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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

EVERBRIGHT TRADING, INC.,  
YUAN XIANG GAO, and  
RONG QING XU a/k/a RUBY XU,

Defendants.

COMPLAINT

Civil Action No.

**CV 17- 3751**

**DeARCY HALL, J.**

**MANN. M.J.**

Plaintiff, the UNITED STATES OF AMERICA, by and through the undersigned attorneys, hereby alleges as follows:

**INTRODUCTION**

The United States of America brings this action to enjoin and restrain Everbright Trading, Inc., Yuan Xiang Gao, and Rong Qing Xu (a/k/a Ruby Xu) (collectively, “defendants”), from offering for sale, selling, importing, or distributing children’s products in violation of the Consumer Product Safety Act (“CPSA”), 15 U.S.C. §§ 2051-2089; the Federal Hazardous Substances Act (“FHSA”), 15 U.S.C. §§ 1261-1278; and regulations issued thereunder.

1. The United States pursues this action on behalf of the U.S. Consumer Product Safety Commission (“CPSC” or “Commission”), an independent federal regulatory agency that enforces the CPSA, the FHSA, and related regulations. One of the purposes of the CPSC is to protect the public against unreasonable risks of injury associated with consumer products.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.
3. This Court also has jurisdiction, under 15 U.S.C. § 2071(a), to restrain any violation

of section 2068 of the CPSA, and, under 15 U.S.C. § 1267(a), to restrain any violation of the FHSA.

4. Venue in the Eastern District of New York is proper under 28 U.S.C. §§ 1391(b) and (c).

#### PARTIES

5. Plaintiff is the United States of America.

6. Defendant Everbright Trading, Inc. (“Everbright”) is a corporation organized and existing under the laws of New York, presently located at 1177B Flushing Avenue, Brooklyn, New York 11237 (“the 1177B Flushing Ave. Facility”). Everbright was formed as a corporation on June 16, 2010. Until approximately August 2014, Everbright was previously located at 72 Van Dam Street, Brooklyn, New York 11222 (“the 72 Van Dam St. Facility”).

7. Everbright is a manufacturer as defined in 15 U.S.C. § 2052(a)(11)<sup>1</sup> of consumer products, including children’s toys and articles that are subject to the requirements of the CPSA, the FHSA, and the regulations issued thereunder. At all relevant times herein, the defendants have imported and sold various consumer products, including children’s toys and articles, through the 1177B Flushing Ave. and 72 Van Dam St. Facilities.

8. Defendant Yuan Xiang Gao is the owner of Everbright.

9. Defendant Rong Qing Xu (a/k/a Ruby Xu) is the manager and operator of Everbright.

10. Gao and Xu are responsible for ensuring Everbright’s compliance with the requirements of the CPSA, the FHSA, and the regulations issued thereunder.

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<sup>1</sup> Title 15 U.S.C. § 2052(a)(11) defines manufacturer to include “any person who manufactures or imports a consumer product.”

11. At all times relevant to this action, Gao and Xu formulated, directed, controlled, and participated in Everbright's acts and practices, including the acts and practices alleged herein.

**DEFENDANTS' VIOLATIONS OF THE CPSA**

12. Since March 12, 2013, the CPSC has collected 97 violative samples of children's consumer products from the defendants' import shipments at the ports of New York/Newark, New Jersey, and Los Angeles/Long Beach. The 99 violative samples contained 189 violations of federal law, including children's products and toys with illegal levels of total lead content, lead paint, and phthalates; toys intended for children under three years of age that contain small parts or accessible batteries; pull toys intended for children under three years of age that contain accessible cords, straps or elastics greater than twelve inches long with beads or other attachments that could tangle to form a loop; children's toys containing latex balloons lacking required cautionary labeling; and children's toys and articles lacking required certification based on third-party testing and lacking tracking labels.

13. The CPSC issued a total of 41 Letters of Advice ("LOAs") from April 10, 2013 to December 22, 2016, notifying the defendants of the 189 violations.

14. The CPSA prohibits the sale, offer for sale, manufacture for sale, distribution in commerce, or importation into the United States of any consumer product, or other product or substance that is regulated under the CPSA or any other Act enforced by the CPSC, that is not in conformity with an applicable consumer product safety rule under the CPSA, or any similar rule, regulation, standard, or ban under any Act enforced by the Commissioner. 15 U.S.C. § 2068(a)(1).

15. Under the CPSA, it is unlawful to fail to furnish a certificate required by the CPSA or any other Act enforced by the Commission. 15 U.S.C. § 2068(a)(6).

16. Under the CPSA, if it is unlawful for any person to fail to comply with the tracking

labels requirement in 15 U.S.C. § 2063, or any rule or regulation under that section. 15 U.S.C. § 2068(a)(6).

