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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA, ex rel. KAMALA D. HARRIS, ATTORNEY GENERAL; and PEOPLE OF THE STATE OF CALIFORNIA, ex rel. DEBBIE RAPHAEL, DIRECTOR, DEPARTMENT OF TOXIC SUBSTANCES CONTROL Plaintiffs, **v.** **JOIA TRADING, INC.; TIFFANY CREATIONS, INC., dba ALLJOY SUPPLY; ADORE ACCESSORIES, INC.; ANA ACCESSORIES CORPORATION, dba ANA TRADING COMPANY; AF DESIGNS CO., INC., dba ANN KIM FASHION ACCESSORY; ASIANA TRADING, INC.; DA BIG, INC.; EASTERN NATIONWIDE SUPPLY, INC.; EFM GROUP, INC.; JOVE IMPORTS, INC.; LUXY ACCESSORIES, INC.; DU-BIN KIM and HYUN HEE KIM, dba MIJU INTERNATIONAL; YOUNG CHUL YOON, dba NEW RISING SUN, INC. and NEW RISING SUN; SAM'S ACCESSORIES, INC.; ROY & JOHN IMPORTS, INC., dba RJ IMPORTS; and S.G. IMPORTS, INC.; and DOES 1 through 50, inclusive,** Defendants,	Case No. **COMPLAINT FOR CIVIL PENALTY AND INJUNCTIVE RELIEF**

Plaintiffs, the People of the State of California ("People"), by and through Kamala D. Harris, Attorney General ("Attorney General"), and by and through Debbie Raphael, Director, Department of Toxic Substances Control ("the Department"), allege as follows:

1. This complaint seeks to remedy the failure of certain companies to comply with California's strict limits on the amount of lead in jewelry manufactured, shipped, sold, or offered for sale or promotional purposes in the State. It also seeks to remedy false and misleading statements by companies about the jewelry, which was labeled as being lead-free or otherwise compliant with lead restrictions to gain advantage from public concern about leaded jewelry, even though the jewelry contained excessive levels of lead, often many times above the statutory limits.

2. These unlawful practices can result in adults and children alike being exposed to a toxic metal with potentially severe acute and chronic health effects including headaches, nausea, vomiting, abdominal pain, loss of appetite, constipation, muscle soreness, anemia, neurological impairments such as stumbling or loss of concentration, seizures, encephalopathy, coma, and, at high enough levels, death.

3. Young children are especially susceptible to adverse health effects from lead exposure because their bodies and brains are still developing. Even mild episodes of lead poisoning can cause persistent neurological impairments resulting in behavioral problems and learning disabilities, among other acute and chronic health effects. Leaded jewelry poses a particular danger because children often place jewelry in their mouths, which can result in higher lead absorption and serious health effects, especially if the jewelry is accidentally swallowed.

4. Despite widespread publicity and concern about lead in jewelry, and the availability of equipment allowing lay persons in the jewelry industry to screen products for lead, the defendants named below continue to violate the law in the pursuit of profit and leave the public to suffer the consequences.

PARTIES

5. The Department of Toxic Substances Control is a public agency of the State of California organized and existing under and pursuant to Health and Safety Code sections 58000 *et*

seq. Debbie Raphael is the Director of the Department. The Department is the state agency responsible for the administration of the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the Health and Safety Code sections 25100 *et seq*. ("HWCL").

6. The Attorney General is the chief law officer of the State of California, whose duties include seeing that the laws are uniformly and adequately enforced. (Cal. Const., art. V, § 13.) Kamala D. Harris is the California Attorney General. Business and Professions Code sections 17204 and 17535 provide that actions to enforce sections 17500, 17508 and 17200 may be brought by the Attorney General. The Attorney General is authorized to commence an action under the HWCL in the name of the People at the request of the Department. (Health & Saf. Code, § 25182.) The Department has asked the Attorney General to initiate this action for violations of the Metal Containing Jewelry law.

