

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA

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5	UNITED STATES OF AMERICA,) CV 14-1364-GW(PLAx)
6	Plaintiff,)
7)
8	v.)
9	TOYS DISTRIBUTION, INC. dba TDI)
10	INTERNATIONAL, a California)
11	corporation; and LOAN TUYET THAI,)
12	LAN MY LAM and PAUL PHUONG,)
13	individually and as officers of the)
14	corporation; S & J MERCHANDISE, INC.,) [15 U.S.C. §§ 2071(a), 1267(a)]
15	a California corporation; and CUC T.THAI)
16	individually and as an officer of the)
17	corporation; BLJ APPAREL, INC., a)
18	California corporation; and LUAN LUU,)
19	individually and as an officer of the)
20	corporation; and ALL SEASON SALES,)
21	INC., a California corporation; and TOM)
22	LIU, individually and as an officer of both)
23	All Season Sales and S & J Merchandise,)
24	Defendants.)
25)
26)

27 WHEREAS the United States of America has filed a Complaint against Toys
28 Distribution Inc. dba TDI International, Paul Phuong, Lan My Lam, Loan Tuyet
Thai, BLJ Apparel Inc., Luan Luu, S & J Merchandise Inc., Cuc T. Thai, All

1 Season Sales, Inc. and Tom Liu for a permanent injunction for defendants' alleged
2 violations of statutes and regulations enforced by the U.S. Consumer Product
3 Safety Commission ("CPSC" or "Commission"), including section 19 of the
4 Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2068(a), and section 4 of the
5 Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. § 1263;
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8 WHEREAS the United States and defendants Toys Distribution, Inc., Lan
9 My Lam, and Loan Tuyet Thai consent to entry of this Consent Decree for
10 Permanent Injunction (the "Decree"), without contest, and before any testimony
11 has been taken;
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13 WHEREAS, defendants Toys Distribution, Inc., Lan My Lam, and Loan
14 Tuyet Thai have waived service of the Summons and Complaint; the parties are
15 represented by the attorney whose name appears hereafter; and the parties want to
16 settle this action upon the following terms and conditions, without adjudication of
17 any issue of fact or law.
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20 THEREFORE, on the agreement of the parties, it is hereby ORDERED,
21 ADJUDGED, AND DECREED as follows:
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23 **FINDINGS**
24

25 1. This Court has jurisdiction over the subject matter of this action
26 pursuant to 28 U.S.C. §§ 1331 and 1345.
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28 2. This Court has jurisdiction, under 15 U.S.C. §§ 2071(a) and 1267(a),

1 to restrain any violation of the CPSA and FHSA. All references to the CPSA and
2 FHSA refer to those statutes as amended by the Consumer Product Safety
3 Improvement Act of 2008, Public Law 110-314 (“CPSIA”), which was amended
4 by Public Law 112-28 (2011), and all terms used herein shall have the same
5 meaning as defined and used in the CPSA, CPSIA, and FHSA.
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8 3. Venue in the Central District of California is proper under 28 U.S.C. §
9 1391(b) and (c).
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11 4. At all times relevant hereto, Toys Distribution Inc. (“TDI”) is a
12 “manufacturer” and “retailer” of “consumer products,” as those terms are defined
13 in section 3 of the CPSA, 15 U.S.C. § 2052(a).
14

15 5. At all times relevant hereto, Lan My Lam and Loan Tuyet Thai are the
16 owners of TDI, and as such, they are individuals responsible for the acts and
17 practices of TDI including compliance with the requirements of the CPSA, the
18 CPSIA, and the FHSA, and the regulations issued thereunder.
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20 10. The Complaint states claims upon which relief may be granted against
21 defendants under section 19(a) of the CPSA, 15 U.S.C. § 2068(a), and section 4(a)
22 and (c) of the FHSA, 15 U.S.C. § 1263(a) and (c).
23

