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SUPERIOR COURT OF N.J.
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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION,
MERCER COUNTY
DOCKET NO. MER-C-_____-08

ANNE MILGRAM, Attorney General of the
State of New Jersey and DAVID M.
SZUCHMAN, Director of the New Jersey
Division of Consumer Affairs,

Plaintiffs,

v.

MATTEL, INC. and FISHER-PRICE, INC.,

Defendants.

Civil Action

FINAL CONSENT JUDGMENT

The Parties to this Action and Final Consent Judgment (the "Parties") are plaintiffs Anne Milgram, Attorney General of the State of New Jersey ("Attorney General"), and David M. Szuchman, Director of the New Jersey Division of Consumer Affairs ("Director") (collectively, "Plaintiffs"), and defendant Mattel, Inc. and Fisher-Price, Inc. (collectively, "Mattel"). As evidenced by their signatures below, the Parties do consent to the entry of this Final Consent Judgment ("Consent Judgment") and its provisions without trial or adjudication of any issue of fact or law, and without an admission of any liability or wrongdoing of any kind. The Parties

consent to entry of this Consent Judgment to avoid the expenses and uncertainty associated with further investigation and/or litigation.

IT IS HEREBY ORDERED, ADJUDGED AND AGREED AS FOLLOWS:

1. JURISDICTION

1.1 The Parties admit jurisdiction of this Court over the subject matter and over the Parties for the purpose of entering into this Consent Judgment. The Court retains jurisdiction for the purpose of enabling the Parties to apply to this Court at any time for such further orders and relief as may be necessary for the construction, modification, enforcement, execution or satisfaction of this Consent Judgment.

2. VENUE

2.1 Pursuant to N.J.S.A. 56:8-8, venue as to all matters between the Parties hereto relating to or arising out of this Consent Judgment shall lie exclusively in the Superior Court of New Jersey, Chancery Division, Mercer County.

3. EFFECTIVE DATE

3.1 This Consent Judgment shall be effective on November 30, 2008 ("Effective Date").

4. FINDINGS

4.1 On December 10, 2008, the Plaintiffs filed a Complaint in the above-captioned action alleging violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), as well as regulations promulgated thereunder, specifically the Regulations Governing Banned Hazardous Products, N.J.A.C. 13:45A-4.1 et seq. ("Banned Hazardous Products Regulations"), and the Regulations Governing Toy and Bicycle Safety, N.J.A.C. 13:45A-24.1 et

seq. (“Toy and Bicycle Safety Regulations”), by virtue of the alleged sale of toys by Mattel, portions of which may have contained lead paint in excess of Applicable Standards, i.e., the “Recalled Toys,” defined below. Mattel disputes the allegations of the Complaint.

4.2 Following Mattel’s announcement of voluntary recalls of the Recalled Toys, the State of New Jersey (“State”), acting by and through its Attorney General in cooperation with a number of other states and with the cooperation of Mattel, conducted an investigation into the events that led to Mattel’s voluntary recalls and withdrawal from sale of the Recalled Toys, Mattel’s conduct related to the Recalled Toys, its quality assurance testing and procedures, and Mattel’s recall procedures. Mattel has a quality assurance system that is designed to identify and segregate Covered Products containing Impermissible Lead during and subsequent to the manufacturing process in order to prevent distributing, donating, offering for sale or selling Covered Products containing Impermissible Lead. The quality assurance system includes protocols designed to ensure that finished Covered Products do not contain Impermissible Lead. Mattel’s quality assurance system also includes protocols designed to ensure that Surface Coatings and Substrates of Accessible parts of Covered Products do not contain Impermissible Lead. Mattel’s quality assurance system has been and will be reviewed and revised periodically by Mattel to meet its changing needs and circumstances, including Mattel’s quality and manufacturing goals.

4.3 The Parties agree to entry of the Consent Judgment pursuant to a settlement of the disputed claims between the Parties as alleged in the Complaint for the purpose of avoiding prolonged and costly litigation, and to further the goal of enhancing toy safety in the public interest.

4.4 By agreeing to entry of the Consent Judgment, Mattel does not admit any fact, conclusion of law, or violation of law. Neither the Consent Judgment, nor Mattel's compliance with the Consent Judgment, shall be construed as an admission by Mattel of any fact, conclusion of law, issue of law or violation of law. Except as explicitly set forth herein, nothing in the Consent Judgment shall prejudice, waive or impair any right, remedy, argument or defense the Parties may have in this or any other pending or future legal proceedings; nor shall anything in the Consent Judgment preclude the Plaintiffs or Mattel from opposing any such defense, argument or claim.

