

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 09–C0032]

TGH International Trading, Inc., a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with TGH International Trading, Inc., containing a civil penalty of \$31,500.00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by September 21, 2009.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to Comment 09–C0032, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Belinda V. Bell, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7592.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: August 31, 2009.

Todd A. Stevenson,
Secretary.

Settlement Agreement

1. This Settlement Agreement (“Agreement”) is made by and between the staff (“staff”) of the U.S. Consumer Product Safety Commission (“Commission”) and TGH International Trading, Inc. (“TGH”), a corporation, in accordance with 16 CFR 1118.20 of the Commission’s Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (“CPSA”). The Agreement and the incorporated attached Order (“Order”) resolve the staff’s allegations set forth below.

The Parties

2. The Commission is an independent Federal regulatory agency established pursuant to, and responsible for the enforcement of, the Federal Hazardous

Substances Act (“FHSA”) 15 U.S.C. 1261–1278.

3. TGH is a corporation organized and existing under the laws of the State of California. TGH’s principal place of business is located in Los Angeles, California.

4. At all times relevant herein, TGH imported, distributed and sold children’s toys, including those that are the subject of the Agreement and Order.

Staff Allegations

5. On March 17, 2006, TGH introduced or caused the introduction into interstate commerce and/or received in interstate commerce and delivered or proffered delivery for pay or otherwise, 8 types of toys totaling 6,180 retail units. These toys were intended for children under three years old and were subject to the Commission’s Small Parts Regulation, 16 CFR Part 1501. The toys, imported from China, were intercepted by U.S. Customs and Border Patrol staff at the Los Angeles, California, entry port.

6. Further staff investigation revealed that on several occasions between March 2005 and June 2006, TGH also introduced or caused the introduction into interstate commerce and/or received in interstate commerce and delivered or proffered delivery for pay or otherwise, 5 additional types of toys, totaling 5,112 retail units. These toys were intended for children under three years old and were subject to the Commission’s Small Parts Regulation, 16 CFR Part 1501.

7. The toys identified in paragraphs 5 and 6 above are “consumer products” and, at the times relevant herein, TGH was a “manufacturer” of “consumer products,” which were “distributed in commerce,” as those terms are defined in sections 3(a)(5), (8), and (11) of the CPSA, 15 U.S.C. 2052(a)(5), (8), and (11).

8. The toys referred to in paragraphs 5 and 6 failed to comply with the Commission’s Small Parts Regulation, 16 CFR Part 1501, in that when tested under the “use and abuse” test methods specified in 16 CFR 1500.51 and .52, (a) one or more parts of each tested toy separated, and (b) one or more of the separated parts from each of the toys fit completely within the small parts test cylinder referenced in 16 CFR 1501.4.

9. Because the separated parts fit completely within the test cylinder as described in paragraph 8 above, each of the toys identified in paragraphs 5 and 6 above presents a “mechanical hazard” within the meaning of section 2(s) of the FHSA, 15 U.S.C. 1261(s), and poses a choking, aspiration and/or ingestion risk, possibly leading to serious injury or death.

10. Each of the toys identified in paragraphs 5 and 6 above is a “hazardous substance” pursuant to section 2(f)(1)(D) of the FHSA, 15 U.S.C. 1261(f)(1)(D), and is a “banned hazardous substance” pursuant to section 2(q)(1)(A) of the FHSA, 15 U.S.C. 1261(q)(1)(A), and 16 CFR 1500.18(a)(9).

11. TGH knowingly introduced or caused the introduction into interstate commerce and received in interstate commerce and delivered or proffered for delivery for pay or otherwise, the “banned hazardous substances” identified above, as the term

“knowingly” is defined in section 5(c)(5) of the FHSA, 15 U.S.C. 1264(c)(5), in violation of sections 4(a) and (c) of the FHSA, 15 U.S.C. 1263(a) and (c).

12. The aforementioned acts also constitute a violation of the 2003 Consent Order Agreement entered into between TGH and the Commission, which prohibited TGH from introducing or causing the introduction into interstate commerce or receiving in interstate commerce or delivering or proffering delivery for pay or otherwise, any banned or misbranded hazardous substances as so stipulated in the Order arising from the Consent Order Agreement.

13. Pursuant to section 5 of the FHSA, 15 U.S.C. 1264, TGH is subject to civil penalties for the aforementioned violations.

Response of TGH

14. TGH denies the staff’s allegations contained herein.

Agreement of the Parties

15. Under the FHSA, the Commission has jurisdiction over this matter and over TGH.

16. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by TGH or a determination by the Commission that TGH violated the FHSA or any other Commission regulation or requirement.

