

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

EVERBRIGHT TRADING, INC.,
YUAN XIANG GAO, and
RONG QING XU a/k/a RUBY XU,

Defendants.

CONSENT DECREE AND JUDGMENT

Civil Action No. **CV - 17 - 3751**

WHEREAS, the United States of America has filed a complaint against defendants Everbright Trading, Inc., Yuan Xiang Gao, and Rong Qing Xu (a/k/a Ruby Xu) by filing a complaint in this court, a copy of which is annexed hereto as Exhibit A (the "Complaint"); and

WHEREAS, the Complaint, whose allegations are incorporated by reference herein, states a claim for relief, including for a permanent injunction for defendants' alleged violations of statutes and regulations enforced by the U.S. Consumer Product Safety Commission ("CPSC" or "Commission"), including section 19 of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2068(a), and section 4 of the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. § 1263; and

WHEREAS, the United States and defendants Everbright Trading, Inc., Yuan Xiang Gao, and Rong Qing Xu (a/k/a Ruby Xu) wish to settle this action without further litigation; and

WHEREAS, the United States and defendants Everbright Trading, Inc., Yuan Xiang Gao, and Rong Qing Xu (a/k/a Ruby Xu) consent to entry of this Consent Decree and Judgment (the "Decree"), without contest, and before any testimony has been taken; and

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WHEREAS, defendants Everbright Trading, Inc., Yuan Xiang Gao, and Rong Qing Xu (a/k/a Ruby Xu) have waived service of the Summons and Complaint; and

WHEREAS, the parties are represented by the attorneys whose names appear hereafter; and

WHEREAS, the parties hereby agree to fully and finally settle this action upon the following terms and conditions, without adjudication of any issue of fact or law;

NOW THEREFORE, on the agreement of the parties, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345.
2. This Court has jurisdiction, under 15 U.S.C. §§ 2071(a) and 1267(a), to restrain any violation of the CPSA and FHSA. All references to the CPSA and FHSA refer to those statutes and all terms used herein shall have the same meaning as defined and used in the CPSA and FHSA.
3. Venue in the Eastern District of New York is proper under 28 U.S.C. § 1391(b) and (c).
4. At all times relevant hereto, defendant Everbright Trading, Inc. (“Everbright”) is a “distributor” and “manufacturer” of “consumer products,” as those terms are defined in section 3 of the CPSA, 15 U.S.C. § 2052(a).
5. At all times relevant hereto, defendant Yuan Xiang Gao (“Gao”) is and has been the owner of, and defendant Rong Qing Xu a/k/a Ruby Xu (“Xu”) is and has been the manager of, defendant Everbright. Defendants Gao and Xu are the individuals responsible for the acts

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and practices of Everbright including compliance with the requirements of the CPSA and the FHSA, and the regulations issued thereunder.

6. The Complaint states claims upon which relief may be granted against defendants under sections 19(a)(1), (2)(D), and (6) of the CPSA, 15 U.S.C. § 2068(a)(1), 2(D), and (6), and section 4(a) and (c) of the FHSA, 15 U.S.C. § 1263(a) and (c).

7. The Complaint alleges that the defendants violated the CPSA, 15 U.S.C. § 2068(a)(1), by selling, offering for sale, manufacturing for sale, distributing in commerce, and importing into the United States, consumer products, or other products or substances that are regulated under the CPSA or any other Acts enforced by the Commission, that are not in conformity with an applicable consumer product safety rule under the CPSA, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission. Specifically, the Complaint alleges that the defendants violated the CPSA by importing, offering for sale, selling, and distributing in commerce (a) children's toys or child care articles, as defined by 15 U.S.C. § 2057c(g)(1)(B) and (C), that contain phthalate concentrations exceeding the allowable amount pursuant to 15 U.S.C. § 2057c; (b) toys intended for children less than three years of age with batteries that are accessible without the use of a coin, screwdriver, or other common household tool per section 4.25 of the ASTM International standard F963-11 ("ASTM F963-11"); and (c) pull toys intended for children less than three years of age with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11.

8. The Complaint alleges that the defendants violated the CPSA, 15 U.S.C. § 2068(a)(1) and (2)(D), and the FHSA, 15 U.S.C. § 1263(a) and (c), by introducing or causing the introduction or delivery for introduction into interstate commerce of banned hazardous

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substances, and the receipt in interstate commerce of banned hazardous substances and the delivery or proffered delivery thereof for pay or otherwise. Additionally, the Complaint alleges that the defendants violated the CPSA and FHSA by importing, distributing, and selling the following: children's products containing excessive lead, which are banned under 15 U.S.C. § 1278a; toys and other articles intended for use by children under three years of age, which present a choking, aspiration, or ingestion hazard because of small parts and are banned by 16 C.F.R. § 1500.18(a)(9); and children's products that bear lead-containing paint, which are prohibited under 16 C.F.R. part 1303.4(b).

9. The Complaint alleges that the defendants violated the CPSA, 15 U.S.C. § 2068(a)(1), and the FHSA, 15 U.S.C. § 1263(a) and (c), by introducing or causing the introduction or delivery for introduction into interstate commerce of misbranded hazardous substances, or the receipt in interstate commerce of misbranded hazardous substances and the delivery or proffered delivery thereof for pay or otherwise. Specifically, the Complaint alleges that the defendants violated the CPSA and FHSA by importing, distributing and selling art materials which may have the potential to produce chronic adverse health effects, as defined in 16 C.F.R. § 1500.14(b)(8)(i)(B)(3) that do not meet the labeling requirements under 16 C.F.R. § 1500.14(b)(8)(i)(E). The Complaint also alleges that the defendants violated the CPSA and FHSA by importing, distributing and selling toys or games containing latex balloons, intended for children three years of age or older, that lack the required cautionary statement under 15 U.S.C. § 1278(b)(2)(A).

10. The Complaint alleges that defendants violated the CPSA, 15 U.S.C. § 2068(a)(6), by failing to furnish certificates required by this Act or any other Act enforced by the Commission, and further, by failing to comply with a requirement of section 14 (including

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the requirement for tracking labels) or any rule or regulation under such section.

11. Defendants have entered into this Decree freely and without coercion.

12. Defendants hereby waive all rights to appeal or otherwise challenge or contest the validity of this Decree.

13. Entry of this Decree is in the public interest.

ORDER

14. Defendants Everbright, Gao, and Xu, represent, at the time of signing of this Decree, that there are no pending orders from foreign suppliers or foreign manufacturers, or shipments destined for arrival at a U.S. port of entry and containing, including any “children’s product”¹, toy or other consumer product designed or intended primarily for children 12 years of age or younger, and no such orders will be placed prior to entry of this order.

15. Defendants agree to exclusion of entry by the United States Customs and Border Protection and that Defendants will export any children’s product, toy or other consumer product designed or intended primarily for children 12 years of age or younger that is imported subsequent to entry of this order and prior to CPSC’s written notification of compliance as discussed in paragraph (16.K) below.

16. Defendants and each and all of their directors, officers, agents, servants, brokers, employees, successors, assigns, and attorneys, and all persons or entities in active concert or participation with any of them, who receive actual notice of this Decree by personal service or otherwise, are permanently enjoined from directly or indirectly selling, offering for sale, distributing, importing into the United States, introducing or causing the introduction into

¹ This Consent Decree and Judgment adopts the definition of “children’s product” set forth in 15 U.S.C. § 2052(a)(2).

