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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	CASE NO. 2:15-cv-7822
)	
Plaintiff,)	COMPLAINT FOR
)	PERMANENT INJUNCTIVE
v.)	RELIEF
)	
BRIGHTSTAR GROUP, INC., a California)	
corporation; and SHERRY CHEN,)	
individually and as officer)	
of the corporation,)	[15 U.S.C. §§ 2071(a), 1267(a)]
)	
Defendants.)	
)	
)	

Plaintiff, the United States of America, alleges:

1 5. Defendant Brightstar Group, Inc. (“Brightstar”) is a corporation
2 organized and existing under the laws of California, located at 321 Wall Street, Los
3 Angeles, California, 90013. Brightstar was formed as a corporation on January 11,
4 2013.

6 6. Defendant Sherry Chen is the owner of Brightstar. She is the
7 individual responsible for ensuring compliance with the requirements of the CPSA,
8 the FHSA, and the regulations issued thereunder. At all times relevant to this
9 Complaint, defendant Chen formulated, directed, controlled, and participated in the
10 acts and practices of the corporate defendant, including the acts and practices set
11 forth in this Complaint.

13 7. Brightstar is a manufacturer (the definition includes any person who
14 imports a consumer product) and retailer—as those terms are defined in 15 U.S.C.
15 § 2052(a)(11) and (13)—of consumer products, including children’s toys and
16 articles that are subject to the requirements of the CPSA, the FHSA, and the
17 regulations issued thereunder.

18 8. Brightstar and Chen (“Brightstar defendants”) operate one joint
19 warehouse and retail facility at 321 Wall Street, Los Angeles, California 90013.
20 Through that warehouse and retail facility they import and sell various consumer
21 products, including children’s products and toys.

22 9. Since August 6, 2013, the CPSC has collected 26 samples of consumer
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1 products from the Brightstar defendants' import shipments at the Port of Los
2 Angeles/Long Beach or the Brightstar defendants' Los Angeles facility. The CPSC
3 found 26 samples to be children's products in violation of CPSC statutes and
4 regulations. The violative samples included children's products and toys with
5 illegal levels of total lead content; marbles lacking a required cautionary statement;
6 toy strollers that failed to meet folding mechanism requirements; and children's
7 products and toys lacking required certification based on third-party testing and
8 lacking tracking labels. The CPSC issued a total of 9 Letters of Advice ("LOAs")
9 from September 18, 2013 to April 28, 2015, notifying the Brightstar defendants of
10 the violations.
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15 10. Prior to and later while owning and operating Brightstar, Chen acted as
16 manager for Taifung Corp. ("Taifung"), a corporation organized and existing under
17 the laws of California. Taifung was also located at 321 Wall Street, Los Angeles,
18 California, 90013. Taifung was owned by Chen's husband, David Chen. Taifung
19 was dissolved on May 31, 2014.
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22 11. At all times relevant to this Complaint, Chen, as manager of Taifung,
23 participated in the acts and practices of Taifung, including the acts and practices set
24 forth in this Complaint.
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26 12. Taifung was a manufacturer (the definition includes any person who
27 imports a consumer product) and retailer—as those terms are defined in 15 U.S.C. §
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1 2052(a)(11) and (13)—of consumer products, including children’s toys and articles
2 that are subject to the requirements of the CPSA, the FHSA, and the regulations
3 issued thereunder.
4

5 13. Defendant Chen, as manager of Taifung, imported and sold various
6 consumer products, including children’s products and toys.
7

8 14. From November 8, 2010 to April 16, 2014, while defendant Chen was
9 manager of Taifung, the CPSC collected 53 samples of consumer products from
10 Taifung’s import shipments at the Port of Los Angeles/Long Beach or Taifung’s Los
11 Angeles facility. The CPSC found 48 samples to be children’s products in violation
12 of CPSC statutes and regulations. The violative samples included children’s
13 products and toys with illegal levels of total lead content, lead paint, and phthalates;
14 toys intended for children under three years of age that contain small parts; infant
15 rattles which may cause choking and/or suffocation; and children’s products and
16 toys lacking required certification based on third-party testing and lacking tracking
17 labels. The CPSC issued Taifung a total of 16 LOAs from December 22, 2010 to
18 August 22, 2014, notifying defendant Chen of the violations.
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23 VIOLATIONS OF THE CPSA