5. DEFINITIONS

As used in this Consent Judgment, the following words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Consent Judgment:

5.1 "Accessible" shall mean material that is or will become physically exposed to a child through normal and reasonably foreseeable use and abuse of a Children's Product as determined pursuant to ASTM F 963-07, and as and only to the extent use and abuse is specified by ASTM F 963-07. Any material that is not or does not become physically exposed to a child through normal and reasonably foreseeable use and abuse of a children's product, as use and abuse is specified by ASTM F 963-07, solely by reason of paint, electroplating, or other surface coating, shall be deemed "Accessible." The Parties further agree that, in the event that the Consumer Product Safety Commission ("CPSC") by final rule, exclusion, or exception pursuant to Section 101(b) of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") exempts any product, component or material, such rule, exclusion or exception shall apply for purposes of

the Consent Judgment. The Parties also agree that in the event the CPSC by final rule determines that the Federal Lead Standards apply to any material that is not "Accessible" under the definition in the preceding sentences, then such material shall also be deemed "Accessible" under the Consent Judgment. The foregoing definition of "Accessible" was adopted solely for purposes of the Consent Judgment. It shall not affect the ability of the Attorney General to argue in any other context that materials that are not "Accessible" under the Consent Judgment nonetheless are or ought to be subject to the Federal Lead Standards or to lead standards prescribed by any State law. This Consent Judgment shall not apply to electronic components and accessories that are not "small objects" as described in ASTM F 963-07 § 4.6.1, but the State retains all other State and Federal law enforcement authority.

5.2 "Attorney General" shall mean the Attorney General of the State of New Jersey.

5.3 "Children's Products" shall have the meaning those terms are given in Section 3(a) of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2052(a), as amended by Section 235 of the CPSIA.

5.4 "Covered Product" shall mean a finished Children's Product that is manufactured by Mattel or for Mattel by a Vendor on or after the Effective Date and is sold or offered for sale to consumers in the State, including parts and components provided by Suppliers and Subcontractors that are packaged and sold by Mattel with or as part of any such Covered Product.

5.5 "Effective Date" shall mean November 30, 2008.

5.6 "Federal Lead Standards" shall mean any standards set by statute, or promulgated in a final rulemaking, before or after the Effective Date, under the CPSIA or by the CPSC relating to the maximum permissible levels of lead in Substrates and Surface Coatings, including

the products or components to which the standards apply and any exemptions from the application of those standards.

5.7 "Government Disclosure Restrictions" shall mean all U.S. Federal and foreign government laws, regulations or requirements existing before or after the Effective Date, including but not limited to, CPSC reporting, disclosure and publication obligations, instructions or practices, that prohibit or restrict the publication or disclosure or the timing of the publication or disclosure of information by Mattel. Nothing in the Consent Judgment shall be construed as preventing Mattel from arguing that the company is prohibited from disclosing information, and nothing in the Consent Judgment shall be construed to restrict any power of the Plaintiffs or Mattel to seek, through court or administrative process, any information from the other Party, subject to whatever defenses that other Party may otherwise have.

5.8 "Impermissible Lead" shall mean lead in excess of the Lead Standards.

5.9 "Lead Standards" shall mean the standards contained in subsection 5.1 of the Consent Judgment that set the maximum permissible levels of lead in Substrates and Surface Coatings used on or in an Accessible part of a finished Covered Product.

5.10 "Mattel" shall mean Mattel, Inc., and Fisher Price, Inc., and all of their United States and foreign subsidiaries, predecessors, successors, parents, and assigns that manufacture, distribute, market, offer for sale, and/or sell Covered Products.

5.11 "Participating States" shall mean Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Florida, Hawaii, Idaho, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania,

Rhode Island, South Dakota, Tennessee, Texas, Vermont, Washington, West Virginia, Wisconsin, and Wyoming.

5.12 "Participating Attorney(s) General" shall mean: the Attorney General or his or her designee, of the Commonwealth or State of Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Florida, Hawaii, Idaho, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Washington, West Virginia, Wisconsin, and Wyoming.¹

5.13 "Parties" shall mean Mattel and the Attorney General and Director.

5.14 "Recalled Toys" shall mean those products made by or for Mattel that Mattel withdrew from sale or recalled in the United States due to the potential presence of lead, on or after August 1, 2007, and prior to the Effective Date, as specifically identified in the attached Exhibit 1.

5.15 "Subcontractor" shall mean a third party, other than a Supplier or Vendor, that manufactures components or parts that are unique to Mattel products for a Vendor or Mattel.

5.16 "Substrates" shall mean any Accessible materials used in finished Covered Products that are not Surface Coatings.