17. The defendants' violations of the CPSA provisions set forth in paragraphs 12 through 16 above are specified below.

**Phthalate Concentrations Exceeding the Legal Limit**

18. The United States realleges and incorporates by reference paragraphs 1 through 17 of this Complaint as though fully set forth herein.

19. Under the CPSA, it is unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toys and child care articles containing concentrations of more than 0.1 percent of certain phthalate compounds, including di-(2-ethylhexyl) phthalate ("DEHP"), dibutyl phthalate, or benzyl butyl phthalate. 15 U.S.C. § 2057c(a).

20. Samples of products collected from the defendants' import shipments are "children's toys" as defined under 15 U.S.C. § 2057c(g)(1)(B).

21. The defendants sold, offered for sale, distributed in commerce, or imported into the United States 19 types of violative toys, thereby violating 15 U.S.C. § 2068(a)(1).

22. On May 24, 2013, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

23. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the toys collected on May 24, 2013, and tested by the CPSC exceeded the phthalate concentration limit under the CPSA. The LOA notified defendants that their sale, offer for sale, distribution in

commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

24. On November 15, 2013, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

25. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the toys collected on November 15, 2013, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

26. On June 10, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

27. On June 12, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

28. On July 8, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

29. The CPSC sent Everbright an LOA dated August 22, 2014, notifying defendants that the toys collected on June 10, June 12 and July 8, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale,

distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

30. On July 21, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

31. The CPSC sent Everbright an LOA dated September 15, 2014, notifying defendants that the toys collected on July 21, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1).

32. On July 24, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

33. The CPSC sent Everbright an LOA dated September 10, 2014, notifying defendants that the toys collected on July 24, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

34. On August 13, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

35. On August 18, 2014, the CPSC collected two types of toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

36. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the toys collected on August 13 and August 18, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

37. On September 16, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

38. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants that the toys collected on September 16, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

39. On September 23, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

40. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the toys collected on September 23, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

41. On October 9, 2014, the CPSC collected toys from the defendants that exceeded

the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

42. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants that the toys collected on October 9, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

43. On October 28, 2014, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

44. The CPSC sent Everbright an LOA dated January 13, 2015, notifying defendants that the toys collected on October 28, 2014, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

45. On November 4, 2016, the CPSC collected toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

46. The CPSC sent Everbright an LOA dated December 12, 2016, notifying defendants that the toys collected on November 4, 2016, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

47. On November 10, 2016, the CPSC collected two types of toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

48. The CPSC sent Everbright a second LOA dated December 12, 2016, notifying defendants that the toys collected on November 10, 2016, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

49. On November 16, 2016, the CPSC collected two types of toys from the defendants that exceeded the phthalate concentration limit under the CPSA because they contained more than 0.1 percent of DEHP.

50. The CPSC sent Everbright a third LOA dated December 12, 2016, notifying defendants that the toys collected on November 16, 2016, and tested by the CPSC exceeded the phthalate concentration limit. The LOA notified defendants that their sale, offer for sale, distribution in commerce, or importation into the United States of the toys violated 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

**Violations Concerning Toys Intended For Children Under Three Years Of Age With  
Battery Compartments That Are Not Sufficiently Secure**

51. The United States realleges and incorporates by reference paragraphs 1 through 50 of this Complaint as though fully set forth herein.

52. Under the CPSA, it is unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States toys intended for children less than three years of age with batteries that are accessible without the use of a coin, screwdriver, or other

common household tool per section 4.25 of ASTM International standard F963-11 (“ASTM F963-11”). 15 U.S.C. § 2056b(a).

53. The defendants sold, offered for sale, distributed in commerce, or imported into the United States violative toys intended for children under age three and containing accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1).

54. On February 18, 2016, the CPSC collected, from the defendants’ import shipments, two samples of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

55. The CPSC sent Everbright an LOA dated April 27, 2016, notifying defendants that the two samples of toys collected on February 18, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

56. On May 16, 2016, the CPSC collected, from the defendants’ import shipments one sample of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

57. The CPSC sent Everbright an LOA dated August 1, 2016, notifying defendants that the toys collected on May 16, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

58. On September 12, 2016, the CPSC collected, from the defendants’ import shipments, one sample of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

59. The CPSC sent Everbright an LOA dated November 16, 2016, notifying defendants

that the toys collected on September 12, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

60. On October 3, 2016, the CPSC collected, from the defendants' import shipments, one sample of toys intended for children under three and containing batteries accessible without the use of a coin, screwdriver, or other household tool.

61. The CPSC sent Everbright an LOA dated December 21, 2016, notifying defendants that the toys collected on October 3, 2016, intended for children under age three, contained accessible batteries, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

**Violations Concerning Pull Toys Intended For Children Under Three Years of Age With Accessible Cords, Straps, Or Elastics Greater Than 12 Inches Long With Beads Or Other Attachments That Could Tangle To Form A Loop**

62. The United States realleges and incorporates by reference paragraphs 1 through 61 of this Complaint as though fully set forth herein.

