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ex rel. Meredith J. Williams, Director of the
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CGC-20-585506

PEOPLE OF THE STATE OF CALIFORNIA, *ex*
rel. MEREDITH J. WILLIAMS, DIRECTOR,
CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

Case No.

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

Plaintiff, (Health and Saf. Code § 25100 *et seq.*)

v.

ZARC INTERNATIONAL, LLC,

Defendant.

Plaintiff, the People of the State of California, *ex rel.* Meredith J. Williams, Director
of the California Department of Toxic Substances Control ("Department"), alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiff brings this action to address violations of the California Hazardous Waste
Control Law, chapter 6.5 of division 20 of the Health and Safety Code ("HWCL") section 25100
et seq., and its implementing regulations, California Code of Regulations, title 22, division 4.5,
section 66260.1 *et seq.* ("Title 22"). The HWCL and its implementing regulations establish

1 comprehensive "cradle to grave" standards for the generation, storage, transportation, treatment,
2 and disposal of hazardous waste in California.

3 2. Plaintiff seeks injunctive relief and civil penalties against the Defendant pursuant
4 to sections 25181, 25184, 25189, and 25189.2 of the Health and Safety Code for violations of the
5 HWCL.

6 **PLAINTIFF**

7 3. The Department is a state agency organized and existing pursuant to section 58000
8 *et seq.* of the Health and Safety Code. The Department is the state agency responsible for
9 administering and enforcing the provisions of the HWCL and Title 22.

10 4. Meredith J. Williams is the Director of the Department.

11 5. Pursuant to sections 25181, subdivision (a), and 25182 of the Health and Safety
12 Code, the Attorney General of the State of California is authorized, at the request of the
13 Department, to commence an action for civil penalties and injunctive relief under the HWCL in
14 the name of the People of the State of California. The Department has made such a request to the
15 Attorney General.

16 **DEFENDANT**

17 6. Defendant, ZARC International, LLC ("ZARC"), is a limited liability corporation
18 organized and existing under the laws of the State of California, which conducts business in the
19 State of California.

20 7. ZARC is identified as a universal waste handler and is thus subject to hazardous
21 waste management requirements found in California Code of Regulations, title 22, chapter 23.

22 8. ZARC owns and/or operates two (2) facilities located at: (1) 26 South Linden
23 Avenue, South San Francisco, California 94080 (ZARC's principal place of business), and (2)
24 2422 South California Street, Stockton, California 95206 that accept, accumulate, and treat
25 electronic waste (e.g., relinquished televisions and computers).

26 9. ZARC has also owned and/or operated a facility located at 115 Park Lane,
27 Brisbane, California 94005 ("the Brisbane Facility,") that accepted, accumulated, and treated
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1 electronic waste. ZARC no longer owns or operates the Brisbane Facility. The violations
2 alleged by the Department in this Complaint occurred at the Brisbane Facility.

3 10. When reference is made in this Complaint to any act or omission of ZARC, such
4 allegations shall include the acts and omissions of ZARC's owners, officers, directors, managers,
5 employees, any other individual acting under ZARC's control, and any successors and assigns in
6 their official capacity while acting within the course and scope of their employment or agency on
7 behalf of ZARC during the relevant time periods. Any reference in this Complaint to any act or
8 omission of ZARC does not include any acts or omissions of ZARC's outside counsel, Gerald
9 Beadoin.

10 **JURISDICTION AND VENUE**

11 11. The Superior Court has jurisdiction pursuant to Article VI, Section 10 of the
12 California Constitution, Health and Safety Code section 25181, and section 410.10 of the Code of
13 Civil Procedure.

14 12. Venue is proper in this Court pursuant to Health and Safety Code section 25183,
15 because San Francisco County is the county in which the Attorney General has an office nearest
16 to the county in which the principal office of ZARC is located.

17 13. This action is an unlimited civil case because the amount of penalties requested
18 exceeds \$25,000 and because none of the Plaintiff's causes of action meets the criteria for limited
19 civil cases in the Code of Civil Procedure.

