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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF SAN FRANCISCO

17 MATEEL ENVIRONMENTAL JUSTICE
18 FOUNDATION,

19 Plaintiff,

20 v.

21 ATD TOOLS, INC., et al.

22 Defendants.

Case No. 442968

~~[PROPOSED]~~ CONSENT JUDGMENT
AS TO NYKO TECHNOLOGIES, INC.

ENDORSED
FILED
San Francisco County Superior Court

OCT 10 2006

GORDON PARK-LI, Clerk
BY: _____
Deputy Clerk

1. INTRODUCTION

2 1.1 On or about April 1, 2005, the Mateel Environmental Justice Foundation (“MEJF”)
3 and its attorneys, Klamath Environmental Law Center (“KELC”), sent 60 Day Notice Letters to the
4 Office of the California Attorney General of the State of California (“California Attorney General”),
5 all California counties’ District Attorneys and all City Attorneys of California cities with populations
6 exceeding 750,000, (collectively, “Public Enforcers”), charging certain businesses with violating the
7 Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code
8 Section 25249.5 et seq. (“Proposition 65”), in their manufacture, distribution and/or sale of wires and
9 cables coated with polyvinyl chloride (“PVC”). Specifically, MEJF charged that persons handling
10 the PVC-coated wires and cables (hereinafter sometimes referred to as the “Cords”) were exposed to
11 certain chemicals, listed under Proposition 65, including cadmium, hexavalent compounds of
12 chromium, vinyl chloride, lead and lead compounds, lead acetate, lead phosphate, lead subacetate and
13 di(2ethylhexyl) phthalate, ethylene thiourea, nickel, toluene, chloroform, chlorinated paraffins,
14 antimony trioxide, carbon black extracts, ethyl acrylate and acrylonitrile.

15 1.2 On or about July 11, 2005 MEJF (“Plaintiff”), acting on behalf of itself, the public
16 interest, and the general public for the matters described in the Notice Letter, filed a Complaint for
17 civil penalties and injunctive relief (“Complaint”) in the San Francisco Superior Court, fashioned,
18 *MATEEL ENVIRONMENTAL JUSTICE FOUNDATION v. ATD TOOLS, INC.*, , Case No. 442968
19 based on the Notice Letter. The Complaint alleged, among other things, that NYKO
20 TECHNOLOGIES, INC., (“NYKO” or “Settling Defendant”) violated Proposition 65 by
21 manufacturing, marketing and/or distributing to California residents products that are themselves or
22 which incorporate wires and cables that are PVC-coated and failing to provide clear and reasonable
23 warnings to California residents who handle and use such products that the handling and use of those
24 products in their normally intended manner will cause those persons to be exposed to Proposition 65
25 Chemicals.

26 1.3 Plaintiff and Settling Defendant are, for purposes of this Consent Judgment,
27 collectively referred to as the “Parties,” with each of them a “Party.”
28

1.4 For purposes of this Consent Judgment, the term “Covered Products” means products
2 that are themselves, or that incorporate, use, or have appended to them, Cords, and that are
3 manufactured, distributed, marketed or sold by the Settling Defendant for retail sale in the State of
4 California. The term Covered Products includes both such products that are subject to the Warning
5 Requirements of Section 7, and those that are not, including those products that are exempted from
6 the warning requirements of this Consent Judgment pursuant to Sections 7.1 or 7.3. The term
7 “Covered Products” also includes products which are manufactured, distributed, marketed and/or sold
8 by the Settling Defendant for retail sale in the State of California either under its own name or brand
9 or under the name or brand of another (e.g., privately labeled products).

1.5 For purposes of this Consent Judgment only, the Settling Defendant admits that: (a) it
11 is a business that employs more than ten persons and manufactures, distributes and/or sells Covered
12 Products into the State of California; (b) the Covered Products contain one or more Proposition 65
13 Chemicals; and (c) Proposition 65 Chemicals are chemicals listed under Proposition 65 as being
14 known to the State of California to cause cancer and/or reproductive toxicity.

1.6 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
16 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
17 over the Settling Defendant as to the acts alleged in the Complaint, that venue is proper in the County
18 of San Francisco and that this Court has jurisdiction to enter this Consent Judgment as a full
19 settlement and resolution of the allegations contained in the Complaint and Notice Letter and of all
20 claims which were or could have been raised by any person or entity based in whole or in part,
21 directly or indirectly, on the facts alleged therein, arising therefrom or related thereto.

1 1.7 The Parties enter into this Consent Judgment pursuant to a full and final settlement of
2 any and all claims between the Parties for the purpose of avoiding prolonged litigation. This Consent
3 Judgment shall not constitute an admission with respect to any material allegation of the Complaint,
4 each and every allegation of which the Settling Defendant denies; nor may this Consent Judgment or
5 compliance with it be used as evidence of any wrongdoing, misconduct, culpability or liability on the
6 part of any Settling Defendant. The Settling Defendant maintains that its Covered Products have at
7 all times complied with all applicable laws, including Proposition 65.

8 2. **SETTLEMENT PAYMENT**

9 2.1 In settlement of all of the claims referred to in this Consent Judgment against the
10 Settling Defendant:

11 (a) The Settling Defendant shall deposit with Settling Defendant's counsel, within
12 thirty (30) calendar days of the signing of this Consent Judgment, Thirty Seven Thousand Five
13 Hundred Dollars (\$37,500). Within 5 calendar days of the entry of this Consent Judgment by the
14 Court, Settling Defendant's counsel shall distribute the payment as follows:

15 (i) Twenty Thousand Hundred Dollars (\$20,000 dollars) shall be paid to
16 KELC for attorneys fees and costs incurred by KELC on behalf of Plaintiff in investigating this
17 matter, prosecuting this action and negotiating this Consent Judgment on behalf of itself and the
18 general public,

19 (ii) Seventeen Thousand and Five Hundred Dollars (\$17,500 dollars) shall,
20 subject to Paragraph 2.2 below, be made payable to KELC and within a commercially reasonable
21 time distributed by KELC at the direction of MEJF among the following non-profit organizations:
22 Californians for Alternatives to Toxics; the Center for Ethics and Toxics, a project of the Tides
23 Foundation; the Center on Race, Poverty and the Environment; the Ecological Rights Foundation; the
24 Environmental Protection Information Center; the Golden Gate University School of Law
25 Environmental Litigation Clinic.