7. Defendant TIFFANY CREATIONS, INC., dba ALLJOY SUPPLY ("Alljoy Supply") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Alljoy Supply, that allegation shall be deemed to mean that Alljoy Supply did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

8. Defendant ADORE ACCESSORIES, INC. ("Adore Accessories") is a corporation that dissolved on or about December 29, 2009. Adore Accessories was a business entity that manufactured, shipped, sold, offered for sale, or offered for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Adore Accessories, that allegation shall be deemed to mean that Adore Accessories did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority. This action is brought against Adore Accessories and, by reference, each of its shareholders to the extent Adore Accessories' assets were distributed to that shareholder, pursuant to California Corporations Code section 2011.

9. Defendant ANA ACCESSORIES CORPORATION, dba ANA TRADING COMPANY ("Ana Accessories") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Ana Accessories, that allegation shall be deemed to mean that Ana Accessories did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

10. Defendant AF DESIGNS CO., INC., dba ANN KIM FASHION ACCESSORY ("Ann Kim") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Ann Kim, that allegation shall be deemed to mean that Ann Kim did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

11. Defendant ASIANA TRADING, INC. ("Asiana Trading") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Asiana Trading, that allegation shall be deemed to mean that Asiana Trading did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

12. Defendant DA BIG, INC. ("Da Big") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Da Big, that allegation shall be deemed to mean that Da Big did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

13. Defendant EASTERN NATIONWIDE SUPPLY, INC. ("ENS") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant ENS, that allegation shall be deemed to mean that ENS did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

14. Defendant EFM GROUP, INC. ("EFM") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant EFM, that allegation shall be deemed to mean that EFM did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

15. Defendant JOIA TRADING, INC. ("Joia Trading") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Joia Trading, that allegation shall be deemed to mean that Joia Trading did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

16. Defendant JOVE IMPORTS, INC. ("Jove Imports") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Jove Imports, that allegation shall be deemed to mean that Jove Imports did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

17. Defendant LUXY ACCESSORIES, INC. ("Luxy Accessories") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Luxy Accessories, that allegation shall be deemed to mean that Luxy Accessories did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

18. Defendants DU-BIN KIM and HYUN HEE KIM, dba MIJU INTERNATIONAL and MI JU International ("Miju International") are individuals that manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Miju International, that allegation shall be deemed to mean that Miju International did or authorized the acts alleged in this complaint through its owners, principals, employees, agents or representatives while they were acting within the actual or ostensible scope of their authority.

19. Defendant YOUNG CHUL YOON, dba NEW RISING SUN, INC. and NEW RISING SUN ("New Rising Sun") is an individual that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant New Rising Sun, that allegation shall be deemed to mean that New Rising Sun did or authorized the acts alleged in this complaint through its owners, principals, employees, agents or representatives while they were acting within the actual or ostensible scope of their authority.

20. Defendant SAM'S ACCESSORIES, INC. ("Sam's Accessories") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant Sam's Accessories, that allegation shall be deemed to mean that Sam's Accessories did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

21. Defendant ROY & JOHN IMPORTS, INC., dba RJ IMPORTS ("RJ Imports") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant RJ Imports, that allegation shall be deemed to mean that RJ Imports did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

22. Defendant S.G. IMPORTS, INC. ("SG Imports") is a business entity that manufactures, ships, sells, offers for sale, or offers for promotional purposes jewelry for retail sale or promotional purposes in California. Whenever reference is made in this complaint to any act or transaction of defendant SG Imports, that allegation shall be deemed to mean that SG Imports did or authorized the acts alleged in this complaint through its principals, officers, directors, employees, members, agents or representatives while they were acting within the actual or ostensible scope of their authority.

23. The true names and capacities of the defendants sued herein as DOES 1 through 50 are unknown to Plaintiff, who therefore sues them by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of these defendants when they have been determined. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein.

24. Whenever reference is made in this complaint to "Defendants," such reference, unless otherwise specified, includes the defendant named in paragraphs 7 through 22 and Does 1 through 50. References made to one or more specifically-identified defendants do not include defendants not identified within the same reference.

