safe Ceramics, at 202.342.8580.

## **EXHIBIT 5**

**(Exemplar of Annual Reminder)**

Document received by the CA 1st District Court of Appeal.

AA00153

**MEMORANDUM**

**TO: ALL COMPANIES SELLING LEAD CRYSTAL TABLEWARE IN THE STATE OF CALIFORNIA**

**FROM: MICHAEL R. KERSHOW**  
*Counsel to the International Crystal Federation*

**RE: PROPOSITION 65 WARNINGS FOR LEAD CRYSTAL PRODUCTS SOLD IN CALIFORNIA**

---

This memorandum is being sent to you to remind you that under a series of court-approved Consent Judgments, the sale in California of virtually all lead crystal tableware products must be accompanied by specified warnings pursuant to that state's unique Safe Drinking Water and Toxic Enforcement Act of 1986 (better known as "Proposition 65").

The warning requirements apply to all retail stores located in California; to all "mail order" sales made to California residents (whether by mail, catalogue, telephone or electronically (e.g., via the Internet)); to restaurants in California that serve food or beverages in lead crystal tableware; and to California wineries that sell lead crystal tableware or use it for tastings. In addition, distributors of lead crystal tableware must pass on information about the warning requirement to their customers.

Failure to provide warnings as required could subject your company to significant monetary penalties.

If you have questions about the specifics of the warning program, you should contact your company's general counsel or attorneys, or you may contact me at 202.342.8580 or by e-mail at [mkershow@colliershannon.com](mailto:mkershow@colliershannon.com).

Document received by the CA 1st District Court of Appeal.

## **EXHIBIT 6**

**(Optional Overview of Warning Requirements)**

Document received by the CA 1st District Court of Appeal.

AA00155



Collier Shannon Scott, PLLC  
Washington Harbour, Suite 400  
3050 K Street, NW  
Washington, DC 20007-5108  
202.342.8400 TEL  
202.342.8451 FAX

Collier Shannon Scott

MEMORANDUM

June 6, 2001

TO: ALL COMPANIES SELLING LEAD CRYSTAL TABLEWARE IN THE STATE OF CALIFORNIA

FROM: MICHAEL R. KERSHOW  
*Counsel to the International Crystal Federation*

RE: PROPOSITION 65 WARNINGS FOR LEAD CRYSTAL PRODUCTS SOLD IN CALIFORNIA

As you probably are aware, in the early 1990s, manufacturers of lead crystal tableware products – that is, stemware, barware, decanters, bowls, dishes and other lead crystal products used for the consumption of food and beverages – agreed, in a series of court-approved Consent Judgments, to provide all purchasers of their products in California with warnings pursuant to that state's unique Safe Drinking Water and Toxic Enforcement Act of 1986 (better known as "Proposition 65"), which recognizes lead as potentially causing birth defects. Under these Consent Judgments, the manufacturers agreed to provide retailers in California with warning signs to be posted at designated points within stores. The Consent Judgments also required that warnings be provided in connection with "mail order" sales of crystal tableware to California residents and the use of crystal tableware in restaurants.

In May 2001, major retailers agreed to their own set of court-approved Consent Judgments that modify the original warning program in certain respects. As manufacturers and distributors of lead crystal, the members of my client, the International Crystal Federation, agreed separately to provide sellers of lead crystal tableware in California with notice of these new warning requirements; hence, this memorandum. It is important that you implement and maintain warnings in all of your California-based stores and in connection with any sales to California residents made via mail-order catalogs or the Internet, as specified below; your failure to do so could subject your company to significant monetary penalties.

The description of the new warning program set forth below is intended as a summary of the detailed warning program provided for in the May 2001 Consent Judgments. Obviously, the terms of those Consent Judgments are controlling. If you would like a copy of them or have questions about any element of the warning program, you should contact your company's general counsel or attorneys, or you may contact me at 202.342.8580 or by e-mail at [mkershow@colliershannon.com](mailto:mkershow@colliershannon.com). We would also be happy to supply you, free of charge, with copies of the "standard" point-of-sale warning sign prescribed by the agreement (see Appendix 1).