24 11. The Complaint alleges that the defendants violated the CPSA, 15
25 U.S.C. § 2068(a)(1), by selling, offering for sale, manufacturing for sale,
26 distributing in commerce, and importing into the United States, consumer products,
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1 or other products or substances that are regulated under the CPSA or any other
2 Acts enforced by the Commission that are not in conformity with an applicable
3 consumer product safety rule under the CPSA, or any similar rule, regulation,
4 standard, or ban under any other Act enforced by the Commission. Specifically,
5 the Complaint alleges that TDI violated the CPSA by importing, offering for sale,
6 selling, and distributing in commerce, children's toys or child care articles, as
7 defined by 15 U.S.C. § 2057c(g)(1)(B) and (C), that contain phthalate
8 concentrations exceeding the allowable amount pursuant to 15 U.S.C. § 2057c.
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12 12. The Complaint alleges that the defendants violated the CPSA, 15
13 U.S.C. § 2068(a)(1) and (2)(D), and the FHSA, 15 U.S.C. § 1263(a) and (c), by
14 introducing or causing the introduction or delivery for introduction into interstate
15 commerce of banned hazardous substances, or the receipt in interstate commerce
16 of banned hazardous substances and the delivery or proffered delivery thereof for
17 pay or otherwise. Additionally, the Complaint alleges TDI violated the CPSA
18 and FHSA by importing, distributing and selling children's products containing
19 excessive lead, which are banned under 15 U.S.C. § 1278a. Specifically, the
20 Complaint alleges that TDI violated the CPSA and FHSA by importing,
21 distributing and selling toys and other articles intended for use by children under
22 three years of age, which present a choking, aspiration, or ingestion hazard because
23 of small parts and which are banned by 16 C.F.R. § 1500.18(a)(9). The
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1 Complaint also alleges that TDI violated the CPSA and FHSA by importing,
2 distributing and selling children's products that bear lead-containing paint,
3 prohibited under 16 C.F.R. § 1303.4(b) and that TDI violated the CPSA and FHSA
4 by importing, distributing and selling rattles that failed to meet the requirements of
5 16 C.F.R. part 1510, and are banned hazardous substances under 16 C.F.R. §
6 1500.18(a)(15).
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9 13. The Complaint alleges that TDI violated the CPSA, 15 U.S.C. §
10 2068(a)(4), by failing to furnish to the CPSC the information required by 15 U.S.C.
11 § 2064(b).
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13 14. The Complaint alleges that TDI violated the CPSA, 15 U.S.C. §
14 2068(a)(6), by failing to furnish certificates required by this Act or any other Act
15 enforced by the Commission, and further, by failing to comply with a requirement
16 of section 14 (including the requirement for tracking labels) or any rule or
17 regulation under such section.
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20 15. Defendants have entered into this Decree freely and without coercion.
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22 16. Defendants hereby waive all rights to appeal or otherwise challenge or
23 contest the validity of this Decree.
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25 17. Entry of this Decree is in the public interest.
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1 IT IS THEREFORE ORDERED AS FOLLOWS:

2 **ORDER**

3
4 1. The defendants who are signatories to this Decree—TDI, Lan My
5 Lam, and Loan Tuyet Thai (“Signatories”)—and each and all of their directors,
6 officers, agents, servants, brokers, employees, successors, assigns, and attorneys,
7 and all persons or entities in active concert or participation with any of them, who
8 receive actual notice of this Decree by personal service or otherwise, are
9 permanently enjoined from importing into the United States, directly or indirectly,
10 introducing or causing the introduction into interstate commerce any toy or other
11 consumer product intended primarily for children 12 years of age or younger,
12 unless and until:
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16 A. Signatories retain, at Signatories’ sole cost and expense, an
17 independent person or entity (the “Product Safety Coordinator”), who is without
18 any personal or financial ties (other than the agreement pursuant to which the
19 Product Safety Coordinator is engaged to perform the functions described in this
20 Section 1.A) to Signatories, their families or any entity directly or indirectly
21 controlled by Signatories or their families, and who, by reason of background,
22 training, education, or experience is qualified to help Signatories fulfill the
23 following requirements:
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27 i. Create a comprehensive product safety program.
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1 ii. Conduct a product audit to determine which of
2 Signatories' merchandise and inventory requires testing and certification of
3 compliance with the FHSA, the CPSA, and any other Act enforced by the CPSC,
4 and quarantines all subject merchandise until the product audit is completed.
5

6 B. Retain for children's products an accredited third party
7 conformity assessment body or bodies accepted by the CPSC and listed on the
8 CPSC's website (third party conformity assessment body) to perform third party
9 testing on children's products as required by law.
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11 C. The Signatories establish, with the assistance of the Product
12 Safety Coordinator, a comprehensive product safety program with written standard
13 operating procedures ("SOPs") designed to ensure continuous compliance with
14 applicable federal laws, standards, and regulations enforced by the CPSC. The
15 product safety program shall:
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19 i. Comply with the third party testing requirements
20 pursuant to 15 U.S.C. § 2063(a)(2) and periodic testing at least once a year in
21 accordance with the requirements of 16 C.F.R. part 1107. This periodic testing
22 requirement applies to each children's product that Signatories import into the
23 United States or manufacture for sale that is subject to a children's product safety
24 rule, or any other consumer product safety rule or similar ban, standard, or
25 regulation under the CPSA, the FHSA, any other Act enforced by the CPSC, or
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1 any regulation passed thereunder.

