

UNITED STATES DISTRICT COURT **FILED**
FOR THE DISTRICT OF NEW MEXICO

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CIV-06-0866
NO. _____

LCS RLP

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ROBERT LAZAR, an individual;)
JOY WHITE, an individual; and)
UNITED NUCLEAR SCIENTIFIC)
SUPPLIES, LLC, a corporation,)
)
Defendants.)

CONSENT DECREE OF PERMANENT INJUNCTION

The United States of America, Plaintiff, having filed a Complaint for Injunction against Defendants Robert Lazar, an individual, Joy White, an individual, and United Nuclear Scientific Supplies, LLC, a corporation, and Defendants having waived service of process, appeared, and consented to the entry of this Decree in settlement of the injunctive action, without admitting the allegations in Plaintiff's complaint, and the United States of America having consented to this Decree in settlement of the injunctive action:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- I. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1331, 1337, and 1345 and 15 U.S.C § 1267(a) and has personal jurisdiction over Defendants. Venue in this district is proper under 28 U.S.C. §§ 1391(b) and (c).
- II. The Complaint for Injunction states a claim for relief against Defendants under the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. § 1261 et seq., and the regulations issued thereunder.
- III. For purposes of this Decree, the following definitions shall apply:

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A. "Oxidizer" means potassium chlorate, sodium chlorate, potassium perchlorate, sodium perchlorate, potassium nitrate, sodium nitrate, barium nitrate, strontium nitrate, or potassium permanganate.

B. "Fuel" means aluminum and aluminum alloys, magnesium, magnesium/aluminum alloy (magnalium), antimony sulfide, antimony trisulfide, potassium benzoate, sodium benzoate, sodium salicylate, titanium, or zirconium.

C. "Defendants" means Robert Lazar, Joy White, United Nuclear Scientific Supplies, LLC, and each of their current and future owners, directors, officers, agents, employees, servants, attorneys, successor corporations, and those persons in active concert or participation with any of them.

D. "Banned hazardous substances" have the meaning set forth at 15 U.S.C. § 1261(q)(1), and include "[f]ireworks devices intended to produce audible effects (including but not limited to cherry bombs, M-80 salutes, silver salutes, and other large firecrackers, aerial bombs, and other fireworks designed to produce audible effects, and including kits and components intended to produce such fireworks) if the audible effect is produced by a charge of more than 2 grains of pyrotechnic composition. . . ." 16 C.F.R. § 1500.17(a)(3). They also include "[f]irecrackers designed to produce audible effects, if the audible effect is produced by a charge of more than 50 milligrams (.772 grains) of pyrotechnic composition . . . including kits and components intended to produce such fireworks" 16 C.F.R. § 1500.17(a)(8).

IV. Defendants are hereby permanently restrained and enjoined from participating in any transaction that involves selling, giving away, holding for sale, or otherwise distributing:

A. Any tubes, fuse and end caps;

B. To any delivery address, more than one pound of any oxidizer per twelve month period; or

C. To any individual, more than one pound of any oxidizer per twelve month period; or

D. Any fuel for which the particle size is finer than 100 mesh (or particles less than 150 microns in size).

V. Defendants are hereby further permanently restrained and enjoined from violating 15 U.S.C. § 1263(a) by selling, giving away, or otherwise distributing any item where Defendants know or have reason to believe that the recipient intends to use such item as a component of banned hazardous substances.

VI. Within sixty (60) calendar days of the entry of this Decree, Defendants shall destroy, at their own cost, the inventory of all tubes, fuse, end caps, and fuels for which the particle size is finer than 100 mesh currently in their control and possession. Within twenty (20) calendar days of destroying all tubes, fuse, end caps, and fuels for which the particle size is finer than 100 mesh, Defendants shall submit to the CPSC a declaration of compliance that is consistent with 28 U.S.C. § 1746 and signed under penalty of perjury by Defendants Robert Lazar and Joy White, and that sets forth precisely what all tubes, fuse, end caps, and fuels for which the particle size is finer than 100 mesh were destroyed.

