

SETTLEMENT AGREEMENT AND RELEASE - SULYN

This Settlement Agreement and Release (the “Agreement”) is between Center for Environmental Health (“CEH”) and Sulyn Industries, Inc. (“Sulyn”) (together, the “Parties”).

1. INTRODUCTION

1.1 On March 30, 2011, CEH, a non-profit corporation acting in the public interest, provided a “Notice of Violation of Proposition 65” to the California Attorney General, the District Attorneys of every county in California, the City Attorneys of every California city with a population greater than 750,000, and to Sulyn regarding the presence of cadmium in jewelry manufactured, distributed or sold by Sulyn (the “Notice”).

1.2 The Notice alleges that Sulyn’s jewelry contains cadmium. The Notice alleges that such jewelry exposes people who touch, wear or otherwise handle the jewelry to cadmium, a chemical known to the State of California to cause birth defects or other reproductive harm, without first providing clear and reasonable warning to such persons regarding the reproductive toxicity of cadmium. The Notice alleges that such conduct violates Health & Safety Code §25249.6, the warning provision of Proposition 65.

1.3 Sulyn contends that it is no longer in business and no longer manufactures, distributes and/or sells the Covered Products (as defined below) in California or anywhere else. In the event that in the future Sulyn manufactures, sells or distributes for sale, or causes to be manufactured, distributed, or sold, any Covered Product in California or anywhere else, Sulyn shall provide written notice to CEH, and all such Covered Products shall comply with 3.1 below.

1.4 The Parties enter into this Agreement for the purpose of avoiding prolonged and costly litigation regarding jewelry manufactured, distributed and/or sold by Sulyn.

By executing this Agreement, the Parties do not admit any facts or conclusions of law. It is the Parties' intent that nothing in this Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance with the Agreement constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Agreement shall prejudice, waive or impair any right, remedy, argument or defense the Parties may have in this or any other or future legal proceedings.

2. DEFINITIONS

2.1 The term "Covered Product" means (a) the following ornaments worn by a person: an anklet, arm cuff, bracelet, charm, brooch, chain, crown, cuff link, decorated hair accessories, earring, necklace, pin, ring and Body Piercing Jewelry; or (b) any bead, chain, link, pendant, or other component of such an ornament.

3. INJUNCTIVE RELIEF

3.1 Reformulation of Covered Products. Upon execution of this Agreement, Sulyn shall not manufacture, ship, sell or offer for sale in California or anywhere else any Covered Product that contains or is made of any material or component that exceeds 0.01 percent (100 parts per million ("ppm")) cadmium by weight.

4. SETTLEMENT PAYMENTS

4.1 In consideration of the mutual covenants and releases provided in this Agreement, within 10 days of execution of this Agreement, Sulyn shall pay a total of \$5,000 as a settlement payment. This total shall be paid in two separate checks delivered to the address set forth in Section 11.1 within 10 days of execution of this Agreement and shall be made payable

and allocated as follows.

4.2 Monetary Payment in Lieu of Civil Penalty. Sulyn shall pay to CEH \$1,667 in lieu of any civil penalty pursuant to Health & Safety Code §25249.7(b). CEH will use such funds to continue its work educating and protecting people from exposures to toxic chemicals, including heavy metals. In addition, CEH may use a portion of such funds to monitor compliance with the reformulation requirements of this Agreement. The payment in lieu of penalty check shall be made payable to the Center For Environmental Health.

4.3 Attorneys' Fees and Costs. Sulyn shall pay \$3,333 to reimburse CEH and its attorneys for their reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating, bringing this matter to Sulyn's attention, litigating and negotiating a settlement in the public interest. This payment shall be made payable to the Lexington Law Group.

5. MODIFICATION OF SETTLEMENT AGREEMENT

5.1 This Settlement Agreement may be modified only by written agreement of the Parties.

6. ENFORCEMENT OF SETTLEMENT AGREEMENT

6.1 The Parties agree that the any action based on violation of this Agreement shall be brought in the Superior Court of California in Alameda County. For purposes of this Agreement, notwithstanding Section 1.4 above, the Parties agree that the Superior Court of California in Alameda County has subject matter jurisdiction over any disputes arising from this Agreement and personal jurisdiction over each of the Parties, and that venue is proper in the County of Alameda. Should a party to this Agreement prevail on any action to enforce the terms

of this Agreement, it shall be entitled to reasonable attorneys' fees and costs associated with such enforcement.