63. Under the CPSA, it is unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States toys intended for children less than three years of age with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11. 15 U.S.C. § 2056b(a).

64. The CPSC collected from Everbright's import shipments samples of toys intended for children less than three years of age containing accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11.

65. On April 11, 2016, the CPSC collected, from the defendants' import shipments, three samples of toys with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11. These toys were intended for children under three years of age.

66. The CPSC sent Everbright an LOA dated July 20, 2016, notifying defendants that the toys collected on April 11, 2016, intended for children under age three, contained accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

67. On April 21, 2016, the CPSC collected, from the defendants' import shipments, three samples of toys with accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11. These toys were intended for children under three years of age.

68. The CPSC sent Everbright a separate LOA, also dated July 20, 2016, notifying defendants that the toys collected on April 21, 2016, intended for children under age three, contained accessible cords, straps, or elastics greater than 12 inches long with beads or other attachments that could tangle to form a loop per section 4.14 of ASTM F963-11, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

**Violations Concerning The Required Certificate Stating That Children's Products Comply With Each Applicable Children's Product Safety Rule**

69. The United States realleges and incorporates by reference paragraphs 1 through 68 of this Complaint as though fully set forth herein.

70. Under the CPSA, every manufacturer of a children's product that is subject to a

children's product safety rule must submit samples of the product to a third-party conformity assessment body for testing. The manufacturer must then issue a certificate, based upon such testing that such children's product complies with each applicable children's product safety rule. This requirement applies for children's products that produce small parts or have lead-containing paint. 15 U.S.C. § 2063(a)(2). This requirement also applies for children's products that contain phthalates or lead, toys intended for children under three that contain accessible batteries, and toys that do not comply with the pull toy requirements. 15 U.S.C. § 2063(a)(3).

71. The CPSC collected samples of toys and articles from the defendants' import shipments that are "children's products" as defined under 15 U.S.C. § 2052(a)(2) and are subject to a "children's product safety rule" as defined under 15 U.S.C. § 2063(f)(1). The sampled items were required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. In 30 instances, defendants failed to produce the required certification of testing or defendants furnished an invalid certificate because the manufacturing date did not match the information on the tracking label and the test report was invalid or the sample did not meet the periodic testing requirement under 16 C.F.R. § 1107.21 or the product was not identifiable from the test report.

72. On April 4, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

73. The CPSC sent Everbright an LOA dated May 9, 2013, notifying defendants that

the sample of children's products collected on April 4, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

74. On April 18, 2013, the CPSC collected, from the defendants' import shipments, three samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

75. The CPSC sent Everbright an LOA dated May 29, 2013, notifying defendants that the samples of children's products collected on April 18, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

76. On May 24, 2013, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

77. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the samples of children's products collected on May 24, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

78. On June 11, 2013, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

79. The CPSC sent Everbright a separate LOA dated July 8, 2013, notifying defendants

that the samples of children's products collected on June 11, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

80. On November 15, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

81. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the sample of children's products collected on November 15, 2013, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

82. On March 19, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

83. The CPSC sent Everbright an LOA dated April 23, 2014, notifying defendants that the samples of children's products collected on March 19, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

84. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a

sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

85. On May 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

86. The CPSC sent Everbright an LOA dated July 29, 2014, notifying defendants that the samples of children's products collected on May 13 and May 23, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

87. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a separate sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint. Phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

88. The CPSC sent Everbright an LOA dated August 7, 2014, notifying defendants that the sample of children's products collected on May 13, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

89. On July 24, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

90. The CPSC sent Everbright an LOA dated September 10, 2014, notifying defendants that the sample of children's products collected on July 24, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

91. On September 16, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

92. The CPSC sent Everbright an LOA dated October 31, 2014, notifying defendants that the samples of children's products collected on September 16, 2014, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

93. On September 1, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

94. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants that the samples of children's products collected on September 1, 2015, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

95. On February 18, 2016, the CPSC collected, from the defendants' import shipments,

three samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

96. The CPSC sent Everbright an LOA dated April 27, 2016, notifying defendants that the three samples of children's products collected on February 18, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

97. On April 11, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

98. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that the two samples of children's products collected on April 11, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

99. On May 16, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

100. The CPSC sent Everbright an LOA dated August 1, 2016, notifying defendants that

the sample of children's products collected on May 16, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

101. On July 13, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

102. The CPSC sent Everbright an LOA dated October 3, 2016, notifying defendants that the sample of children's products collected on July 13, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

103. On November 4, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The sample failed to comply with the certificate requirement.

104. The CPSC sent Everbright an LOA dated December 12, 2016, notifying defendants that the sample of children's products collected on November 4, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

105. On November 10, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

106. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 10, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

107. On November 16, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products required to have a certificate based on third-party testing that such products complied with the requirements for small parts, lead-containing paint, phthalates, lead, accessible batteries and/or pull toys. The samples failed to comply with the certificate requirement.

108. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 16, 2016, failed to comply with the certificate requirement, thereby violating 15 U.S.C. § 2068(a)(1). The LOA requested corrective action.

#### **Tracking Label Violations**

109. The United States realleges and incorporates by reference paragraphs 1 through 108 of this Complaint as though fully set forth herein.

110. Under the CPSA, every manufacturer of a children's product shall place permanent, distinguishing marks ("tracking labels") on the product and its packaging, which will enable the manufacturer and ultimate purchaser of the product to ascertain the location and date of production, along with cohort information. 15 U.S.C. § 2063(a)(5).

111. The CPSC collected samples of toys and articles from the defendants' import shipments that are "children's products" as defined under 15 U.S.C. § 2052(a)(2). Sixty-two children's products sampled failed to have tracking labels or had insufficient tracking labels. The

defendants failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

112. On March 12, 2013, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

113. The CPSC sent Everbright an LOA dated April 10, 2013, notifying defendants that the samples of children's products collected on March 12, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

114. On April 4, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

115. The CPSC sent Everbright an LOA dated May 9, 2013, notifying defendants that the sample of children's products collected on April 4, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

116. On April 18, 2013, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

117. The CPSC sent Everbright an LOA dated May 29, 2013, notifying defendants that the samples of children's products collected on April 18, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

118. On May 24, 2013, the CPSC collected, from the defendants' import shipment, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

119. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the samples of children's products collected on May 24, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

120. On June 11, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

121. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the sample of children's products collected on June 11, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

122. On November 15, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

123. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the sample of children's products collected on November 15, 2013, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

124. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a

sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

125. On May 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

126. The CPSC sent Everbright an LOA dated July 29, 2014, notifying defendants that the samples of children's products collected on May 13 and May 23, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

127. On May 13, 2014, the CPSC collected, from the defendants' import shipments, an additional sample of children's products. This sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

128. The CPSC sent Everbright an LOA dated August 7, 2014, notifying defendants that this additional sample of children's products collected on May 13, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

129. On June 10, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

130. On June 12, 2014, the CPSC collected, from the defendants' import shipments, four samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

131. On July 8, 2014, the CPSC collected, from the defendants' import shipments, four

samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

132. The CPSC sent Everbright an LOA dated August 22, 2014, notifying defendants that the samples of children's products collected on June 10, June 12 and July 8, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

133. On July 21, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

134. The CPSC sent Everbright an LOA dated September 15, 2014, notifying defendants that the samples of children's products collected on July 21, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

135. On July 24, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

136. The CPSC sent Everbright an LOA dated September 10, 2014, notifying defendants that the sample of children's products collected on July 24, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

137. On August 13, 2014, the CPSC collected, from the defendants' import shipments, five samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

138. On August 18, 2014, the CPSC collected, from the defendants' import shipments, four samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

139. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the samples of children's products collected on August 13 and August 18, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

140. On September 16, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

141. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants that the sample of children's products collected on September 16, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

142. On September 23, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

143. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the samples of children's products collected on September 23, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

144. On October 6, 2014, the CPSC collected, from the defendants' import shipments, a

sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

145. The CPSC sent Everbright an LOA dated November 20, 2014, notifying defendants that the sample of children's products collected on October 6, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

146. On October 9, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

147. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the sample of children's products collected on October 9, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

148. On October 22, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

149. On October 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

150. The CPSC sent Everbright an LOA dated January 13, 2015, notifying defendants that the samples of children's products collected on October 22 and October 23, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

151. On October 28, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

152. The CPSC sent Everbright a separate LOA dated January 13, 2015, notifying defendants that the samples of children's products collected on October 28, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

153. On October 30, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

154. The CPSC sent Everbright an LOA dated December 31, 2014, notifying defendants that the samples of children's products collected on October 30, 2014, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

155. On September 1, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

156. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants that the sample of children's products collected on September 1, 2015, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

157. On April 11, 2016, the CPSC collected, from the defendants' import shipments,

two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

158. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that the samples of children's products collected on April 11, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

159. On May 16, 2016, the CPSC collected, from the defendants' import shipments, four samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

160. The CPSC sent Everbright an LOA dated August 1, 2016, notifying defendants that the samples of children's products collected on May 16, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

161. On November 4, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

162. The CPSC sent Everbright an LOA dated December 12, 2016, notifying defendants that the sample of children's products collected on November 4, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

163. On November 10, 2016, the CPSC collected, from the defendants' import two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

164. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 10, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

165. On November 16, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6).

166. The CPSC sent Everbright a separate LOA dated December 12, 2016, notifying defendants that the samples of children's products collected on November 16, 2016, failed to comply with the requirement to have tracking labels on children's products, thereby violating 15 U.S.C. § 2068(a)(6). The LOA requested corrective action.