20 **HWCL STATUTORY AND REGULATORY BACKGROUND**

21 14. The State of California has enacted a comprehensive statutory and regulatory
22 framework for the generation, handling, treatment, transport, and disposal of hazardous wastes.
23 The framework contained in the HWCL and Title 22 mandate a "cradle to grave" registration,
24 tracking, storage, treatment, and disposal system for the protection of the public from the risks
25 posed by hazardous wastes and for the protection of the environment. Except where otherwise
26 expressly defined in this Complaint, all terms shall be interpreted consistent with the HWCL and
27 Title 22.
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1 15. Pursuant to Health and Safety Code sections 25101, subdivision (d), and 25159
2 through 25159.9, California administers the HWCL in lieu of federal administration of the federal
3 Resource Conservation and Recovery Act ("RCRA"), which is codified at 42 United States Code
4 section 6901 *et seq.* Federal law prohibits California from imposing any requirements less
5 stringent than those authorized under RCRA. (42 U.S.C. § 6929.) Certain provisions in the
6 HWCL are stricter than the analogous provisions in RCRA.

7 16. The HWCL charges the Department with the responsibility to adopt standards and
8 regulations for the management of hazardous waste to protect the public health and environment.
9 (Health & Saf. Code, § 25150.) Accordingly, the Department has promulgated regulations setting
10 forth numerous and extensive environmental- and health-protective requirements for the day-to-
11 day operations of hazardous waste generators and transporters, as well as owners and operators of
12 hazardous waste facilities. (See Cal. Code Regs., tit. 22, § 66262.10 *et seq.*) The Department
13 has also promulgated regulations setting forth numerous and extensive environmental- and health-
14 protective requirements for the day-to-day operations for the management of universal waste.
15 (See Cal. Code Regs., tit. 22, § 66273.1 *et seq.*)

16 17. Health and Safety Code section 25124, subdivision (a), defines a "'waste' [as] any
17 solid, liquid, semisolid, or contained gaseous discarded material that is not excluded by this
18 chapter or by regulations adopted pursuant to this chapter." "Discarded materials" include,
19 among other things, any material that is:

20 (1) Relinquished by being any of the following:

21 (A) Disposed of.

22 (B) Burned or incinerated.

23 (C) Accumulated, stored, or treated, but not recycled, before, or in lieu
24 of, being relinquished by being disposed of, burned or incinerated;

25 (2) Recycled or accumulated, stored, or treated before recycling, except as
26 provided in Health and Safety Code section 25143.2; or
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1 (3) Poses a threat to public health or the environment and is not timely and
2 adequately labeled or not timely packaged in an adequate container, or is
3 considered inherently waste like, as specified in regulations adopted by the
4 Department. (Health & Saf. Code, § 25124, subds. (b)(1), (b)(2), and (b)(3).)

5 18. A “hazardous waste” is a waste that meets any of the criteria established by the
6 Department. (Health & Saf. Code, §§ 25117 and 25141.) The criteria consist of lists of particular
7 hazardous wastes and waste exhibiting certain characteristics.

8 19. The HWCL has a more inclusive definition of “hazardous waste” than does federal
9 law. Hazardous wastes that are regulated under California law, but not federal law, are known as
10 “non-RCRA hazardous waste.” (Health & Saf. Code, § 25117.9.)

11 20. California Code of Regulations, title 22, section 66261.9 contains a list of
12 “universal wastes,” which are a type of hazardous waste, and the list includes electronic devices,
13 devices containing cathode ray tubes (“CRTs”), and mercury-containing equipment.

14 21. California Code of Regulations, title 22, section 66273.9 defines a “universal
15 waste handler” to include a person that treats or recycles, or disposes of, universal waste.

16 22. Health and Safety Code section 25201, subdivision (a), provides that an owner or
17 operator of a hazardous waste management facility may not “accept, treat, store, or dispose of a
18 hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous waste
19 facilities permit or other grant of authorization from the [D]epartment to use and operate the
20 facility, area, or site”

21 23. In general, a generator that generates 1,000 kilograms or more of hazardous waste
22 per month may accumulate that hazardous waste onsite for up to ninety (90) days without
23 authorization from the Department, provided that the generator complies with certain
24 requirements, including, but not limited to, the requirements specified in California Code of
25 Regulations, title 22, section 66262.34 (e.g., the hazardous waste is placed in containers). (Health
26 & Saf. Code, § 25123.3, subds. (b) and (c).)

