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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA, ex rel. XAVIER BECERRA, ATTORNEY GENERAL OF CALIFORNIA, and BARBARA A. LEE, DIRECTOR OF THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL, Plaintiffs, **v.** **LUXY ACCESSORY, INC., HYUN SOOK KIM, and DOES 1-10,** Defendants,	Case No. _____ **COMPLAINT FOR CIVIL PENALTY AND INJUNCTIVE RELIEF**

Plaintiffs, the People of the State of California, by and through Xavier Becerra, Attorney General ("Attorney General"), and by and through Barbara A. Lee, Director, Department of Toxic Substances Control ("the Department"), allege as follows:

1. This complaint seeks to remedy the persistent failure of a suspended corporation, Luxy Accessory, Inc., and its owner and sole employee, Hyun Sook Kim (collectively, "Luxy"),

to comply with California's strict limits on the amount of lead and cadmium in jewelry manufactured, shipped, sold, or offered for sale or promotional purposes in the State. It also seeks to remedy the Luxy's deliberate efforts to mislead the public by labeling the jewelry as lead-free, even though the jewelry contains excessive levels of lead, often many times above the statutory limits.

2. Luxy has demonstrated a persistent disregard for the safety of consumers that purchase its jewelry. It has been cited repeatedly for selling jewelry with unlawful levels of lead, and yet it continues to do so without making any attempt to determine if the jewelry it sells complies with strict limits on lead and cadmium content. During three separate inspections over the last eight years, Department officials have discovered Luxy selling noncompliant jewelry, including jewelry that the Department previously had told Luxy contains unlawful levels of lead and could not legally be sold in California. During this time, Luxy has deliberately mislead consumers by labeling the jewelry as "lead free" even though it contains excess levels of lead.

3. The Attorney General and the Department sued Luxy in 2012 for similar violations, and obtained a default judgment for $145,000 in civil penalties and injunctive relief. During inspections in 2016 and 2017, however, the Department determined that Luxy continues to sell jewelry with excess lead and to falsely label it as lead free. During the most recent inspection, which took place on November 7-10, 2017, the Department found Luxy offering for sale about 110 styles of jewelry that screened high for lead and/or cadmium using a field screening device.

4. These unlawful practices result in adults and children alike being exposed to toxic metals with potentially severe acute and chronic health effects including headaches, nausea, vomiting, abdominal pain, loss of appetite, constipation, muscle soreness, anemia, neurological impairments such as stumbling or loss of concentration, seizures, encephalopathy, kidney damage, coma, and, at high enough levels, death.

5. Young children are especially susceptible to adverse health effects from lead and cadmium exposure because their bodies and brains are still developing. Exposures can cause persistent neurological impairments resulting in behavioral problems and learning disabilities, among other acute and chronic health effects. Jewelry with lead or cadmium pose a particular

danger to children because children often place jewelry in their mouths, which can result in higher absorption of the toxic metals and serious health effects, especially if the jewelry is accidentally swallowed.

6. Despite a history of violating California's strict limits on toxic metals in jewelry and deliberately misleading consumers into believing the jewelry is safe, Luxy continues to violate the law in the pursuit of profit and leave the public to suffer the consequences.

PARTIES

7. The Department of Toxic Substances Control is a public agency of the State of California organized and existing under and pursuant to Health and Safety Code sections 58000 *et seq*. Barbara A. Lee is the Director of the Department. The Department is the state agency responsible for the administration of the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the Health and Safety Code sections 25100 *et seq*. ("HWCL"), which contains the Metal Containing Jewelry Law, Health and Safety Code sections 25214.1 *et seq*.

8. The Attorney General is the chief law officer of the State of California, whose duties include seeing that the laws are uniformly and adequately enforced. (Cal. Const., art. V, § 13.) Xavier Becerra is the California Attorney General. Business and Professions Code sections 17204 and 17535 provide that actions to enforce sections 17500, 17200, and 17207 may be brought by the Attorney General. The Attorney General is authorized to commence an action under the HWCL in the name of the People at the request of the Department. (Health & Saf. Code, § 25182.) The Department has asked the Attorney General to initiate this action for violations of the Metal Containing Jewelry Law.