**Violations of the CPSA and FHSA – Misbranded and Banned Hazardous Substances**

167. The United States realleges and incorporates by reference paragraphs 1 through 166 of this Complaint as though fully set forth herein.

168. Under the FHSA, it is unlawful to introduce or deliver for introduction, and to cause the introduction or delivery for introduction, into interstate commerce any misbranded hazardous substance or banned hazardous substance. 15 U.S.C § 1263(a).

169. Under the FHSA, it is unlawful to receive in interstate commerce and to deliver or proffer delivery for pay or otherwise, and to cause the receipt in interstate commerce and the delivery or proffered delivery for pay or otherwise, any misbranded hazardous substance or banned hazardous substance. 15 U.S.C. § 1263(c).

170. Under the CPSA, it is unlawful for any person to "sell, offer for sale, manufacture

for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance” that is regulated under the CPSA or any other Act enforced by the CPSC, that is not in conformity with an applicable consumer product safety rule under the CPSA, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission. 15 U.S.C. § 2068(a)(1).

171. Under the CPSA, it is unlawful for any person to sell, offer for sale, distribute in commerce, or import into the United States any consumer product, or product or substance that is a banned hazardous substance within the meaning of 15 U.S.C. § 1261(q)(1). 15 U.S.C. § 2068(a)(2)(D).

172. The defendants’ violations of the CPSA and FHSA provisions set forth in paragraphs 168 through 171 above are specified in the paragraphs below.

**Violations Concerning Toys Intended For Use By Children Under Three Years Of Age That Constitute A Mechanical Hazard Because They Contain Small Parts**

173. The United States realleges and incorporates by reference paragraphs 1 through 172 of this Complaint as though fully set forth herein.

174. Under the FHSA and the regulations issued thereunder, toys and other articles intended for use by children under three years of age that constitute a mechanical hazard because they contain small parts which present the risk of choking, aspiration, or ingestion are banned hazardous substances. 16 C.F.R. § 1500.18(a)(9). Before or after the toy is subjected to use and abuse tests set forth at 16 C.F.R. §§ 1500.50 - 1500.52, no portion of a toy may separate and produce small parts that fit entirely into the specified test fixture. 15 U.S.C. §§ 1261(f)(1)(D), 1261(q)(1)(A), 1261(s); 16 C.F.R. § 1500.18(a)(9) and 16 C.F.R. part 1501.

175. The CPSC collected samples from the defendants’ import shipments that are “toys

and other articles intended for use by children under three years of age,” as defined under 16 C.F.R. § 1501.2. Thirty-two toys and articles collected, intended for use by children under three years of age, failed to meet the small parts regulation because portions of the toys and articles separated and produced small parts when subjected to use and abuse tests. Accordingly, the toys and articles are banned hazardous substances.

176. The defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce banned hazardous substances, that is, thirty-two toys or other articles intended for use by children under three years of age which contained small parts, or received in interstate commerce such toys or articles and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

177. On April 18, 2013, the CPSC collected, from the defendants’ import shipments, three samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

178. The CPSC sent Everbright an LOA dated May 29, 2013, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on April 18, 2013, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

179. On June 11, 2013, the CPSC collected, from the defendants’ import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

180. The CPSC sent Everbright an LOA dated July 8, 2013, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on June 11, 2013, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

181. On May 13, 2014, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

182. The CPSC sent Everbright an LOA dated July 29, 2014, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on May 13, 2014, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

183. On September 16, 2014, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

184. The CPSC sent Everbright an LOA dated October 31, 2014, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on September 16, 2014, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

185. On October 30, 2014, the CPSC collected, from the defendants' import shipments,

a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

186. The CPSC sent Everbright an LOA dated December 31, 2014, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on October 30, 2014, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

187. On February 18, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

188. The CPSC sent Everbright an LOA dated April 27, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on February 18, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

189. On April 11, 2016, the CPSC collected, from the defendants' import shipments, three samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

190. The CPSC sent Everbright an LOA dated July 20, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on April 11, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

191. On April 21, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

192. The CPSC sent Everbright a separate LOA dated July 20, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on April 21, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

193. On May 16, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

194. The CPSC sent Everbright an LOA dated August 1, 2016 notifying, defendants that the sample of toys and other articles intended for use by children under three years of age collected on May 16, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

195. On June 2, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

196. The CPSC sent Everbright a separate LOA dated July 20, 2016, notifying

defendants that the sample of toys and other articles intended for use by children under three years of age collected on June 2, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

197. On August 23, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

198. The CPSC sent Everbright an LOA dated November 1, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on August 23, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

199. On August 29, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

200. The CPSC sent Everbright an LOA dated October 17, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on August 29, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

201. On September 8, 2016, the CPSC collected, from the defendants' import shipments, four samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

202. On September 12, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

203. The CPSC sent Everbright an LOA dated November 16, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on September 8 and September 12, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