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interstate commerce any children's product, toy or other consumer product designed or intended primarily for children 12 years of age or younger, unless and until all of the following occur:

A. Defendants retain, at Defendants' sole cost and expense, an independent person or entity (the "Product Safety Coordinator"), who certifies in writing to the CPSC that he or she is without any personal or financial ties (other than the agreement pursuant to which the Product Safety Coordinator is engaged to perform the functions described in this Section 16.A) to Defendants, their families or any entity directly or indirectly controlled by Defendants or their families, who does not represent Defendants as legal counsel, and who, by reason of background, training, education, or experience is qualified to help Defendants fulfill the following requirements:

- i. Create a comprehensive product safety program;
- ii. Establish and implement an effective and reasonable product safety testing program in compliance with the FHSA, the CPSA, and any other Act enforced by the CPSC;
- iii. Retain, for children's products, an accredited third party conformity assessment body or bodies accepted by the CPSC ("third party conformity assessment body") and listed on the CPSC's website to perform third party testing on children's products as required by law;
- iv. Establish procedures to ensure that Defendants only purchase art materials that have been reviewed by a toxicologist in accordance with the requirements in 15

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U.S.C. § 1277, 16 C.F.R. § 1500.14(b)(8), and ASTM D-4236;

- v. Establish procedures to conduct product recalls; and
- vi. Develop procedures for adhering to CPSC reporting requirements in 15 U.S.C. § 2064(b);

B. Defendants submit the name and credentials of the Product Safety Coordinator to the CPSC's Office of Compliance and Field Operations ("Office of Compliance") via overnight delivery, prior to using the services of the Product Safety Coordinator. If CPSC staff objects to the Product Safety Coordinator selected by Defendants, the staff must so notify Defendants within thirty (30) calendar days of Defendants submitting the Product Safety Coordinator's name and credentials, at which time Defendants shall select a replacement, the name and credentials of whom shall be submitted to the Office of Compliance. If CPSC staff does not respond to Defendants' submission of a Product Safety Coordinator's credentials within thirty (30) days, Defendants may use the services of that Product Safety Coordinator;

C. The Product Safety Coordinator conducts an in-person product audit to review Defendants' merchandise and inventory containing children's products, toys or other consumer products designed or intended primarily for children 12 years of age or younger for compliance with the CPSA, the FHSA, any other Act enforced by the CPSC, and any regulations issued thereunder. The Product Safety Coordinator shall quarantine all subject merchandise until the terms of the Decree have been satisfied. At the conclusion of the audit, the Product Safety Coordinator shall prepare a written report analyzing whether Defendants are operating in compliance with the CPSA, the FHSA, any other Act enforced by the CPSC, any regulations issued thereunder, and this Decree. The report shall include:

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- i. The specific results of the Product Safety Coordinator's review, including references to product names and regulations addressed in the process of conducting the review;
- ii. A list of products in inventory that do not comply with current requirements and a plan for their disposition; and
- iii. Copies of all materials reviewed by the Product Safety Coordinator.

The Product Safety Coordinator shall submit this report concurrently to Defendants and the Office of Compliance no later than twenty (20) calendar days after completing this review;

D. Should the Product Safety Coordinator identify any deficiencies in the report as described in subparagraph (16.C), Defendants shall report to the Office of Compliance and the Product Safety Coordinator in writing the actions they have taken to correct all such deficiencies;

E. Defendants establish, with the assistance of the Product Safety Coordinator, a comprehensive, written children's product safety program with written standard operating procedures ("SOPs") designed to ensure continuous compliance with applicable federal laws, standards, and regulations enforced by the CPSC. The written children's product safety program shall:

- i. Comply with the third party testing requirements pursuant to 15 U.S.C. § 2063(a)(2) and periodic testing at least once a year in accordance with the requirements of 16 C.F.R. part 1107. This periodic testing requirement applies to

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- each children's product that Defendants import into the United States or manufacture for sale that is subject to a children's product safety rule, or any other consumer product safety rule or similar ban, standard, or regulation of children's products under the CPSA, the FHSA, any other Act regarding children's products enforced by the CPSC, or any regulation passed thereunder;
- ii. Ensure that after testing in accordance with law and this Decree, Defendants issue, retain and provide to the CPSC on request, certificates of conformity for every children's product that is subject to a children's product safety rule, or similar ban, standard, or regulation of children's products under the CPSA, the FHSA, when applicable, and any other Act regarding children's products enforced by the CPSC, or any regulation passed thereunder;
 - iii. Ensure that children's products have all cautionary labeling required by the CPSA, the FHSA, any other Act enforced by the CPSC, and any applicable regulations;
 - iv. Ensure that children's products have permanent, distinguishing marks (tracking labels) on the product and its packaging when practicable and as required by 15 U.S.C. § 2063(a)(5);
 - v. Ensure and record regularly, through a written checklist or

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- other written document, that the children's product safety program's SOPs are followed consistently;
- vi. Include procedures to ensure that the Defendants:
 - adequately correct any product violation cited by the CPSC (whether in connection with an inspection, a letter of advice or otherwise); conduct product recalls; and respond to CPSC letters of advice within the time specified in each letter of advice; and
 - vii. Establish systems to: investigate all reports of consumer incidents, property damage, injuries, warranty claims, insurance claims, and court complaints regarding children's products that Defendants import, distribute or sell in the United States; adhere to applicable CPSC reporting requirements; address potentially defective children's products appropriately; and implement corrective internal procedures should systemic issues relating to compliance with CPSC requirements regarding children's products be identified;

F. Defendants ensure that a third party conformity assessment body has conducted certification testing on children's products. The Defendants shall hire or supervise the hiring of a third party conformity assessment body to test samples of each children's product, subject to any children's product safety rule including, but not limited to, the following:

- i. Small Parts: For each children's product that is designed or

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intended for children under three years of age, as determined by age grading analysis that includes the factors listed at 16 C.F.R. § 1501.2(b), in accordance with the requirements of 16 C.F.R. §§ 1500.51, 1500.52, and 16 C.F.R. part 1501;

- ii. Lead Paint and Lead Content: A third party conformity assessment body for lead paint and lead content testing shall test each model of children's product that bears a surface coating for compliance with the lead paint requirements of 16 C.F.R. part 1303, and test accessible substrates, when applicable, for the lead content requirements of 15 U.S.C. § 1278a(a)(2) and the applicable requirements of the effective version of ASTM F963-11;
- iii. Phthalates: A third party conformity assessment body for phthalates testing shall test each model of children's toy that contains plasticized components or child care articles for compliance with the phthalate content requirements of 15 U.S.C. § 2057c; and
- iv. ASTM International standard: A third party conformity assessment body for pull toy and battery-operated toy testing shall test each model of pull toy intended for children under three years of age that contains accessible cords, straps, or elastics greater than 12 inches long with

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beads or other attachments that could tangle to form a loop for compliance with section 4.14 of ASTM F963-11, or the applicable effective version, and test each model of toy intended for children under age three that contains batteries accessible without the use of a coin, screwdriver, or other household tool for compliance with section 4.25 of ASTM F963-11, or the applicable effective version;

G. Defendants issue certificates of compliance for each children's product that is subject to any children's product safety rule, verifying that each of Defendants' children's products comply with such children's product safety rule, to the extent required by 15 U.S.C. § 2063(a)(2), 16 C.F.R. part 1110, and other applicable rules;

H. The Product Safety Coordinator inspects a representative sample of all children's products in Defendants' inventory for compliance with all labeling requirements imposed by the CPSA, the FHSA, any other Act enforced by the CPSC, and all applicable regulations, including, but not limited to, the following:

- i. Small Parts: For each children's toy that is intended for children over three years of age and under six years of age, Defendants shall apply cautionary labeling to each such item, consistent with the requirements of 15 U.S.C. § 1278(a) and (b); and
- ii. Art Materials: For each art material or art material product, Defendants shall ensure that all applicable labeling as required under 16 C.F.R. § 1500.14(b)(8)(i)(C) appears on

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the art material or art material product;

I. The Product Safety Coordinator submits, to the Office of Compliance, a copy of the comprehensive, written product safety program, including written SOPs, specified in subparagraph (16.E) of this Decree and written certification that:

- i. Defendants have established a comprehensive product safety program and internal policies for implementing that program;
- ii. Defendants have corrected the violations brought to Defendants' attention by the CPSC, the Product Safety Coordinator, including in the Product Safety Coordinator's report as described in subparagraph (16.C) of this Decree, and any other source;
- iii. Defendants have recalled, at least to the retail level, all defective, potentially hazardous, and noncomplying children's products they have sold, distributed or received in commerce, as instructed by the Office of Compliance;
- iv. The Product Safety Coordinator has identified each product in Defendants' product inventory that is subject to a children's product safety rule or similar rule, ban, standard, or regulation under the CPSA, the FHSA, or any other Act regarding children's products enforced by the CPSC;
- v. All identified children's products have been tested for compliance with all applicable rules, bans, standards, or

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regulations, as required by 15 U.S.C. § 2063(a)(1) and (a)(2);