9. Defendant LUXY ACCESSORY, INC. ("Luxy Accessory") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Luxy Accessory's corporate status is listed by the California Secretary of State as "SOS/FTB SUSPENDED." Luxy Accessory's place of business is 208 East 6th Street, in Los Angeles, California.

10. Defendant HYUN SOOK KIM ("Kim") is an individual that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional

purposes in California. Kim is responsible for the overall operations of Luxy Accesory and has ultimate responsibility for acts and omissions by Luxy Accessory through her ownership and/or control of Luxy Accessory. According to documents on file with the California Secretary of State, Kim is Luxy Accessory's president, chief executive officer, secretary, chief financial officer, director, and agent for service of process. There are no other employees. Kim controls the decisions over what products to manufacture, ship, sell, offer for sale, or offer promotional purposes, including, but not limited to, where to acquire the products and components of the products, and how to label the products. Kim manufactures, ships, sells, offers for sale, or offers for promotional purposes, products Luxy Accessory sells. Kim took actions that caused some or all of the violations alleged herein, and Kim's authority, control, and actions at Luxy Accessory are such that Kim could have taken action to prevent all of the violations alleged herein.

11. The true names and capacities of the defendants sued herein as DOES 1 through 10 are unknown to Plaintiff, who therefore sues them by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of these defendants when they have been determined. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein.

12. Luxy Accessory, Kim, and DOES 1 through 10 are "persons," as defined at California Health and Safety Code, section 25118.

13. Luxy Accessory, Kim, and DOES 1 through 5 are "manufacturers of jewelry," as those terms are used in Health and Safety Code, section 25214.3.1.

14. When reference is made in this complaint to any act of any defendant, such allegation shall mean that each defendant, or employees or representatives of such defendant, did or authorized such acts or recklessly failed to adequately or properly supervise, control, or direct their employees or representatives while engaged in the management, direction, operation, or control of the affairs of the defendant and did so while acting within the course and scope of their employment or agency.

15. Whenever reference is made in this complaint to "Defendants," such reference, unless otherwise specified, includes the defendants named in paragraphs nine and ten, and Does 1

through 10. References made to one or more specifically-identified defendants do not include defendants not identified within the same reference.

JURISDICTION AND VENUE

16. This Court has jurisdiction to hear this matter, and the Court has jurisdiction over each defendant named above. Venue is proper in this Court because the principal office of at least some of the defendants is located in the County of Los Angeles and because some of the violations of law alleged herein have been and are being carried out within the County of Los Angeles.

STATUTORY BACKGROUND

A. Metal Containing Jewelry Law

17. California Health and Safety Code section 25214.2, subdivision (a), provides that "a person shall not manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in the state, unless the jewelry is made entirely from a class 1, class 2, or class 3 material, or any combination of those materials."

18. California Health and Safety Code section 25214.1, subdivision (h), defines "jewelry" as any of the following ornaments worn by a person: an anklet; arm cuff; bracelet; brooch; chain; crown; cuff link; hair accessory; earring; necklace; pin; ring; tie clip; body piercing jewelry; jewelry placed in the mouth for display or ornament; any bead, chain, link, pendant, or other part of one of the above-named ornaments. "Jewelry" also includes a charm, bead, chain, link, pendant, or other attachment to shoes or clothing that can be removed and may be used as a part of any of the above-named ornaments. (Health & Saf. Code, § 25214.1, subd. (h).) In addition, a watch in which a timepiece is a component of an above-named ornament, is also defined as jewelry, excluding the timepiece itself if the timepiece can be removed from the ornament. (*Ibid.*)

19. "Class 1 material" includes any of the following materials: stainless or surgical steel; karat gold; sterling silver; platinum, palladium, iridium, ruthenium, rhodium, or osmium; natural or cultured pearls; glass, ceramic, or crystal decorative components, including cat's eye, cubic zirconia, cubic zirconium or CZ, rhinestones, and cloisonne; a gemstone that is cut or

polished for ornamental purposes, except for aragonite, bayldonite, boleite, cerussite, crocoite, ekanite, linarite, mimetite, phosgenite, samarskite, vanadnite, and wulfenite; elastic, fabric, ribbon, rope, or string, unless it contains intentionally added lead and is listed as a class 2 material; all natural decorative material including amber, bone, coral, feathers, fur, horn, leather, shell, or wood, that is in its natural state and is not treated in a way that adds lead; and adhesive. (Health & Saf. Code, § 25214.1, subd. (d).)