1 24. A person, as defined at Health & Safety Code section 25118, that generates a
2 hazardous waste is subject to the requirements prescribed in the HWCL and Title 22.

3 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

4 25. The HWCL authorizes the Court to impose civil penalties under two distinct and
5 alternative statutory provisions. Section 25189 of the Health and Safety Code creates civil
6 penalty liability for any negligent or intentional violation of the HWCL, or a permit, rule,
7 regulation, standard, or requirement issued or promulgated under the HWCL. Section 25189.2 is
8 a strict liability provision, which creates civil penalty liability for any violation of the HWCL, or
9 a permit, rule, regulation, standard, or requirement issued or promulgated under the HWCL. A
10 person may not be held liable for a civil penalty imposed under section 25189 and for a civil
11 penalty imposed under section 25189.2 for the same act. (Health & Saf. Code, § 25189.2, subd.
12 (f).)

13 26. The HWCL authorizes the Court to impose a civil penalty of up to twenty-five
14 thousand dollars (\$25,000) for each violation of a separate provision of the HWCL and/or Title
15 22 occurring on or prior to December 31, 2017. For continuing violations, the HWCL authorizes
16 the Court to impose a penalty of up to twenty-five thousand dollars (\$25,000) for each day that a
17 violation continues. (Health & Saf. Code, §§ 25189, subd. (b) and 25189.2, subd. (b).)

18 27. The California Legislature amended sections 25189 and 25189.2 of the Health and
19 Safety Code to increase the maximum civil enforcement penalties for violations of the HWCL
20 and Title 22 from \$25,000 to \$70,000 for each separate violation, and for each day the violation
21 continues occurring on or after January 1, 2018. (HAZARDOUS SUBSTANCES AND
22 WASTE—FINES AND PENALTIES, 2017 Cal. Legis. Serv. Ch. 499 (A.B. 245).)

23 28. Health and Safety Code sections 25181 and 25184 authorize and direct the Court
24 to enjoin any ongoing or potential violation of the HWCL.

25 29. Section 25181 of the Health and Safety Code provides that when the Department
26 determines that any person has engaged in, is engaged in, or is about to engage in any acts or
27 practices which constitute or will constitute a violation of any provision of the HWCL or any rule
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1 or requirement issued or promulgated thereunder, and when requested by the Department, the
2 Attorney General may make application to the superior court for an order enjoining such acts or
3 practices, or for an order directing compliance. Upon a showing by the Department that such
4 person has engaged in or is about to engage in any such acts or practices, a permanent or
5 temporary injunction, restraining order, or other order may be granted.

6 30. Health and Safety Code section 25184 provides that, in civil actions brought
7 pursuant to the HWCL in which an injunction or temporary restraining order is sought:

8 [I]t shall not be necessary to allege or prove at any stage of the proceeding that
9 irreparable damage will occur should the temporary restraining order, preliminary
10 injunction, or permanent injunction not be issued; or that the remedy at law is
11 inadequate, and the temporary restraining order, preliminary injunction, or permanent
injunction shall issue without such allegations and without such proof.

12 **GENERAL ALLEGATIONS**

13 31. At all times relevant herein, ZARC, and/or its predecessors in interest, owned or
14 operated the Brisbane Facility.

15 32. At all times relevant herein, ZARC's primary business involved the treatment of
16 electronic devices including liquid crystal display televisions and monitors, computers, servers,
17 plasma televisions, CRT devices, and other small electronic devices.

18 33. At all times relevant herein, ZARC's core business involved the acceptance,
19 accumulation, and treatment of universal waste, and ZARC was a universal waste handler.

20 34. On or about January 21, 2016, April 25, 2017, May 2, 2017, December 19, 2017,
21 and December 28, 2017, the Department conducted on-site inspections of the Brisbane Facility.
22 The Department also conducted a review of ZARC's financial assurance mechanisms.