- vi. Defendants purchased only those art materials that have been reviewed by a toxicologist in accordance with the requirements in 15 U.S.C. § 1277, 16 C.F.R. § 1500.14(b)(8), and ASTM D-4236, and that contain all applicable labeling as required by 16 C.F.R. § 1500.14(b)(8)(i)(C);
- vii. To the extent required by law, for each such product that passes the required testing, Defendants have issued a certificate that certifies that such consumer product complies with all rules, bans, standards, or regulations applicable to the product under the CPSA, the FHSA, and any other Act enforced by the CPSC;
- viii. The Product Safety Coordinator has identified and provided a list to Defendants of each product in Defendants' inventory or that Defendants intend to import for consumption, warehousing, or distribution in the United States that is a children's product subject to a children's product safety rule;
- ix. Defendants have submitted samples of each such children's product to a third party conformity assessment body for compliance testing;

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- x. For each such product that meets the requirements of applicable standards, regulations, or bans through the third-party testing, Defendants have issued a certificate for each applicable children's product safety rule, certifying that such children's product complies with each children's product safety rule based on testing by a third-party conformity assessment body accredited to conduct such testing;
- xi. Defendants have reconditioned or destroyed with CPSC staff guidance and supervision all consumer products, including children's products, in Defendants' inventory, that failed to meet any applicable consumer product safety rule, ban, standard, or regulation. This requirement also applies to all consumer products that are included in the Product Safety Coordinator's product list as specified in subparagraph (16.C) of this Decree. Defendants will give thirty-day notice to the CPSC of any products covered by this Decree that Defendants intend to destroy or export for purpose of sale, consistent with 15 U.S.C. §§ 2067, 2068(a), and 16 C.F.R. part 1019; and
- xii. Defendants have applied cautionary labeling to all children's products for which such labeling is required under the CPSA, the FHSA, any other Act enforced by the

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CPSC, and all applicable regulations;

J. CPSC representatives inspect the Defendants' facility as soon as is practicable after receipt of the certification required in subparagraph (16.I);

K. If pursuant to the inspection the Defendants appear to be in compliance with the requirements set forth in subparagraphs (16.A)-(16.I) of this Decree, the CPSC shall notify the Defendants in writing. If Defendants are not in compliance or deficiencies have been identified by the CPSC in writing, Defendants agree to address the deficiencies identified to the satisfaction of the CPSC. The CPSC's silence shall not be construed as a substitute for written notification, unless the CPSC fails to respond to a written request from the Defendants for a notice under this paragraph within forty-five (45) days of the request.

17. For a period of at least two years from the date the CPSC notifies the Defendants in writing pursuant to paragraph (16.K) (the "monitoring period"), the Defendants shall retain the Product Safety Coordinator to monitor the Defendants' implementation of the comprehensive children's product safety program and compliance with the requirements of this Decree and all relevant statutes and regulations. If during the monitoring period, the CPSC finds that the Defendants are not in compliance with this Decree, the CPSC may give the Defendants written notice of a 180-day extension of the monitoring period. In the event that the CPSC notifies Defendants through a Letter of Advice (or Notice of Non-compliance) that a product is in violation of a statute, rule, regulation, standard, or ban administered by the CPSC, the Defendants may present evidence through the procedures described in Chapter 3 of the Regulated Products Handbook to Commission staff that the product is not violative. Similarly, in the event that the CPSC finds that the Defendants are not in compliance with any other aspect of this Decree, Defendants may present evidence to CPSC staff, as directed in the notification,

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that Defendants are in compliance with the Decree.

18. Defendants, and each and all of their directors, officers, agents, servants, brokers, employees, attorneys, successors, assigns, and all persons or entities in active concert or participation with any of them who receive actual notice of this Decree by personal service or otherwise, are hereby permanently restrained and enjoined from directly or indirectly doing or causing to be done any of the following acts:

Violating the CPSA

A. Violating section 19(a)(1) of the CPSA, 15 U.S.C. § 2068(a)(1), by selling, offering for sale, manufacturing for sale, distributing in commerce, or importing into the United States any consumer product, or other product or substance that is regulated under the CPSA or any other Act enforced by the Commission, that is not in conformity with an applicable consumer product safety rule under the CPSA, or any similar rule, regulation, standard, or ban under any Act enforced by the Commission, including, but not limited to:

- i. Any children's toy or child care article that contains concentrations of phthalates in violation of 15 U.S.C. § 2057c;
- ii. Any pull toy intended for children less than three years of age with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11, or the applicable effective version;
- iii. Any toy intended for children less than three years of age with batteries that are accessible without the use of a coin,

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- screwdriver, or other common household tool per section 4.25 of ASTM F963-11, or the applicable effective version;
- iv. Any product that is subject to any consumer product safety rule or any children's product safety rule and lacks a conformity certificate to the extent required under 15 U.S.C. § 2063 and applicable rules, regulations, and enforcement policies of the CPSC; and
- v. Any children's product that has not been tested by an accredited third party conformity assessment body accepted by the CPSC to the extent required under 15 U.S.C. § 2063(a)(2) and applicable rules, regulations, and enforcement policies of the CPSC;

B. Violating section 19(a)(2)(D) of the CPSA, 15 U.S.C. § 2068(a)(2)(D), by selling, offering for sale, manufacturing for sale, distributing in commerce, or importing into the United States any consumer product, or other product or substance that is a banned hazardous substance within the meaning of section 2(q)(1) of the FHSA, 15 U.S.C. § 1261(q)(1), including, but not limited to, the violations discussed in subparagraph (18.E) below.

C. Violating section 19(a)(6) of the CPSA, 15 U.S.C. § 2068(a)(6), by failing to furnish a certificate required by this Act or any other Act enforced by the Commission, or to issue a false certificate, if such person, in the exercise of due care, has reason to know that the certificate is false or misleading in any material respect; or to fail to comply with any requirement of section 14 (including the requirement for tracking labels), or any rule or regulation under such section.

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D. Engaging in any other act or practice that would violate the CPSA, 15 U.S.C. §§ 2051-2089.

Violating the FHSA

E. Introducing, or causing the introduction or delivery for introduction into interstate commerce of any banned hazardous substance, or receiving in interstate commerce any banned hazardous substance and delivering or proffering to deliver thereof for pay or otherwise, in violation of section 4 of the FHSA, 15 U.S.C. § 1263(a) and (c), including, but not limited to:

- i. Any children's product containing lead exceeding the limits established in 15 U.S.C. § 1278a;
- ii. Any toy or other article intended for use by children that bears lead-containing paint, as defined by 16 C.F.R. § 1303.2(b); and
- iii. Any toy or other article, intended for use by children under three years of age that presents a choking, aspiration, or ingestion hazard because of small parts, as defined by 16 C.F.R. part 1501.

F. Introducing, or causing the introduction or delivery for introduction into interstate commerce, any misbranded hazardous substance or receiving in interstate commerce any misbranded hazardous substance, or delivering or proffering to deliver thereof for pay or otherwise, in violation of section 4 of the FHSA, 15 U.S.C. § 1263(a) and (c), including, but not limited to:

- i. Any art material, as defined in 16 C.F.R. § 1500.14(b)(8)(i)(B)(1) and (2), that does not meet the

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requirements of the Labeling of Hazardous Art Materials Act, 15 U.S.C. §§1262(b), 1277(a) and (b); and

- ii. Any latex balloon, or toy or game containing a latex balloon, as defined in 16 C.F.R. § 1500.19(a)(3), that lacks the required cautionary statement under 15 U.S.C. § 1278(b)(2).

G. Engaging in any other act or practice that would violate the FHSA, 15 U.S.C. §§ 1261-1278.

19. Beginning on or before the date that is six (6) months after the date of entry of this Decree and every six (6) months thereafter, for a period of five (5) years after the date of entry of this Decree, Defendants shall provide in writing to the Office of Compliance a list of the names and importer of record numbers used or associated with any entity owned, managed, or controlled, in whole or in part, by Defendants.

20. Defendants shall maintain, and provide promptly to the CPSC upon request, for at least five (5) years after the date of entry of this Decree, records of all analyses, testing, and certificates of conformance for any consumer product required by this Decree and all applicable laws. Such records shall include, but not be limited to, the date of the analysis and testing, the procedures used, and the results of the analysis and testing. Defendants shall also maintain, and provide promptly to the CPSC upon request, for at least five (5) years after the date of entry of this Decree, records of all consumer incidents, property damage, injuries, warranty claims, returns, insurance claims, or court complaints regarding consumer products that Defendants imported or distributed in the United States, regardless of where the incident occurred, to the extent reasonably available and permitted by law.