JURISDICTION AND VENUE

25. This Court has jurisdiction to hear this matter, and the Court has jurisdiction over each defendant named above. Venue is proper in this Court because the principal office of at least some of the defendants is located in the County of Los Angeles and because some of the

violations of law alleged herein have been and are being carried out within the County of Los Angeles.

STATUTORY BACKGROUND

A. Metal Containing Jewelry Law

26. California Health and Safety Code section 25214.2, subdivision (a), provides that "a person shall not manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in the state, unless the jewelry is made entirely from a class 1, class 2, or class 3 material, or any combination of those materials."

27. California Health and Safety Code section 25214.1, subdivision (h), defines "jewelry" as any of the following ornaments worn by a person: an anklet; arm cuff; bracelet; brooch; chain; crown; cuff link; hair accessory; earring; necklace; pin; ring; tie clip; body piercing jewelry; jewelry placed in the mouth for display or ornament; any bead, chain, link, pendant, or other part of one of the above-named ornaments. "Jewelry" also includes a charm, bead, chain, link, pendant, or other attachment to shoes or clothing that can be removed and may be used as a part of any of the above-named ornaments. (Health & Saf. Code, § 25214.1, subd. (h).) In addition, a watch in which a timepiece is a component of an above-named ornament, is also defined as jewelry, excluding the timepiece itself if the timepiece can be removed from the ornament. (*Ibid.*)

28. "Class 1 material" includes any of the following materials: stainless or surgical steel; karat gold; sterling silver; platinum, palladium, iridium, ruthenium, rhodium, or osmium; natural or cultured pearls; glass, ceramic, or crystal decorative components, including cat's eye, cubic zirconia, cubic zirconium or CZ, rhinestones, and cloisonne; a gemstone that is cut or polished for ornamental purposes, except for aragonite, bayldonite, boleite, cerussite, crocoite, ekanite, linarite, mimetite, phosgenite, samarskite, vanadnite, and wulfenite; elastic, fabric, ribbon, rope, or string, unless it contains intentionally added lead and is listed as a class 2 material; all natural decorative material including amber, bone, coral, feathers, fur, horn, leather, shell, or wood, that is in its natural state and is not treated in a way that adds lead; and adhesive. (Health & Saf. Code, § 25214.1, subd. (d).)

29. "Class 2 material" includes any of the following materials: electroplated metal that, on and before August 30, 2009, was made of a metal alloy with less than 10 percent lead by weight that is electroplated with suitable under and finish coats; electroplated metal that, on and after August 31, 2009, is made of a metal alloy with less than 6 percent lead by weight that is electroplated with suitable under and finish coats; unplated metal with less than 1.5 percent lead that is not otherwise listed as a class 1 material; a dye or surface coating containing less than 0.06 percent (600 parts per million ("ppm")) lead by weight. "Class 2 material" also includes plastic or rubber, including acrylic, polystyrene, plastic beads and stones, and polyvinyl chloride ("PVC") that meets the following standards: (A) On and before August 30, 2009, containing less than 600 ppm lead by weight; or (B) On and after August 31, 2009, containing less than 200 ppm lead by weight. (Health & Saf. Code, § 25214.1, subd. (e).)

30. "Class 3 material" means any portion of jewelry that is not a class 1 or class 2 material *and* contains less than 600 ppm lead by weight. (Health & Saf. Code, § 25214.1, subd. (f).)

31. For children ages six years and under, the statute provides even stricter lead standards. (Health & Saf. Code, § 25214.2, subd. (b); *see id.*, § 25214.1, subds. (b), (c).) Children's metallic jewelry and any printing ink or ceramic glaze must contain less than 600 ppm of lead by weight. (Health & Saf. Code, § 25214.2, subds. (b)(3), (b)(5).) Small glass or crystal decorative jewelry and any "Class 3 material" that meets the statute's definition of "children's jewelry" are limited to less than 200 ppm of lead by weight and cannot contain any intentionally added lead. (*Id.*, § 25214.2, subds. (b)(4), (b)(6).)