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AA00156

June 6, 2001

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### **IF YOU ARE A RETAILER**

If you are a retailer of any kind (and wherever based) and maintain retail outlets in California in which lead crystal tableware items are sold, you must provide a warning by posting one or more warning signs in each store. The size of the store or its main product lines do not affect the basic warning requirement; whether you operate a department or tableware specialty store and carry several full lines of lead crystal, or are instead a smaller shop selling wine, jewelry or gifts and carry only a few crystal tableware items, you must post the warning sign if you carry any brand of lead crystal. The required signs are enclosed as Appendices 1 and 2; which of these you post depends on whether you sell Baccarat decanters, flacons, stoppered pitchers, mustard and jam pots (which are exempt from the warning). Instructions for posting the sign are enclosed as Appendix 3.

Please note that the enclosed signs supersede any in use prior to May 2001. If you already are using warning signs in your stores in California, please replace them with the sign enclosed as Appendix 1 or 2 (as appropriate).

### **IF YOU SELL TO CALIFORNIA RESIDENTS BY "MAIL ORDER"**

If you sell lead crystal tableware products to residents of California by "mail order" – that is, in response to orders transmitted by mail, by telephone or electronically (e.g., through an Internet website) – you must provide a warning. The location of your company is irrelevant; if the customer is a resident of California, the required warning must be provided. Instructions for providing "mail order" warnings are attached as Appendix 4.

### **IF YOU ARE A RESTAURANT**

If you operate a restaurant or other eating establishment in the state of California and serve food or beverages in lead crystal tableware, you must provide a warning to your patrons by posting a sign where it will be seen by your customers before they consume food, such as near the main entrance, or near where people wait to be seated. The required sign is enclosed as Appendix 5. Instructions for posting the sign are enclosed as Appendix 6.

### **IF YOU ARE A WINERY**

If you are a California-based winery that sells or uses lead crystal tableware products (e.g., stemware or decanters) on your premises, you must post the warning sign attached as Appendix 5 (a) on or near the cash register(s) or service counter(s) where lead crystal tableware articles may be purchased by consumers and (b) in or at the entrance to any area where wine is poured in lead crystal glasses for tasting. Detailed instructions for posting the signs are enclosed as Appendix 7.

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June 6, 2001

Page 3

**IF YOU ARE A DISTRIBUTOR**

If you are not yourself a retailer, "mail order" seller, restaurant, or winery meeting the criteria outlined above, but are a distributor of any brand of lead crystal tableware to retailers, "mail order" sellers, restaurants, or wineries (as described above), you must pass on the information contained in this memorandum and the relevant appendices to your customers. Failure to do so may subject you and your customers to liability under Proposition 65. You should send the appropriate materials to all of your customers, unless you are certain that a particular customer does not do business in California. Additionally, if you distribute to retail stores, you should include the instructions for "mail order" sellers (Appendix 4), as many retailers also engage in "mail order" sales.

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AA00158

## EXHIBIT 7

(Updated Mail Order/Internet/Direct Marketer Warning Instructions)

Document received by the CA 1st District Court of Appeal.

DocuSign Envelope ID: 9AE8611E-DBC8-4C23-959E-A521E65F0378

**Instructions For Providing Proposition 65 Warnings In Connection With "Mail Order" Sales Of Certain Leaded Crystal Tableware Products**  
**(effective May 2001)**

If you sell leaded crystal tableware products (including glasses, decanters, plates, bowls and other food contact items, but not including leaded crystal items not used with food, such as vases, candlesticks, sculpture, etc.) to residents of California by "mail order" – that is, in response to orders transmitted by mail, by telephone or electronically (e.g., through an Internet website) – you must provide a Proposition 65 warning to the customer.<sup>1</sup> The location of your company is irrelevant; if the customer is a resident of California, the required warning must be provided. The warning requirement applies to all leaded crystal tableware products, other than Baccarat decanters, flacons, stoppered pitchers, and mustard and jam jars.