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21. If, at any time after this Decree has been entered, the CPSC determines, based on a review of inspection results, import examinations, a report prepared by the Product Safety Coordinator, or any other information, that Defendants have failed to comply with any provision of this Decree, have violated the CPSA, the FHSA, any other Act enforced by the CPSC, or any applicable regulations, or that additional corrective actions are necessary to achieve compliance with the law, applicable regulations, and/or this Decree, the CPSC may, as and when the agency deems necessary, notify Defendants in writing of the noncompliance and order Defendants to take appropriate corrective action, including, but not limited to, ordering Defendants to immediately take one or more of the following actions:

A. Cease importing, offering for sale, selling, and distributing in commerce any toy or other consumer product designed or intended primarily for children 12 years of age or younger;

B. Revise, modify, expand, or continue to submit any reports or SOPs prepared pursuant to this Decree;

C. Submit additional reports or information to the CPSC as requested;

D. Pay liquidated damages as provided in paragraph 28 below;

E. Recall any product(s) at Defendants' expense; or

F. Take any other corrective action(s) as the CPSC, in the agency's discretion, deems necessary to bring Defendants and their products into compliance with the CPSA, the FHSA, any other Act enforced by the CPSC, any applicable regulations, and/or this Decree. This remedy shall be separate and apart from, and in addition to, any other remedy available to the United States under this Decree or under the law.

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22. Within ten (10) calendar days after the date of entry of this Decree, Defendants shall post copies of this Decree on all bulletin boards in common areas at their corporate, warehouse and retail facilities, and at any other locations at which Defendants conduct business within the CPSC's jurisdiction, and shall ensure that the Decrees remain posted at each location for as long as such Defendant is engaged in importing or selling any toy or other consumer product designed or intended primarily for children 12 years of age or younger.

23. Within ten (10) calendar days after the date of entry of this Decree, Defendants shall provide a copy of the Decree, by personal service or certified mail (restricted delivery, return receipt requested), to each and all of their directors, officers, agents, servants, brokers, and employees (collectively referred to as "Associated Persons"). Within thirty (30) calendar days after the date of entry of this Decree, Defendants shall provide to the CPSC's General Counsel an affidavit stating the fact and manner of their compliance with this paragraph, identifying the names, addresses, and positions of all persons who received a copy of this Decree pursuant to this paragraph.

24. If any of the Defendants becomes associated with any additional Associated Person(s) at any time after the date of entry of this Decree, such Defendant shall provide immediately a copy of this Decree, by personal service or certified mail (restricted delivery, return receipt requested), to such Associated Person(s). Within ten (10) calendar days after the date on which any of the Defendants becomes associated with any such additional Associated Person, such Defendant shall provide, to the CPSC's General Counsel, an affidavit stating the fact and manner of the applicable Defendant's compliance with this paragraph, identifying the names, addresses, and positions of any Associated Person(s) who received a copy of this Decree pursuant to this paragraph, and attaching a copy of the executed certified mail return receipts.

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Consent Decree and Judgment

25. Within ten (10) calendar days of receiving a request from the CPSC for any information or documentation that the CPSC deems necessary to evaluate Defendants' compliance with this Decree, Defendants shall provide such information or documentation to the CPSC.

26. The Defendants shall notify the CPSC's General Counsel in writing at least ten (10) calendar days before (i) consummation of: a sale, lease, exchange, or transfer of all or substantially all of the assets of Everbright; any merger, consolidation, or reorganization of Everbright; or any change in ownership of Everbright in which the holders of the outstanding equity of these businesses immediately before the transaction do not hold voting control, or at least 50% of the outstanding equity of, the surviving entity after the transaction; or (ii) adoption or approval by Everbright of a plan of liquidation or dissolution or an agreement relating to or calling for liquidation or dissolution of Everbright.

27. All notifications, certifications, reports, correspondence, and other communications to the Office of Compliance as required by the terms of this Decree shall be addressed to the Director, Division of Regulatory Enforcement, Office of Compliance and Field Operations, CPSC, 4330 East West Highway, Bethesda, MD 20814. All notifications, certifications, reports, correspondence, and other communications to the CPSC's General Counsel as required by the terms of this Decree shall be addressed to the General Counsel, Office of the General Counsel, CPSC, 4330 East West Highway, Bethesda, MD 20814.

28. If any Defendant fails to comply with the provisions of this Decree, said Defendant shall pay to the United States of America: (a) one thousand dollars (\$1,000) in liquidated damages for each violation of the CPSA, the FHSA, any other Act enforced by the CPSC, any applicable regulations, and/or this Decree; and (b) an additional five hundred dollars

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(\$500) in liquidated damages per day, per violation, for each violation of the CPSA, the FHSA, any other Act enforced by the CPSC, any applicable regulations, and/or this Decree. Defendants understand and agree that the liquidated damages specified in this paragraph are not punitive in nature and do not in any way limit the ability of the United States of America to seek, and the Court to impose, additional criminal or civil contempt penalties based on conduct that may also be the basis for the payment of liquidated damages.

29. If Defendants violate this Decree and are found in civil or criminal contempt thereof, Defendants shall, in addition to other remedies, reimburse plaintiff for its attorneys' fees, including overhead, investigational expenses, and court costs relating to such contempt proceeding.

30. This Decree, and any act, statement, or document executed pursuant to or in furtherance of this Decree, shall not be deemed or used in any way: (i) as an admission of, or evidence of, the validity of any claim asserted in the Complaint, or of any wrongdoing or liability of the Defendants, or of any unlawful, unfair, or fraudulent business practices of the Defendants, all of which Defendants deny; (ii) as an admission of, or evidence of, any fault or omission of the Defendants in any civil, criminal, or administrative proceeding of any kind in any court, administrative agency, or other tribunal; or (iii) as an admission of, waiver of, or evidence relating to, any claim or defense asserted by any party.

31. Each party shall bear its own costs and attorneys' fees.

32. The provisions of this Decree are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in full force and effect.

33. This Court shall retain jurisdiction of this matter for purposes of construction,

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modification, and enforcement of this Decree.

34. The parties, by their respective counsel, hereby consent to entry of the foregoing Decree, which shall constitute a final judgment and order in this matter as to injunctive relief. The parties further stipulate and agree that the entry of the foregoing Decree shall constitute full, complete, and final settlement of this action as to injunctive relief.

SO ORDERED this _____ day of _____, 2017.

HONORABLE
United States District Judge

**FOR PLAINTIFF
THE UNITED STATES OF AMERICA**

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MICHAEL S. BLUME
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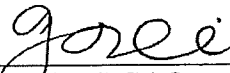
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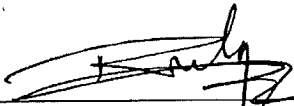
MARY T. BOYLE
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By: /s/ Renee H. McCune
RENEE H. McCUNE
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Office of the General Counsel
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Bethesda, MD 20814
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FOR DEFENDANTS


YUAN XIANG GAO,
Individually, and as owner of Everbright
Trading, Inc.


RONG QING XU, a/k/a RUBY XU
Individually, and as manager of Everbright
Trading, Inc.

THE LAW FIRM OF HUGH H. MO, P.C.

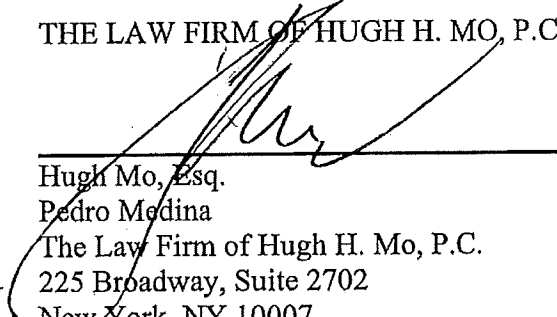
By: 
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EXHIBIT A

FILED
CLERK

2017 JUN 21 PM 4:40

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

EVERBRIGHT TRADING, INC.,
YUAN XIANG GAO, and
RONG QING XU a/k/a RUBY XU,

Defendants.

COMPLAINT

Civil Action No.

CV 17- 3751

DeARCY HALL, J.

MANN. M.J.