23 **FIRST CAUSE OF ACTION**

24 (Failure to Establish and Demonstrate Financial Responsibility for Sudden Liability)
25 (Cal. Code Regs., tit. 22, § 66265.147, sub. (a))

26 35. Paragraphs 1 through 34 above are incorporated by reference as though fully set
27 forth herein.
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1 36. ZARC is universal waste handler that, amongst other things, conducts treatment
2 activities identified in California Code of Regulations, section 66273.73 on electronic devices. At
3 the time of the inspections on or about January 21, 2016, April 25, 2017, May 2, 2017, December
4 19, 2017, and December 28, 2017, ZARC operated a shredder that physically shredded electronic
5 devices, including CRT devices.

6 37. California Code of Regulations, title 22, section 66273.76, subsection (a), requires
7 a universal waste handler that intends to conduct one or more of the treatment activities described
8 in section 66273.73, subsections (a)(2) and (b), including the physical shredding of electronic
9 devices, to submit to the Department the information specified in section 66273.76, subsections
10 (a)(1) through (d), no later than 30 calendar days prior to initially conducting those treatment
11 activities. The information includes a closure plan, cost estimate for closure, financial
12 responsibility for liability, and financial assurance.

13 38. California Code of Regulations, title 22, section 66273.76, subsection (c), requires
14 a universal waste handler to prepare and submit documentation demonstrating financial
15 responsibility for liability pursuant to section 66265.147.

16 39. California Code of Regulations, title 22, section 66265.147, subsection (a),
17 requires an owner or operator of a hazardous waste transfer, treatment, storage, or disposal
18 facility or a group of such facilities, which includes a universal waste handler that treats universal
19 waste , to demonstrate to the Department financial responsibility for bodily injury and property
20 damage to third parties caused by sudden accidental occurrences arising from operations of the
21 facility or group of facilities.

22 40. ZARC commenced treatment activities on electronic devices at the Brisbane
23 Facility in April of 2015. ZARC did not establish and demonstrate financial responsibility for
24 sudden liability to the Department until December 12, 2016, about 621 days from the date
25 treatment activities began onsite.
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27
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1 41. On April 19, 2016, the Department issued a violation to ZARC because ZARC did
2 not establish and demonstrate financial responsibility for sudden liability to the Department 30
3 days prior to commencing treatment activities.

4 42. ZARC thus violated California Code of Regulations, title 22, section 66265.147,
5 subsection (a).

6 **SECOND CAUSE OF ACTION**

7 (Failure to Establish and Demonstrate Financial Assurance for Closure Care)
8 (Cal. Code Regs., tit. 22, § 66265.143)

9 43. Paragraphs 1 through 42 above are incorporated by reference as though fully set
10 forth herein.

11 44. ZARC is universal waste handler that conducts treatment activities identified in
12 California Code of Regulations, section 66273.73. At the time of the inspections on or about
13 January 21, 2016, April 25, 2017, May 2, 2017, December 19, 2017, and December 28, 2017,
14 ZARC operated a shredder that physically shredded electronic devices.

15 45. California Code of Regulations, title 22, section 66273.76, subsection (a), requires
16 a universal waste handler that intends to conduct one or more of the treatment activities described
17 in section 66273.73, subsections (a)(2) and (b), including the physical shredding of electronic
18 devices, to submit to the Department the information specified in 66273.76, subsections (a)(1)
19 through (d), no later than 30 calendar days prior to initially conducting those treatment activities.
20 The information includes a closure plan, cost estimate for closure, financial responsibility for
21 liability, and financial assurance.

22 46. California Code of Regulations, title 22, section 66273.76, subsection (d), requires
23 a universal waste handler to prepare and submit documentation demonstrating financial assurance
24 for closure to fund the cost estimate for closure, pursuant to section 66265.143, subsections (a)
25 through (h).

26 47. California Code of Regulations, title 22, section 66265.143 requires an owner or
27 operator of a hazardous waste transfer, treatment, storage or disposal facility, which includes a
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1 universal waste handler that treats universal waste, to establish and to demonstrate to the
2 Department financial assurance for closure of the facility.