32. The Legislature broadly defined "Children's jewelry" as "jewelry that is made for, marketed for use by, or marketed to children," including, but not limited to jewelry: whose packaging, display, or advertising represents that it is appropriate for use by children; "[s]old in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;" "[s]ized for children and not intended for use by adults;" sold in a vending machine; or sold in a retail store, catalog, or Internet site that either "exclusively offers for sale products that are packaged, displayed, or advertised as

appropriate for use by children," or that dedicates a discrete portion of space to such products. (Health & Saf. Code, § 25214.1, subds. (c)(1)–(4).)

33. The statute places an additional burden on manufacturers and suppliers of jewelry that is "sold, offered for sale, or offered for promotional purposes" to provide technical documentation and certification of compliance with the Metal Containing Jewelry law. (Health & Saf. Code, § 25214.3.) California Health and Safety Code section 25214.3, subdivision (b), provides that the certification "shall attest that the jewelry does not contain a level of lead . . . that prohibits the jewelry from being sold or offered for sale pursuant to [the Metal Containing Jewelry law]." A manufacturer or supplier must either: "[p]rovide the certification . . . to a person who sells or offers for sale that manufacturer's or supplier's jewelry" or "display the certification . . . prominently on the shipping container or on the packaging of jewelry." (*Id.*, § 25214.3, subds. (c)(1)–(2).)

34. A person who violates the Metal Containing Jewelry law "shall be liable for a[] . . . civil penalty not to exceed [$2,500] per day for each violation." (Health & Saf. Code, § 25214.3, subd. (b)(1).) The penalty may be assessed or recovered in a civil action brought in any court of competent jurisdiction. (*Ibid.*)

35. The statute authorizes the Department to inspect a factory, warehouse, or establishment where jewelry is manufactured, packed, held, or sold. (Health & Saf. Code, § 25214.3, subd. (d).) Upon obtaining consent or an inspection warrant, an authorized representative of the Department may inspect the facility and its paperwork, and secure samples of jewelry for its investigation. (*Ibid.*)

36. Prior to October 2011, the Metal Containing Jewelry law specified that for an entity that is a signatory to the amended consent judgment in the consolidated action entitled *People v. Burlington Coat Factory Warehouse Corporation* (Alameda Superior Court Lead Case No. RG04-162075), or a signatory to a consent judgment that contains identical or substantially identical terms as provided in Sections 2, 3, and 4 of the *Burlington Coat Factory* Consent Judgment ("*Burlington* Consent Judgment"), an action to enforce the Metal Containing Jewelry law against the party is subject to Section 4 of the *Burlington* Consent Judgment. (Former Health

& Saf. Code, § 25214.3, subd. (d). Section 4 of the *Burlington* Consent Judgment specifies a procedure to enforce the judgment, whereby a party that receives a Notice of Violation and elects not to contest the notice must remove the noncompliant products from sale in California and instruct its customers that offer the product for sale in California to do the same. The Legislature repealed this provision in 2011. (Sen. Bill No. 646 (2011-2012 Reg. Sess.) Oct. 4, 2011.)

B. Untrue or Misleading Advertising Claims

37. California Business and Professions Code section 17500 provides that it is unlawful to "make or disseminate or cause to be made or disseminated before the public in this state . . . any statement . . . which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading," for the purpose of inducing the public to an obligation relating to goods or services. Additionally, Business and Professions Code section 17508, subdivision (a), makes it unlawful to make any false or misleading advertising claim, including claims that "(1) purport to be based on factual, objective, or clinical evidence, (2) compare the product's effectiveness or safety to that of other brands or products, or (3) purport to be based on any fact."

38. In an action by the Attorney General, persons violating these provisions are subject to injunctive relief and to a civil penalty not to exceed $2,500 for each violation of section 17500 and 17508, except that if the same violation is a violation of both sections 17500 and 17508, a civil penalty is assessed for that violation once. (Bus. & Prof. Code, §§ 17508, subd. (g), 17535, and 17536, subd. (a).) Otherwise, "the remedies or penalties are cumulative to each other and to the remedies or penalties available under all other laws of this state." (*Id.*, § 17534.5.)