204. On September 12, 2016, the CPSC collected, from the defendants' import shipments, an additional sample of toys and other articles intended for use by children under three years of age. This sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

205. The CPSC sent Everbright an LOA dated November 14, 2016, notifying defendants that this additional sample of toys and other articles intended for use by children under three years of age collected on September 12, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

206. On October 3, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

207. The CPSC sent Everbright an LOA dated December 21, 2016, notifying defendants

that the sample of toys and other articles intended for use by children under three years of age collected on October 3, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

208. On October 18, 2016, the CPSC collected, from the defendants' import shipments, two samples of toys and other articles intended for use by children under three years of age. The samples failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

209. The CPSC sent Everbright an LOA dated December 22, 2016, notifying defendants that the samples of toys and other articles intended for use by children under three years of age collected on October 18, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

210. On October 25, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

211. The CPSC sent Everbright a separate LOA dated December 22, 2016, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on October 25, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

212. On November 3, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys and other articles intended for use by children under three years of age. The sample failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

213. The CPSC sent Everbright an LOA dated December 19, 2016, notifying defendants that the sample of toys and other articles intended for use by children under three years of age collected on November 3, 2016, failed to meet the small parts regulation, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

**Children's Products Containing Lead In Excess Of The Statutory Limit**

214. The United States realleges and incorporates by reference paragraphs 1 through 213 of this Complaint as though fully set forth herein.

215. Under the FHSA, any children's product containing lead in excess of the statutory limit is a banned hazardous substance. 15 U.S.C. § 1278a(a)(1). Children's products containing more than .001 percent, or 100 parts per million, lead are banned hazardous substances. 15 U.S.C. § 1278a(a)(2).

216. The CPSC collected samples from the defendants' import shipments that are "children's products" as defined under 15 U.S.C. § 2052(a)(2). Twenty-nine children's products contained lead in excess of the statutory limit. Accordingly, the children's products are banned hazardous substances.

217. On April 4, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

218. The CPSC sent Everbright an LOA dated May 9, 2013, notifying defendants that the sample of children's products collected on April 4, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

219. On May 24, 2013, the CPSC collected, from the defendants' import shipments, a

sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

220. The CPSC sent Everbright an LOA dated July 8, 2013 notifying defendants that the sample of children's products collected on May 24, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

221. On June 11, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

222. The CPSC sent Everbright a separate LOA dated July 8, 2013, notifying defendants that the sample of children's products collected on June 11, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

223. On November 15, 2013, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

224. The CPSC sent Everbright an LOA dated January 9, 2014, notifying defendants that the sample of children's products collected on November 15, 2013, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

225. On March 19, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

226. The CPSC sent Everbright an LOA dated April 23, 2014, notifying defendants that the samples of children's products collected on March 19, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

227. On May 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

228. The CPSC sent Everbright an LOA dated July 29, 2014 notifying defendants that sample of children's products collected on May 23, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

229. On June 10, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

230. On June 12, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

231. On July 8, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

232. The CPSC sent Everbright an LOA dated August 22, 2014, notifying defendants

that the samples of children's products collected on June 10, June 12 and July 8, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

233. On July 21, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

234. The CPSC sent Everbright an LOA dated September 15, 2014, notifying defendants that the samples of children's products collected on July 21, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

235. On August 13, 2014, the CPSC collected, from the defendants' import shipments, three samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

236. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the samples of children's products collected on August 13, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

237. On September 23, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

238. The CPSC sent Everbright an LOA dated December 8, 2014, notifying defendants

that the samples of children's products collected on September 23, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

239. On October 9, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

240. The CPSC sent Everbright a separate LOA dated December 8, 2014, notifying defendants that the sample of children's products collected on October 9, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

241. On October 28, 2014, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

242. The CPSC sent Everbright an LOA dated January 13, 2015, notifying defendants that the samples of children's products collected on October 28, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

243. On October 30, 2014, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

244. The CPSC sent Everbright an LOA dated December 31, 2014, notifying defendants

that the sample of children's products collected on October 30, 2014, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

245. On July 31, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

246. The CPSC sent Everbright an LOA dated September 21, 2015, notifying defendants that the sample of children's products collected on July 31, 2015, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

247. On September 1, 2015, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

248. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants that the sample of children's products collected on September 1, 2015, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

249. On April 11, 2016, the CPSC collected, from the defendants' import shipments, two samples of children's products. The samples contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

250. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that

the samples of children's products collected on April 11, 2016, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

251. On October 25, 2016, the CPSC collected, from the defendants' import shipments, a sample of children's products. The sample contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

252. The CPSC sent Everbright an LOA dated December 22, 2016, notifying defendants that the sample of children's products collected on October 25, 2016, contained lead in excess of the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

253. The defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce banned hazardous substances, that is, 29 children's products containing lead, or received in interstate commerce such products, and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

**Children's Products With Lead-Containing Paint In Excess Of The Statutory Limit**

254. The United States realleges and incorporates by reference paragraphs 1 through 253 of this Complaint as though fully set forth herein.