24 15. The CPSA prohibits the sale, offer for sale, manufacture for sale,
25 distribution in commerce, or importation into the United States of any consumer
26 product, or other product or substance that is regulated under the CPSA or any other
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1 Act enforced by the CPSC, that is not in conformity with an applicable consumer
2 product safety rule under the CPSA, or any similar rule, regulation, standard, or ban
3 under any other Act enforced by the Commission. 15 U.S.C. § 2068(a)(1).
4

5 16. Under the CPSA, it is unlawful to fail to furnish a certificate required
6 by the CPSA or any other Act enforced by the Commission. 15 U.S.C. § 2068(a)(6).
7

8 17. Under the CPSA, it is unlawful for any person to fail to comply with the
9 tracking labels requirement in 15 U.S.C. § 2063, or any rule or regulation under that
10 section. 15 U.S.C. § 2068(a)(6).
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12 18. The defendants' violations of the CPSA provisions in paragraphs 15
13 through 17 above are specified in Counts 1 through 5 below.
14

15 Count 1

16 19. Under the CPSA it is unlawful for any person to manufacture for sale,
17 offer for sale, distribute in commerce, or import into the United States any children's
18 toys and child care articles containing concentrations of more than 0.1 percent of
19 certain phthalate compounds, including di-(2-ethylhexyl) phthalate (DEHP), dibutyl
20 phthalate (DBP), or benzyl butyl phthalate (BBP). 15 U.S.C. § 2057c(a).
21

22 20. Samples of products collected from Taifung's import shipments and
23 facility, when defendant Chen was manager of Taifung, are "children's toys" as
24 defined under 15 U.S.C. § 2057c(g)(1)(B). Ten toys exceeded the phthalate
25 concentration limit, because they contained more than 0.1 percent of DEHP and
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1 other regulated phthalate compounds. Accordingly, the toys cannot be
2 manufactured for sale, offered for sale, distributed in commerce, or imported into the
3 United States under the CPSA. The CPSC sent Taifung LOAs dated June 27, 2011,
4 August 22, 2011, May 31, 2012, and August 1, 2012, notifying defendant Chen of
5 these violations and requesting corrective action.
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8 21. On these 10 occasions, defendant Chen sold, offered for sale,
9 distributed in commerce, or imported into the United States toys containing
10 phthalates in excess of the statutory limits, thereby violating 15 U.S.C. § 2068(a)(1).
11

12 Count 2

13 22. Under the CPSA it is unlawful for any person to manufacture for sale,
14 offer for sale, distribute in commerce, or import into the United States toy strollers
15 large enough to seat children for whom the toy was intended that do not meet the
16 folding mechanism requirements of section 4.13.1.1 of ASTM F963-11. 15 U.S.C.
17 § 2056b(a); § 2068(a)(1).
18

19 23. A sample of a toy stroller collected from the Brightstar defendants'
20 import shipments was large enough to seat children (for whom the toy was intended)
21 but failed to meet the folding mechanism requirements of section 4.13.1.1 of ASTM
22 F963-11. The toy stroller presents a hazard of accidental collapse when assembled
23 in accordance with the manufacturer's instructions. The CPSC sent the Brightstar
24 defendants an LOA dated October 21, 2014 notifying them of this violation and
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1 Taifung while defendant Chen was manager of Taifung—were required to have a
2 certificate based on third-party testing for small parts, phthalates, lead paint and/or
3 lead content, but failed to have one. The CPSC sent the Brightstar defendants and
4 defendant Chen, as manager of Taifung, LOAs notifying them that these shipments
5 lacked a certificate based upon third-party testing as required under 15 U.S.C. §
6 2063(a)(2) and requesting corrective action.
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9 27. On these 38 occasions, defendants failed to furnish certificates based
10 upon third-party testing, for children’s products that are subject to a children’s
11 product safety rule, thereby violating 15 U.S.C. § 2068(a)(6).
12