Plaintiff, the UNITED STATES OF AMERICA, by and through the undersigned attorneys, hereby alleges as follows:

INTRODUCTION

The United States of America brings this action to enjoin and restrain Everbright Trading, Inc., Yuan Xiang Gao, and Rong Qing Xu (a/k/a Ruby Xu) (collectively, "defendants"), from offering for sale, selling, importing, or distributing children's products in violation of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. §§ 2051-2089; the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. §§ 1261-1278; and regulations issued thereunder.

1. The United States pursues this action on behalf of the U.S. Consumer Product Safety Commission ("CPSC" or "Commission"), an independent federal regulatory agency that enforces the CPSA, the FHSA, and related regulations. One of the purposes of the CPSC is to protect the public against unreasonable risks of injury associated with consumer products.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.
3. This Court also has jurisdiction, under 15 U.S.C. § 2071(a), to restrain any violation

of section 2068 of the CPSA, and, under 15 U.S.C. § 1267(a), to restrain any violation of the FHSA.

4. Venue in the Eastern District of New York is proper under 28 U.S.C. §§ 1391(b) and (c).

PARTIES

5. Plaintiff is the United States of America.

6. Defendant Everbright Trading, Inc. (“Everbright”) is a corporation organized and existing under the laws of New York, presently located at 1177B Flushing Avenue, Brooklyn, New York 11237 (“the 1177B Flushing Ave. Facility”). Everbright was formed as a corporation on June 16, 2010. Until approximately August 2014, Everbright was previously located at 72 Van Dam Street, Brooklyn, New York 11222 (“the 72 Van Dam St. Facility”).

7. Everbright is a manufacturer as defined in 15 U.S.C. § 2052(a)(11)¹ of consumer products, including children’s toys and articles that are subject to the requirements of the CPSA, the FHSA, and the regulations issued thereunder. At all relevant times herein, the defendants have imported and sold various consumer products, including children’s toys and articles, through the 1177B Flushing Ave. and 72 Van Dam St. Facilities.

8. Defendant Yuan Xiang Gao is the owner of Everbright.

9. Defendant Rong Qing Xu (a/k/a Ruby Xu) is the manager and operator of Everbright.

10. Gao and Xu are responsible for ensuring Everbright’s compliance with the requirements of the CPSA, the FHSA, and the regulations issued thereunder.

¹ Title 15 U.S.C. § 2052(a)(11) defines manufacturer to include “any person who manufactures or imports a consumer product.”

11. At all times relevant to this action, Gao and Xu formulated, directed, controlled, and participated in Everbright's acts and practices, including the acts and practices alleged herein.

DEFENDANTS' VIOLATIONS OF THE CPSA

12. Since March 12, 2013, the CPSC has collected 97 violative samples of children's consumer products from the defendants' import shipments at the ports of New York/Newark, New Jersey, and Los Angeles/Long Beach. The 99 violative samples contained 189 violations of federal law, including children's products and toys with illegal levels of total lead content, lead paint, and phthalates; toys intended for children under three years of age that contain small parts or accessible batteries; pull toys intended for children under three years of age that contain accessible cords, straps or elastics greater than twelve inches long with beads or other attachments that could tangle to form a loop; children's toys containing latex balloons lacking required cautionary labeling; and children's toys and articles lacking required certification based on third-party testing and lacking tracking labels.

13. The CPSC issued a total of 41 Letters of Advice ("LOAs") from April 10, 2013 to December 22, 2016, notifying the defendants of the 189 violations.

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

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

16. Under the CPSA, it is unlawful for any person to fail to comply with the tracking

labels requirement in 15 U.S.C. § 2063, or any rule or regulation under that section. 15 U.S.C. § 2068(a)(6).

17. The defendants' violations of the CPSA provisions set forth in paragraphs 12 through 16 above are specified below.

Phthalate Concentrations Exceeding the Legal Limit

18. The United States realleges and incorporates by reference paragraphs 1 through 17 of this Complaint as though fully set forth herein.

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

20. Samples of products collected from the defendants' import shipments are "children's toys" as defined under 15 U.S.C. § 2057c(g)(1)(B).

21. The defendants sold, offered for sale, distributed in commerce, or imported into the United States 19 types of violative toys, thereby violating 15 U.S.C. § 2068(a)(1).

22. On May 24, 2013, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

23. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the toys collected on May 24, 2013, and tested by the CPSC exceeded the phthalate concentration limit under the CPSA. The LOA notified defendants that their sale, offer for sale, distribution in

commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

24. On November 15, 2013, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

25. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the toys collected on November 15, 2013, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

26. On June 10, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

27. On June 12, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

28. On July 8, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

29. The CPSC sent Everbright an LOA dated August 22, 2014, notifying defendants that the toys collected on June 10, June 12 and July 8, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale,

distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

30. On July 21, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

31. The CPSC sent Everbright an LOA dated September 15, 2014, notifying defendants that the toys collected on July 21, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1).

32. On July 24, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

33. The CPSC sent Everbright an LOA dated September 10, 2014, notifying defendants that the toys collected on July 24, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

34. On August 13, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

35. On August 18, 2014, the CPSC collected two types of toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

36. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the toys collected on August 13 and August 18, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

37. On September 16, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

38. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants that the toys collected on September 16, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

39. On September 23, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

40. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the toys collected on September 23, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

41. On October 9, 2014, the CPSC collected toys from the defendants that exceeded

the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

42. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants that the toys collected on October 9, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

43. On October 28, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

44. The CPSC sent Everbright an LOA dated January 13, 2015, notifying defendants that the toys collected on October 28, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

45. On November 4, 2016, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

46. The CPSC sent Everbright an LOA dated December 12, 2016, notifying defendants that the toys collected on November 4, 2016, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

47. On November 10, 2016, the CPSC collected two types of toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

48. The CPSC sent Everbright a second LOA dated December 12, 2016, notifying defendants that the toys collected on November 10, 2016, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

49. On November 16, 2016, the CPSC collected two types of toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

50. The CPSC sent Everbright a third LOA dated December 12, 2016, notifying defendants that the toys collected on November 16, 2016, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

Violations Concerning Toys Intended For Children Under Three Years Of Age With Battery Compartments That Are Not Sufficiently Secure

51. The United States realleges and incorporates by reference paragraphs 1 through 50 of this Complaint as though fully set forth herein.

52. Under the CPSA, it is unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States toys intended for children less than three years of age with batteries that are accessible without the use of a coin, screwdriver, or other

common household tool per section 4.25 of ASTM International standard F963-11 (“ASTM F963-11”). 15 U.S.C. § 2056b(a).

53. The defendants sold, offered for sale, distributed in commerce, or imported into the United States violative toys intended for children under age three and containing accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1).

54. On February 18, 2016, the CPSC collected, from the defendants’ import shipments, two samples of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

55. The CPSC sent Everbright an LOA dated April 27, 2016, notifying defendants that the two samples of toys collected on February 18, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

56. On May 16, 2016, the CPSC collected, from the defendants’ import shipments one sample of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

57. The CPSC sent Everbright an LOA dated August 1, 2016, notifying defendants that the toys collected on May 16, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

58. On September 12, 2016, the CPSC collected, from the defendants’ import shipments, one sample of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

59. The CPSC sent Everbright an LOA dated November 16, 2016, notifying defendants

that the toys collected on September 12, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

60. On October 3, 2016, the CPSC collected, from the defendants' import shipments, one sample of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

61. The CPSC sent Everbright an LOA dated December 21, 2016, notifying defendants that the toys collected on October 3, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

Violations Concerning Pull Toys Intended For Children Under Three Years of Age With Accessible Cords, Straps, Or Elastics Greater Than 12 Inches Long With Beads Or Other Attachments That Could Tangle To Form A Loop

62. The United States realleges and incorporates by reference paragraphs 1 through 61 of this Complaint as though fully set forth herein.

63. Under the CPSA, it is unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States toys intended for children less than three years of age with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11. 15 U.S.C. § 2056b(a).

64. The CPSC collected from Everbright's import shipments samples of toys intended for children less than three years of age containing accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11.

65. On April 11, 2016, the CPSC collected, from the defendants' import shipments, three samples of toys with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11. These toys were intended for children under three years of age.

66. The CPSC sent Everbright an LOA dated July 20, 2016, notifying defendants that the toys collected on April 11, 2016, intended for children under age three, contained accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

67. On April 21, 2016, the CPSC collected, from the defendants' import shipments, three samples of toys with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11. These toys were intended for children under three years of age.

