



U.S. CONSUMER PRODUCT SAFETY COMMISSION
Bethesda, Maryland 20814

August 8, 2006

Phillip Katz, Esquire
Hogan & Hartson, LLP
555 Thirteenth St., NW
Washington, DC 20004

CPSC 06-C0005
Tiffany and Company, a corporation

Dear Mr. Katz:

The Settlement Agreement and Order in the above-captioned matter was provisionally accepted by the U.S. Consumer Product Safety Commission and published in the *Federal Register*. The *Federal Register* public comment period has expired and the Commission received no requests not to accept the Settlement Agreement. Accordingly, by operation of the law, the subject Settlement Agreement is deemed finally accepted.

Payment of the civil penalty required by the ORDER shall be made according to the terms of the ORDER. A copy of the final ORDER is enclosed. Please pay by check made payable to the UNITED STATES TREASURY and mail your payments to John Gibson Mullan Assistant Executive Director for Compliance, Consumer Product Safety Commission, Washington, DC 20207.

Sincerely,

A handwritten signature in black ink, appearing to read "T.A. Stevenson", is written over a horizontal line.

Todd A. Stevenson
Secretary
Consumer Product Safety Commission

Enclosure

cc: William J. Moore, Trial Attorney

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of
TIFFANY AND COMPANY,
a corporation

CPSC Docket No. 06- c0005

ORDER

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

I.

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

II.

FURTHER ORDERED that Tiffany shall pay a civil penalty of two hundred sixty-two thousand five hundred dollars (\$262,500.00) within ten (10) calendar days of service of the Final Order of the Commission accepting the Settlement Agreement. This payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Tiffany to make full and timely payment or upon the making of a late payment, (i) the entire amount of the civil penalty shall become due and payable, and (ii) interest on the outstanding balance shall accrue

and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. § 1961(a) and
(b).

Provisionally accepted and Provisional Order issued on the 18th day of
July, 2006.

BY ORDER OF THE COMMISSION:



Todd A. Stevenson, Secretary
Consumer Product Safety Commission

Finally accepted and Final Order issued on the 8th day of August, 2006.

BY ORDER OF THE COMMISSION:



Todd A. Stevenson, Secretary
Consumer Product Safety Commission



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 East West Highway
Bethesda, Maryland 20814

July 18, 2006

Philip Katz, Esquire
Hogan & Hartson, LLP
555 Thirteenth St., NW
Washington, DC 20004

CPSC 06-C0005
Tiffany and Company, a corporation

Dear Mr. Katz:

You are hereby notified that the Consumer Product Safety Commission has provisionally accepted the Settlement Agreement and Order in the matter of Tiffany and Company, a corporation CPSC 06-C0005.

The Commission has placed the Agreement on the public record and shall announce provisional acceptance of the Agreement in the Federal Register. The Commission will receive and consider any comments or views concerning the Agreement that may be filed by interested persons within 15 days following announcement in the Federal Register.

The Commission may withdraw its acceptance of the Agreement if comments or views submitted disclose facts or considerations which indicate that the Agreement is inappropriate, improper or inadequate. Unless the Commission orders otherwise, the Agreement will be considered finally accepted by the Commission on the 16th calendar day after the date of the announcement in the Federal Register.

Sincerely,

Todd A. Stevenson
Secretary
Consumer Product Safety Commission

Enclosure

cc: William J. Moore, Jr., Trial Attorney

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)
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TIFFANY AND COMPANY,)

a corporation)
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CPSC Docket No. 06- C0005

SETTLEMENT AGREEMENT AND ORDER

1. This Settlement Agreement is made by and between the staff (the "staff") of the U.S. Consumer Product Safety Commission (the "Commission") and Tiffany and Company ("Tiffany"), a corporation, in accordance with 16 C.F.R. § 1118.20 of the Commission's procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA"). This Settlement Agreement and the incorporated attached Order resolve the staff's allegations set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. §§ 2051-2084.

3. Tiffany is a corporation organized and existing under the laws of the State of New York with its principal corporate office located at 727 Fifth Avenue, New York, New York. At all times relevant herein Tiffany marketed, distributed and sold fine jewelry, timepieces, china, crystal, silverware and silver baby rattles and teethers, among other consumer products.

STAFF ALLEGATIONS

4. From November 2002 through February 2004, Tiffany sold in United States commerce approximately 4,255 sterling silver rattle/teethers with small farm animal figures ("Teethers").

5. The Teethers are "consumer products" and, at the times relevant herein, Tiffany was a "retailer" of "consumer products," which were "distributed in commerce" as those terms are defined in sections 3(a)(1), (6), (11), and (12) of the CPSA, 15 U.S.C. §§ 2052(a)(1), (6), (11), and (12).

6. The Teethers are defective because a metal bar at the center of the Teether can break off at its soldered joints during use releasing small round beads and small animal figures. The small beads and figures can pose an aspiration and choking hazard to babies.