¹ Hawaii is being represented on this matter by its Office of Consumer Protection, an agency which is not part of the state Attorney General's Office, but which is statutorily authorized to undertake consumer protection functions, including legal representation of the State of Hawaii. For simplicity, the entire group will be referred to as the "Participating Attorneys General" and such designation, as it pertains to Hawaii, refers to the Executive Director of the State of Hawaii Office of Consumer Protection.

5.17 "Supplier" shall mean a third party that provides bulk, generic and/or commodity materials and components not uniquely used by Mattel in the manufacture of its toys (including but not limited to plugs, cords, bolts, screws, or other parts commonly used by manufacturers of toys).

5.18 "Surface Coatings" shall mean those Accessible paints and other similar surface coating materials used on finished Covered Products as defined and limited by 16 C.F.R. § 1303.2(b)(1).

5.19 "Vendor" shall mean a third party that manufactures for Mattel finished Covered Products sold at wholesale by Mattel.

6. INJUNCTIVE RELIEF & BUSINESS PRACTICES

COMPLIANCE WITH LEAD STANDARDS: COVERED PRODUCTS

6.1 Mattel shall not manufacture, distribute, donate, offer for sale or sell Covered Products with a concentration of lead in or on Accessible parts in excess of the following standards:

6.1.1 For each Accessible Surface Coating on a finished Covered Product, 90 parts per million (ppm) total lead for finished Covered Products manufactured after the Effective Date.

6.1.2. For each Accessible Substrate in or on a finished product:

(a) 300 ppm total lead for finished Covered Products manufactured after the Effective Date but before August 14, 2011; and

(b) 100 ppm total lead for finished Covered Products manufactured on or after August 14, 2011, unless the CPSC determines that a standard of 100 ppm total lead for

finished Covered Products is not technologically feasible, in which case Mattel shall be obligated to comply with the standard established by the CPSC.

6.1.3 Nothing in the Consent Judgment shall prevent the State from enforcing more stringent applicable lead standards in State or Federal law.

RECORD KEEPING

6.2 With respect to any Mattel finished Covered Product, Mattel shall keep or shall contractually require each of its Vendors to keep for at least four (4) years from the time the record was created: (a) records that identify each Subcontractor that manufactures parts or components with Accessible Surface Coatings or Substrates used on or in finished Covered Products; and (b) records of the protocols used and the results obtained from screening and testing performed.

REPORTING VIOLATIONS OF LEAD STANDARDS

6.3 If Mattel has reason to believe that it may have distributed, sold or otherwise introduced into the stream of commerce in or into the State a Covered Product that contains Impermissible Lead, then Mattel shall immediately investigate, and upon confirmation, which shall take place as soon as reasonably possible, shall notify the Attorney General promptly, but in no event more than three (3) business days after Mattel's confirmation that the Covered Product contains Impermissible Lead. At that time, or as soon thereafter as practicable, Mattel shall supplement the initial notification with any test results and information it has about the source of the Covered Product, including the names and contact information of each facility owned by Mattel, a Vendor, Supplier, or Subcontractor, where the Covered Product or its parts were

manufactured, decorated or assembled. The timing and content of any disclosures of information required under this section shall be subject to any Government Disclosure Restrictions.

RECALLS

6.4 Mattel shall provide to the Participating Attorneys General (or their designee) the information it provides in any written reports to the CPSC concerning any recall of Covered Products because of lead content, as soon as possible, once any such recall is approved and announced by the CPSC, as permitted by and consistent with Government Disclosure Restrictions, and any and all follow-up reports, including information contained in its progress reports on the efficacy of product recalls, subject to confidentiality as permitted by law.

6.5 Mattel shall provide direct notice of a recall because of lead content involving Covered Products to all consumers of the affected Covered Product for whom Mattel possesses address or e-mail information. The notice shall include, at a minimum, information that is equivalent to the information in the recall notice approved by the CPSC.

6.6 Upon request, Mattel shall, as permitted by and consistent with Government Disclosure Restrictions, provide to the affected state Attorney General information concerning the scope and effectiveness of any recall of Covered Products because of lead content in his or her state, including information concerning the retailers doing business within the state to which such product was provided, and the identity of distributors of the product doing business within the affected state.