68. The CPSC sent Everbright a separate LOA, also dated July 20, 2016, notifying defendants that the toys collected on April 21, 2016, intended for children under age three, contained accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

Violations Concerning The Required Certificate Stating That Children's Products Comply With Each Applicable Children's Product Safety Rule

69. The United States realleges and incorporates by reference paragraphs 1 through 68 of this Complaint as though fully set forth herein.

70. Under the CPSA, every manufacturer of a children's product that is subject to a

children's product safety rule must submit samples of the product to a third-party conformity assessment body for testing. The manufacturer must then issue a certificate, based upon such testing that such children's product complies with each applicable children's product safety rule. This requirement applies for children's products that produce small parts or have lead-containing paint. 15 U.S.C. § 2063(a)(2). This requirement also applies for children's products that contain phthalates or lead, toys intended for children under three that contain accessible batteries, and toys that do not comply with the pull toy requirements. 15 U.S.C. § 2063(a)(3).

71. The CPSC collected samples of toys and articles from the defendants' import shipments that are "children's products" as defined under 15 U.S.C. § 2052(a)(2) and are subject to a "children's product safety rule" as defined under 15 U.S.C. § 2063(f)(1). The sampled items were required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. In 30 instances, defendants failed to produce the required certification of testing or defendants furnished an invalid certificate because the manufacturing date did not match the information on the tracking label and the test report was invalid or the sample did not meet the periodic testing requirement under 16 C.F.R. § 1107.21 or the product was not identifiable from the test report.

72. On April 4, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

73. The CPSC sent Everbright an LOA dated May 9, 2013, notifying defendants that

the sample of children's products collected on April 4, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

74. On April 18, 2013, the CPSC collected, from the defendants' import shipments, three samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

75. The CPSC sent Everbright an LOA dated May 29, 2013, notifying defendants that the samples of children's products collected on April 18, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

76. On May 24, 2013, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

77. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the samples of children's products collected on May 24, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

78. On June 11, 2013, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

79. The CPSC sent Everbright a separate LOA dated July 8, 2013, notifying defendants

that the samples of children's products collected on June 11, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

80. On November 15, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

81. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the sample of children's products collected on November 15, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

82. On March 19, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

83. The CPSC sent Everbright an LOA dated April 23, 2014, notifying defendants that the samples of children's products collected on March 19, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

84. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a

sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

85. On May 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

86. The CPSC sent Everbright an LOA dated July 29, 2014, notifying defendants that the samples of children's products collected on May 13 and May 23, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

87. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a separate sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint. Phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

88. The CPSC sent Everbright an LOA dated August 7, 2014, notifying defendants that the sample of children's products collected on May 13, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

89. On July 24, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

90. The CPSC sent Everbright an LOA dated September 10, 2014, notifying defendants that the sample of children's products collected on July 24, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

91. On September 16, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

92. The CPSC sent Everbright an LOA dated October 31, 2014, notifying defendants that the samples of children's products collected on September 16, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

93. On September 1, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

94. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants that the samples of children's products collected on September 1, 2015, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

95. On February 18, 2016, the CPSC collected, from the defendants' import shipments,

three samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

96. The CPSC sent Everbright an LOA dated April 27, 2016, notifying defendants that the three samples of children's products collected on February 18, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

97. On April 11, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

98. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that the two samples of children's products collected on April 11, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

99. On May 16, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

100. The CPSC sent Everbright an LOA dated August 1, 2016, notifying defendants that

the sample of children's products collected on May 16, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

101. On July 13, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

102. The CPSC sent Everbright an LOA dated October 3, 2016, notifying defendants that the sample of children's products collected on July 13, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

103. On November 4, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

104. The CPSC sent Everbright an LOA dated December 12, 2016, notifying defendants that the sample of children's products collected on November 4, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

105. On November 10, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

106. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 10, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

107. On November 16, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

108. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 16, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

Tracking Label Violations

109. The United States realleges and incorporates by reference paragraphs 1 through 108 of this Complaint as though fully set forth herein.

110. Under the CPSA, every manufacturer of a children's product shall place permanent, distinguishing marks ("tracking labels") on the product and its packaging, which will enable the manufacturer and ultimate purchaser of the product to ascertain the location and date of production, along with cohort information. 15 U.S.C. § 2063(a)(5).

111. The CPSC collected samples of toys and articles from the defendants' import shipments that are "children's products" as defined under 15 U.S.C. § 2052(a)(2). Sixty-two children's products sampled failed to have tracking labels or had insufficient tracking labels. The

defendants failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

112. On March 12, 2013, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

113. The CPSC sent Everbright an LOA dated April 10, 2013, notifying defendants that the samples of children's products collected on March 12, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

114. On April 4, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

115. The CPSC sent Everbright an LOA dated May 9, 2013, notifying defendants that the sample of children's products collected on April 4, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

116. On April 18, 2013, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

117. The CPSC sent Everbright an LOA dated May 29, 2013, notifying defendants that the samples of children's products collected on April 18, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

118. On May 24, 2013, the CPSC collected, from the defendants' import shipment, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

119. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the samples of children's products collected on May 24, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

120. On June 11, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

121. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the sample of children's products collected on June 11, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

122. On November 15, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

123. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the sample of children's products collected on November 15, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

124. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a

sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

125. On May 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

126. The CPSC sent Everbright an LOA dated July 29, 2014, notifying defendants that the samples of children's products collected on May 13 and May 23, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

127. On May 13, 2014, the CPSC collected, from the defendants' import shipments, an additional sample of children's products. This sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

128. The CPSC sent Everbright an LOA dated August 7, 2014, notifying defendants that this additional sample of children's products collected on May 13, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

129. On June 10, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

130. On June 12, 2014, the CPSC collected, from the defendants' import shipments, four samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

131. On July 8, 2014, the CPSC collected, from the defendants' import shipments, four

samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

132. The CPSC sent Everbright an LOA dated August 22, 2014, notifying defendants that the samples of children's products collected on June 10, June 12 and July 8, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

133. On July 21, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

134. The CPSC sent Everbright an LOA dated September 15, 2014, notifying defendants that the samples of children's products collected on July 21, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

135. On July 24, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

136. The CPSC sent Everbright an LOA dated September 10, 2014, notifying defendants that the sample of children's products collected on July 24, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

137. On August 13, 2014, the CPSC collected, from the defendants' import shipments, five samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

138. On August 18, 2014, the CPSC collected, from the defendants' import shipments, four samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

139. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the samples of children's products collected on August 13 and August 18, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

140. On September 16, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

141. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants that the sample of children's products collected on September 16, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

142. On September 23, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

143. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the samples of children's products collected on September 23, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

144. On October 6, 2014, the CPSC collected, from the defendants' import shipments, a

sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

145. The CPSC sent Everbright an LOA dated November 20, 2014, notifying defendants that the sample of children's products collected on October 6, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

146. On October 9, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

147. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the sample of children's products collected on October 9, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

148. On October 22, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

149. On October 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

150. The CPSC sent Everbright an LOA dated January 13, 2015, notifying defendants that the samples of children's products collected on October 22 and October 23, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

151. On October 28, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

152. The CPSC sent Everbright a separate LOA dated January 13, 2015, notifying defendants that the samples of children's products collected on October 28, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

153. On October 30, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

154. The CPSC sent Everbright an LOA dated December 31, 2014, notifying defendants that the samples of children's products collected on October 30, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

155. On September 1, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

156. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants that the sample of children's products collected on September 1, 2015, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

157. On April 11, 2016, the CPSC collected, from the defendants' import shipments,

two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

158. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that the samples of children's products collected on April 11, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

159. On May 16, 2016, the CPSC collected, from the defendants' import shipments, four samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

160. The CPSC sent Everbright an LOA dated August 1, 2016, notifying defendants that the samples of children's products collected on May 16, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

161. On November 4, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

162. The CPSC sent Everbright an LOA dated December 12, 2016, notifying defendants that the sample of children's products collected on November 4, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

163. On November 10, 2016, the CPSC collected, from the defendants' import two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

164. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 10, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

165. On November 16, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

166. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 16, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

Violations of the CPSA and FHSA – Misbranded and Banned Hazardous Substances

167. The United States realleges and incorporates by reference paragraphs 1 through 166 of this Complaint as though fully set forth herein.