20. "Class 2 material" includes any of the following materials: electroplated metal that is made of a metal alloy with less than 6 percent lead by weight that is electroplated with suitable under and finish coats; unplated metal with less than 1.5 percent lead that is not otherwise listed as a class 1 material; a dye or surface coating containing less than 0.06 percent (600 parts per million ("ppm")) lead by weight. "Class 2 material" also includes plastic or rubber, including acrylic, polystyrene, plastic beads and stones, and polyvinyl chloride ("PVC") that contains less than 200 ppm lead by weight. (Health & Saf. Code, § 25214.1, subd. (e).)

21. "Class 3 material" means any portion of jewelry that is not a class 1 or class 2 material *and* contains less than 600 ppm lead by weight. (Health & Saf. Code, § 25214.1, subd. (f).)

22. For children ages six years and under, the statute provides even stricter lead standards. (Health & Saf. Code, § 25214.2, subd. (b); *see id.*, § 25214.1, subds. (b), (c).) Children's jewelry must still be made exclusively of Class 1, 2, and 3 materials, except that metallic jewelry and any printing ink or ceramic glaze must contain less than 600 ppm lead (Health & Saf. Code, § 25214.2, subds. (b)(3), (b)(5)), glass or crystal decorative components must weigh less than 1 gram or contain less than 200 ppm lead that is not intentionally added, and "Class 3 materials" must contain less than 200 ppm lead. (*Id.*, § 25214.2, subds. (b)(4), (b)(6).)

23. The statute also places strict limits on the amount of cadmium that can be present in any material used in children's jewelry. Children's jewelry may not contain "any material that is more than 0.03 percent cadmium (300 parts per million) by weight." (Health & Saf. Code, § 25214.2, subd. (d).)

24. The Legislature broadly defined "Children's jewelry" as "jewelry that is made for, marketed for use by, or marketed to children," including, but not limited to jewelry: whose packaging, display, or advertising represents that it is appropriate for use by children; "[s]old in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;" "[s]ized for children and not intended for use by adults;" sold in a vending machine; or sold in a retail store, catalog, or Internet site that either "exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children," or that dedicates a discrete portion of space to such products. (Health & Saf. Code, § 25214.1, subds. (c)(1)–(4).)

25. The statute places an additional burden on manufacturers and suppliers of jewelry that is "sold, offered for sale, or offered for promotional purposes" to provide technical documentation and certification of compliance with the Metal Containing Jewelry Law. (Health & Saf. Code, § 25214.3.) California Health and Safety Code section 25214.3, subdivision (b), provides that the certification "shall attest that the jewelry does not contain a level of lead . . . that prohibits the jewelry from being sold or offered for sale pursuant to [the Metal Containing Jewelry Law]." A manufacturer or supplier must either: "[p]rovide the certification . . . to a person who sells or offers for sale that manufacturer's or supplier's jewelry" or "display the certification . . . prominently on the shipping container or on the packaging of jewelry." (*Id.*, § 25214.3, subds. (c)(1)–(2).)

26. A person who violates the Metal Containing Jewelry Law "shall be liable for a[] . . . civil penalty not to exceed [$2,500] per day for each violation." (Health & Saf. Code, § 25214.3, subd. (b)(1).) The penalty may be assessed or recovered in a civil action brought in any court of competent jurisdiction. (*Ibid.*)

27. The statute authorizes the Department to inspect a factory, warehouse, or establishment where jewelry is manufactured, packed, held, or sold. (Health & Saf. Code, § 25214.3, subd. (d).) Upon obtaining consent or an inspection warrant, an authorized representative of the Department may inspect the facility and its paperwork, and secure samples of jewelry for its investigation. (*Ibid.*)

B. Untrue or Misleading Advertising Claims

28. California Business and Professions Code section 17500 provides that it is unlawful to "make or disseminate or cause to be made or disseminated before the public in this state . . . any statement . . . which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading," for the purpose of inducing the public to an obligation relating to goods or services. Additionally, Business and Professions Code section 17508, subdivision (a), makes it unlawful to make any false or misleading advertising claim, including claims that "(1) purport to be based on factual, objective, or clinical evidence, (2) compare the product's effectiveness or safety to that of other brands or products, or (3) purport to be based on any fact."