VII. To ensure continuing compliance with the terms of this Decree, investigators with the CPSC shall be authorized to make inspections, at their discretion and without prior notice, of Defendants' facilities and records therein, and to take samples, copies of documents, and photographs. Such inspection authority granted by this Decree is apart from and in addition to the authority to make inspections under 15 U.S.C. §§ 1270 and 1271. Such inspections shall be

authorized upon presentation of a copy of this Decree and government credentials. During any such inspections, Defendants shall cooperate fully with the CPSC investigators by, among other things, promptly providing any investigator with all requested documents and immediate access to any of Defendants' facilities.

VIII. Defendants shall serve a copy of this Decree, by personal service or registered mail, within ten (10) calendar days of its entry, upon all current owners, officers, directors, agents, servants, employees, and consignees of United Nuclear Scientific Supplies, LLC, and shall provide CPSC with an affidavit of compliance with this paragraph, signed under penalty of perjury by Defendants Robert Lazar and Joy White, within thirty (30) calendar days of such entry, stating the fact and manner of compliance and identifying the names and positions of all persons so notified. Defendants shall likewise serve a copy of this Decree, by personal service or registered mail, upon any new officer, director, agent, servant, employee, or consignee of United Nuclear Scientific Supplies, LLC, within thirty (30) calendar days of the date on which that individual enters into a business relationship with Defendants, and shall provide CPSC with an affidavit of compliance with this paragraph, signed under penalty of perjury by Defendants Robert Lazar and Joy White within thirty (30) calendar days of such service, stating the fact and manner of compliance and identifying the names and positions of all persons so notified.

IX. Defendants shall notify CPSC at least ten (10) calendar days before any reorganization, relocation, or dissolution of the corporate Defendant; any sale, lease, or transfer of assets resulting in the emergence of a successor business; the creation or dissolution of subsidiaries or affiliates; or any change in the corporate Defendant's manner of operation or in the employment of the individual Defendant that could affect compliance obligations arising out of this Decree.


X. If any Defendant violates this Decree and is found in civil or criminal contempt thereof, such Defendant shall, in addition to other remedies, reimburse plaintiff for its attorney fees (including overhead), investigational expenses, and court costs relating to any contempt proceedings.

XI. All notifications, correspondence, and communications to the CPSC required by this Decree shall be addressed to: (a) the Director of Compliance, United States Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814 (Facsimile Number 301-504-0359), or (b) to such other addresses or facsimile numbers as CPSC may later provide in writing to Defendants.

XII. This Court retains jurisdiction of this action for the purposes of enforcing or modifying this Decree and for the purpose of granting such additional relief as hereafter may be necessary or appropriate.

SO ORDERED:


Dated this 22 day of Sept, 2006.


UNITED STATES DISTRICT JUDGE
Magistrate

We hereby consent to entry of the foregoing Decree.

FOR THE PLAINTIFF:

David C. Iglesias
United States Attorney



JEFFREY STEIGER
AMY E. GOLDFRANK
Attorneys
Office of Consumer Litigation
United States Department of Justice
Washington, D.C. 20530

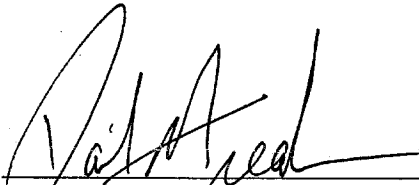
Dated: 9/12/06

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FOR THE DEFENDANTS:



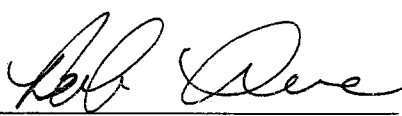
DAVID A. FREEDMAN, Esq.
Attorney for United Nuclear Scientific
Supplies, LLC; Robert Lazar, and Joy White

Dated: 8/2/06



ROBERT LAZAR for defendant United
Nuclear Scientific Supplies, LLC

Dated: 8/2/06



ROBERT LAZAR

Dated: 8/2/06



JOY WHITE

Dated: 8/2/06

Case: 2:06-cv-00866

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