2 ii. Ensure that after testing in accordance with law and this
3
4 Consent Decree, Signatories issue, retain and provide to the CPSC on request,
5 certificates of conformity for every consumer product that is subject to a consumer
6 product safety rule, children's product safety rule, or similar ban, standard, or
7 regulation under the CPSA, the FHSA, and any other Act enforced by the CPSC,
8 or any regulation passed thereunder.
9

10 iii. Establish systems to ensure that the product safety
11 program's SOPs are followed consistently.
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13 iv. Include procedures to ensure that the Signatories:
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15 adequately correct any product violation cited by the CPSC (whether in connection
16 with an inspection, a letter of advice or otherwise); conduct product recalls; and
17 respond to CPSC letters of advice within the time specified in each letter of advice.
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19 v. Establish systems to: investigate all reports of
20 consumer incidents, property damage, injuries, warranty claims, insurance claims,
21 and court complaints regarding consumer products that Signatories import,
22 distribute or sell in the United States; adhere to applicable CPSC reporting
23 requirements; address potentially defective products appropriately; and implement
24 corrective internal procedures should systemic issues relating to compliance with
25 CPSC requirements be identified.
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1 D. The Signatories shall ensure that a third party conformity
2 assessment body has conducted certification testing on children's products. The
3 Signatories shall hire or supervise the hiring of a third party conformity assessment
4 body to test samples of each children's product, subject to any children's product
5 safety rule including, but not limited to, the following:
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8 i. Small Parts: For each children's product that is intended
9 for children under three years of age, as determined by age grading analysis that
10 includes the factors listed at 16 C.F.R. § 1501.2(b), in accordance with the
11 requirements of 16 C.F.R. §§ 1500.51, 1500.52, and 16 C.F.R. part 1501.
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13 ii. Rattle Requirements: For each children's product that
14 meets the definition of a rattle, as defined in 16 C.F.R. § 1510.2, a third party
15 conformity assessment body for rattle testing shall review a model of each product
16 to determine whether small parts exist and test each rattle toy in accordance with
17 the requirements of 16 C.F.R. §§ 1500.51 and 1510.4.
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20 iii. Lead Paint and Lead Content: A third party conformity
21 assessment body for lead paint and lead content testing shall test each model of
22 children's product that bears a surface coating for compliance with the lead paint
23 requirements of 16 C.F.R. part 1303, and test accessible substrates, when
24 applicable, for the lead content requirements of 15 U.S.C. § 1278a(a)(2) and the
25 applicable requirements of the effective version of American Society for Testing
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1 by selling, offering for sale, manufacturing for sale, distributing in commerce, or
2 importing into the United States any consumer product, or other product or
3 substance that is regulated under the CPSA or any other Act enforced by the
4 Commission, that is not in conformity with an applicable consumer product safety
5 rule under the CPSA, or any similar rule, regulation, standard, or ban under any
6 Act enforced by the Commission, including, but not limited to:
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9 i. Any children's toys or child care articles that contain
10 excessive concentrations of phthalates in violation of 15 U.S.C. § 2057c;
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12 ii. Any product which is subject to any consumer product
13 safety rule or any children's product safety rule and lacks a conformity certificate
14 to the extent required under 15 U.S.C. § 2063 and applicable rules, regulations, and
15 enforcement policies of the CPSC; and
16

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18 iii. Children's products that have not been tested by an
19 accredited third party conformity assessment body accepted by the CPSC to the
20 extent required under 15 U.S.C. § 2063(a)(2) and applicable rules, regulations, and
21 enforcement policies of the CPSC;
22

23 B. Violating section 19(a)(2)(D) of the CPSA, 15 U.S.C.
24 § 2068(a)(2)(D), by selling, offering for sale, manufacturing for sale, distributing
25 in commerce, or importing into the United States any consumer product, or other
26 product or substance that is a banned hazardous substance within the meaning of
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1 section 2(q)(1) of the FHSA, 15 U.S.C. 1261(q)(1), including, but not limited to,
2 the violations discussed in subparagraphs (F) - (G) below.

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4 C. Violating section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4),
5 by failing to furnish to the CPSC information required by section 15(b) of the
6 CPSA, 15 U.S.C. § 2064(b).