29. In an action by the Attorney General, persons violating these provisions are subject to injunctive relief and to a civil penalty not to exceed $2,500 for each violation of section 17500 and 17508, except that if the same violation is a violation of both sections 17500 and 17508, a civil penalty is assessed for that violation once. (Bus. & Prof. Code, §§ 17508, subd. (g), 17535, and 17536, subd. (a).) Otherwise, "the remedies or penalties are cumulative to each other and to the remedies or penalties available under all other laws of this state." (*Id.*, § 17534.5.)

C. The Unfair Competition Act

30. California Business and Professions Code section 17200 provides that "unfair competition shall mean and include any unlawful, unfair or fraudulent business practice." Unlawful acts under the statute include any act that is unlawful that is conducted as part of business activity, and therefore include violations of state or federal laws and regulations.

31. Section 17203 of the Business and Professions Code provides that "(a)ny person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction."

32. Business and Professions Code section 17206, subdivision (a), provides that any person violating section 17200 "shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General . . . ."

Any person who intentionally violates an injunction issued pursuant to Business and Professions Code section 17203 is subject to a civil penalty not to exceed $6,000 for each violation. (Bus. & Prof. Code, § 17207.) Under section 17205, these penalties are "cumulative to each other and to the remedies or penalties available under all other laws of this state."

GENERAL ALLEGATIONS

33. Defendants manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in California. Some of the jewelry is made for, marketed for use by, or marketed to children ages six years and younger. Often the jewelry contains lead and/or cadmium that far exceeds the legal limits placed on lead and/or cadmium in jewelry sold or offered for sale or promotional purposes in the State. Despite widespread publicity and concern about this problem, and repeated warnings from the Department, the Department has traced more than 135 styles of jewelry that violate standards in the Metal Containing Jewelry Law to Defendants.

34. In 2014, Plaintiffs obtained a default judgment for $145,000 in civil penalties and injunctive relief against Luxy Accessory, pursuant to, *inter alia*, Business and Professions Code section 17203, for unlawful sales and false statements concerning lead in jewelry. (*People et al. v. Joia Trading Inc., et al.*, Los Angeles Superior Court, Case No. BC488508.) Paragraph 3 of the Amended Default Judgment, entered on August 7, 2014, orders Luxy and all of its agents to "comply with all statutes and regulations applicable to the manufacture, distribution, or sale of jewelry in California.

35. The Department has conducted inspections at Luxy Accessory's place of business, in the Los Angeles jewelry district, in 2009, 2016, and 2017.

36. During inspections, authorized representatives of the Department screened jewelry being sold or offered for sale by Luxy using a portable X-Ray Fluorescence ("XRF") device. When the Department detects high lead or cadmium levels using the XRF device, or when the Department has other reasons to suspect that a jewelry style contains excess lead or cadmium, inspectors collect jewelry samples for laboratory testing using methods prescribed in the Metal Containing Jewelry Law.

37. During each of the inspections at Luxy, the Department's inspectors have identified jewelry containing lead and/or cadmium at levels in excess of the limits set by the Metal Containing Jewelry Law.

38. During an inspection of Luxy that took place on September 27 and October 12, 2016, the Department identified four styles of jewelry being sold or offered for sale that violate lead and/or cadmium standards in the Metal Containing Jewelry Law. Two pieces were children's jewelry, and one of these pieces was labeled as "LEAD AND NICKEL FREE" even though it contained nearly 100 more times lead than allowed under the Metal Containing Jewelry Law.

39. On more than one occasion, the Department has asked Luxy to produce technical documentation or other information showing that jewelry it sells, offers for sale, or offers for promotional purposes, is in compliance with the Metal Containing Jewelry Law. Luxy has not produced or submitted this documentation or information.

40. Luxy has not prepared or provided a certification to its customers who sell or offer for sale Luxy's jewelry, or displayed a certification on its shipping containers or jewelry packaging, that attests that the jewelry does not contain a level of lead or cadmium that prohibits the jewelry from being sold or offered for sale pursuant to the Metal Containing Jewelry Law.