3 48. California Code of Regulations, title 22, section 66265.143, subsection (b),
4 provides that an owner or operator of a hazardous waste transfer, treatment, storage or disposal
5 facility, which includes a universal waste handler that treats universal waste, may satisfy the
6 requirements of section 66265.143 by establishing a surety bond guaranteeing payment into a
7 closure trust fund and submitting the bond to the Department.

8 49. ZARC commenced its treatment activities on electronic devices in April of 2015.
9 The Department did not receive a surety bond from ZARC until October 21, 2016.

10 50. ZARC therefore violated California Code of Regulations, title 22, section
11 66265.143 by failing to adequately establish and demonstrate financial assurance for closure care.

12 **THIRD CAUSE OF ACTION**

13 (Failure to Establish and Demonstrate Standby Trust Fund)
14 (Cal. Code Regs., tit. 22, § 66265.143, sub. (b)(3))

15 51. Paragraphs 1 through 50 above are incorporated by reference as though fully set
16 forth herein.

17 52. ZARC is universal waste handler that conducts treatment activities identified in
18 California Code of Regulation, section 66273.73. At the time of the inspections on or about
19 January 21, 2016, April 25, 2017, May 2, 2017, December 19, 2017, and December 28, 2017,
20 ZARC operated a shredder that physically shredded electronic devices.

21 53. California Code of Regulations, title 22, section 66273.76, subsection (a), requires
22 a universal waste handler that intends to conduct one or more of the treatment activities described
23 in section 66273.73, subsections (a)(2) and (b), including the physical shredding of electronic
24 devices, to submit to the Department the information specified in 66273.76, subsections (a)(1)
25 through (d), no later than 30 calendar days prior to initially conducting those treatment activities.
26 The information includes a closure plan, cost estimate for closure, financial responsibility for
27 liability, and financial assurance.
28

1 54. California Code of Regulations, title 22, section 66273.76, subsection (d), requires
2 a universal waste handler to prepare and submit documentation demonstrating financial assurance
3 for closure to fund the cost estimate for closure, pursuant to section 66265.143, subsections (a)
4 through (h).

5 55. California Code of Regulations, title 22, section 66265.143, subsection (b)(3)
6 provides that an owner or operator of a hazardous waste transfer, treatment, storage or disposal
7 facility, which includes a universal waste handler that treats universal waste, that elects to use a
8 surety bond to satisfy the financial assurance for closure requirements of section 66265.143 must
9 also establish a standby trust fund, and that under the terms of the bond, all payments made
10 thereunder must be deposited by the surety directly into the standby trust fund.

11 56. ZARC commenced treatment activities on electronic devices in April 2015.
12 Despite electing to use a surety bond to satisfy the requirements of section 66265.143, as
13 described in the Second Cause of Action, ZARC did not submit evidence of an established
14 standby trust fund to DTSC until January 4, 2017.

15 57. ZARC thus violated California Code of Regulations, title 22, section 66265.143,
16 subsection (b)(3), by not establishing a standby trust fund after electing to use a surety bond to
17 satisfy financial assurance for closure requirements and providing evidence to DTSC of that
18 standby trust fund.

19 **FOURTH CAUSE OF ACTION**

20 (Improper Treatment of Universal Waste—Improper Containment)
21 (Cal. Code Regs., tit. 22, § 66273.75, sub. (a)(3))

22 58. Paragraphs 1 through 57 above are incorporated by reference as though fully set
23 forth herein.

24 59. California Code of Regulations, title 22, section 66273.75, subsection (a)(3)
25 requires that a universal waste handler that treats electronic devices, residual printed circuit
26 boards, and/or CRTs shall conduct treatment activities over, or in, a containment device sufficient
27 in size and construction to contain any materials that might be released to the environment under
28 reasonably foreseeable conditions.