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8 D. Violating section 19(a)(6) of the CPSA, 15 U.S.C. § 2068(a)(6),
9 by failing to furnish a certificate required by this Act or any other Act enforced by
10 the Commission, or to issue a false certificate, if such person, in the exercise of due
11 care, has reason to know that the certificate is false or misleading in any material
12 respect; or to fail to comply with any requirement of section 14 (including the
13 requirement for tracking labels), or any rule or regulation under such section.
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16 E. Engaging in any other act or practice that would violate the
17 CPSA, 15 U.S.C. §§ 2051-2089.
18

19 Violating the FHSA

20 F. Introducing, or causing the introduction or delivery for
21 introduction into interstate commerce, any banned hazardous substance or
22 receiving in interstate commerce any banned hazardous substances, or delivering
23 or proffering to deliver thereof for pay or otherwise, in violation of section 4 of the
24 FHSA, 15 U.S.C. § 1263(a) and (c), including, but not limited to:
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27 i. Any children's product containing lead exceeding the
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1 limits established in 15 U.S.C. § 1278a;

2 ii. Any toy or other article intended for use by children that
3 bears lead-containing paint, as defined by 16 C.F.R. § 1303.2(b);
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5 iii. Any toy or other article, intended for use by children
6 under three years of age that presents a choking, aspiration, or ingestion hazard
7 because of small parts, as defined by 16 C.F.R. part 1501; and
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9 iv. Any rattle, as defined in 16 C.F.R. § 1510.2, that does not
10 comply with the requirements 16 C.F.R. part 1510.
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12 G. Engaging in any other act or practice that would violate the
13 FHSA, 15 U.S.C. §§ 1261-1278.
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15 3. Beginning on or before the date that is six (6) months after the date of
16 entry of this Decree and every six (6) months thereafter, for a period of three (3)
17 years after the date of entry of this Decree, Signatories shall provide in writing to
18 the CPSC a list of any names and importer of record numbers used or associated
19 with any entity owned, managed, or controlled, in whole or in part, by Signatories.
20 This list shall be mailed to the Director of Regulatory Enforcement, Office of
21 Compliance and Field Operations.
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24 4. Signatories shall maintain, and provide promptly to the CPSC upon
25 request, for at least five (5) years after the date of this Decree, records of all
26 analyses, testing, and certificates of conformance for any consumer product
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1 required by this Decree and all applicable laws. Such records shall include, but
2 not be limited to, the date of the analysis and testing, the procedures used, and the
3 results of the analysis and testing. Signatories shall also maintain, and provide
4 promptly to the CPSC upon request, for at least five (5) years after the date of this
5 Decree, records of all consumer incidents, property damage, injuries, warranty
6 claims, returns, insurance claims, or court complaints regarding consumer products
7 that Signatories imported into the United States, regardless of where the incident
8 occurred, to the extent reasonably available and permitted by law.
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12 5. Within ten (10) calendar days after date of the entry of this Decree,
13 Signatories shall post copies of this Decree on all bulletin boards in common areas
14 at their corporate, warehouse and retail facilities, and at any other locations at
15 which Signatories conduct business within the CPSC's jurisdiction, and shall
16 ensure that the Decrees remain posted at each location for as long as such
17 Signatory is engaged in importing or selling any toy or other consumer product
18 intended primarily for children 12 years of age or younger.
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22 6. Within ten (10) calendar days after the date of entry of this Decree,
23 Signatories shall provide a copy of the Decree, by personal service or certified mail
24 (restricted delivery, return receipt requested), to each and all of their directors,
25 officers, agents, servants, brokers, and employees of each retail location in the
26 United States (collectively referred to as "Associated Persons"). Within thirty
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1 (30) calendar days of the date of entry of this Decree, Signatories shall provide to
2 the CPSC's General Counsel an affidavit stating the fact and manner of their
3 compliance with this paragraph, identifying the names, addresses, and positions of
4 all persons who received a copy of this Decree pursuant to this paragraph.
5