26 (iii) Both payments shall be sent by overnight mail, or similar next day
27 delivery method with delivery confirmation, to Klamath Environmental Law Center, 424 First Street,
28 Eureka, CA 95501.

1 (b) Notwithstanding section (a) above, in the event the Attorney General formally
2 opposes the motion for approval of this Consent Judgment, the date of payment specified in sections
3 (a)(i) and (ii), above, shall be extended to within 10 days after the day by which any appeal of the
4 motion approving the entry of the consent judgment must be filed, or if an appeal is filed, to within
5 10 days after the final resolution of any appeal, if the judgment is affirmed.
6

7 2.2 MEJF and KELC represent and warrant that the entities identified in paragraph 2.1 are
8 tax exempt, section 501(c)(3) non-profit organizations. The funds donated to these organizations
9 pursuant to this Consent Judgment may only be spent to reduce harm from toxic chemicals, or to
10 increase consumer, worker and community awareness of health hazards posed by lead and other toxic
11 chemicals.

12 2.3 Except as specifically provided in this Consent Judgment, each side shall bear its own
13 costs and attorney's fees.

14 3. **ENTRY OF CONSENT JUDGMENT**

15 The Parties request that the Court promptly enter this Consent Judgment and waive their
16 respective rights to a hearing or trial on the allegations of the Complaint.

17
18 4. **MATTERS COVERED BY THIS CONSENT JUDGMENT**

19 4.1 For purposes of Section 4 of this Consent Judgment, the term Settling Defendant shall
20 include the Settling Defendant, as defined above, and its past, present and future parents, divisions,
21 subdivisions, brands, subsidiaries and affiliates and the predecessors, successors and assigns of any of
22 them as well as their past, present and future officers, directors, employees, agents, attorneys,
23 representatives, shareholders and assigns. For purposes of Section 4, the term Settling Defendant
24 shall also be deemed to include the Settling Defendant's supplier of Covered Products, but only with
25 respect to those Covered Products that such supplier manufactures for the Settling Defendant. The
26 preceding sentence shall not apply with respect to a supplier who ships Covered Products directly to a
27 consumer at the request of the Settling Defendant, where a warning is provided to address the
28 obligations of this Consent Judgment solely pursuant to Section 7.5(e) below. A list delineating

1 some, but not necessarily all, of the names of the various business entities and brands or product
2 types referred to in this Paragraph and in existence on or before the date of this Consent Judgment
3 may be attached hereto as Exhibit C.

4 4.2 As to Covered Products, this Consent Judgment is a final and binding resolution
5 between Plaintiff acting on behalf of itself and (as to those matters referenced in the Notice Letters)
6 in the public interest pursuant to Health and Safety Code Section 25249.7(d) and the Settling
7 Defendant of: (a) any violation of Proposition 65; or (b) with respect to exposures to the Proposition
8 65 Chemicals associated with the use of Covered Products, any other statutory or common law claim,
9 to the fullest extent that any such claims were or could have been asserted by any person or entity
10 against the Settling Defendant based on its or their exposure of persons to chemicals contained in or
11 otherwise associated with the use of Covered Products manufactured, sold or distributed by, for or on
12 behalf of the Settling Defendant and/or their alleged failure to provide a clear and reasonable
13 warning of such exposure to such individuals; or (c) as to exposures to chemicals contained in or
14 otherwise associated with the use of Covered Products, any other claim based in whole or part on the
15 facts alleged in the Complaint or Notice Letters, whether based on actions or omissions committed by
16 the Settling Defendant or any other entity within the Settling Defendant's chain of distribution,
17 including, but not limited to, customers, wholesale or retail sellers or distributors and any other
18 person in the course of doing business ("Downstream Entities"), with the following limitation. For
19 any Covered Products that were shipped by Defendant before the Effective Date, Downstream
20 Entities are released from liability for such products so long as such products are sold at retail within
21 180 days of the Effective Date.

22 4.3 As to any claims, violations (except violations of this Consent Judgment), actions,
23 damages, costs, penalties, or causes of action which may arise or have arisen after the original date of
24 entry of this Consent Judgment, compliance by the Settling Defendant with the terms of this Consent
25 Judgment shall be deemed to constitute its full and complete compliance with Proposition 65 with
26 respect to the provision of warnings for chemicals contained in or otherwise associated with the use
27 of Covered Products, provided that the concentrations of those chemicals other than lead are
28

1 materially similar to that associated with the Covered Products with respect to Proposition 65 at the
2 time this Consent Judgment is entered.

3 4.4 Notwithstanding Sections 4.2 or 4.3 above, as to all customers, distributors,
4 wholesalers, retailers or any other Downstream Entity, except as otherwise indicated in Sections 4.5
5 and 4.6 below, which may in the course of doing business use, maintain, distribute, or sell Covered
6 Products which are manufactured, distributed or sold by the Settling Defendant (including Covered
7 Products which are privately labeled by the Settling Defendant for a Downstream Entity), Plaintiff
8 (acting on behalf of itself and, as to those matters raised in the Notice Letters, on behalf of the general
9 public) waives all rights to institute any form of legal action whether under Proposition 65 or
10 otherwise, arising out of or resulting from or related directly or indirectly to, in whole or in part,
11 exposure to, or otherwise associated with the use of and alleged failure to warn with respect to
12 Proposition 65 Chemicals contained in Covered Products.

13 4.5 Nothing in this Consent Judgment shall be deemed to require an out of state
14 manufacturer of Covered Products to provide a Proposition 65 warning for occupational exposures
15 occurring within the State of California. Nothing in this Consent Judgment will be deemed to release
16 a California employer from liability for failure to comply with its obligations, if any, to provide
17 warnings under Proposition 65 for the exposures of its employees to chemicals contained in or
18 otherwise associated with Non-Retail Covered Products (as defined in Section 7.6 below) unless such
19 employer makes Proposition 65 warning information available to its employees in the manner
20 specified in Section 7.6 below or as otherwise permitted by 8 Cal. Code Regs. § 5194.

