

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

\_\_\_\_\_  
In the Matter of \_\_\_\_\_  
A&A GLOBAL INDUSTRIES, \_\_\_\_\_  
INC. \_\_\_\_\_  
\_\_\_\_\_

CPSC Docket No. 09-C0027

SETTLEMENT AGREEMENT AND ORDER

1. In accordance with 16 C.F.R. § 1118.20, A&A Global Industries, Inc. ("A&A") and the staff ("Staff") of the United States Consumer Product Safety Commission ("CPSC" or the "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 – 2089 ("CPSA").

3. A&A is a corporation organized and existing under the laws of Maryland, with its principal office located in Cockeysville, Maryland. At all times relevant hereto, A&A imported and/or distributed in commerce toy jewelry.

STAFF ALLEGATIONS

4. From approximately January 2005 to March 2007, A&A imported and/or distributed about 3.95 million units of children's "Groovy Grabber" bracelets ("Bracelets"), which ultimately were sold to consumers in vending machines located in malls, discount, department and grocery stores nationwide from November 2005 to March 2007 for \$.25 per unit.

5. The Bracelets are “consumer product(s),” and, at all times relevant hereto, A&A was an “importer” and/or “distributor” of those consumer product(s), which were “distributed in commerce,” as those terms are defined in CPSA sections 3(a)(5), (7), (8), (9), and (11), 15 U.S.C. §§ 2052(a)(5), (7), (8), (9), and (11).

6. The Bracelets are articles intended to be entrusted to or for use by children, and, therefore, are subject to the requirements of the Commission’s Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint, 16 C.F.R. Part 1303 (the “Ban”). Under the Ban, toys and other children’s articles must not bear “lead-containing paint,” defined as paint or other surface coating materials whose lead content is more than 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film. 16 C.F.R. § 1303.2(b)(1)

7. On February 2, 2007, the Staff obtained Bracelet samples from one of A&A’s customers based in New York, which subsequently were tested at the CPSC Laboratory for the presence of lead. The test results demonstrated that the yellow paint on certain Bracelet samples contained a total lead content from 7.114 percent to 7.742 percent. These levels of lead are in excess of the permissible 0.06 percent limit set forth in the Ban.

8. On April 3, 2007, the Commission and A&A announced a consumer-level recall of about four million units of the Bracelets because “[t]he paint on the metallic band beneath the decorative cover contains high levels of lead. Lead is toxic if ingested by young children and can cause adverse health effects.”

9. Although A&A reported no incidents or injuries associated with the Bracelets, it failed to take adequate action to ensure that none would bear or contain lead-containing paint, thereby creating a risk of lead poisoning and adverse health effects to children.

10. The Bracelets constitute “banned hazardous products” under CPSA section 8 and the Ban, 15 U.S.C. § 2057 and 16 C.F.R. §§ 1303.1(a)(1), 1303.4(b), in that they bear or contain paint or

other surface coating materials whose lead content exceeds the permissible limit of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.

11. From January 2005 to March 2007, A&A sold, manufactured for sale, offered for sale, distributed in commerce, or imported into the United States, or caused one or more of such acts, with respect to the aforesaid banned hazards Bracelets in violation of section 19(a)(1) of the CPSA, 15 U.S.C. § 2068(a)(1) (which acts at the time were in violation of 19(a)(2) of the CPSA, 15 U.S.C. § 2068(a)(2), as the Consumer Product Safety Improvement Act of 2008, Public Law 110-314, had yet to be enacted). A&A committed these prohibited acts “knowingly,” as that term is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

12. Pursuant to section 20 of the CPSA, 15 U.S.C. § 2069, A&A is subject to civil penalties for the aforementioned violations.

#### A&A'S RESPONSIVE ALLEGATIONS

13. A&A contests and denies the Staff's allegations set forth in paragraphs 4 through 12.

14. A&A specifically denies that it failed to take adequate action to ensure that the Bracelets did not bear lead-containing paint exceeding the permissible limits set forth in the Ban. A&A's compliance program, at the time of the subject recall met or exceeded industry standards for ensuring compliance with the permissible lead limits set forth in the Ban. Likewise, A&A asserts that it acted responsibly and reasonably to respond to the Commission's concern regarding the Bracelets, including its prompt and voluntary implementation of a successful product recall of the Bracelets in cooperation with the Commission.

15. A&A specifically denies that any alleged violation of the CPSA occurred “knowingly,” as the term “knowingly” is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

16. A&A has entered into the Agreement for settlement purposes only, to avoid incurring additional expenses and the distraction of litigation. Accordingly, the Agreement and Order do not constitute, and are not evidence of, any fault or wrongdoing on the part of A&A.

#### AGREEMENT OF THE PARTIES

17. Under the CPSA, the Commission has jurisdiction over this matter and over A&A.

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

19. In settlement of the Staff's allegations, A&A shall pay a civil penalty in the amount of forty thousand dollars (\$40,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury.

20. Upon the Commission's 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) days, the Agreement shall be deemed finally accepted on the sixteenth (16th) day after the date it is published in the *Federal Register*.

21. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, A&A 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 Commission's Order or actions; (3) a determination by the Commission of whether A&A 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.

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

23. The Agreement and Order shall apply to, and be binding upon, A&A and each of its successors and assigns.

24. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject A&A to appropriate legal action.

25. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and Order may not be used to vary or contradict its terms. The Agreement shall not be waived, amended, modified, or otherwise altered, except in a writing that is executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

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

(continued on next page)

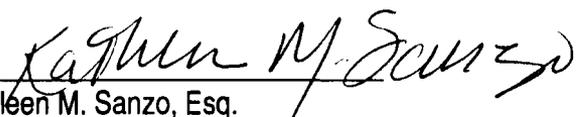
affects the purpose of the Agreement and Order.

A&A GLOBAL INDUSTRIES, INC.

Dated: APRIL 23, 2009

By:   
Eugene Lipman  
Vice President of Finance and Administration  
A&A Global Industries, Inc.  
17 Stenersen Lane  
Cockeysville, MD 21030

Dated: 4/27/09

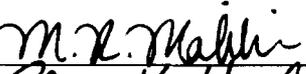
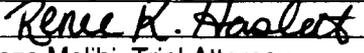
By:   
Kathleen M. Sanzo, Esq.  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
Counsel for A&A Global Industries, Inc.

U.S. CONSUMER PRODUCT SAFETY COMMISSION  
STAFF

Cheryl A. Falvey  
General Counsel  
Office of the General Counsel

Ronald G. Yelenik  
Assistant General Counsel  
Office of the General Counsel

Dated: 5/12/09

By:   
By:   
M. Reza Malihi, Trial Attorney  
Renee K. Haslett, Trial Attorney  
Division of Compliance  
Office of the General Counsel



set forth at 28 U.S.C. § 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 8<sup>th</sup> day of July, 2009.

BY ORDER OF THE COMMISSION:

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

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