

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

_____))
In the Matter of))
))
Gildan Activewear SRL,) CPSC DOCKET NO. 08-C0012
))
a corporation.))
_____)

SETTLEMENT AGREEMENT

1. In accordance with 16 C.F.R. § 1118.20, Gildan Activewear SRL (“Gildan”) and the staff (“Staff”) of the United States Consumer Product Safety Commission (“Commission”) enter into this Settlement Agreement (“Agreement”). The Agreement and the incorporated attached Order (“Order”) settle the Staff’s allegations set forth below.

PARTIES

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. §§ 2051-2084 (“CPSA”).

3. Gildan is a corporation organized and existing under the laws of Barbados, with its principal offices located in St. Michael, Barbados. At all times relevant hereto, Gildan sold apparel and accessories.

STAFF ALLEGATIONS

4. Between January 2006 and September 2006, Gildan manufactured 146,466 youth hooded sweatshirts with drawstrings through the hoods for sale in the United States (“Drawstring Sweatshirts”).

5. Wholesale distributors sold the Drawstring Sweatshirts to consumers.

6. The Drawstring Sweatshirts are “consumer product[s],” and, at all times relevant hereto, Gildan was a “manufacturer” of those consumer products, which were “distributed in commerce,” as those terms are defined in CPSA sections 3(a)(1), (4), (11), and (12), 15 U.S.C. § 2052(a)(1), (4), (11), and (12).

7. In February 1996, the Staff issued the Guidelines for Drawstrings on Children’s Upper Outerwear (“Guidelines”) to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items such as playground equipment, bus doors, or cribs. In the Guidelines, the Staff recommends that there be no hood and neck drawstrings in children’s upper outerwear sized 2T to 12.

8. In June 1997, ASTM adopted a voluntary standard, ASTM F1816-97, that incorporated the Guidelines. The Guidelines state that firms should be aware of the hazards and should be sure garments they sell conform to the voluntary standard.

9. On May 19, 2006, the Commission posted on its website a letter from the Commission’s Director of the Office of Compliance to manufacturers, importers, and retailers of children’s upper outerwear. The letter urges them to make certain that all children’s upper outerwear sold in the United States complies with ASTM F1816-97. The letter states that the Staff considers children’s upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act (“FHSA”) section 15(c), 15 U.S.C. § 1274(c). The letter also notes the CPSA’s section 15(b) reporting requirements.

10. Gildan reported to the Commission that there had been no incidents or injuries from the Drawstring Sweatshirts.

11. Gildan's manufacture and distribution in commerce of the Drawstring Sweatshirts did not meet the Guidelines or ASTM F1816-97, failed to comport with the Staff's May 2006 defect notice, and posed a strangulation hazard to children.

12. On September 20, 2006, the Commission, in cooperation with Gildan, announced a recall of Drawstring Sweatshirts, informing consumers that they should immediately remove the drawstrings to eliminate the hazard.

13. Gildan had presumed and actual knowledge that the Drawstring Sweatshirts distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15(c)(1), 15 U.S.C. § 1274(c)(1). Gildan had obtained information that reasonably supported the conclusion that the Drawstring Sweatshirts contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 15(b)(2) and (3), 15 U.S.C. § 2064(b)(2) and (3), required Gildan to immediately inform the Commission of the defect and risk.

14. Gildan knowingly failed to inform the Commission about the Drawstring Sweatshirts immediately as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. § 2064(b)(2) and (3), and as the term "knowingly" is defined in CPSA section 20(d), 15 U.S.C. § 2069(d). This failure violated CPSA section 19(a)(4), 15 U.S.C. § 2068(a)(4). Pursuant to CPSA section 20, 15 U.S.C. § 2069, this failure subjected Gildan to civil penalties.

GILDAN'S RESPONSE

15. Gildan denies the Staff's allegations; specifically, as follows:

(a) Gildan did not knowingly violate the CPSA;

(b) Gildan sold the Drawstring Sweatshirts to wholesale distributors, who then, directly or indirectly, sold less than 70,000 to consumers;

(c) Gildan, in cooperation with the Commission, announced the recall of Drawstring Sweatshirts and recovered all Drawstring Sweatshirts still in the possession of wholesale distributors;

(d) Gildan had access to information that could support the conclusion that the Drawstring Sweatshirts were a potential hazard;

(e) Gildan reported the existence of the potential hazard to the Commission immediately upon having actual knowledge of the potential hazard; and

(f) Gildan has reported to the Commission that it had received no reports of any injuries from the Drawstring Sweatshirts.

AGREEMENT OF THE PARTIES

16. Under the CPSA, the Commission has jurisdiction over this matter and over Gildan.

17. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Gildan, or a determination by the Commission, that Gildan knowingly violated the CPSA.

18. In settlement of the Staff's allegations, Gildan shall pay a civil penalty in the amount of thirty-five thousand dollars (\$35,000.00) within twenty (20)

calendar days of service of the Commission's final Order accepting the Agreement. This payment shall be by check payable to the order of the United States Treasury.

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

20. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Gildan knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (1) an administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (3) a determination by the Commission of whether Gildan failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act. Upon issuance of, and Gildan's compliance with, the final Order, the Commission agrees not to bring a civil penalty action against Gildan and each of its successors and assigns based upon the Staff's allegations contained herein regarding the Drawstring Sweatshirts.

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

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

23. The Commission issues the Order under the provisions of the CPSA, and violation of the Order subjects Gildan to appropriate legal action in any United States District Court. For purposes of any such action, counsel of record agrees to accept service of process.

24. This Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

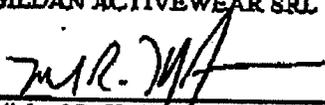
25. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and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

26. Pursuant to section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, the Commission delegated to the Assistant Executive Director for Compliance and Field Operations the authority to act, with the concurrence of the General Counsel, for the Commission under 16

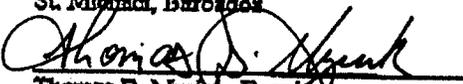
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C.F.R. § 1118.20 with respect to Staff allegations that any person or firm violated 15 U.S.C. § 2068, where the total amount of the settlement involves no more than \$100,000.

Dated: 04/08/08

GILDAN ACTIVEWEAR SRL
By: 
Michael R. Hoffmann, President
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Dated: 4/8/08

By: 
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U. S. CONSUMER PRODUCT
SAFETY COMMISSION STAFF

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Legal Division
Office of Compliance and Field Operations

Dated: 04/11/08

By: 
Dennis C. Kapoyanis
Trial Attorney
Legal Division
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interest on the unpaid amount shall accrue and be paid by Gildan at the federal rate of interest set forth at 28 U.S.C. § 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 22ND day of April, 2008.

BY ORDER OF THE COMMISSION



Todd A. Stevenson, Secretary
Consumer Product Safety Commission