21 4.6 In furtherance of the foregoing, Plaintiff hereby waives any and all rights and benefits
22 which it now has, or in the future may have, conferred upon it by virtue of the provisions of
23 Section 1542 of the California Civil Code, which provides as follows:

24 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
25 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
26 EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE
27 RELEASE, WHICH IF KNOWN BY HIM MUST HAVE
28 MATERIALLY AFFECTED HIS SETTLEMENT WITH THE
DEBTOR.

1 Plaintiff understands and acknowledges that the significance and consequence of its waiver of
2 California Civil Code Section 1542 is that even if Plaintiff and/or, with respect to the matters raised
3 in the Notice Letters, any person or entity on whose behalf they purport to act or could act, suffers
4 future damages or harm arising out of, resulting from, or related directly or indirectly to, in whole or
5 in part, the matters covered in Sections 4.2, 4.3 and 4.4 above (“Damages”), Plaintiff and any person
6 or entity on whose behalf they purport to act or could act, will not be able to make any claim for such
7 Damages against the Settling Defendant or any of its customers, distributors, wholesalers, retailers, or
8 any other person in the course of doing business who may use, maintain, distribute or sell the
9 Covered Products including the Downstream Entities. Furthermore, Plaintiff acknowledges that it
10 intends these consequences for any such Damages which may exist as of the date of this release but
11 which Plaintiff does not know exist, and which, if known, would materially affect its decision to enter
12 into this Consent Judgment, regardless of whether its lack of knowledge is the result of ignorance,
13 oversight, error, negligence, or any other cause, no matter how justifiable such cause may be.

14 4.7 The Settling Defendant waives all rights to institute any form of legal action against
15 Plaintiff, its officers, directors, attorneys, consultants and representatives for all legal actions
16 undertaken or statements made in the course of such legal actions to seek enforcement of this action
17 and judgment.

18 5. **ENFORCEMENT OF JUDGMENT**

19 5.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties hereto
20 by means of noticed motion or order to show cause before the Superior Court of San Francisco
21 County.

22 5.2 Notwithstanding any other provision of this Consent Judgment, in the event Plaintiff
23 identifies Covered Products for which warnings are required under Section 7 and such warnings are
24 not actually being given as required and when specified (“Default”), Plaintiff shall promptly notify
25 the affected Settling Defendant of the facts giving rise to such failure to warn (“Notice of Default”).
26 In the event such Settling Defendant notifies the Plaintiff within sixty (60) days of receiving the
27 Notice of Default that it will implement such measures as are necessary to correct the alleged Default
28 (“Notice of Cure”) for all units of the Covered Product at issue shipped for sale by the Settling

1 Defendant beginning within 120 one hundred and twenty (120) days thereof, Plaintiff shall take no
2 further enforcement action with respect to such violation, and such Settling Defendant shall pay a
3 penalty in the amount of: a) \$5,000 (five thousand dollars) for each Covered Product category/type
4 (as opposed to individual products or model numbers) which was the subject of a Notice of Default,
5 of which \$3,000 (three thousand dollars) shall be paid as attorney's fees and investigative costs to
6 Plaintiff and \$2,000 (two thousand dollars) shall be paid as a civil penalty payable to Plaintiff to be
7 further divided by Plaintiff as provided by Cal. Health & Safety Code section 25192. In the event
8 such Settling Defendant wishes to contest the alleged Default in whole or in part, it shall do so by
9 invoking the dispute resolution process provided in Section 8 below. This Section 5.2 shall not apply
10 with to a Settling Defendant with respect to allegations for failure to warn with respect to Covered
11 Products manufactured or sold by that Settling Defendant which have already been subject to a
12 Notice of Default and which are shipped for sale by the Settling Defendant more than one hundred
13 twenty (120) days after the date of a Notice of Cure.

14 **6. MODIFICATION OF JUDGMENT**

15 6.1 This Consent Judgment may be modified only upon written agreement of the Parties
16 and upon entry of a modified amended Consent Judgment by the Court, or upon motion of any Party
17 as provided by law and upon entry of a modified amended Consent Judgment by the Court.
18 Notwithstanding the immediately preceding sentence or any other term or provision of this Consent
19 Judgment, if Plaintiff or any affiliated entity, or the California Attorney General, enters into, or
20 agrees to in writing, or is otherwise bound by injunctive relief terms or provisions relating to the
21 provision of Proposition 65 warnings for Covered Products, with regard to their Cords, which, taken
22 together, are more favorable to the Settling Defendant than the terms or provisions that this Consent
23 Judgment provide for a Covered Product of like kind and characteristics with respect to its
24 thermoset/thermoplastic-coated electrical cord and use, the terms of injunctive relief provided for in
25 Section 7 of this Consent Judgment shall automatically be deemed to have been modified to add such
26 more favorable terms or provisions as an option which the Settling Defendant may elect for
27 compliance with this Consent Judgment.

28

1 **7. INJUNCTIVE RELIEF**

2 7.1 Covered Products shall be deemed to comply with Proposition 65 and be exempt from
3 any Proposition 65 warning requirements and the obligations imposed on the Settling Defendant by
4 this Consent Judgment if the Cords that are sold as a part of or in association with those Covered
5 Products meet the following criteria: (a) the surface contact layer of the Cords have no lead as an
6 intentionally added constituent; and (b) the surface contact layer of the Cords have lead content by
7 weight of no more than 0.03% (300 parts per million, or “300 ppm”). The Settling Defendant may
8 comply with the above requirements by relying on information obtained from its suppliers regarding
9 the content of the surface contact layer of the Cords, provided such reliance is in good faith. Test
10 results showing that the lead content is no more than 0.03%, using a method of sufficient sensitivity
11 to establish a limit of quantification (as distinguished from detection) of less than 300 ppm, shall be
12 deemed one method to establish good faith reliance. Provided that the level of quantitation
13 requirement set forth in the preceding sentence is met, the test protocol and methods described on
14 Exhibit D hereto may be relied on. Nothing in the preceding two sentences shall preclude a Settling
15 Defendant from establishing good faith reliance by an alternative means.