255. Any children's product with lead-containing paint in excess of the statutory limit is a banned hazardous substance. 15 U.S.C. § 1261(q)(1)(A), 16 C.F.R. §§ 1303.1(d), 1303.2(b)(2), and 1303.4(b). Violations of the lead paint ban are violations of the FHSA. 15 U.S.C. § 1278a(g); 16 C.F.R. § 1303.1(d). The CPSC banned such products because "there is an unreasonable risk of lead poisoning in children associated with lead content of over [the limit imposed by the CPSC]

in paints and coatings to which children have access and that no feasible consumer product safety standard under the CPSA would adequately protect the public from this risk.” 16 C.F.R. § 1303.1(c).

256. The lead paint ban defines “lead-containing paint” as paint and similar surface coatings that contain lead “in excess of 0.009 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.” 16 C.F.R. § 1303.1(a); 15 U.S.C. § 1278a(f)(1).

257. The CPSC collected samples from the defendants’ import shipments that are “toys” or “articles intended for use by children,” as defined under 16 C.F.R. § 1303.2(b)(3). Three toys sampled failed to comply with the lead paint ban because they contained lead paint beyond the statutory limit. Accordingly, these items are banned hazardous substances.

258. On March 19, 2014, the CPSC collected, from the defendants’ import shipments, two samples of toys or articles intended for use by children. The samples contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

259. The CPSC sent Everbright an LOA dated April 23, 2014, notifying defendants that the samples of toys or articles intended for use by children collected on March 19, 2014, contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

260. On September 1, 2015, the CPSC collected, from the defendants’ import shipments, a sample of toys or articles intended for use by children. The sample contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

261. The CPSC sent Everbright an LOA dated September 22, 2015, notifying defendants

that the samples of toys or articles intended for use by children collected on September 1, 2015, contained lead paint beyond the statutory limit, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D). The LOA requested corrective action.

262. On the three occasions listed above, the defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce banned hazardous substances, that is, toys or other articles bearing lead paint, and received in interstate commerce such products and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1) and (2)(D).

**Violation Concerning The Labeling Of Hazardous Art Materials**

263. The United States realleges and incorporates by reference paragraphs 1 through 262 of this Complaint as though fully set forth herein.

264. Under the Labeling of Hazardous Art Materials Act (“LHAMA”), any art material which has the potential to produce chronic adverse health effects and does not meet the requirements of LHAMA is a misbranded hazardous substance. 15 U.S.C. §§ 1262(b), 1277(a) and (b).

265. LHAMA and regulations issued thereunder define a chronic adverse health effect as “a persistent toxic effect(s) that develops over time from a single, prolonged, or repeated exposure to a substance.” 16 C.F.R. § 1500.14(b)(8)(i)(B)(3).

266. LHAMA and regulations issued thereunder define an art material as “any raw or processed material, or manufactured product, marketed or represented by the producer or repackager as intended for and suitable for . . . artists or crafts people of any age who create, or recreate in a limited number, largely by hand, works which may or may not have a practical use, but in which aesthetic considerations are paramount.” 16 C.F.R. § 1500.14(b)(8)(i)(B)(1) and (2).

A producer includes the person or entity that manufactures, processes, or imports an art material. 16 C.F.R. § 1500.14(b)(8)(i)(B)(7).

267. LHAMA requires that the importer of art materials submit the product formulations to a toxicologist to have the product assessed for its potential to cause adverse chronic health effects before the product is entered into commerce. 16 C.F.R. § 1500.14(b)(8)(i)(C). Prior to the product entering commerce, the importer must submit to CPSC staff the criteria used to determine whether the art materials have the potential for producing chronic adverse health effects and a list of art materials that require hazard warning labels under LHAMA. 16 C.F.R. § 1500.14(b)(8)(ii)(C).

268. An art material must be accompanied by a statement of conformance to ASTM D-4236. 16 C.F.R. § 1500.14(b)(8)(i)(C)(7).

269. On August 13, 2014, the CPSC collected, from the defendants' import shipments, an "art material" as defined under 16 C.F.R. § 1500.14(b)(8)(i)(B)(1) and (2), that has the potential to produce chronic adverse health effects, as defined under 16 C.F.R. § 1500.14(b)(8)(i)(B)(3).

270. The CPSC sent Everbright an LOA dated October 21, 2014, notifying defendants that the art material collected on August 13, 2014, had the potential to produce chronic adverse health effects and that the defendants failed to submit to CPSC staff the required criteria or list of art materials that require hazard warning labels and that the products lack a statement of conformance to ASTM D-4236. Accordingly, the art material is a misbranded hazardous substance, thereby violating 15 U.S.C. §§ 1263(a), (c), 2068(a)(1). The LOA requested corrective action.