**Warning in the Catalog or on the Website**

You may, if you wish, provide the Proposition 65 warning in your mail order catalog or on your Internet website. The warning must read:

**Attention California residents. Proposition 65 WARNING:  
Consuming foods or beverages that have been kept or served  
in leaded crystal products will expose you to lead, a chemical  
known to the State of California to cause birth defects or  
other reproductive harm.<sup>2</sup>**

If you choose to warn in your catalog or brochure, the warning message must appear, in the same size type as the surrounding, non-heading text, on either (a) the inside front cover, (b) the same page as any order form, or (c) the same page as the price.

If you choose to warn on your Internet website, the warning message shall be displayed (or, upon the Internet site user's identification that they are either a California resident or that they are placing an order to be provided to a California resident, automatically appear) either: (a) on the same page on which a leaded crystal tableware product (other than any of the exempt Baccarat products) is displayed, (b) on the same page as any order form for a leaded crystal tableware product, or (c) on the same page as the price for any leaded crystal tableware product.

<sup>1</sup> The May 2001 Consent Judgments also allow mail order sellers who sell both leaded crystal and ceramic tableware (which is subject to a separate Proposition 65 warning program) to deliver "hybrid" warnings covering both products. If you would like additional information on this warning option, please contact your company's general counsel, your company's attorneys, or Michael R. Kershow, counsel to the International Crystal Federation and the Coalition for Safe Ceramics, at 202.342.8580.

<sup>2</sup> If any of the exempt Baccarat items is sold in the catalog in addition to other leaded crystal tableware, a footnote must be placed at the end of the above warning, stating "This warning does not apply to Baccarat decanters, flacons, stoppered pitchers, mustard and jam pots."

### **Package Insert or Label Warnings**

If you do not provide the warning in your catalog or brochure or on your website, you must provide the warning at the time the merchandise is shipped to California purchasers. You may do this by (a) labeling the product or its packaging (e.g., with a pressure-sensitive sticker) in a size and manner that is likely to be read and understood by an ordinary individual under customary conditions of purchase,<sup>3</sup> (b) inserting a card or slip of paper measuring at least 4"x 6" in the shipping carton, or (c) printing the warning on the packing slip or customer invoice in lettering of the same size as the description of the item ordered. The warning must read as follows:

**Proposition 65 WARNING: Consuming foods or beverages that have been kept or served in leaded crystal products will expose you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm. You may return this product for a full refund within 30 days of receipt, if you wish.**

<sup>3</sup> If the warning notice is attached to the face of the shipping carton, it must be no smaller than a standard-size business card.

## **EXHIBIT 8**

**(Updated Restaurant and Winery Sign)**

Document received by the CA 1st District Court of Appeal.

AA00162

# **PROP 65 WARNING**

## **LEADED CRYSTAL**

**Consuming foods or beverages that have been kept or served in leaded crystal products used or sold here will expose you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm.**

AA00183



**PROP 65**  
**WARNING**

**LEADED CRYSTAL**

Consuming foods or beverages that have been kept or served in leaded crystal products used or sold here will expose you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm.

AA00164

d by the CA 1st District Court of Appeal.

## **EXHIBIT 9**

**(Updated Winery Posting Instructions)**

Document received by the CA 1st District Court of Appeal.

AA00165

**Instructions For Providing Proposition 65 Warnings**  
**In Connection With the Sale or Use of Certain Leaded Crystal Tableware Products in**  
**Wineries**  
**(effective May 2001)**

If you are a California-based winery that sells leaded crystal tableware articles (e.g., stemware and decanters) or uses such articles on the premises (e.g., at tastings, including associated give-away promotions), you must post the Proposition 65 warning sign attached as Appendix 5 as follows:

1. On or near the cash register(s) or service counter(s) where lead crystal tableware articles may be purchased by consumers. You may place an 8 ½ inch by 11 inch version of the sign *either* (a) on the customer-facing side of the principal cash register, (b) on the top or side of the principal service counter, or (c) on the customer-facing side of the wall behind the principal cash register or service counter. ). Any one of these locations is sufficient, so long as the sign is visible. If there are multiple cash registers or service counters at which lead crystal tableware articles are sold, the size of the sign may be reduced to 4 inches by 6 inches, *provided that* it is displayed at *all* such locations (*i.e.*, on each register or service counter).