16 7.2 Covered Products manufactured and shipped for distribution to or sale in California on
17 or after the Effective Date that do not meet the warning exemption standard set forth in Section 7.1 of
18 this Consent Judgment and are not exempt pursuant to Section 7.3 shall be accompanied by a warning
19 as described in Section 7.4 below. For purposes of this Section, 180 days after the entry of this
20 Consent Judgment shall be considered the “Effective Date.” In the event the settlement reached by
21 the parties or the motion for approval is opposed by the Attorney General, the “Effective Date” shall
22 be considered 180 days following the final resolution of any appeal (or period of time during which
23 an appeal may be taken).

24 7.3 The following Covered Products are deemed to be exempt from any Proposition 65
25 warning requirements with respect to Cords: (a) Covered Products which because of their size,
26 weight or function are Cords or have Cords that are handled only very infrequently (such as upon
27 their installation in a setting where they are not typically plugged and unplugged) (“Infrequently
28 Handled Products”); (b) those Covered Products that: (i) are sold or distributed by Settling Defendant

1 before the Effective Date; or (ii) are distributed or shipped for sale outside the State of California;
2 (c) Covered Products that use Cords only as internal components not normally accessible to the
3 consumer during ordinary use; and/or (d) Covered Products which contain the Proposition 65
4 Chemical only as part of the inner conductor or other component not normally accessible to the
5 consumer during ordinary use. Exhibit E contains a list of Covered Products/Product types that are
6 deemed to meet the criteria for Infrequently Handled Products set forth in this Section 7.3 and are
7 therefore exempt. Plaintiffs have previously provided the California Attorney General's Office and
8 the Settling Defendant with a list of Covered Products/Product types that are deemed not to meet the
9 criteria for Infrequently Handled Products set forth in this Section 7.3 and therefore are not exempt
10 ("Non-Exempt Products List"). Exhibit E and the Non-Exempt Products List may be used as
11 guidance in determining whether other Covered Products meet these criteria; Exhibit E and the Non-
12 Exempt Products List may also be used by the Parties in the course of dispute resolution pursuant to
13 Section 9. The Parties acknowledge that common usage of the terms "portable" and "non-portable"
14 do not affect the classification of any Covered Products under this Consent Judgment. Covered
15 Products may be considered Infrequently Handled Products regardless of their weight or the
16 likelihood that they may be used while moving, whether that be on a person, in a car, on an airplane
17 or otherwise.

18 7.4 Should the Settling Defendant's Covered Products require Proposition 65 warnings
19 under Section 7.2, the Settling Defendant shall, except as otherwise provided in Section 7.5 below,
20 either provide one of the warnings described below or any other Proposition 65 warning that has been
21 reviewed and approved in writing by the California Attorney General for use with Covered Products
22 regarding their thermoset/thermoplastic-coated wires and/or cables:

23 **"WARNING: This product contains chemicals, including lead, known to the State of**
24 **California to cause [cancer, and] birth defects or other reproductive harm. *Wash***
25 ***hands after handling.*"**

26 or

27

28

1 “**WARNING**: Handling this cord will expose you to lead, a chemical known to the
2 State of California to cause [cancer, and] birth defects or other reproductive harm.
3 ***Wash hands after handling.***”

4 or

5 “**WARNING**: The power cord on this product contains lead, a chemical known to the
6 State of California to cause [cancer, and] birth defects or other reproductive harm.
7 ***Wash hands after handling.***”

8 or

9 “**WARNING**: This cord contains lead, a chemical known to the State of California to
10 cause [cancer, and] birth defects or other reproductive harm. ***Wash hands after***
11 ***handling.***”

12
13 The word “**WARNING**” shall be in all capital letters and in bold typeface. The hand-washing
14 admonition shall be in bold typeface and italicized. Inclusion of the bracketed words “cancer, and” in
15 the above warning shall be at the Settling Defendant’s option.

16 7.5 Unless otherwise indicated herein, the warning required or authorized in Sections 7.4
17 shall be given by having it: (a) affixed to the Covered Product itself or to the unit package of such
18 Covered Product; (b) printed on the Covered Product itself or on the unit package of such Covered
19 Product; (c) displayed on an internet site for those units of Covered Products sold on the internet;
20 (d) included in the owner’s manual if the conditions set forth in Section 7.9 below are satisfied
21 (“Owner’s Manual Warning”); or, (e) printed on the invoice issued directly to the consumer by the
22 Settling Defendant to confirm the sale, where the Settling Defendant sells Covered Products directly
23 to consumers by telephone, mail order, or internet sale, but never has physical possession of the
24 Covered Product or its packaging.

25 7.6 If the warning is printed on the product, package label, or invoice, then the warning
26 shall be contained in the same section of the label that contains other safety warnings, if any,
27 concerning the use of the Covered Product or near its displayed price and/or UPC code. Such
28 warning shall be prominently affixed to or printed on each such Covered Product, its label or package.

1 or invoice, and displayed with such conspicuousness, as compared with other words, statements,
2 designs, or devices on such Covered Product, its label, package or display or invoice as to render it
3 likely to be read and understood by an ordinary individual under customary conditions of purchase or
4 use. With respect to the preceding sentence, the type size of any warning required by paragraph 7.4
5 must be legible, but otherwise need not be larger than any other warning language used in
6 conjunction with the Covered Product in question and its relative size may take into account the
7 nature, immediacy, and acuteness of the risks for which other warnings are given. If the size of a
8 Covered Product and its packaging is such that a warning required by this Consent Judgment cannot
9 physically be printed on its non-transparent portion in a legible size, the warning may be printed on a
10 separate piece of paper or cardstock and inserted into the Covered Product's packaging, provided that
11 i) the cardstock or paper containing the warning is not white or uncolored and contains only the
12 warning language, and ii) a substantial portion of the exterior of the packaging material is
13 transparent.

14 7.7 If a warning is provided on the internet pursuant to (c) above, the warning message
15 shall be displayed (or, upon the internet site user's identification as a California resident, such as
16 when the user types in a zip code, automatically appear) either: (a) on the same page on which the
17 Covered Product is displayed, (b) on the same page as the order form for the Covered Product, or (c)
18 on the same page as the price for the Covered Product.