C. The Unfair Competition Act

39. California Business and Professions Code section 17200 provides that "unfair competition shall mean and include unlawful, unfair or fraudulent business practice." Unlawful acts under the statute include any act that is unlawful that is conducted as part of business activity, and therefore include violations of state or federal laws and regulations.

40. Section 17203 of the Business and Professions Code provides that "(a)ny person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction."

41. Business and Professions Code section 17206, subdivision (a), provides that any person violating section 17200 "shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General . . . ." Under section 17205, these penalties are "cumulative to each other and to the remedies or penalties available under all other laws of this state."

GENERAL ALLEGATIONS

42. Defendants are entities that manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in California. Often the jewelry contains lead that far exceeds the legal limits placed on lead in jewelry sold or offered for sale or promotional purposes in the State. Despite widespread publicity and concern about this problem, and in some cases repeated warnings from the Department, during the last three years the Department has traced hundreds of styles of jewelry that violate the lead standards to Defendants. Some of the jewelry is intended for young children, and almost all of it is falsely labeled as being lead-free or in compliance with lead standards, even when the jewelry contains more than 1,000 times the allowable lead.

43. Since November 2009, the Department has conducted at least three inspections at Joia Trading, in the Los Angeles jewelry district, for the purpose of determining compliance with the Metal Containing Jewelry law. During inspections, authorized representatives of the Department screened jewelry being sold or offered for sale by Joia Trading for lead with a portable X-Ray Fluorescence ("XRF") device. When the XRF device detected high lead levels, or when the Department had other reasons to suspect that a jewelry style contained excess lead, inspectors collected jewelry samples for laboratory testing using methods prescribed by the Metal Containing Jewelry law.

44. During each of the inspections at Joia Trading, the Department identified dozens of styles of jewelry that subsequent laboratory testing confirmed contained lead at levels in excess of the limits set by the Metal Containing Jewelry law. In November 2009, for instance, the Department identified children's jewelry with more than 1,000 times the allowable lead levels. A year later, during an inspection in December 2010, the Department identified more than 175 styles of jewelry with excess lead, some with nearly 100 percent lead in the metallic clasps.

45. Many of the jewelry styles in which the Department identified excess lead were made for, marketed for use by, or marketed to children ages six years and younger.

46. Often times the jewelry was packaged with labels stating or implying that the jewelry was lead-free or that it complied with applicable lead standards, when in fact the jewelry contained excessive levels of lead. At Joia, the Department discovered non-compliant leaded jewelry with false and misleading labels such as "Lead Free," "Lead Free Nickel Free," and "This product is in compliance with the latest standards of permissible level of lead."

47. On or about December 20, 2010, and February 4, 2011, the Attorney General sent Notices of Violation to Joia Trading, a party to the *Burlington* Consent Judgment. Combined, the notices identified 205 styles of jewelry that violated the Metal Containing Jewelry law. In both instances, Joia Trading responded that it did not contest the Notices of Violation.

48. Joia Trading was not the only violator the Department discovered in its investigation. The Department also identified the companies that supplied the non-compliant leaded jewelry to Joia Trading, including all of the remaining Defendants.

49. In November 2009, and November 2010, the Department conducted inspections at the facilities of two of the suppliers that sold non-compliant jewelry to Joia Trading – defendants Ann Kim and Luxy Accessories.

50. Nearly half of the approximately 80 styles of jewelry the Department screened and tested at Ann Kim violated the Metal Containing Jewelry law. One in four items the Department inspected was labeled as lead free, but testing revealed these items contained as much as 16 times the legal limit of lead.

51. An inspection of Luxy Accessories revealed a similar environment of non-compliance. Of the 45 styles of jewelry the Department screened and tested at Luxy Accessories, twenty-one violated the Metal Containing Jewelry law. Among the non-compliant items the Department identified at Luxy Accessories was a pair of children's earrings shaped like teddy bears that contained 900 times the legal limit of lead and a hair clip for children represented as "Lead Free Nickel Free" that contained lead levels 20 times the legal limit.