7. Between November and December 2003, Tiffany learned about at least two incidents of Teethers cracking at the soldered joint. In February 2004, Tiffany learned about one incident in which a Teether broke at the soldered joint, and a baby was reported to be mouthing a small animal figure that fell off of the Teether. Tiffany determined that hand polishing during Teether manufacture could weaken the cross bar solder joints and lead to separation of that metal bar from the Teether ring.

8. Tiffany suspended Teether sales following the February 2004 incident. Tiffany did not report the problem to the Commission. Tiffany received two more reports of Teethers cracking in March 2004. The firm did not report to the Commission until June 2004, after the Commission opened its own investigation and requested Tiffany to do so.

9. Although Tiffany had obtained sufficient information to reasonably support the conclusion that the Teethers contained a defect which could create a substantial product hazard, it failed to inform the Commission of such defect and risk as required by Section 15(b)(2) of the CPSA, 15 U.S.C. § 2064(b)(2). In failing to do so, Tiffany "knowingly" violated

Section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4), as the term “knowingly” is defined in Section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

10. Pursuant to Section 20 of the CPSA, 15 U.S.C. § 2069, Tiffany is subject to the imposition of a civil penalty for its failure to make a report pursuant to Section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

RESPONSE OF TIFFANY

11. Tiffany denies the allegations set forth in Paragraphs 4-10 above. Tiffany specifically denies that the Teethers contain a defect that could create a substantial product hazard, that the company had obtained information to reasonably support the conclusion that the Teethers were so defective or posed such a risk, that the company was obligated to report to the Commission under Section 15(b) of the CPSA, or that the company violated Section 19(a)(4) of the CPSA or any other section of the CPSA, “knowingly” or otherwise.

12. Tiffany stopped sale of the Teethers immediately upon receiving notice of the one incident in which a Teether broke, and in May contacted customers who had purchased Teethers, urging them to return the item. Tiffany also filed a report with the Commission, at the request of the staff.

13. Tiffany is not aware of any consumer injury related in any way to the Teethers, nor has the staff alleged that any injuries have occurred.

14. Tiffany enters into this Settlement Agreement for the purposes of compromise and settlement only, to avoid incurring additional legal costs and expenses.

AGREEMENT OF THE PARTIES

15. The Commission has jurisdiction over this matter and over Tiffany under the CPSA, 15 U.S.C. §§ 2051-2084.

16. The parties enter into this Settlement Agreement for settlement purposes only. The Settlement Agreement does not constitute a determination by the Commission that Tiffany violated the CPSA or any other law or regulation, nor an admission by Tiffany of any liability or wrongdoing by Tiffany, or that Tiffany violated the CPSA or any other law or regulation.

17. In settlement of the staff's allegations, Tiffany agrees to pay a civil penalty of two hundred sixty-two thousand five hundred dollars (\$262,500.00) within ten (10) calendar days of receiving service of the Final Order of the Commission accepting this Settlement Agreement. This payment shall be made by check payable to the order of the United States Treasury.

18. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, the Commission shall place this Agreement and Order on the public record and shall publish it in the *Federal Register* in accordance with the procedure set forth in 16 C.F.R. § 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 calendar days, the Agreement and Order shall be deemed finally accepted on the 16th calendar day after the date it is published in the *Federal Register*.

19. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Tiffany 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 this Agreement and Order as issued and entered; (iii) a determination by the Commission as to whether Tiffany 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.

20. The Commission and Tiffany may publicize the terms of the Settlement Agreement and Order.

21. This Settlement Agreement and Order shall apply to, be binding upon, and inure to the benefit of, Tiffany and each of its successors and assigns.

22. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. §§ 2051-2084, and a violation of the Order may subject Tiffany to appropriate legal action.

23. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or to contradict its terms.

24. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such amendment, modification, alteration, change, or waiver is sought to be enforced and approval by the Commission.

25. This Settlement Agreement becomes effective only upon its final acceptance by the Commission and service on Tiffany of the incorporated Final Order.

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

TIFFANY AND COMPANY

Dated: 5/11/06

By: 

Patrick B. Dorsey
Senior Vice President, Secretary and
General Counsel
Tiffany and Company

Dated: 5-24-06

By: 


Philip Katz
Hogan & Hartson, L.L.P.
555 Thirteenth Street, NW
Washington, DC 20004

U.S. CONSUMER PRODUCT SAFETY COMMISSION

John Gibson Mullan, Director
Office of Compliance & Field Operations

Ronald G. Yelenik, Acting Director
Legal Division
Office of Compliance

Dated: 7/18/06

By: 

William J. Modre, Jr.,
Senior Trial Attorney
Legal Division
Office of Compliance

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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CPSC Docket No. 06- C0005

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and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. § 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 18th day of July, 2006.

BY ORDER OF THE COMMISSION:



Todd A. Stevenson, Secretary
Consumer Product Safety Commission

Finally accepted and Final Order issued on the 8th day of August, 2006.

BY ORDER OF THE COMMISSION:



Todd A. Stevenson, Secretary
Consumer Product Safety Commission