19 7.8 If the warning is given in the owners manual pursuant to Section 7.9 below, it shall be
20 located in one of the following places in the manual: the outside of the front cover; the inside of the
21 front cover; the first page other than the cover; or the outside of the back cover. The warning shall be
22 printed or stamped in the manual or contained in a durable label or sticker affixed to the manual in a
23 font no smaller than the font used for other safety warnings in the manual. Alternatively, the warning
24 may be included in a safety warning section of the owner's manual consistent with specifications
25 issued by Underwriters Laboratories.

26 7.9 A warning in the owner's manual of a Covered Product may be used to satisfy the
27 warning requirements of this Section 7 only under the following circumstances: the Covered Product
28 (i) may cause serious injury or bodily harm (other than by means of fire or electrocution) unless used

1 as directed; or (ii) is sophisticated, difficult to understand or install, set-up, or assemble; or (iii) has
2 one or more features a consumer must read about in order to know how to program or use the
3 Covered Product. However, a Covered Product may not utilize an owner's manual warning if it
4 meets the following criteria: (a) the Covered Product is unlikely to cause serious injury or bodily
5 harm other than by means of fire or electrocution; (b) the Covered Product is easily assembled or
6 programmed by an ordinary consumer without need to reference instructions; and (c) fundamental
7 operation of the Covered Product is easily understood and commonly performed by an ordinary
8 consumer without training or need to reference operating instructions. Exhibit F contains a list of
9 Covered Products/product types for which Owner's Manual Warnings are deemed to be an allowable
10 method of communicating the warnings required by this Section 7. Plaintiffs have previously
11 provided the California Attorney General's Office and the Settling Defendant with a list of Covered
12 Products/product types for which Owner's Manual Warnings are deemed not to be an allowable
13 method of communicating the warnings required by this Section 7 (the "Non-Owner's Manual
14 Product List"). Exhibit F and the Non-Owner's Manual Product List may be used as guidance in
15 determining whether the criteria for use of owner's manual warnings set forth in this Section are
16 satisfied. Exhibit F and the Non-Owner's Manual Products List may also be used by the Parties in
17 the course of dispute resolution pursuant to Section 9.

18 7.10 The Settling Defendant may provide an Owner's Manual Warning on any Covered
19 Products/product types, except for those listed on the Non-Owner's Manual Product List, that satisfy
20 the criteria in Section 7.9, whether or not that Covered Product or product type is listed on Exhibit F.
21 Settling Defendant shall provide to Plaintiff, by certified mail or other confirmable delivery, a list of
22 those Covered Products for which an owners manual warning is proposed to be given. Plaintiff shall,
23 within 60 days, notify Settling Defendant as to whether Plaintiff agrees that an owner's manual
24 warning is appropriate. In the event that Plaintiff determines that an Owner's Manual Warning is not
25 appropriate, it shall provide a written explanation of the basis therefore. In the event that the Settling
26 Defendant disagrees with Plaintiff's determination the settling defendant may elect to invoke the
27 Dispute Resolution process provided for in Section 9 hereof. Products not existing as of the
28 Effective Date that are introduced for sale after January 1, 2008 may use a owner's manual warning if

1 approved in writing by the California Attorney General's office, following 60 days prior notice to
2 Plaintiff.

3 7.11 The requirement for product labeling, set forth herein, is imposed pursuant to the
4 terms of this Consent Judgment. The Parties recognize that product labeling is not the exclusive
5 method of providing a warning under Proposition 65 and its implementing regulations.

6 8. **DISPUTE RESOLUTION**

7 8.1 Wherever this Consent Judgment provides that the Settling Defendant may invoke the
8 Dispute Resolution process or file a motion to have the Court resolve an issue, the Settling Defendant
9 seeking a resolution shall first mail (by certified mail) and fax a notice to Plaintiff, setting forth the
10 dispute and the basis for the Party's position. The Parties interested in the dispute shall then meet and
11 confer in good faith within sixty (60) days to determine whether the dispute may be resolved in order
12 to avoid further litigation of the issue, unless both Parties waive, in writing, notice and the
13 opportunity to meet and confer. In the event that Plaintiff fails to meet and confer within the sixty
14 (60) day period, the Settling Defendant's position shall be deemed to have prevailed. In the event
15 that, after meeting and conferring, Plaintiff disapproves or disagrees with a position taken by the
16 Settling Defendant, Plaintiff shall notify the Settling Defendant in writing, sent by an overnight
17 delivery service requiring a signature upon delivery, within 14 (fourteen) days of meeting and
18 conferring. Should the Plaintiff do so and should the Settling Defendant wish to pursue its position,
19 the Settling Defendant shall then seek to have the California Attorney General concur with the
20 Settling Defendant's position. If the California Attorney General concurs in writing with the Settling
21 Defendant, the Settling Defendant shall provide notice thereof to Plaintiff and the Settling
22 Defendant's view shall prevail. If, however, the California Attorney General does not concur with
23 the Settling Defendant within ninety (90) days of the date on which the Settling Defendant sought the
24 California Attorney General's concurrence, the Settling Defendant shall have the right to bring the
25 issue to the Court by noticed motion for its de novo review and, provided that it is proceeding in good
26 faith, shall not be subject to further penalties during the pendency of such motion and/or if the motion
27 is not contested by Plaintiff. In the event that the Plaintiff chooses to contest such a motion and
28 prevails, 1) the Settling Defendant shall be deemed to be in compliance with the terms of this

1 Consent Judgment provided that it implements the warning requirements imposed as the result of the
2 Court's determination within ninety (90) days that the Court's determination is final; and 2) Plaintiff
3 may elect to seek to recover its attorney fees incurred in association with such motion as provided for
4 by California Civil Procedure Code Section 1021.5.

5 9. **TERMINATION**

6 The Settling Defendant may elect (but is not required) to terminate its participation in this
7 Consent Judgment beginning on January 31, 2008 or any date thereafter by means of filing with the
8 court and serving on the Plaintiff, the California Attorney General, and counsel of record to the
9 Settling Defendant a notice of termination. In the event of the exercise of such an election, the
10 Settling Defendant's obligations and rights and benefits hereunder shall immediately be deemed to
11 cease to exist.