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

169. Under the FHSA, it is unlawful to receive in interstate commerce and to deliver or proffer delivery for pay or otherwise, and to cause the receipt in interstate commerce and the delivery or proffered delivery for pay or otherwise, any misbranded hazardous substance or banned hazardous substance. 15 U.S.C. § 1263(c).

170. Under the CPSA, it is unlawful for any person to "sell, offer for sale, manufacture

for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance” that is regulated under the CPSA or any other Act enforced by the CPSC, that is not in conformity with an applicable consumer product safety rule under the CPSA, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission. 15 U.S.C. § 2068(a)(1).

171. Under the CPSA, it is unlawful for any person to sell, offer for sale, distribute in commerce, or import into the United States any consumer product, or product or substance that is a banned hazardous substance within the meaning of 15 U.S.C. § 1261(q)(1). 15 U.S.C. § 2068(a)(2)(D).

172. The defendants’ violations of the CPSA and FHSA provisions set forth in paragraphs 168 through 171 above are specified in the paragraphs below.

Violations Concerning Toys Intended For Use By Children Under Three Years Of Age That Constitute A Mechanical Hazard Because They Contain Small Parts

173. The United States realleges and incorporates by reference paragraphs 1 through 172 of this Complaint as though fully set forth herein.

174. Under the FHSA and the regulations issued thereunder, toys and other articles intended for use by children under three years of age that constitute a mechanical hazard because they contain small parts which present the risk of choking, aspiration, or ingestion are banned hazardous substances. 16 C.F.R. § 1500.18(a)(9). Before or after the toy is subjected to use and abuse tests set forth at 16 C.F.R. §§ 1500.50 - 1500.52, no portion of a toy may separate and produce small parts that fit entirely into the specified test fixture. 15 U.S.C. §§ 1261(f)(1)(D), 1261(q)(1)(A), 1261(s); 16 C.F.R. § 1500.18(a)(9) and 16 C.F.R. part 1501.

175. The CPSC collected samples from the defendants’ import shipments that are “toys

and other articles intended for use by children under three years of age,” as defined under 16 C.F.R. § 1501.2. Thirty-two toys and articles collected, intended for use by children under three years of age, failed to meet the small parts regulation because portions of the toys and articles separated and produced small parts when subjected to use and abuse tests. Accordingly, the toys and articles are banned hazardous substances.

176. The defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce banned hazardous substances, that is, thirty-two toys or other articles intended for use by children under three years of age which contained small parts, or received in interstate commerce such toys or articles and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

177. On April 18, 2013, the CPSC collected, from the defendants’ import shipments, three samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

178. The CPSC sent Everbright an LOA dated May 29, 2013, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on April 18, 2013, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

179. On June 11, 2013, the CPSC collected, from the defendants’ import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

180. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on June 11, 2013, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

181. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

182. The CPSC sent Everbright an LOA dated July 29, 2014, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on May 13, 2014, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

183. On September 16, 2014, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

184. The CPSC sent Everbright an LOA dated October 31, 2014, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on September 16, 2014, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

185. On October 30, 2014, the CPSC collected, from the defendants' import shipments,

a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

186. The CPSC sent Everbright an LOA dated December 31, 2014, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on October 30, 2014, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

187. On February 18, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

188. The CPSC sent Everbright an LOA dated April 27, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on February 18, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

189. On April 11, 2016, the CPSC collected, from the defendants' import shipments, three samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

190. The CPSC sent Everbright an LOA dated July 20, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on April 11, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

191. On April 21, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

192. The CPSC sent Everbright a separate LOA dated July 20, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on April 21, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

193. On May 16, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

194. The CPSC sent Everbright an LOA dated August 1, 2016 notifying, defendants that the sample of toys and other articles intended for use by children under three years of age collected on May 16, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

195. On June 2, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

196. The CPSC sent Everbright a separate LOA dated July 20, 2016, notifying

defendants that the sample of toys and other articles intended for use by children under three years of age collected on June 2, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

197. On August 23, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

198. The CPSC sent Everbright an LOA dated November 1, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on August 23, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

199. On August 29, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

200. The CPSC sent Everbright an LOA dated October 17, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on August 29, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

201. On September 8, 2016, the CPSC collected, from the defendants' import shipments, four samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

202. On September 12, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

203. The CPSC sent Everbright an LOA dated November 16, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on September 8 and September 12, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

204. On September 12, 2016, the CPSC collected, from the defendants' import shipments, an additional sample of toys and other articles intended for use by children under three years of age. This sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

205. The CPSC sent Everbright an LOA dated November 14, 2016, notifying defendants that this additional sample of toys and other articles intended for use by children under three years of age collected on September 12, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

206. On October 3, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

207. The CPSC sent Everbright an LOA dated December 21, 2016, notifying defendants

that the sample of toys and other articles intended for use by children under three years of age collected on October 3, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

208. On October 18, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

209. The CPSC sent Everbright an LOA dated December 22, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on October 18, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

210. On October 25, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

211. The CPSC sent Everbright a separate LOA dated December 22, 2016, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on October 25, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

212. On November 3, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

213. The CPSC sent Everbright an LOA dated December 19, 2016, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on November 3, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

Children's Products Containing Lead In Excess Of The Statutory Limit

214. The United States realleges and incorporates by reference paragraphs 1 through 213 of this Complaint as though fully set forth herein.

215. Under the FHSA, any children's product containing lead in excess of the statutory limit is a banned hazardous substance. 15 U.S.C. § 1278a(a)(1). Children's products containing more than .001 percent, or 100 parts per million, lead are banned hazardous substances. 15 U.S.C. § 1278a(a)(2).

216. The CPSC collected samples from the defendants' import shipments that are "children's products" as defined under 15 U.S.C. § 2052(a)(2). Twenty-nine children's products contained lead in excess of the statutory limit. Accordingly, the children's products are banned hazardous substances.

217. On April 4, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

218. The CPSC sent Everbright an LOA dated May 9, 2013, notifying defendants that the sample of children's products collected on April 4, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

219. On May 24, 2013, the CPSC collected, from the defendants' import shipments, a

sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

220. The CPSC sent Everbright an LOA dated July 8, 2013 notifying defendants that the sample of children's products collected on May 24, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

221. On June 11, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

222. The CPSC sent Everbright a separate LOA dated July 8, 2013, notifying defendants that the sample of children's products collected on June 11, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

223. On November 15, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

224. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the sample of children's products collected on November 15, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

225. On March 19, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

226. The CPSC sent Everbright an LOA dated April 23, 2014, notifying defendants that the samples of children's products collected on March 19, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

227. On May 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

228. The CPSC sent Everbright an LOA dated July 29, 2014 notifying defendants that sample of children's products collected on May 23, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

229. On June 10, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

230. On June 12, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

231. On July 8, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

232. The CPSC sent Everbright an LOA dated August 22, 2014, notifying defendants

that the samples of children's products collected on June 10, June 12 and July 8, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

233. On July 21, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

234. The CPSC sent Everbright an LOA dated September 15, 2014, notifying defendants that the samples of children's products collected on July 21, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

235. On August 13, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

236. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the samples of children's products collected on August 13, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

237. On September 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

238. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants

that the samples of children's products collected on September 23, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

239. On October 9, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

240. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the sample of children's products collected on October 9, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

241. On October 28, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

242. The CPSC sent Everbright an LOA dated January 13, 2015, notifying defendants that the samples of children's products collected on October 28, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

243. On October 30, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

244. The CPSC sent Everbright an LOA dated December 31, 2014, notifying defendants

that the sample of children's products collected on October 30, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

245. On July 31, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

246. The CPSC sent Everbright an LOA dated September 21, 2015, notifying defendants that the sample of children's products collected on July 31, 2015, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

247. On September 1, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

248. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants that the sample of children's products collected on September 1, 2015, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

249. On April 11, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

250. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that

the samples of children's products collected on April 11, 2016, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

251. On October 25, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

252. The CPSC sent Everbright an LOA dated December 22, 2016, notifying defendants that the sample of children's products collected on October 25, 2016, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

253. The defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce banned hazardous substances, that is, 29 children's products containing lead, or received in interstate commerce such products, and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

Children's Products With Lead-Containing Paint In Excess Of The Statutory Limit

254. The United States realleges and incorporates by reference paragraphs 1 through 253 of this Complaint as though fully set forth herein.