7. APPLICATION OF SETTLEMENT AGREEMENT

7.1 This Agreement shall apply to and be binding upon the Parties hereto, their divisions, subdivisions and subsidiaries, and the successors or assigns of any of them.

8. CLAIMS COVERED

8.1 Except as otherwise provided herein, CEH hereby releases and discharges Sulyn with respect to any violation of Proposition 65 (or any other claim related to failure to warn about exposures to cadmium in the Covered Products) that was or could have been asserted against Sulyn, or its parents, subsidiaries, directors, officers, employees, agents, and all entities other than those entities listed on Exhibit A to whom they distribute or sell Covered Products including, but not limited to, distributors, wholesalers, customers, retailers, franchisees, cooperative members, and licensees, based on the Notice arising from Covered Products manufactured, distributed or sold by Sulyn on or before the execution of this Agreement. Compliance with the terms of this Agreement constitutes compliance with Proposition 65 for purposes of exposures to cadmium from the Covered Products.

9. SPECIFIC PERFORMANCE

9.1 The Parties expressly recognize that Sulyn's obligations under this Agreement are unique. In the event that Sulyn is found to be in breach of this Agreement for failure to comply with the provisions of Section 3 hereto, the Parties agree that it would be extremely impracticable to measure any resulting damages and that such breach would cause irreparable damage. Accordingly, CEH, in addition to any other available rights or remedies,

may sue in equity for specific performance, and Sulyn expressly waives the defense that a remedy in damages will be adequate.

10. GOVERNING LAW

10.1 The terms of this Agreement shall be governed by the laws of the State of California.

11. PROVISION OF NOTICE

11.1 All notices required pursuant to this Agreement and correspondence shall be sent by certified mail and electronic mail to the following:

For CEH:

Eric S. Somers
Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117
esomers@lexlawgroup.com

For Sulyn Industries, Inc.:

Mark S. Feluren, Esq.
Genovese Joblove & Battista, P.A.
200 East Broward Boulevard, Suite 1110
Fort Lauderdale, FL 33301
mfeluren@gjb-law.com

12. EXECUTION AND COUNTERPARTS

12.1 The stipulations to this Agreement may be executed in counterparts by electronic mail, which taken together shall be deemed to constitute one document.

13. AUTHORIZATION

13.1 Each signatory to this Agreement certifies that he or she is fully authorized by the party he or she represents to stipulate to this Agreement and to enter into and execute the

Agreement on behalf of the party represented and legally bind that party. The undersigned have read, understand and agree to all of the terms and conditions of this Agreement. Except as explicitly provided herein, each party is to bear its own fees and costs.

AGREED TO:

CENTER FOR ENVIRONMENTAL HEALTH



Dated: 10/10/11

CHARLIE PIZZANO

[Name]

ASSOCIATE DIRECTOR

[Title]

SULYN INDUSTRIES, INC.

Dated: _____

[Name]

[Title]

Agreement on behalf of the party represented and legally bind that party. The undersigned have read, understand and agree to all of the terms and conditions of this Agreement. Except as explicitly provided herein, each party is to bear its own fees and costs.

AGREED TO:

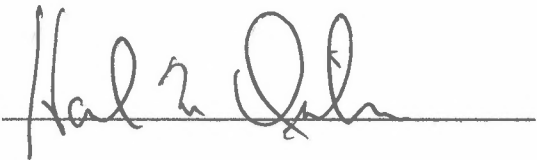
CENTER FOR ENVIRONMENTAL HEALTH

Dated: _____

[Name]

[Title]

SULYN INDUSTRIES, INC.

_____

Dated: 9/28/11

Harold M Dickens

[Name]

president

[Title]

EXHIBIT A

List of Entities Not Subject to Downstream Release

Ashley Stewart Ltd.

Atico International USA, Inc.

Burlington Coat Factory Warehouse Corporation

C2:8

CVS Pharmacy, Inc.

Fad, Inc.

Forum Novelties, Inc.

High Accessories, Inc.

J.M. Hollister, LLC

Metropark USA, Inc.

New Ashley Stewart, Inc.

NY Style

Party City Corporation

Rubie's Costume Company, Inc.

Sears, Roebuck and Co.

Spencer Gifts, LLC.

Styles For Less, Inc.

Urban Brands, Inc.

Western Fashion, Inc.