12 10. **APPLICATION OF JUDGMENT**

13 The obligations of this Consent Judgment shall apply to and be binding upon all plaintiffs,
14 acting in the public interest pursuant to Health and Safety Code section 25249.7(d) and on behalf of
15 the general public pursuant to Business and Professions Code section 17204, and the Settling
16 Defendant and the successors or assigns of any of them.

17 11. **AUTHORITY TO STIPULATE**

18 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the
19 Party he or she represents to enter into this Consent Judgment and to execute it on behalf of the Party
20 represented and legally to bind that Party.

21 12. **NOTICES**

22 Whenever a notice is called for by this Consent Judgment, it shall be provided to the Settling
23 Defendant at the addresses identified in Exhibit B hereto. If any Party desires to change the
24 individual and/or address designated to receive notice on its behalf, such Party shall provide notice to
25 all other Parties pursuant to the terms of this Section.

26 13. **RETENTION OF JURISDICTION**

27 This Court shall retain jurisdiction of this matter to implement this Consent Judgment.
28

1 14. **ENTIRE AGREEMENT**

2 This Consent Judgment contains the sole and entire agreement and understanding of the
3 Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,
4 commitments and understandings related hereto. No representations, oral or otherwise, express or
5 implied, other than those contained herein have been made by any Party hereto. No other agreements
6 not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the
7 Parties.

8 15. **GOVERNING LAW**

9 The validity, construction and performance of this Consent Judgment shall be governed by the
10 laws of the State of California, without reference to any conflicts of law provisions of California law.
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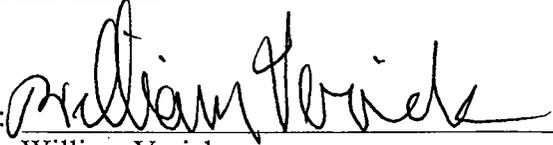
1 16. COURT APPROVAL

2 If this Consent Judgment is not approved and entered by the Court, or if the entry of this
3 Consent Judgment is successfully challenged, this Consent Judgment shall be of no force or effect,
4 and cannot be used in any proceeding for any purpose.

5
6 IT IS SO STIPULATED AND AGREED:

7 DATED: _____

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

8
9
10 By: 
11 William Verick

12
13 DATED: _____

NYKO TECHNOLOGIES, INC.

14
15 By: _____
16 Its: _____

17
18
19 IT IS SO ORDERED.

20
21 DATED: _____

JUDGE, SUPERIOR COURT OF CALIFORNIA

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1 16. COURT APPROVAL

2 If this Consent Judgment is not approved and entered by the Court, or if the entry of this
3 Consent Judgment is successfully challenged, this Consent Judgment shall be of no force or effect,
4 and cannot be used in any proceeding for any purpose.

5
6 IT IS SO STIPULATED AND AGREED:

7 DATED: _____

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

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9

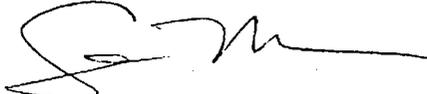
By: _____
William Verick

10
11
12

13 DATED: _____

NYKO TECHNOLOGIES, INC.

14



15
16

By: Sean Mann
Its: VP & COO

17
18

19 IT IS SO ORDERED.

20 **OCT 10 2006**
21 DATED: _____

PETER J. BUSCH

JUDGE, SUPERIOR COURT OF CALIFORNIA

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EXHIBIT A
(Copy Of 60-Day Notice Letter)

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Klamath

April 1, 2005

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") hereby give you notice that the private businesses on the attached service list are in violation of Cal. Health & Safety Code § 25249.6. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below listed address and telephone number, I may be considered a "responsible individual" at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when California residents come into contact with thermoset/thermoplastic-coated wires, cables, and/or cords/cord sets, including PVC-coated wires, cords/cord sets, plugs and connectors, and both SPT and HPN cords/cord sets (hereinafter collectively "Cords"). These businesses market products with, or that are themselves, Cords. Some examples of the products that incorporate Cords are those listed in the attached Product List. Handling of, and contact with, these Cords exposes people to acrylonitrile, antimony trioxide, arsenic, 1,3 butadiene, carbon tetrachloride, carbon black extracts, chlorinated paraffins, chloroform, ethyl acrylate, ethylene thiourea, nickel, toluene, cadmium, hexavalent chromium, vinyl chloride, lead and lead compounds, lead acetate, lead phosphate, lead subacetate, and di(2ethylhexyl) phthalate. Handling Cords causes these chemicals to come off the coating of the Cords and to be transferred to the skin of the person handling the Cords. These chemicals are then ingested through hand-to-mouth contact and hand-to-food-to-mouth and hand-to-cigarette-to-mouth behavior. These chemicals are also absorbed through the skin, through mucous membranes and enter the body through cuts, punctures and abrasions. Smokers also inhale those chemicals transferred from hands to cigarettes. People are thus exposed to these chemicals via the ingestion, inhalation, dermal absorption, mucous membrane absorption and subcutaneous routes. These exposures (and resulting violations) occur occupationally, environmentally, and as the result of the sale of consumer products and services. In occupational settings, the type of work that is done during which the above-referenced exposures occur is the handling of, and contact with, Cords, including during the manufacture, installation, maintenance, handling and/or use of electrical equipment to which these Cords are attached. As described above, the exposures that are the subject of this notice occur via the dermal absorption, inhalation, ingestion and subcutaneous routes. These violations have occurred every day since at least April 1, 2004 and will continue every day until reasonable warnings are given to those people exposed. Environmental exposure violations occur in every county of the State and occur both on and off the property of the aforementioned private businesses.