52. To date, at each of its inspections of a Defendant's facility, the Department has found noncompliant jewelry. The Department suspects that Defendants continue to manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry in California that violates the State lead standards and that is sold with false and misleading statements about the lead content.

FIRST CAUSE OF ACTION

[Against All Defendants]

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.2(a): ADULT JEWELRY (METAL CONTAINING JEWELRY LAW)

53. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

54. Each defendant is a "person" within the meaning of Health and Safety Code section 25214.2, subdivision (a), which makes it illegal for a person to manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in the state of California, unless the jewelry is made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials.

55. Within the past five years, Defendants have violated Health and Safety Code section 25214.2, subdivision (a), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California jewelry that is not made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials. The jewelry contains components or materials with lead content that exceeds permissible levels for Class 1, Class 2, or Class 3 materials.

56. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: Defendants have violated and continue to violate Health and Safety Code section 25214.2, subdivision (a), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California jewelry that is not made entirely from Class 1, Class 2, or Class 3 materials, or any combination of those materials.

57. With the limited exception of violations by Joia Trading that were enforced through the *Burlington* Consent Judgment, said violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies.

SECOND CAUSE OF ACTION

[Against All Defendants]

VIOLATIONS OF HEALTH AND SAFETY CODE SECTION 25214.2(b): CHILDREN'S JEWELRY (METAL CONTAINING JEWELRY LAW)

58. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

59. Each defendant is a "person" within the meaning of Health and Safety Code section 25214.2, subdivision (b), which makes it illegal for a person to manufacture, ship, sell, offer for sale, or offer for promotional purposes children's jewelry for retail sale or promotional purposes in the state of California, unless the jewelry is made entirely from one or more of the materials listed in Health and Safety Code sections 25214.2, subdivisions (b)(1)-(6).

60. "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to, children six years of age and younger.

61. Within the past five years, defendants Alljoy Supply, Ana Accessories, Ann Kim, Luxy Accessories, and New Rising Sun, have violated Health and Safety Code section 25214.2, subdivision (b), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California children's jewelry that is not made entirely from one or more of the materials listed in Health and Safety Code sections 25214.2, subdivisions (b)(1)-(6). The jewelry

contains components or materials with lead content that exceeds permissible California levels for children's jewelry.

62. The following allegation is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery: all Defendants have violated and continue to violate Health and Safety Code section 25214.2, subdivision (b), by manufacturing, shipping, selling, or offering for sale or for promotional purposes in California children's jewelry that is not made entirely from one or more of the materials listed in Health and Safety Code section 25214.2, subdivisions (b)(1)-(6).

63. Said violations render each defendant liable for civil penalties not to exceed $2,500 per day for each violation, as well as other remedies.

THIRD CAUSE OF ACTION

[Against Joia Trading, Inc.; AF Designs Co., Inc. dba Ann Kim Fashion Accessory; Asiana Trading, Inc.; Eastern Nationwide Supply, Inc.; EFM Group, Inc.; Jove Imports, Inc.; Du-Bin Kim and Hyun Hee Kim, dba Miju International; Sam's Accessories, Inc.; S.G. Imports, Inc., and DOES 1-25]

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500

(UNTRUE OR MISLEADING STATEMENTS)

64. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

65. Defendants have violated and continue to violate Business and Professions Code section 17500 by making or disseminating untrue or misleading statements, or by causing untrue or misleading statements to be made or disseminated in, or from California, with the intent to induce members of the public to purchase non-compliant leaded jewelry. Such statements on product labels include, but are not limited to, the following:

a. Lead Free;

b. Lead Safe;

c. This product is in compliance with the latest standards of permissible level of lead;

d. Lead & Nickel Safe;

e. Nickel/Lead Free; and

f. Lead Free Nickel Free.

66. Defendants knew or should have known that these statements were untrue or misleading at the time they were made.

67. Said violations render each defendant liable for civil penalties not to exceed $2,500 for each violation, as well as other remedies.