41. In addition to marketing jewelry that violates the lead and/or cadmium standards in the Metal Containing Jewelry Law, Luxy has sold or offered for sale jewelry with labels stating or implying that the jewelry is lead-free, when in fact the jewelry contains excessive levels of lead. Luxy has done so without any basis for claiming the jewelry is lead-free. In at least one instance, it sold falsely labeled jewelry after being informed by the Department that it contained unlawful levels of lead.

42. During the inspection at Luxy in November 2017, the Department observed a labeling machine with "LEAD-FREE NICKEL-FREE" labels, and it observed the same kind of labels on jewelry that screened high for lead. When an inspector asked Kim how she knows if the jewelry is lead free, she claimed that sometimes she receives the jewelry with lead-free labels, and other times she uses her own judgment.

43. During the inspection at Luxy in November 2017, the Department identified approximately 110 styles of jewelry being sold or offered for sale by Luxy that, based on preliminary XRF screening results, appear to violate lead and/or cadmium standards in the Metal Containing Jewelry Law. Of the styles that screened high for lead, 50 styles were falsely labeled as being lead-free.

44. To date, at each of its inspections of Luxy Accessory's place of business, the Department has found noncompliant and falsely labeled jewelry. Unless ordered to comply with the law, Luxy will continue to manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry in California that violates the State lead and/or cadmium standards and that is sold with false and misleading statements about the lead content.

FIRST CAUSE OF ACTION

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.2(a): ADULT JEWELRY WITH LEAD (METAL CONTAINING JEWELRY LAW)

45. Plaintiffs reallege and incorporate herein by reference all paragraphs above as though set forth here in full.

46. Each defendant is a "person" within the meaning of Health and Safety Code section 25214.2, subdivision (a), which makes it illegal for a person to manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in the state of California, unless the jewelry is made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials.

47. Within the past five years, Defendants have violated Health and Safety Code section 25214.2, subdivision (a), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California jewelry that is not made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials. The jewelry contains components or materials with lead content that exceeds permissible levels for Class 1, Class 2, or Class 3 materials.

48. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: Defendants have violated and continue to violate Health and Safety Code section 25214.2, subdivision (a), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California jewelry that is not made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials.

49. These violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies.

SECOND CAUSE OF ACTION

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.2(b): CHILDREN'S JEWELRY WITH LEAD (METAL CONTAINING JEWELRY LAW)

50. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

51. Each defendant is a "person" within the meaning of Health and Safety Code section 25214.2, subdivision (b), which makes it illegal for a person to manufacture, ship, sell, offer for sale, or offer for promotional purposes children's jewelry for retail sale or promotional purposes in the state of California, unless the jewelry is made entirely from one or more of the materials listed in Health and Safety Code sections 25214.2, subdivisions (b)(1)-(6).

52. "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to, children six years of age and younger.

53. Within the past five years, Defendants have violated Health and Safety Code section 25214.2, subdivision (b), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California children's jewelry that is not made entirely from one or more of the materials listed in Health and Safety Code sections 25214.2, subdivisions (b)(1)-(6). The jewelry contains components or materials with lead content that exceeds permissible California levels for children's jewelry.

54. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: Defendants have violated and continue to violate Health and Safety Code section 25214.2, subdivision (b), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California children's jewelry that is not made entirely from one or more of the materials listed in Health and Safety Code section 25214.2, subdivisions (b)(1)-(6).

55. Said violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies.

THIRD CAUSE OF ACTION

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.2(b): CHILDREN'S JEWELRY WITH CADMIUM (METAL CONTAINING JEWELRY LAW)

56. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

57. Each defendant is a "person" within the meaning of Health and Safety Code section 25214.2, subdivision (d), which makes it illegal for a person to manufacture, ship, sell, offer for sale, or offer for promotional purposes children's jewelry for retail sale or promotional purposes in the state of California that contains any component, or is made of any material, that is more than 300 parts per million cadmium by weight.

58. "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to, children six years of age and younger.

59. Within the past five years, Defendants have violated Health and Safety Code section 25214.2, subdivision (d), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California children's jewelry with components or materials with cadmium content that is more than 300 parts per million by weight.

60. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: Defendants have violated and continue to

violate Health and Safety Code section 25214.2, subdivision (b), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California children's jewelry with components or materials with cadmium content that is more than 300 parts per million by weight.

61. Said violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies.

FOURTH CAUSE OF ACTION

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.3.1(a): FAILURE TO PREPARE OR SUBMIT TECHNICAL DOCUMENTATION (METAL CONTAINING JEWELRY LAW)

62. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

63. Luxy Accessory, Kim, and DOES 1-5 ("Manufacturer Defendants") are each a "manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes," as those terms are defined in Health and Safety Code section 25214.3.1, subdivision (a), which requires a manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes to prepare and, at the request of the Department, submit to the Department no more than 28 days after the date of the request, technical documentation or other information showing that the jewelry is in compliance with the Metal Containing Jewelry Law.

64. Within the past five years, the Manufacturer Defendants have violated Health and Safety Code section 25214.3.1, subdivision (a), by failing to prepare technical documentation or other information showing that jewelry they have sold, offered for sale, or offered for promotional purposes is in compliance with the Metal Containing Jewelry Law.

65. Within the past five years, the Manufacturer Defendants have violated Health and Safety Code section 25214.3.1, subdivision (a), by failing to submit to the Department no more than 28 days after the date of the request, technical documentation or other information showing that jewelry they have sold, offered for sale, or offered for promotional purposes is in compliance with the Metal Containing Jewelry Law.

66. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: the Manufacturer Defendants have violated and continue to violate Health and Safety Code section 25214.3.1, subdivision (a), by failing to prepare, or submit to the Department within 28 days after the date of the request, technical documentation or other information showing that jewelry they have sold, offered for sale, or offered for promotional purposes is in compliance with the Metal Containing Jewelry Law.

67. Said violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies

FIFTH CAUSE OF ACTION

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.3.1(b): FAILURE TO PREPARE CERTIFICATION (METAL CONTAINING JEWELRY LAW)

68. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

69. The Manufacturer Defendants are each a "manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes," as those terms are defined in Health and Safety Code section 25214.3.1, subdivision (b), which requires a manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes to prepare a certification that attests that the jewelry does not contain a level of lead or cadmium that prohibits the jewelry from being sold or offered for sale pursuant to the Metal Containing Jewelry Law.

70. Within the past five years, the Manufacturer Defendants have violated Health and Safety Code section 25214.3.1, subdivision (b), by failing to prepare a certification that attests that jewelry they have sold, offered for sale, or offered for promotional purposes does not contain a level of lead or cadmium that prohibits the jewelry from being sold or offered for sale pursuant to the Metal Containing Jewelry Law.

71. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: the Manufacturer Defendants have violated and continue to violate Health and Safety Code section 25214.3.1, subdivision (b), by failing to

prepare a certification that attests that jewelry they have sold, offered for sale, or offered for promotional purposes does not contain a level of lead or cadmium that prohibits the jewelry from being sold or offered for sale pursuant to the Metal Containing Jewelry Law.

72. Said violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies.

SIXTH CAUSE OF ACTION

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.3.1(c): FAILURE TO PROVIDE CERTIFICATION (METAL CONTAINING JEWELRY LAW)

73. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

74. The Manufacturer Defendants are each a "manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes," as those terms are defined in Health and Safety Code section 25214.3.1, subdivision (c), which requires a manufacturer or supplier of jewelry that is sold, offered for sale, or offered for promotional purposes to provide the certification required by Health and Safety Code section 25214.3.1, subdivision (b) to a person who sells or offers for sale the Manufacturer Defendant's jewelry, or to display the certification prominently on the shipping container or on the packaging of the jewelry.

75. Within the past five years, the Manufacturer Defendants have violated Health and Safety Code section 25214.3.1, subdivision (c), by failing to provide the certification required by Health and Safety Code section 25214.3.1, subdivision (b) to a person who sells or offers for sale the Manufacturer Defendant's jewelry, or to display the certification prominently on the shipping container or on the packaging of the jewelry.

76. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: the Manufacturer Defendants have violated and continue to violate Health and Safety Code section 25214.3.1, subdivision (c), by failing to failing to provide the certification required by Health and Safety Code section 25214.3.1,

subdivision (b) to a person who sells or offers for sale the Manufacturer Defendant's jewelry, or to display the certification prominently on the shipping container or on the packaging of the jewelry.