Cordially,



William Verick

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND, CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST. 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
980 9th Street, 10th Floor
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
151 W. MISSION ST.
SAN JOSE, CA 95110

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO
202 C ST. FLOOR 3
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
225 FALLON ST. #9
OAKLAND, CA 94612

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
108 COURT ST. SUITE 202
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET ST.
COLUSA, CA 95932

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST. #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
COUNTY ADMINISTRATION
BUILDING
707 NEVADA ST.
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 748
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
301 S. STATE ST.
UKIAH, CA 95482

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
P.O. BOX 1171
ALTURAS, CA 9610

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH ST.
P.O. BOX 180
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
400 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
P.O. BOX 10716
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
P.O. BOX 749
SACRAMENTO, CA 95804

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
101 W. BROADWAY #1440
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1105 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457

DOWNVILLE, CA 95036

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALLA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
c/o GREGORY BROSE D.D.A.
4245 MARKET ST. #205
VENTURA, CA 93003

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
204 4TH ST
P.O. BOX 1247
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

Jan Akerberg, President
ATD Tools, Inc.
160 Enterprise Drive
Wentzville, MO 63385

Elliot Azoulay, President
E.S.I. Cases & Accessories, Inc.
14B 53rd Street
Brooklyn, NY 11232

Aylwin B. Lewis, President
Kmart Holding Corporation
3100 W. Big Beaver Rd.
Troy, MI 48084

Aylwin B. Lewis, President
Kmart Corporation
3100 W. Big Beaver Rd.
Troy, MI 48084

Aylwin B. Lewis, President
Sears Holdings Corporation
3333 Beverly Rd.
Hoffman Estates, IL 60179

William H. Jones, Jr., President
Metra Electronics Corp.
460 Walker St.
Holly Hill, FL 32117

Herschel Naghi, President
Nyko Technologies, Inc.
1990 Westwood Blvd.
Penthouse Suite
Los Angeles, CA 90025

President or Ceo
Prospect Partners, LLC
200 W Madison St, Ste 2710
Chicago, IL 60606

John J Moser
Q Industries
3440 Youngfield St
Wheat Ridge, CO 80033

Bruce Cazenave, President
Dorel Juvenile Group, Inc.
2525 State Street
Columbus, IN 47201

Dan Sheehan, President
Winplus North America, Inc.
373 Vanness Ave Ste 200
Torrance, CA 90501

PRODUCT LIST

ATD TOOLS

RHINO TOOLS 25" PORTABLE ANGLE FLORESCENT LIGHT #RHO-9000 Uniform Product Code Number: 663126 090005. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Rhino Tools 25" Portable Angle Florescent Light.

E.S.I. CASES & ACCESSORIES, INC.

WIRELESS GEAR DELUXE HANDS FREE WITH VOLUME CONTROL MODEL PR951 Uniform Product Code Number: 680988 180033. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Wireless Gear Deluxe Hands Free with Volume Control.

KMART

1ST AUTO DC TO DC ADAPTOR #0-824026-116 Uniform Product Code Number: 072000 796283. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the 1st Auto Dc to Dc Adaptor.

1ST AUTO 4 IN ONE ADAPTOR #0-824015-119 Uniform Product Code Number: 072000 79627. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the 1st Auto 4 in One Adaptor.

METRA ELECTRONICS CORP

METRA RCA AUDIO CABLES #CK-RCA17 Uniform Product Code Number: 086429 083305. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Metra RCA Audio Cables.

METRA RCA AUDIO #CK-RCA6 UPC: 086429 083299. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Metra RCA Audio Cables.

METRA RCA AUDIO #CK-RCA3 UPC: 086429 083282. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Metra RCA Audio Cables.

NYKO TECHNOLOGIES, INC.

NYKO POWER CORD REPLACEMENT AC CORD ITEM #80017-H17 Uniform Product Code Number: 743840 800170. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Nyko Power Cord Replacement Ac Cord.

OPTRONICS PRODUCTS COMPANY, INC., SUBSID OF PROSPECT PARTNERS, LLC

OPTRONICS 12V HANDHELD SPOTLIGHT MODEL QH-100 Uniform Product Code Number: 047286 110108. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Optronics 12v Handheld Spotlight.

Q INDUSTRIES

SUPERFLOW PORTABLE HIGH-VOLUME AIR COMPRESSOR MODEL HV40 Uniform Product Code Number: 891932 000509. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Superflow Portable High-volume Air Compressor.

SAFETY 1ST AKA DOREL JUVENILE, INC.

SAFE GLOW 2 RECEIVER MONITOR 08039 Uniform Product Code Number: 052181 080395. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Safe Glow 2 Receiver Monitor .

WINPLUS NORTH AMERICA, INC

TOURING ITEMS TYPE S DASH MOOD LIGHT SET #10416 Uniform Product Code Number: 643334 104169. This product description pertains not only to the specific model of the product listed, but for all units of all models of the same brand of the Touring Items Type S Dash Mood Light Set.

1 EXHIBIT B
2 (Address For Notice Under Consent Judgment)
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6

7 For Nyko Technologies, Inc.

8 Sean Mann
9 Vice President & Chief Operating Officer
10 Nyko Technologies, Inc.
11 1990 Westwood Boulevard, Penthouse Suite
12 Los Angeles, CA 90025

13 with copies to:

14 Malcolm C. Weiss
15 Jeffer, Mangels, Butler & Marmaro LLP
16 1900 Avenue of the Stars, 7th Floor
17 Los Angeles, CA 90067

18 For Mateel Environmental Justice Foundation

19 William Verick
20 Klamath Environmental Law Center
21 424 First Street
22 Eureka, CA 95501

23 with copies to

24 David H. Williams
25 Law Offices of David H. Williams
26 370 Grand Avenue, Suite 5
27 Oakland, CA 95501
28

1 EXHIBIT C
2 (Optional List of Certain Brand Names and Product Type)

3
4 A. Brand Names

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8 B. Product Types

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EXHIBIT D

(Exemplar of Optional Testing Protocol)

Step 1: Cut 3-inch section of a cable that has not previously been used or wiped.

Step 2. On multiconductor cables, remove the insulated conductors and any other inner components from the 3-inch section of the cable. On single insulated conductors, remove the metallic conductor from the 3-inch section of the cable. Place the outer nonmetallic covering into a lead free receptacle (such as a pre-labeled resealable plastic food storage bag).

Step 3. Repeat steps 1 and 2 above for two additional cables such that a total of three samples are produced for laboratory analysis.

Step 4. Prepare samples for laboratory analysis according to EPA Method 160.4 or 3050. Samples must be completely digested before proceeding to step 5.

Step 5. Analyze samples for total lead by EPA Method 7420 (AA Flame).

Step 6. Compute the arithmetic mean from the three samples.