17. In settlement of the staff’s allegations, TGH agrees to pay a civil penalty of thirty-one thousand five hundred dollars (\$31,500.00) in three installments. The first installment of twenty-one thousand five hundred dollars (\$21,500.00) shall be paid within ten (10) calendar days of service of the Commission’s final Order accepting the Agreement. The second installment of five thousand dollars (\$5,000.00) shall be paid within six (6) months of service of the Commission’s final Order accepting the Agreement. The third and final installment of five thousand dollars (\$5,000.00) shall be paid within twelve (12) months of service of the Commission’s final Order accepting the Agreement. Each payment shall be made by check payable to the order of the United States Treasury.

18. Upon the failure of TGH to make any of the aforementioned payments when due, the total amount of the civil penalty shall become immediately due and payable, and interest on the unpaid amount shall accrue and be paid by TGH at the Federal legal rate of interest under the provisions of 28 U.S.C. 1961(a) and (b).

19. Upon provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within 15 calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

20. Upon the Commission’s final acceptance of the Agreement and issuance of the final Order, TGH knowingly, voluntarily and completely waives any rights it may have in this matter to the following: (i) An

administrative or judicial hearing; (ii) judicial review or other challenge or contest of the validity of the Agreement and Order as issued and entered; (iii) a determination by the Commission as to whether TGH failed to comply with the CPSA and its underlying regulations; (iv) a statement by the Commission of findings of fact and conclusions of law; and (v) any claims under the Equal Access to Justice Act.

21. The Commission may publicize the terms of the Agreement and Order.

22. The Agreement and Order shall apply to and be binding upon TGH and each of its successors and assigns.

23. The Commission issues the Order under the provisions of the FHSA, and a violation of the Order may subject those referenced in paragraph 22 above to appropriate legal action.

24. The Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations apart from those contained in the Agreement and Order may not be used to vary or to contradict their terms.

25. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such amendment, modification, alteration, or waiver is sought to be enforced.

26. If, after the effective date hereof, any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and TGH agree that severing the provision materially affects the purpose of the Agreement and the Order.

TGH International Trading, Inc.

Dated: 7/22/09

By: _____
Teresa Chan,
*President, TGH International Trading, Inc.,
318 East 4th Street, Los Angeles, CA 90013.*

Dated: 7/22/09

By: _____

Kam Louie, Esq.,
*301 N. Lake Avenue, Suite 800, Pasadena,
CA 91101, Counsel for TGH International
Trading, Inc.*

U.S. Consumer Product Safety Commission
Cheryl A. Falvey,
General Counsel.
Ronald G. Yelenik,
*Assistant General Counsel, Office of the
General Counsel.*

Dated: _____

By: _____
Belinda V. Bell,
*Trial Attorney, Division of Compliance,
Office of the General Counsel.*

Order

Upon consideration of the Settlement Agreement entered into between TGH International Trading, Inc. ("TGH") and the U.S. Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over TGH, and it appearing that the Settlement Agreement and Order are in the public interest, it is

Ordered that the Settlement Agreement be, and hereby is, accepted; and it is

Further Ordered that TGH shall pay a civil penalty in the amount of thirty-one thousand, five hundred dollars (\$31,500.00) in three installment payments. The first installment of twenty-one thousand five hundred dollars (\$21,500.00) shall be paid within ten (10) calendar days of service of the Commission's final Order accepting the Settlement Agreement. The second installment of five-thousand dollars (\$5,000.00) shall be paid within six (6) months of service of the Commission's final Order accepting the Settlement Agreement. The third and final installment of five-thousand dollars (\$5,000.00) shall be paid within twelve (12) months of the service of the Commission's final Order accepting the Settlement Agreement. Each payment shall be made by check payable to the order of the United States Treasury.

Upon the failure of TGH to make any of the aforementioned payments when due, the total amount of the civil penalty shall become immediately due and payable, and

interest on the unpaid amount shall accrue and be paid by TGH at the Federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 14th day of August 2009.

By Order of the Commission.

Todd A. Stevenson,
*Secretary, U.S. Consumer Product Safety
Commission.*

[FR Doc. E9-21385 Filed 9-3-09; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 09-20]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM. (703) 601-3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 09-20 with attached transmittal, policy justification, sensitivity of technology.

Dated: August 26, 2009.

Patricia L. Toppings,
*OSD Federal Register Liaison Officer,
Department of Defense.*

BILLING CODE 5001-06-M