60. On or about January 21, 2016, the Department conducted an inspection of the Brisbane Facility. At the time of the inspection, ZARC was treating electronic devices and CRTs by dismantling CRTs (i.e., removing various components from the CRT) and shredding electronic devices in an onsite shredder, which also contained a dust collection system (i.e., an air pollution control device). The Department observed a film of fine dust and particulates on the ground around ZARC's shredder, and on the shredder's metal support structure (its metal framing). The Department sampled and analyzed the released dust observed, and the analysis showed the samples contained high levels of lead, a known carcinogen and reproductive toxin. The Department also observed that the Brisbane Facility's large, roll-up bay door was kept open, increasing the potential for release from the Brisbane Facility into the surrounding environment. The Department determined that ZARC's shredder and its dust-collection system were therefore releasing hazardous waste into the surrounding areas.

61. On or about May 2, 2017, the Department conducted a focused compliance inspection of the Brisbane Facility. The Department again observed dust and particulates on the ground around the shredder and on the metal support structure. When questioned about the observed dust and particulates, ZARC staff admitted that they did not regularly clean the dust deposited on the ground.

62. ZARC thus violated California Code of Regulations, title 22, section 66273.75, subsection (a)(3), by failing to conduct treatment activities over, or in, a containment device sufficient in size and construction to contain any materials that might be released to the environment under reasonably foreseeable conditions.

FIFTH CAUSE OF ACTION

(Improper Treatment of Universal Waste—Failure to Remove Components Containing Fluids
Prior To Treatment)
(Cal. Code Regs., tit. 22, § 66273.75, sub. (a)(2))

63. Paragraphs 1 through 62 above are incorporated by reference as though fully set forth herein.

64. California Code of Regulations, title 22, section 66273.75, subsection (a)(2), requires that a universal waste handler that treats electronic devices, residual printed circuit

boards, and/or CRTs to ensure that all mercury-containing lamps, capacitors containing polychlorinated biphenyls, and other components containing fluids that would be identified as hazardous wastes, are removed prior to treatment that may release the fluids such as cutting, sawing, breaking, shredding, crushing, grinding, screening, sieving, acceleration, or compacting.

65. On or about May 2, 2017, the Department conducted an inspection of the Brisbane Facility during which the Department sampled and analyzed dust and particulates on the ground around the shredder as well as dust and particulates in the shredder's baghouse. The Department's analysis of the dust and particulates showed mercury in all of the samples. The presence of mercury in the dust and particulate shows that mercury-containing components were not removed from electronic devices by ZARC prior to them being treated (i.e., shredded) through the ZARC's shredder.

66. ZARC thus violated California Code of Regulations, title 22, section 66273.75, subsection (a)(2).

SIXTH CAUSE OF ACTION

(Improper Handling of Universal Waste)
(Cal. Code Regs., tit. 22, §§ 66273.33, sub. (b)(1), 66273.72, sub. (a)(4)(A), 66273.33.5)

67. Paragraphs 1 through 66 above are incorporated by reference as though fully set forth herein.

68. California Code of Regulations, title 22, section 66273.33, subsection (b)(1), requires a universal waste handler to contain lamps in a container or package that is structurally sound and adequate to prevent breakage. It further requires that such container or package shall remain closed and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

69. California Code of Regulations, title 22, section 66273.72, subsection (a)(4)(A), requires a universal waste handler to manage residual printed circuit boards in a manner that prevents a release to the environment by containing the residual printed circuit boards in a compatible container that is structurally sound.

70. California Code of Regulations, title 22, section 66273.33.5 requires a universal waste handler that manages electronic devices, CRTs, and/or CRT glass to prevent releases of any universal waste or component of a universal waste to the environment under reasonably foreseeable conditions.

71. On or about April 25, 2017, the Department performed an inspection of the Brisbane Facility. The Department observed 16 pieces of universal waste electronic devices and CRT devices (e.g., pieces of glass, metal, and plastic covered in fine particulates) placed directly on the floor, one large bag of residual printed circuit boards , and five containers of universal waste lamps, none of which were contained in structurally sound or covered containers.

72. ZARC thus violated California Code of Regulations, title 22, section 66273.33, subsection (b)(1), section 66273.72, subsection (a)(4)(A), and section 66273.33.5.