FOURTH CAUSE OF ACTION

[Against Joia Trading, Inc.; AF Designs Co., Inc. dba Ann Kim Fashion Accessory; Asiana Trading, Inc.; Eastern Nationwide Supply, Inc.; EFM Group, Inc.; Jove Imports, Inc.; Du-Bin Kim and Hyun Hee Kim, dba Miju International; Sam's Accessories, Inc.; S.G. Imports, Inc., and DOES 1-25]

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17508

(FALSE OR MISLEADING ADVERTISING CLAIMS)

68. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

69. Defendants have violated and continue to violate Business and Professions Code section 17508 by making false or misleading advertising claims that purport to be based on factual, objective, or clinical evidence, that compare the product's effectiveness or safety to that of other brands or products, or that purport to be based on fact. Such claims include, but are not limited to the following claims:

a. Lead Free;

b. Lead Safe;

c. This product is in compliance with the latest standards of permissible level of lead;

d. Lead & Nickel Safe;

e. Nickel/Lead Free; and

f. Lead Free Nickel Free.

70. Said violations render each defendant liable for civil penalties not to exceed $2,500 for each violation, as well as other remedies.

FIFTH CAUSE OF ACTION

[Against Joia Trading, Inc.; AF Designs Co., Inc. dba Ann Kim Fashion Accessory; Asiana Trading, Inc.; Eastern Nationwide Supply, Inc.; EFM Group, Inc.; Jove Imports, Inc.; Du-Bin Kim and Hyun Hee Kim, dba Miju International; Sam's Accessories, Inc.; S.G. Imports, Inc., and DOES 1-25]

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200 (UNFAIR COMPETITION LAW)

71. Plaintiff realleges and incorporates herein by reference all paragraphs above as though set forth here in full.

72. Defendants have, within the previous four years, engaged in unlawful, unfair or fraudulent business acts or practices which constitute unfair competition within the meaning of Business and Professions Code section 17200. Such unfair competition includes, but is not limited to, the following acts or practices:

a. As set forth in the First and Second Causes of Action, Defendants have violated Health and Safety Code section 25214.2.

b. As set forth in the Third Cause of Action, Defendants have violated Business and Professions Code section 17500; and

c. As set forth in the Fourth Cause of Action, Defendants have violated Business and Professions Code section 17508.

73. Said violations render each defendant liable for civil penalties not to exceed $2,500 for each violation, as well as other remedies.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

1. Pursuant to the First, Second, Third, Fourth, and Fifth Causes of Action, grant civil penalties according to proof.

2. Pursuant to Health and Safety Code section 25181, subdivision (a), enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from violating the Metal Containing Jewelry law, including, but not limited to, the violations alleged in the First and Second Causes of Action;

3. Pursuant to Business and Professions Code section 17535, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from making untrue or misleading representations about their products, including, but not limited to, the violations alleged in the Third Cause of Action;

4. Pursuant to Business and Professions Code section 17535 enter such temporary restraining orders, preliminary injunctions, permanent injunctions, declarations, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from making false or misleading advertising claims about their products, including, but not limited to, the violations alleged in the Fourth Cause of Action;

5. Pursuant to Business and Professions Code section 17203, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders prohibiting Defendants, and each of them, and their successors, agents, representatives, employees, and all persons who act in concert with them, from selling non-compliant leaded jewelry in California, and from committing any acts of unfair competition in violation of Business and Professions Code section 17200, including, but not limited to, the violations alleged in the Fifth Cause of Action;

6. Enter such orders as "may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of" these unlawful acts,

untrue or misleading representations or false or misleading advertising claims as provided for in Business and Professions Code section 17203 and 17535 other applicable laws;

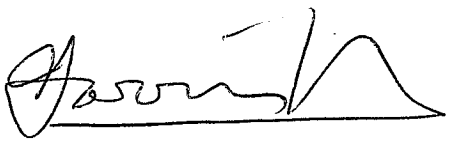
7. Award Plaintiffs their costs of suit; and

8. Grant such other and further relief as the Court deems just and proper.

Dated: July 17, 2012

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California



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