13 Count 4
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15 28. Under the CPSA, every manufacturer of a children’s product shall
16 place permanent, distinguishing marks (“tracking labels”) on the product and its
17 packaging, which will enable the manufacturer and ultimate purchaser of the
18 product to ascertain the location and date of production of the product, along with
19 cohort information. 15 U.S.C. § 2063(a)(5).
20

21
22 29. Samples of toys and articles CPSC collected from defendants’ import
23 shipments and facility are “children’s products” as defined under 15 U.S.C.
24 § 2052(a)(2). Seventy-one children’s products collected—23 from Brightstar and
25 48 from Taifung while defendant Chen was manager of Taifung— failed to have
26 tracking labels. The CPSC sent the Brightstar defendants and defendant Chen, as
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1 manager of Taifung, LOAs notifying them that their children's products lacked
2 tracking labels as required under 15 U.S.C. § 2063(a)(5) and requesting corrective
3
4 action.

5 30. On these 71 occasions, the defendants failed to comply with the
6 requirement to have tracking labels on children's products, thereby violating 15
7
8 U.S.C. § 2068(a)(6).

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11 VIOLATIONS OF THE CPSA AND THE FHSA –
12 MISBRANDED AND BANNED HAZARDOUS SUBSTANCES

13 31. Under the FHSA, it is unlawful to introduce, cause the introduction of,
14 deliver, or cause the delivery for introduction into interstate commerce of, any
15 misbranded hazardous substance or banned hazardous substance. 15 U.S.C.
16
17 § 1263(a).

18 32. Under the FHSA, it is unlawful to receive, cause the receipt of in
19 interstate commerce, deliver, or proffer to deliver for pay or otherwise, any
20 misbranded hazardous substance or banned hazardous substance. 15 U.S.C.
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22 § 1263(c).

23
24 33. Under the CPSA, it is unlawful for any person to "sell, offer for sale,
25 manufacture for sale, distribute in commerce, or import into the United States any
26 consumer product, or other product or substance" that is regulated under the CPSA
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28 or any other Act enforced by the CPSC, that is not in conformity with an applicable

1 consumer product safety rule under the CPSA, or any similar rule, regulation,
2 standard, or ban under any other Act enforced by the Commission. 15 U.S.C.
3 § 2068(a)(1).
4

5 34. Under the CPSA, it is unlawful for any person to sell, offer for sale,
6 distribute in commerce, or import into the United States any consumer product, or
7 product or substance that is a banned hazardous substance within the meaning of 15
8 U.S.C. § 1261(q)(1). 15 U.S.C. § 2068(a)(2)(D).
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10 35. The defendants' violations of the CPSA and FHSA provisions in
11 paragraphs 31 through 34 above are specified in Counts 5 through 9 below.
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13 Count 5
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15 36. Under the FHSA and the regulations issued thereunder, toys and other
16 articles intended for use by children under three years of age that constitute a
17 mechanical hazard because they contain small parts which present the risk of
18 choking, aspiration, or ingestion are banned hazardous substances. 16 C.F.R.
19 § 1500.18(a)(9). Before or after the toy is subjected to use and abuse tests set forth
20 at 16 C.F.R. §§ 1500.50 - 1500.52, no portion of a toy may separate and produce
21 small parts that fit entirely into the specified test fixture. 15 U.S.C.
22 §§ 1261(f)(1)(D), 1261(q)(1)(A), 1261(s); 16 C.F.R. § 1500.18(a)(9) and 16 C.F.R.
23 part 1501.
24