271. The defendants introduced or delivered for introduction, and caused the

introduction or delivery for introduction, into interstate commerce a misbranded hazardous substance, that is, an art material, and received in interstate commerce such product, and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. §§ 1263(a), (c) and 2068(a)(1).

**Violations Concerning The Labeling of Hazardous Materials – Latex Balloon**

272. The United States realleges and incorporates by reference paragraphs 1 through 271 of this Complaint as though fully set forth herein.

273. Under the FHSA and the regulations issued thereunder, any latex balloon, or toy or game containing a latex balloon that lacks the required cautionary statement is a misbranded hazardous substance. 15 U.S.C. § 1278(e); 15 U.S.C. § 1261(p); 16 C.F.R. § 1500.19(b).

274. On April 11, 2016, the CPSC collected, from the defendants' import shipments, a sample of toys containing latex balloons as defined in 16 C.F.R. § 1500.19(a)(3). The sample lacked the following required cautionary statement for a latex balloon, or toy or game that contains a latex balloon: "CHOKING HAZARD - - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once." 15 U.S.C. § 1278(b)(2); 16 C.F.R. § 1500.19(b)(2). Accordingly, the sample of toys containing latex balloons and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b).

275. The CPSC sent Everbright an LOA dated May 23, 2016, notifying defendants that the sample collected on April 11, 2016, lacked the required cautionary statement for a latex balloon, or toy or game that contains a latex balloon and that the sample containing latex balloons

and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b). The LOA requested corrective action.

276. On April 21, 2016, the CPSC collected from the defendants' import shipments a sample of toys containing latex balloons as defined in 16 C.F.R. § 1500.19(a)(3). The sample lacked the following required cautionary statement for a latex balloon, or toy or game that contains a latex balloon: "CHOKING HAZARD - - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once." 15 U.S.C. § 1278(b)(2); 16 C.F.R. § 1500.19(b)(2). Accordingly, the sample of toys containing latex balloons and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b).

277. The CPSC sent Everbright an LOA dated July 20, 2016, notifying defendants that the sample collected on April 21, 2016, lacked the required cautionary statement for a latex balloon, or toy or game that contains a latex balloon and that the sample containing latex balloons and lacking the required label are misbranded hazardous substances. 15 U.S.C. § 1261(p); 15 U.S.C. § 1278(e); 16 C.F.R. § 1500.19(b). The LOA requested corrective action.

278. On the two occasions mentioned above, the defendants introduced or delivered for introduction, and caused the introduction or delivery for introduction, into interstate commerce misbranded hazardous substances, that is, toys or games containing a latex balloon lacking the required labeling, and received in interstate commerce such toys and delivered or proffered delivery thereof for pay or otherwise, thereby violating 15 U.S.C. § 1263(a), (c) and 2068(a)(1).

#### **RELIEF REQUESTED**

279. Based on the defendants' past and present courses of conduct, there is a substantial

likelihood that, unless restrained by order of this Court pursuant to 15 U.S.C. §§ 2071(a) and 1267(a), defendants will continue to violate the CPSA, the FHSA, and other regulations issued thereunder.

WHEREFORE, the United States respectfully requests that this Court:

280. Pursuant to 15 U.S.C. § 2071(a), permanently restrain and enjoin the defendants and each and all of their directors, officers, agents, servants, brokers, employees, successors, assigns, attorneys, and all persons or entities in active concert or participation with any of them, from directly or indirectly selling, offering for sale, distributing in commerce, or importing into the United States children's toys and children's products which do not conform to the consumer product safety statutes and regulations enforced by the CPSC, in violation of 15 U.S.C. § 2068(a)(1); selling, offering for sale, manufacturing for sale, distributing in commerce, or importing into the United States products that are banned hazardous substances within the meaning of 15 U.S.C. § 1261(q)(1) of the FHSA, in violation of 15 U.S.C. § 2068(a)(2)(D); and failing to issue certificates and failing to include tracking labels required by 15 U.S.C. § 2063(a)(2), (3), and (5), in violation of 15 U.S.C. § 2068(a)(6).

281. Pursuant to 15 U.S.C. § 1267(a), permanently restrain and enjoin the defendants, and each and all of their directors, officers, agents, servants, brokers, employees, successors, assigns, attorneys, and all persons or entities in active concert or participation with any of them, from directly or indirectly introducing or causing the introduction and delivery for introduction into interstate commerce misbranded hazardous substances or banned hazardous substances, and receiving or causing the receipt in interstate commerce misbranded hazardous substances or banned hazardous substances and delivering or proffering delivery thereof for pay or otherwise, in violation of 15 U.S.C. §§ 1263(a), (c), 2068(a)(1), and (2)(D).

282. Pursuant to 15 U.S.C. §§ 2071(a) and 1267(a), award any further injunctive relief that is requested and agreed upon by the parties, as the Court deems necessary and proper.

Dated: Brooklyn, New York  
June 21, 2017

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