*and*

2. In or at the entrance to any area where wine is poured in lead crystal glasses for tasting. You may place an 8 ½ inch by 11 inch version of the sign *either* (a) on the customer-facing side of the wall behind the bar at which wine is poured for tastings, or (b) on the entrance door to the tasting room or winery facility (assuming that lead crystal glasses are used for tastings held somewhere on the premises). Either of these locations is sufficient, so long as the sign is visible.

The display of warning signs as described under (1) and (2) above will be sufficient to constitute compliance for the entire winery, regardless of whether lead crystal is sometimes sold or used at multiple or a variety of locations on the premises.

Document received by the CA 1st District Court of Appeal.

## EXHIBIT 10

(Updated Restaurant Posting Instructions)

Document received by the CA 1st District Court of Appeal.

**Instructions For Providing Proposition 65 Warnings**  
**In Connection With the Use of Certain Leaded Crystal Tableware Products in**  
**Restaurants**  
**(effective May 2001)**

In order to comply with the court-ordered warning program, all restaurants or other food service establishments in the state of California that use leaded crystal tableware (including glasses, decanters, plates, bowls and other food contact items, but not including leaded crystal items not used with food, such as vases, candlesticks, sculpture, etc.) must provide Proposition 65 warnings to their patrons. Baccarat decanters, flacons, stoppered pitchers, mustard and jam pots are exempt from the warning, so you need not provide a warning if these are the only leaded crystal tableware items that are used in the restaurant.

You must provide the warning by posting a copy of the sign attached as Appendix 5 in a place where it will be seen by your customers before they consume food, such as near the main entrance, or near where people wait to be seated. The sign must measure at least 8 ½ inches by 11 inches. You may use the sign as is (i.e., on heavy cardboard stock) or you may reprint it in another medium (e.g., in the form of a decal or a plaque). You must also ensure that the sign is, at all times, posted where required, legible and in good condition.

Document received by the CA 1st District Court of Appeal.

**EXHIBIT 2**

**Retail Store Warning Instructions for Leaded Crystal**  
**(effective May 2001)**

**Warning Signs**

In order to comply with the court-ordered warning program, retailers selling leaded crystal tableware (including glasses, decanters, plates, bowls and other food contact items, but not including leaded crystal items not used with food, such as vases, candlesticks, sculpture, etc.) must provide Proposition 65 warnings by posting signs at every retail outlet they own or principally operate in the State of California at which leaded crystal tableware is sold.<sup>1</sup> There are three basic signs - one that has a footnote noting that Baccarat decanters, flacons, stoppered pitchers, mustard and jam pots are exempt from the warning (Appendix 1) and one that does not (Appendix 2); there is also one that contains modified warning language, which is allowed when only leaded crystal items are sold (i.e., no crystalline products) (Appendix 3).

You may use the sign as is (i.e., on heavy cardboard stock) or you may reprint it in another medium (e.g., in the form of a decal or a plaque). The signs you post must contain the same language and format as the enclosed sign. You must also ensure that the signs are, at all times, posted where required, legible and in good condition.

The type and size of sign and where you post them depend on the leaded crystal products you carry and the type of store you operate. There are three basic groups:

***A. Department Stores or Other Stores With a Separate Check-Out for Tableware***

If you sell leaded crystal tableware in a physically separate or distinct department or section which contains its own cash registers intended for purchase of items sold in that department or section, you have the option of (a) posting a 4-inch by 6-inch warning sign substantially similar to Appendix 1 (or Appendix 2 if none of the Baccarat products identified in the footnote in Appendix 1 are or may be sold at the store or Appendix 3 if only leaded crystal products and no crystalline is displayed) at, on, or adjacent to each checkout counter, sales register, cash stand, or cash wrap in that section or department, or on the shelf where the leaded crystal is displayed; or (b) in the manner specified for "large stores without a separate checkout" below.