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27 37. Samples of toys and articles collected from Taifung's import shipments
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1 and facility, when defendant Chen was manager of Taifung, are “toys and other
2 articles intended for use by children under 3 years of age,” as defined under 16
3 C.F.R. § 1501.2. Six toys and articles failed to meet the small parts regulation,
4 because portions of the toys and articles separated and produced small parts when
5 subjected to use and abuse tests. Accordingly, the toys and articles are banned
6 hazardous substances. The CPSC sent Taifung LOAs dated March 2, 2011, March
7 22, 2011, September 13, 2012, November 20, 2012, and August 22, 2014 notifying
8 defendant Chen of these violations and requesting corrective action.
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12 38. On these six occasions, defendant Chen introduced or caused the
13 introduction or delivery for introduction into interstate commerce of banned
14 hazardous substances, that is, toys or other articles intended for use by children
15 under three years of age, which contained small parts, or received in interstate
16 commerce such toys or articles and delivered or proffered delivery thereof for pay or
17 otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).
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20 Count 6
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22 39. Under the FHSA, any children’s product containing lead in excess of
23 the statutory limit is a banned hazardous substance. 15 U.S.C. § 1278a(a)(1).
24 Between August 14, 2009 and August 13, 2011, children’s products containing more
25 than .003 percent, or 300 parts per million, lead were banned hazardous substances.
26 As of August 14, 2011, children’s products containing more than .001 percent, or
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1 100 parts per million, lead were banned hazardous substances. 15 U.S.C.

2 § 1278a(a)(2).

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4 40. Samples of products collected from defendants' import shipments and
5 facility are "children's products," as defined under 15 U.S.C. § 2052(a)(2). Twenty
6 children's products contained lead content in excess of the statutory limit—8
7 collected from Brightstar and 12 collected from Taifung while defendant Chen was
8 manager. Accordingly, the children's products are banned hazardous substances.
9
10 The CPSC sent the Brightstar defendants LOAs dated July 30, 2014, August 22,
11 2014, November 3, 2014, and November 24, 2014, notifying them of these
12 violations and requesting corrective action. The CPSC sent Taifung LOAs dated
13 December 22, 2010, January 24, 2011, May 10, 2011, August 1, 2012, December 18,
14 2012, and August 22, 2014, notifying defendant Chen of these violations and
15 requesting corrective action.
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19 41. On these 20 occasions, defendants introduced or caused the
20 introduction and delivery for introduction into interstate commerce of banned
21 hazardous substances, that is, children's products containing lead, or received in
22 interstate commerce such products, and delivered or proffered delivery thereof for
23 pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).
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26 Count 8

27 42 Any children's product with lead-containing paint in excess of the
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1 statutory limit is a banned hazardous substance. 15 U.S.C. § 1261(q)(1)(A), 16
2 C.F.R. §§ 1303.1(d), 1303.2(b)(2), and 1303.4(b). Violations of the lead paint ban
3 are violations of the FHSA. 15 U.S.C. § 1278a(g); 16 C.F.R. § 1303.1(d). The
4 CPSC banned such products because “there is an unreasonable risk of lead
5 poisoning in children associated with lead content of over [the limit imposed by the
6 CPSC] in paints and coatings to which children have access and that no feasible
7 consumer product safety standard under the CPSA would adequately protect the
8 public from this risk.” 16 C.F.R. § 1303.1(c).
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12 43. The lead paint ban defines “lead-containing paint” as paint and similar
13 surface coatings that contain lead “in excess of 0.009 percent of the weight of the
14 total nonvolatile content of the paint or the weight of the dried paint film.” 16
15 C.F.R. § 1303.1(a); 15 U.S.C. § 1278a(f)(1).
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18 44. Products collected from Taifung’s import shipments and facility, when
19 defendant Chen was manager of Taifung, are “toys” or “articles intended for use by
20 children,” as defined under 16 C.F.R. § 1303.2(b)(3). Five toys collected failed to
21 comply with the lead paint ban because they contained lead paint beyond the
22 statutory limit. Accordingly, these items are banned hazardous substances. The
23 CPSC sent Taifung LOAs dated December 22, 2010, January 24, 2011 (two LOAs),
24 and March 2, 2011, notifying defendant Chen of these violations and requesting
25 corrective action.
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Count 9

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49. Under the FHSA and the regulations issued thereunder, any marble intended for use by children three years of age or older that lacks the required cautionary statement is a misbranded hazardous substance. 15 U.S.C. § 1278(e); 15 U.S.C. § 1261(p); 16 C.F.R. § 1500.19(b).