77. Said violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies.

SEVENTH CAUSE OF ACTION
[Against All Defendants]

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500 (UNTRUE OR MISLEADING STATEMENTS)

78. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

79. Within the past three years, Defendants have violated and continue to violate Business and Professions Code section 17500 by making or disseminating untrue or misleading statements, or by causing untrue or misleading statements to be made or disseminated in, or from California, with the intent to induce members of the public to purchase non-compliant leaded jewelry. Such statements on product labels include, but are not limited to, "LEAD-FREE NICKEL-FREE."

80. Defendants knew or should have known that these statements were untrue or misleading at the time they were made.

81. Said violations render each defendant liable for civil penalties not to exceed $2,500 for each violation, as well as other remedies.

EIGHTH CAUSE OF ACTION
[Against All Defendants]

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200 (UNFAIR COMPETITION LAW)

82. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

83. Within the past four years, Defendants have engaged in unlawful, unfair or fraudulent business acts or practices which constitute unfair competition within the meaning of Business and Professions Code section 17200. Such unfair competition includes, but is not limited to, the following acts or practices:

a. As set forth in the First, Second, and Third Causes of Action, Defendants have violated Health and Safety Code section 25214.2.

b. As set forth in the Fourth, Fifth, and Sixth Causes of Action, the Manufacturer Defendants have violated Health and Safety Code section 25214.3.1.

c. As set forth in the Seventh Cause of Action, Defendants have violated Business and Professions Code section 17500; and

d. Defendants have violated Business and Professions Code section 17508 by making false or misleading advertising claims that purport to be based on factual, objective, or clinical evidence, that compare the product's effectiveness or safety to that of other brands or products, or that purport to be based on fact. Such claims include, but are not limited to, "LEAD-FREE NICKEL-FREE."

84. Said violations render each defendant liable for civil penalties not to exceed $2,500 for each violation, as well as other remedies.

NINTH CAUSE OF ACTION
[Against All Defendants]

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17207 (VIOLATION OF INJUNCTION)

85. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

86. On August 7, 2014, the Superior Court of the State of California for the County of Los Angeles entered the Amended Default Judgment as to Defendant Luxy Accessory, Inc., in the case of *People et al. v. Joia Trading Inc., et al.*, Case No. BC488508 ("Default Judgment"), which includes injunctive relief pursuant to Business and Professions Code section 17203. Paragraph 3 of the Default Judgment states as follows: "Luxy and all of its agents must comply

with all statutes and regulations applicable to the manufacture, distribution, or sale of jewelry in California." Within the past four years, Defendants have violated and continue to violate Business and Professions Code section 17207 by violating this provision in the Default Judgment.

87. Said violations render each defendant liable for civil penalties not to exceed $6,000 for each violation, as well as other remedies.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. Pursuant to the First through Ninth Causes of Action, grant civil penalties according to proof. Based on information currently available to Plaintiffs and the statutory maximum penalty amounts, and without waiving any right to seek a different penalty according to proof, Plaintiffs seek a penalty pursuant to the First through Ninth Causes of Action of at least $3,984,000.

2. Pursuant to Health and Safety Code section 25181, subdivision (a), enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from violating the Metal Containing Jewelry Law, including, but not limited to, the violations alleged in the First through Sixth Causes of Action;

3. Pursuant to Business and Professions Code section 17535, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from making untrue or misleading representations about their products, including, but not limited to, the violations alleged in the Seventh and Eighth Causes of Action;

4. Pursuant to Business and Professions Code section 17203, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from selling non-compliant jewelry in California, and from

committing any acts of unfair competition in violation of Business and Professions Code section 17200, including, but not limited to, the violations alleged in the Ninth Cause of Action;

5. Enter such orders as "may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of" these unlawful acts, untrue or misleading representations or false or misleading advertising claims as provided for in Business and Professions Code section 17203 and 17535, and in other applicable laws;

6. Award Plaintiffs their costs of suit; and

7. Grant such other and further relief as the Court deems just and proper.

Dated: December 5, 2017

Respectfully Submitted,

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