

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
BABY MATTERS, LLC)	CPSC DOCKET NO. 13-1
Respondent.)	WALTER J. BRUDZINSKI
)	Administrative Law Judge
)	
)	

ORDER

UPON CONSIDERATION of the Complaint against Respondent Baby Matters, LLC ("Respondent") issued on or about December 4, 2012, as amended (the "Complaint"), and the Consent Agreement between Respondent and the staff of the U.S. Consumer Product Safety Commission (the "Commission staff");

UPON CONSIDERATION of Respondent's concession that each and every model of its Nap Nanny and Nap Nanny Chill infant recliners and covers constitutes a "consumer product" under the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2052, and is "an article intended for use by children," within the meaning of Section 15(c) of the FHSA, 15 U.S.C. § 1274(c); and

Pursuant to Sections 15(c) and (d) of the CPSA, 15 U.S.C. § 2064(c) and (d), and Sections 15(c) and (d) of the FHSA, 15 U.S.C. § 1274(c) and (d);

IT IS HEREBY ORDERED THAT:

1. The Consent Agreement between Respondent and the Commission staff is accepted and incorporated by reference herein, and Respondent shall comply with all of its obligations hereunder. Respondent, as that term is used herein, shall mean Baby Matters LLC, its successors, assigns or receivers, including Baby Matters Holdings, LLC.

2. All allegations of the Complaint are resolved by this Consent Agreement and Order. Based on the Consent Agreement, the Commission finds that the Consent Agreement and this Order are necessary to protect the public from the hazard presented by the Nap Nanny and Nap Nanny Chill infant recliners and covers (the "Subject Products").

3. To remedy the substantial product hazard and the substantial risk of injury to children created by the Subject Products, Respondent shall implement a voluntary corrective action plan, pursuant to, and in accordance with, the terms of the Consent Agreement incorporated by reference herein.

4. Respondent shall immediately cease and desist manufacturing, selling, distributing, marketing, exporting, importing, or attempting to distribute or sell any Subject Product or any of its component parts, whether by Respondent, Leslie Gudel-Kemm personally, or through any of its subsidiaries, affiliates, or any other persons or entities over which Respondent has control, whether in the United States or any other foreign state, country, or territory.

5. Respondent and Leslie Gudel-Kemm shall not manufacture, sell, distribute or import the Subject Products or any of its component parts at any time subsequent to the execution of this Order.

6. Respondent shall undertake the steps constituting the voluntary corrective action plan as specified in paragraph 12(a) through (f) of the Consent Agreement within 10 days of the issuance of this order.

7. The above-captioned proceeding is dismissed with prejudice.

8. Any sale, offer for sale, manufacture for sale, distribution in commerce or importation into the United States of the Subject Products shall be a prohibited act under

Section 19(a)(2) of the CPSA, 15 U.S.C. § 2068(a)(2).

9. Respondent shall notify the Commission staff in writing within ten (10) days following any transfer of property rights held by Respondent or any person or entity over which Respondent has control concerning all patents held by Respondent regarding the Subject Products, including but not limited to the following U.S. Patents and Patent applications: (a) 7,418,752, (b) D608,102, (c) 7,698,764, (d) 2009/0056,025, and (e) 16266-000004/US/PS1.

10. Respondent shall not sell or assign any property rights held by Respondent to the name "Nap Nanny" or "Chill" including but not limited to (i) Respondent's U.S. Trademark for Nap Nanny, Registration Number 3605305; and (ii) Respondent's U.S. Trademark for Nap Nanny Chill, Registration Number 4080935. Respondent shall not use the name "Nap Nanny" for the sale of infant recliners or similar products.

11. This Order is issued under Section 15 of the CPSA, 15 U.S.C. § 2064 and Section 15 of the FHSA, 15 U.S.C. § 1264. Any violation of this Order is a prohibited act within the meaning of Section 19(a)(5) of the CPSA, 15 U.S.C. § 2068(a)(5) and Section 4 of the FHSA, 15 U.S.C. § 1263, and may subject a violator to civil and/or criminal penalties under Sections 20 and 21 of the CPSA, 15 U.S.C. §§ 2069 and 2070 and Section 5 of the FHSA, 15 U.S.C. § 1264.

12. Any violation of Paragraph 8 of this Order shall be considered a separate prohibited act within the meaning of Section 19(a)(2) of the CPSA, 15 U.S.C. § 2068(a)(2) and may subject a violator to civil and/or criminal penalties under Sections 20 and 21 of the CPSA, 15 U.S.C. §§ 2069 and 2070.

BY ORDER OF THE CONSUMER PRODUCT SAFETY COMMISSION

A handwritten signature in blue ink, appearing to read "Todd Stevenson", written over a horizontal line.

Todd Stevenson, Office of the Secretariat

DATED:

May 31, 2013