255. Any children's product with lead-containing paint in excess of the statutory limit is a banned hazardous substance. 15 U.S.C. § 1261(q)(1)(A), 16 C.F.R. §§ 1303.1(d), 1303.2(b)(2), and 1303.4(b). Violations of the lead paint ban are violations of the FHSA. 15 U.S.C. § 1278a(g); 16 C.F.R. § 1303.1(d). The CPSC banned such products because "there is an unreasonable risk of lead poisoning in children associated with lead content of over [the limit imposed by the CPSC]

in paints and coatings to which children have access and that no feasible consumer product safety standard under the CPSA would adequately protect the public from this risk.” 16 C.F.R. § 1303.1(c).

256. The lead paint ban defines “lead-containing paint” as paint and similar surface coatings that contain lead “in excess of 0.009 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.” 16 C.F.R. § 1303.1(a); 15 U.S.C. § 1278a(f)(1).

257. The CPSC collected samples from the defendants’ import shipments that are “toys” or “articles intended for use by children,” as defined under 16 C.F.R. § 1303.2(b)(3). Three toys sampled failed to comply with the lead paint ban because they contained lead paint beyond the statutory limit. Accordingly, these items are banned hazardous substances.

258. On March 19, 2014, the CPSC collected, from the defendants’ import shipments, two samples of toys or articles intended for use by children. The samples contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

259. The CPSC sent Everbright an LOA dated April 23, 2014, notifying defendants that the samples of toys or articles intended for use by children collected on March 19, 2014, contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

260. On September 1, 2015, the CPSC collected, from the defendants’ import shipments, a sample of toys or articles intended for use by children. The sample contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

261. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants

that the samples of toys or articles intended for use by children collected on September 1, 2015, contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

262. On the three occasions listed above, the defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce banned hazardous substances, that is, toys or other articles bearing lead paint, and received in interstate commerce such products and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

Violation Concerning The Labeling Of Hazardous Art Materials

263. The United States realleges and incorporates by reference paragraphs 1 through 262 of this Complaint as though fully set forth herein.

264. Under the Labeling of Hazardous Art Materials Act (“LHAMA”), any art material which has the potential to produce chronic adverse health effects and does not meet the requirements of LHAMA is a misbranded hazardous substance. 15 U.S.C. §§ 1262(b), 1277(a) and (b).

265. LHAMA and regulations issued thereunder define a chronic adverse health effect as “a persistent toxic effect(s) that develops over time from a single, prolonged, or repeated exposure to a substance.” 16 C.F.R. § 1500.14(b)(8)(i)(B)(3).

266. LHAMA and regulations issued thereunder define an art material as “any raw or processed material, or manufactured product, marketed or represented by the producer or repackager as intended for and suitable for . . . artists or crafts people of any age who create, or recreate in a limited number, largely by hand, works which may or may not have a practical use, but in which aesthetic considerations are paramount.” 16 C.F.R. § 1500.14(b)(8)(i)(B)(1) and (2).

A producer includes the person or entity that manufactures, processes, or imports an art material. 16 C.F.R. § 1500.14(b)(8)(i)(B)(7).

267. LHAMA requires that the importer of art materials submit the product formulations to a toxicologist to have the product assessed for its potential to cause adverse chronic health effects before the product is entered into commerce. 16 C.F.R. § 1500.14(b)(8)(i)(C). Prior to the product entering commerce, the importer must submit to CPSC staff the criteria used to determine whether the art materials have the potential for producing chronic adverse health effects and a list of art materials that require hazard warning labels under LHAMA. 16 C.F.R. § 1500.14(b)(8)(ii)(C).

268. An art material must be accompanied by a statement of conformance to ASTM D-4236. 16 C.F.R. § 1500.14(b)(8)(i)(C)(7).

269. On August 13, 2014, the CPSC collected, from the defendants' import shipments, an "art material" as defined under 16 C.F.R. § 1500.14(b)(8)(i)(B)(1) and (2), that has the potential to produce chronic adverse health effects, as defined under 16 C.F.R. § 1500.14(b)(8)(i)(B)(3).

270. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the art material collected on August 13, 2014, had the potential to produce chronic adverse health effects and that the defendants failed to submit to CPSC staff the required criteria or list of art materials that require hazard warning labels and that the products lack a statement of conformance to ASTM D-4236. Accordingly, the art material is a misbranded hazardous substance, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1). The LOA requested corrective action.

271. The defendants introduced or delivered for introduction, and caused the

introduction or delivery for introduction, into interstate commerce a misbranded hazardous substance, that is, an art material, and received in interstate commerce such product, and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c) and 2068(a)(1).

Violations Concerning The Labeling of Hazardous Materials – Latex Balloon

272. The United States realleges and incorporates by reference paragraphs 1 through 271 of this Complaint as though fully set forth herein.

273. Under the FHSA and the regulations issued thereunder, any latex balloon, or toy or game containing a latex balloon 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).

274. On April 11, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys containing latex balloons as defined in 16 C.F.R. § 1500.19(a)(3). The sample lacked the following required cautionary statement for a latex balloon, or toy or game that contains a latex balloon: "CHOKING HAZARD - - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once." 15 U.S.C. § 1278(b)(2); 16 C.F.R. § 1500.19(b)(2). Accordingly, the sample of toys containing latex balloons and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b).

275. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that the sample collected on April 11, 2016, lacked the required cautionary statement for a latex balloon, or toy or game that contains a latex balloon and that the sample containing latex balloons

and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b). The LOA requested corrective action.

276. On April 21, 2016, the CPSC collected from the defendants' import shipments a sample of toys containing latex balloons as defined in 16 C.F.R. § 1500.19(a)(3). The sample lacked the following required cautionary statement for a latex balloon, or toy or game that contains a latex balloon: "CHOKING HAZARD - - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once." 15 U.S.C. § 1278(b)(2); 16 C.F.R. § 1500.19(b)(2). Accordingly, the sample of toys containing latex balloons and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b).

277. The CPSC sent Everbright an LOA dated July 20, 2016, notifying defendants that the sample collected on April 21, 2016, lacked the required cautionary statement for a latex balloon, or toy or game that contains a latex balloon and that the sample containing latex balloons and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b). The LOA requested corrective action.

278. On the two occasions mentioned above, the defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce misbranded hazardous substances, that is, toys or games containing a latex balloon 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).

RELIEF REQUESTED

279. Based on the defendants' past and present courses of conduct, there is a substantial

likelihood that, unless restrained by order of this Court pursuant to 15 U.S.C. §§ 2071(a) and 1267(a), defendants will continue to violate the CPSA, the FHSA, and other regulations issued thereunder.

WHEREFORE, the United States respectfully requests that this Court:

280. Pursuant to 15 U.S.C. § 2071(a), permanently restrain and enjoin the defendants and each and all of their directors, officers, agents, servants, brokers, employees, successors, assigns, attorneys, and all persons or entities in active concert or participation with any of them, from directly or indirectly selling, offering for sale, distributing in commerce, or importing into the United States children's toys and children's products which do not conform to the consumer product safety statutes and regulations enforced by the CPSC, in violation of 15 U.S.C. § 2068(a)(1); selling, offering for sale, manufacturing for sale, distributing in commerce, or importing into the United States products that are banned hazardous substances within the meaning of 15 U.S.C. § 1261(q)(1) of the FHSA, in violation of 15 U.S.C. § 2068(a)(2)(D); and failing to issue certificates and failing to include tracking labels required by 15 U.S.C. § 2063(a)(2), (3), and (5), in violation of 15 U.S.C. § 2068(a)(6).

281. Pursuant to 15 U.S.C. § 1267(a), permanently restrain and enjoin the defendants, and each and all of their directors, officers, agents, servants, brokers, employees, successors, assigns, attorneys, and all persons or entities in active concert or participation with any of them, from directly or indirectly introducing or causing the introduction and delivery for introduction into interstate commerce misbranded hazardous substances or banned hazardous substances, and receiving or causing the receipt in interstate commerce misbranded hazardous substances or banned hazardous substances and delivering or proffering delivery thereof for pay or otherwise, in violation of 15 U.S.C. §§ 1263(a), (c), 2068(a)(1), and (2)(D).

282. Pursuant to 15 U.S.C. §§ 2071(a) and 1267(a), award any further injunctive relief that is requested and agreed upon by the parties, as the Court deems necessary and proper.

Dated: Brooklyn, New York
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