EXHIBIT E
(Infrequently Handled Products)

1	1	208- and 220-volt appliances (unless appliance is portable)
2	2	AC Adapters for foreign outlets and other voltage converters
3	3	Adjustable beds
4	4	Air Conditioner
5	5	Air Purifier
6	6	Amplifier for home stereo systems (including associated power and interconnector cords, but not including interconnector cords for microphones or musical instruments)
7	7	Answering machine
8	8	Audio mixer and associated power cords for in-studio, non-portable mixer units
9	9	Audio or video cable and adapter cords
10	10	Audio switcher power cords, unless designed to plug into front of audio/video appliance
11	11	Audio/video equipment and associated power and patch/pin cords (if A/V equipment is (i) not portable, e.g., no handle or carrying case, (ii) is not designed to plug into front of audio/video appliance, and (iii) is otherwise designed for long term installation)
12	12	Auto power adapters and cord, unless designed to plug into cigarette lighter or similar in-dash power source
13	13	Automotive wires and cables (installed)
14	14	Back cushion massager
15	15	Bathtub bubble mat
16	16	Bathtub spas
17	17	Battery Connection Cords (internal)
18	18	Battery charger units (except those used for automobiles)
19	19	Beard Trimmer (cordless models only)
20	20	Blender (not including hand-held models)
21	21	Bread Machine
22	22	Broadcast Equipment, and associated power and interconnector cords (if designed for in-studio or other non-portable installation)
23	23	Building wire (installed)
24	24	Calculator
25	25	Caller ID Unit
26	26	Can Opener
27	27	Carafes/Decanters, if cord attaches to separate base unit
28	28	Carbon Monoxide Detectors
	29	Cash Registers
	30	CATV Receiver Power Cords
	31	CB radio/antenna cords (not handsets)
	32	CD Player/changer (non-portable units only)
	33	CD/DVD Home Theater Systems
	34	Cielo Bath
	35	Circuit Cable
	36	Clock
	37	Coffee Maker
	38	Color Imaging System Power Cord & Cable (non-portable and not for use with portable computer system)
	39	Combo Wash/Dryer

1	40	Compactor
2	41	Computer Adapter Cords (not for laptops, and not designed to plug into front of system)
3	42	Computer Cables (in walls)
4	43	Computer CD/DVD Drives (installed, not used with laptops)
5	44	Computer docking system
6	45	Computer Keyboard
7	46	Computer modem line (data and power)
8	47	Computer monitor cable
9	48	Computer Mouse (cordless)
10	49	Computer Peripheral AC Adapter cord and I/F cable (not including those for portable computers or portable peripheral devices)
11	50	Computer Peripheral PCMCIA Card Cord (not including those for portable computers)
12	51	Computer Peripheral Wires & Cables (not including those for portable computers and those designed to plug into front of desktop computer (e.g., USB cords))
13	52	Computer Scanners (not including those designed for portable computers)
14	53	Computer Servers and External Storage Units
15	54	Computer Speaker Cords (not including those used with portable computers)
16	55	Computer Tape Drives
17	56	Controller/Tuner Power Cord
18	57	Convactor Power Cords
19	58	Cooktop Power Cords (not including those used with small portable hot plates)
20	59	Copier
21	60	Cordless Toothbrush
22	61	Data Logger Cable (unless included with portable device)
23	62	Deep fryer
24	63	Desktop computer power/patch/pin cords (unless designed to plug into front of computer (e.g., USB cords))
25	64	Digital imaging equipment (non-portable and not for use with portable computer system)
26	65	Digital media editor power cords/connecting cables (for installed, non-portable media editor units)
27	66	Digital Sender (digitizes and transmits images), for installed, non-portable units
28	67	Digital Tuner (non-portable units only)
	68	Dishwasher
	69	Drink Mixer (not hand-held)
	70	Dryer
	71	DVD (non-portable units only)
	72	DVD Audio/Video Cable (unless designed to plug into front of system)
	73	DVD Recorder Power/Interconnector Cords (non-portable units only)
	74	Egg Cooker
	75	Electric Bedding
	76	Electric Grill - Indoor or Outdoor
	77	Electric Recliners/Massage Chairs
	78	Electric Sewing Machine (non-portable units only, I.e., those which have no handle or case)
	79	Electric Thermos Pot (if cord attaches to separate base unit)
	80	Electric/Digital Pianos, Organs (non-portable units only)
	81	Electrolysis Water System (corded base unit only)
	82	Electronic Musical instruments, including associated power and adaptor cords (non-portable units only)
	83	Electronic White Board/Print Board Power Cords and Cables

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8 Attorneys for Plaintiff
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION
9

ENDORSED
FILED
San Francisco County Superior Court

OCT 10 2006

GORDON PARK-LI, Clerk
BY: _____ Deputy Clerk

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13
14
15 MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION,

CASE NO. 442968

16 Plaintiff,

~~Proposed~~ ORDER
APPROVING SETTLEMENT
(Nyko Technologies, Inc.)

17
18 vs.

19 ATD TOOLS, INC., et al.,

OCT 10 2006
Date: ~~October 9, 2006~~
Time: 9:30 a.m.
Dept. No.: 302

20 Defendants.
21 _____/

22
23 Plaintiff's motion for approval of settlement and entry of Consent Judgment as to
24 Defendant **Nyko Technologies, Inc.**, was heard on regular noticed motion on ~~October 9, 2006~~ **OCT 10 2006**, at
25 9:30 a.m. in Department No. 302. Having reviewed the pleadings and the moving papers, having
26 reviewed the terms of the proposed consent judgment and having considered the arguments of
27 counsel, the Court finds as follows:

28 1. The warnings and reformulation the Consent Judgment requires comply with the

1 requirements of Proposition 65.

2 2. The payments in lieu of civil penalties specified in the Consent Judgment are
3 reasonable and conform to the criteria of Health and Safety Code § 25249.7(b)(2).

4 3. The attorneys fees awarded under the Consent Judgment and the underlying
5 hourly rates, time expended, and costs incurred are reasonable.

6
7 IT IS SO ORDERED.

8 OCT 10 2006

PETER J. BUSCH

9 Dated: _____

Judge of the Superior Court