***B. Large Stores Without A Separate Check-Out for Tableware***

If you have more than 7,500 square feet of floor space and use one or more checkout stands for all merchandise purchased at the store, you may either (a) post an 8-inch by 10-inch version of the warning sign attached as Appendix 1 (or Appendix 2 if none of the Baccarat products identified in the footnote in Appendix 1 are or may be sold at the store or Appendix 3 if only leaded crystal products and no crystalline is displayed) at each location where leaded crystal tableware is or may be displayed (the signs may be free-standing, placed on the wall,

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<sup>1</sup> The May 2001 Consent Judgments also allow a retailer to provide a Proposition 65 warning by labeling the crystal tableware article or its packaging, in lieu of using point-of-sale signs. The warning on the label must read "Consuming foods or beverages that have been kept or served in leaded crystal products exposes you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm." The warning must be affixed to the packaging, labeling, or the article itself in the condition the product is given to or chosen by the customer, and displayed in a size and manner that is likely to be read and understood by an ordinary individual under customary conditions of purchase.

hung, or displayed in any manner, so long as a potential purchaser would be reasonably likely to see it), or (b) post a 4-inch by 6-inch version of the warning sign on the shelf where leaded crystal tableware is displayed.

### ***C. Small Stores Without A Separate Check-Out For Tableware***

If you have 7,500 square feet of floor space or less and use one or more check-out stands for all merchandise purchased, you may either (a) post 4-inch by 6-inch signs at, on or adjacent to each check-out counter, sales register, cash stand or cash wrap in the store, or on the shelf where leaded crystal tableware is displayed, or (b) post an 8-inch by 10-inch sign at each location where leaded crystal tableware is or may be displayed (the signs may be freestanding, placed on the wall, hung, or displayed in any manner, so long as a potential purchaser would be reasonably likely to see it). You do not need to do both (a) and (b).<sup>2</sup>

### **Leaded Crystal Identification**

If you sell a mix of leaded crystal and crystalline tableware, the required warnings only pertain to the products made of leaded crystal—no warnings are required for products made of crystalline. A retailer must provide information that distinguishes those items made of leaded crystal, which are subject to the warnings, from those that are crystalline. For example, the leaded crystal products can be identified either by a sticker or a sign as: "Lead", "Lead Crystal", or "Leaded Crystal". Such identification must be visible to an average consumer at an arm's length distance.

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<sup>2</sup> The May 2001 Consent Judgments also allow retailers who sell both lead crystal and ceramic tableware (which is subject to a separate Proposition 65 warning program) to deliver point-of-sale warnings through the use of "hybrid signs" covering both products. If you would like additional information on this warning option, please contact your company's general counsel, your company's attorneys, or Michael R. Kershow, counsel to the International Crystal Federation and the Coalition for Safe Ceramicware, at 202.342.8580.



**PROP 65**  
**WARNING**

Consuming foods or beverages that have been kept or served  
in leaded crystal products will expose you to lead, a  
chemical known to the State of California to cause  
birth defects or other reproductive harm.

AA00146

d by the CA 1st District Court of Appeal.

# **PROP 65**

# **WARNING**

**Consuming foods or beverages that have been kept  
or served in leaded crystal products will expose you  
to lead, a chemical known to the State of California  
to cause birth defects or other reproductive harm.**

AA00149

d by the CA 1st District Court of Appeal.

# **PROP 65 WARNING**

**Consuming foods or beverages that have been kept or served in leaded crystal products will expose you to lead, a chemical known to the State of California to cause birth defects or other reproductive harm.\***

*\* This does not apply to: Baccarat decanters, flacons, stoppered pitchers, mustard and jam pots.*

AA00147

d by the CA 1st District Court of Appeal.

# **PROP 65 WARNING**

Consuming foods or beverages that have been kept or served  
in leaded crystal products will expose you to lead, a  
chemical known to the State of California to cause  
birth defects or other reproductive harm.\*

\* This does not apply to: Baccarat decanters, flacons, stoppered pitchers, mustard and  
jam pots.

AA00148

d by the CA 1st District Court of Appeal.

**WARNING:** The glassware sold in this store can expose you to lead, a chemical known to the State of California to cause birth defects and other reproductive harm.