CHILDREN'S PRODUCTS THAT ARE NOT COVERED PRODUCTS

6.7 If Mattel has reason to believe that a Children's Product sold in the State prior to February 10, 2009, and manufactured before the Effective Date by Mattel or for Mattel by a

Vendor may contain more than 600 ppm lead in or on an Accessible Surface Coating or otherwise violates the State's lead standard, then Mattel shall immediately investigate, and upon confirmation, which shall take place as soon as reasonably possible, shall promptly: (a) stop distributing the Children's Products for sale in the State, (b) notify customers of the non-conforming Children's Products, and (c) inform the Attorney General of the issue and describe what action or actions it has taken to prevent the Children's Products from being sold by Mattel in the State. In no event shall Mattel first inform the Attorney General of the issue more than three (3) business days after Mattel's confirmation that a Children's Product manufactured before the Effective Date by Mattel or by a Vendor for Mattel contains more than 600 ppm lead in or on an Accessible Surface Coating. If Mattel or the State has reason to believe that a Children's Product sold in the State prior to February 10, 2009, and manufactured before the Effective Date by Mattel or for Mattel by a Vendor contains lead in an Accessible Substrate that poses a health hazard to children, Mattel shall work together with the Attorney General to resolve the matter as expeditiously as possible and in the interests of the consuming public. This section does not apply to electronic components and accessories that are not "small objects" as described in ASTM F 963-07 § 4.6.1. In the event Mattel undertakes a recall of a Children's Product manufactured before the Effective Date pursuant to CPSC regulations, it shall be deemed to satisfy Mattel's obligations hereunder, except that Mattel shall provide notice to the Attorney General in accordance with Sections 6.4 through 6.6. Nothing in this Consent Judgment shall limit the authority of the Attorney General to take legal action under State or Federal law with respect to a Children's Product manufactured prior to the Effective Date, except for the Recalled Toys, listed in Exhibit 1.

7. SETTLEMENT PAYMENT

7.1 Mattel shall pay, on or before January 30, 2009, by wire transfer or as otherwise directed, the sum of twelve million dollars (\$12,000,000) to the Participating Attorneys General. The payment shall be made to the Commonwealth of Massachusetts, Office of the Attorney General, to be distributed to the Participating Attorneys General as agreed upon by them for reimbursement for reasonable attorneys' fees, investigation costs, expert witness fees, and other expenses related to the investigation and resolution of this matter; for their consumer education, unfair competition, litigation or local consumer aid funds; for public protection or consumer protection purposes; and/or for use to educate the public about issues related to toy safety, as allowed by each Participating State's law at the sole discretion of each Participating State's Attorney General.

7.2 In the event that payment in full is not made by January 30, 2009, Mattel shall pay an additional penal sum of fifty thousand dollars (\$50,000) for each calendar day beyond January 30, 2009 for which payment is delayed. In the event that full payment of twelve million dollars (\$12,000,000) and accrued penalties is not received by February 27, 2009, this shall constitute a default of the payment provisions of this Consent Judgment, which may be pursued as Contempt by one designated state representing the Participating States.

8. GENERAL PROVISIONS

8.1 The terms of the Consent Judgment shall be governed by the law of the State of New Jersey.

8.2 Any headings or subheadings used herein are for reference purposes only and do not affect the substantive provisions of the Consent Judgment.

8.3 The failure of any Party to exercise any rights under the Consent Judgment shall not be deemed a waiver of any right or future rights. If any part of the Consent Judgment shall for any reason be found or held invalid or unenforceable by any Court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of the Consent Judgment, which shall survive and be construed as if such invalid or unenforceable part had not been contained herein.

8.4 The Court may modify the Consent Judgment pursuant to the agreement of the Parties or for good cause shown. After making a good faith effort to obtain the concurrence of the other Party for the requested relief, which concurrence shall not be unreasonably withheld, the Party seeking modification may petition the Court for modification of the terms and conditions of the Consent Judgment. The Consent Judgment shall terminate on the fifth anniversary of the Effective Date, or one year after a violation of the Lead Standards, whichever is later, unless terminated earlier by a Court of competent jurisdiction.

9. RELEASE

9.1 Released claims. By execution of the Consent Judgment and any documents necessary to render the Consent Judgment effective and enforceable in the State, and conditioned upon entry of the Consent Judgment in the State and full and final payment by Mattel of the amounts provided in Paragraph 7, "Payment" the Plaintiffs release Mattel and all of its U.S. and foreign past and present parents, subsidiaries, affiliates, officers, directors, employees, shareholders, insurers, attorneys, predecessors, successors, retailers, distributors, licensors, licensees, customers and wholesalers (collectively, the "Released Parties") from all civil claims or causes of action of whatever kind or nature, including but not limited to, all claims for

compensatory and punitive damages, restitution, fines, costs, attorney's fees, injunctive relief and penalties, that have been or could have been asserted by the Plaintiffs against the Released Parties under the common law, and under the Federal and State laws and regulations listed in the attached Exhibit 2 (the "Released Claims") for the manufacture, distribution, donation, marketing, offer for sale, or sale of Recalled Toys, as listed in Exhibit 1 prior to the Effective Date, based on the presence of lead.