6 7. If any of the Signatories becomes associated with any additional
7 Associated Person(s) at any time after the date of entry of this Decree, such
8 Signatory immediately shall provide a copy of this Decree, by personal service or
9 certified mail (restricted delivery, return receipt requested), to such Associated
10 Person(s). Within ten (10) calendar days after the date on which any of the
11 Signatories becomes associated with any such additional Associated Person, such
12 defendant(s) shall provide, to the CPSC's General Counsel, an affidavit stating the
13 fact and manner of the applicable defendant's compliance with this paragraph,
14 identifying the names, addresses, and positions of any Associated Person(s) who
15 received a copy of this Decree pursuant to this paragraph, and attaching a copy of
16 the executed certified mail return receipts.
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19 8. Within ten (10) calendar days of receiving a request from the CPSC
20 for any information or documentation that the CPSC deems necessary to evaluate
21 Signatories' compliance with this Decree, Signatories shall provide such
22 information or documentation to the CPSC.
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25 9. Signatories shall notify the CPSC's General Counsel in writing at
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1 least ten (10) calendar before (1) consummation of: a sale, lease, exchange, or
2 transfer of all or substantially all of the assets of TDI; any merger, consolidation,
3 or reorganization of TDI; or any change in ownership of TDI in which the holders
4 of the outstanding equity of these businesses immediately before the transaction do
5 not hold voting control, or at least 50% of the outstanding equity of, the surviving
6 entity after the transaction; or (ii) adoption or approval by TDI of a plan of
7 liquidation or dissolution or an agreement relating to or calling for liquidation or
8 dissolution of TDI.
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12 10. All notifications, correspondence, and communications to the CPSC
13 as required by the terms of this Decree shall be addressed to the Director,
14 Division of Regulatory Enforcement, Office of Compliance and Field Operations,
15 CPSC, 4330 East West Highway, Bethesda, MD 20814, or to the General Counsel,
16 , Office of the General Counsel, CPSC, 4330 East West Highway, Bethesda, MD
17 20814.
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20 11. If any Signatory fails to comply with the material provisions of this
21 Decree, said Signatory shall pay to the United States of America liquidated
22 damages in the sum of one thousand dollars (\$1,000.00) for each day that said
23 Signatory fails to comply with this Decree. Signatories understand and agree that
24 the liquidated damages specified in this paragraph are not punitive in nature and do
25 not in any way limit the ability of the United States of America to seek, and the
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1 Court to impose, additional criminal or civil contempt penalties based on conduct
2 that may also be the basis for the payment of liquidated damages.

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4 12. If Signatories violate this Decree and are found in civil or criminal
5 contempt thereof, Signatories shall, in addition to other remedies, reimburse
6 plaintiff for its attorneys' fees, including overhead, investigational expenses, and
7 court costs relating to such contempt proceeding.

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9 13. This Decree, and any act, statement, or document executed pursuant
10 to or in furtherance of this Decree, shall not be deemed or used in any way: (i) as
11 an admission of, or evidence of, the validity of any claim asserted in the
12 Complaint, or of any wrongdoing or liability of the Signatories, or of any unlawful,
13 unfair, or fraudulent business practices of the Signatories, all of which Signatories
14 deny; (ii) as an admission of, or evidence of, any fault or omission of the
15 Signatories in any civil, criminal, or administrative proceeding of any kind in any
16 court, administrative agency, or other tribunal; or (iii) as an admission of, waiver,
17 of, or evidence relating to, any claim or defense asserted by any party.
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22 14. Each party shall bear its own costs and attorneys' fees.

23 15. The provisions of this Decree are separate and severable from one
24 another. If any provision is stayed or determined to be invalid, the remaining
25 provisions shall remain in full force and effect.
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27 16. This Court shall retain jurisdiction of this matter for purposes of
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1 construction, modification, and enforcement of this Decree.

2 17. The parties, by their respective counsel, hereby consent to entry of the
3 foregoing Decree, which shall constitute a final judgment and order in this matter
4 as to injunctive relief. The parties further stipulate and agree that the entry of the
5 foregoing Decree shall constitute full, complete, and final settlement of this action
6 as to injunctive relief.
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10 SO ORDERED this 10th day of June, 2014.
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14 HON. GEORGE H. WU
15 United States District Judge
16

17 FOR PLAINTIFF:

18 STUART F. DELERY
19 Assistant Attorney General
20 MAAME EWUSI-MENSAH
21 FRIMPONG
22 Deputy Assistant Attorney General

23 MICHAEL S. BLUME
24 Director
25 JILL FURMAN
26 Deputy Director
27 Consumer Protection Branch
28

OF COUNSEL:

STEPHANIE TSACOUMIS
General Counsel

MELISSA V. HAMPSHIRE
Assistant General Counsel

HARRIET KERWIN
Attorney
Office of the General Counsel
U.S. Consumer Product Safety
Commission
Bethesda, MD 20814

1 By: _____
2 PATRICK R. RUNKLE
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4 Branch
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6 United States Department of Justice
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12 FOR THE SIGNATORIES:

13 _____
14 Bryan Wong
15 Attorney for TDI, Lan My Lam, and Loan Tuyet Thai

16 _____
17
18 Lan My Lam
19 Individually and as officer of TDI

20 _____
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22 Loan Tuyet Thai
23 Individually and as officer of TDI
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