SEVENTH CAUSE OF ACTION

(Failure to Properly Label Hazardous Waste)
(Cal. Code Regs., tit. 22, §§ 66262.34, sub. (f), 66273.34, 66273.75, sub. (b)(4), 66273.35, sub. (b))

73. Paragraphs 1 through 72 above are incorporated by reference as though fully set forth herein.

74. California Code of Regulations, title 22, section 66262.34, subsection (f), requires generators that accumulate hazardous waste onsite without a permit or grant of interim status from the Department to clearly mark the date upon which each period of accumulation begins.

75. California Code of Regulations, title 22, section 66273.34 requires universal waste handlers to label or clearly mark containers containing universal waste to identify the type of universal waste.

76. California Code of Regulations, title 22, section 66273.75, subsection (b)(4), requires that a universal waste handler maintain printed circuit boards in containers labeled “Residual Printed Circuit Boards.”

1 77. California Code of Regulations, title 22, section 66273.35, subsection (b), requires a
2 universal waste handler to be able to demonstrate the length of time that the universal waste has
3 been accumulated from the date it became a waste or was received.

4 78. On or about April 25, 2017, the Department performed an inspection of the Brisbane
5 Facility. The Department observed 16 pieces of universal waste electronic devices or CRT
6 devices, one large bag of residual printed circuit boards, and five containers of universal waste
7 lamps, none of which were labeled or clearly marked to identify the type of universal waste.

8 79. On or about December 19, 2017, the Department performed an inspection of the
9 Brisbane Facility. The Department observed that containers of hazardous waste used oil were not
10 labeled with the accumulation start date when the used oil was first placed in the containers. The
11 Department also observed containers of universal waste that was not clearly marked or labeled to
12 identify the type of universal waste within the containers or the date that the universal waste
13 became a waste or was received. These included two 55-gallon drums containing batteries, five
14 tote bags of residual printed circuit boards, three Gaylord boxes of batteries, and four large plastic
15 boxes containing unsorted electronic devices.

16 80. ZARC thus violated California Code of Regulations, title 22, section 66262.34,
17 subsection (f), section 66273.34, section 66273.75, subsection (b)(4), and section 66273.35,
18 subsection (b).

19 **EIGHTH CAUSE OF ACTION**

20 (Failure to Prevent Release of Electronic Device Components)
21 (Cal. Code Regs., tit. 22, § 66273.33.5, sub. (a)(1)(B)(1)(a))

22 81. Paragraphs 1 through 80 above are incorporated by reference as though fully set
23 forth herein.

24 82. California Code of Regulations, title 22, section 66273.33.5, subsection
25 (a)(1)(B)(1)(a), requires a universal waste handler to contain electronic devices in a manner that
26 prevents breakage and release of components to the environment.

27 83. On or about December 19, 2017, the Department performed an inspection of the
28 Brisbane Facility. The Department observed two boxes of universal waste components, 17

1 residual printed circuit boards and other electronic device components directly on the floor of the
2 Brisbane Facility, and small amounts of these same wastes stored outside of ZARC's building in
3 a fenced yard.

4 84. ZARC thus violated California Code of Regulations, title 22, section 66273.33.5,
5 subsection (a)(1)(B)(1)(a).

6 **WHEREFORE**, Plaintiff prays that the Court grant the following relief:

7 A. Enter a judgment that ZARC is required to pay civil penalties to the
8 Department pursuant to the Health and Safety Code sections 25189 or 25189.2, for the
9 violations alleged in the First through Eighth Causes of Action according to proof at trial;

10 B. Enter preliminary injunctions, permanent injunctions, or other orders requiring
11 Defendant to comply with the HWCL and Title 22;

12 C. Grant the Department its costs of suit herein; and

13 D. Grant such other and further relief as the Court deems just and proper.
14

15 Dated: July 17, 2020

Respectfully Submitted,

16 XAVIER BECERRA
17 Attorney General of California
18 HARRISON POLLAK
Supervising Deputy Attorney General

19 Original signed by Andrew Wiener

20
21 ANDREW WIENER
22 Deputy Attorney General

23 *Attorneys for PEOPLE OF THE STATE OF*
24 *CALIFORNIA, ex rel., Meredith J. Williams,*
25 *Director of the California Department of*
26 *Toxic Substances Control*
27
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