9.2 Claims reserved and excluded from the release. Notwithstanding any term of the Consent Judgment, any and all of the following are specifically reserved and excluded from the Released Claims as to any entity or person, including the Released Parties:

9.2.1 Private rights of action belonging to any individual and asserted in an individual capacity or on behalf of a class of individuals. The Consent Judgment does not create or give rise to any such private right of action of any kind.

9.2.2 Any criminal liability that any person or entity, including the Released Parties, has or may have except under the state laws listed in Exhibit 2.

9.2.3 Any civil or administrative liability that any person or entity, including the Released Parties, has or may have to the State under any statute, regulation or rule not expressly covered by the release in Section 5.1 above, including, but not limited to, any and all State and Federal anti-trust and tax claims.

9.2.4 Any civil or administrative liability that any person or entity, including the Released Parties, has or may have to the State under any statute, regulation or rule for the manufacture, distribution, sale and/or offering for sale of any Children's Product that contains heavy metals, elements, substances, chemicals and/or materials other than lead.

9.2.5 Any claims against a distributor, retailer, authorized seller, licensor, licensee, customer or wholesaler who offered for sale or sells Recalled Toys after the Effective Date, or knowingly sold or offered for sale any of the Recalled Toys prior to the Effective Date and after the recall or withdrawal from the market of the particular Recalled Toy.

9.2.6 Claims to enforce the terms and conditions of the Consent Judgment.

10. GOVERNMENT DISCLOSURE RESTRICTIONS

10.1 Mattel shall immediately notify the Attorney General if, due to a Government Disclosure Restriction, Mattel is unable to publish or disclose any information otherwise required under the Consent Judgment, and at that time, Mattel shall specify the Government, Government entity and/or Disclosure Restriction(s) that Mattel believes prevents the disclosure.

11. REPRESENTATIONS AND WARRANTIES

11.1 The Parties represent that they are the proper Parties to the Consent Judgment. Mattel warrants and represents that the individuals signing the Consent Judgment on its behalf do so in their official capacities and are fully authorized by Mattel to agree to entry of the Consent Judgment and to legally bind Mattel to all of the terms and conditions of the Consent Judgment.

11.2 The Deputy Attorney General signing the Consent Judgment warrants and represents that she is signing the Consent Judgment in her official capacity, and that she is fully authorized by her Attorney General and the Director to enter into the Consent Judgment.

11.3 The Consent Judgment contains the complete set of agreements between the Parties. No promises, representations, or warranties other than those set forth in the Consent Judgment have been made by any Party.

12. NOTICES UNDER THIS CONSENT JUDGMENT

12.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Parties pursuant to this Consent Judgment shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides tracking services and identification of the person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Plaintiffs:

Cathleen O'Donnell, Deputy Attorney General
State of New Jersey
Office of the Attorney General
Department of Law and Public Safety
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

For the Defendant:

Antonio Dias, Esq.
Jones Day
One Mellon Center, 45th Flr.
500 Grant Street
Pittsburgh, PA 15219

IT IS ON THE 15 DAY OF December, 2008 SO
ORDERED, ADJUDGED AND DECREED.




HON. MITCHEL E. OSTRER, J.S.C.

JOINTLY APPROVED AND

SUBMITTED FOR ENTRY:

FOR THE PLAINTIFFS:

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

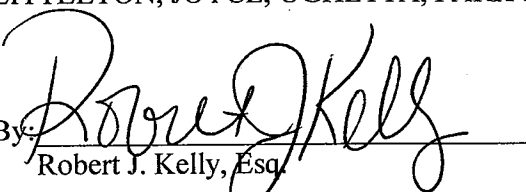
By: 
Cathleen O'Donnell
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: 12/15, 2008

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FOR THE DEFENDANT:

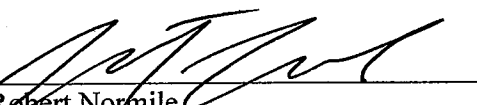
LITTLETON, JOYCE, UGHETTA, PARK & KELLY, LLP

By: 
Robert J. Kelly, Esq.

Dated: 12/12, 2008

Littleton, Joyce, Ughetta, Park & Kelly, LLP
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Red Bank, New Jersey 07701
(732) 530-9100

FOR MATTEL:

By: 
Robert Normile
Senior Vice President, General Counsel & Secretary
333 Continental Boulevard
El Segundo, CA 90245
(310) 252-3615

Dated: December 9, 2008