50. Samples of products collected from the Brightstar defendants' import shipments are "marbles" as defined in 16 C.F.R. § 1500.19(a)(4) and intended for use by children three years of age or older. Two samples of marbles lacked the following required cautionary statement for a marble: "CHOKING HAZARD - - This toy is a marble. Not for children under 3 yrs." 15 U.S.C. 1278(b)(2); 16 C.F.R. § 1500.19(b)(4). Accordingly, the toys are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b). The CPSC sent the Brightstar defendants an LOA dated July 30, 2014 notifying them of these violations and requesting corrective action.

51. On these two occasions, the Brightstar defendants introduced or caused the introduction or delivery for introduction into interstate commerce of misbranded hazardous substances, that is, toys or other articles containing a marble lacking the required labeling, and received in interstate commerce such toys and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. § 1263(a), (c) and 2068(a)(1).

1 RELIEF REQUESTED

2 52. Based on the defendants' past and present courses of conduct, there is a
3 substantial likelihood that, unless restrained by order of this Court pursuant to 15
4 U.S.C. §§ 2071(a) and 1267(a), defendants will continue to violate the CPSA, the
5 FHSA, and other regulations issued thereunder.
6

7
8 WHEREFORE, the United States respectfully requests that this Court:

9 53. Pursuant to 15 U.S.C. § 2071(a), permanently restrain and enjoin the
10 defendants and each and all of their directors, officers, agents, servants, brokers,
11 employees, successors, assigns, attorneys, and all persons or entities in active
12 concert or participation with any of them, from directly or indirectly selling, offering
13 for sale, distributing in commerce, or importing into the United States children's
14 toys and children's products which do not conform to the consumer product safety
15 statutes and regulations enforced by the CPSC, in violation of 15 U.S.C.
16 § 2068(a)(1); selling, offering for sale, manufacturing for sale, distributing in
17 commerce, or importing into the United States products that are banned hazardous
18 substances within the meaning of 15 U.S.C. § 1261(q)(1) of the FHSA, in violation
19 of 15 U.S.C. § 2068(a)(2)(D); and failing to issue certificates and failing to include
20 tracking labels required by 15 U.S.C. § 2063(a)(2), (3), and (5), in violation of 15
21 U.S.C. § 2068(a)(6).
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27 54. Pursuant to 15 U.S.C. § 1267(a), permanently restrain and enjoin the
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1 defendants, and each and all of their directors, officers, agents, servants, brokers,
2 employees, successors, assigns, attorneys, and all persons or entities in active
3 concert or participation with any of them, from directly or indirectly introducing or
4 causing the introduction and delivery for introduction into interstate commerce of
5 misbranded hazardous substances or banned hazardous substances, and receiving or
6 causing the receipt in interstate commerce of misbranded hazardous substances or
7 banned hazardous substances and delivering or proffering delivery thereof for pay or
8 otherwise, in violation of 15 U.S.C. §§ 1263(a), (c), 2068(a)(1), and (2)(D).
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12 55. Pursuant to 15 U.S.C. §§ 2071(a) and 1267(a), award any further
13 injunctive relief that is requested and agreed upon by the parties, as the Court deems
14 necessary and proper.
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16 56. Award plaintiff judgment for its costs and for such other and further
17 relief as it deems necessary and proper.
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25 DATED: _____, 2015

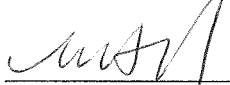
26 Respectfully submitted,

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28 FOR PLAINTIFF

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