



**ATTACHMENT A**

From at least as early as on or about March 25, 2020 through in or about May 2020, in the District of New Jersey, and elsewhere, defendant

**KG IMPORTS, LLC**

did knowingly, intentionally, and willfully accumulate for the purpose of resale at prices in excess of prevailing market prices, materials which had been designated by the President of the United States as scarce materials and materials the supply of which would be threatened by such accumulation.

In violation of Title 50, United States Code, Sections 4512 and 4513

## **ATTACHMENT B**

I, Deborah Zarifian, am a Special Agent with the Federal Bureau of Investigation (“FBI”). I have knowledge of the facts below based on my own investigation, my conversations with other law enforcement officers and others, and my review of reports, documents, and other evidence. Because this Complaint is being submitted for a limited purpose, I have not set forth every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged. Statements attributed to individuals are provided in substance and in part.

1. At all times relevant to this Complaint, Defendant KG IMPORTS, LLC (“KG IMPORTS”), an import company established in New Jersey, had its principal place of business in Lakewood, New Jersey.

### **The Global COVID-19 Pandemic and the Defense Production Act**

2. In December 2019, a novel coronavirus, SARS-CoV-2, was first detected in Wuhan, Hubei Province of the People’s Republic of China, causing outbreaks of the coronavirus disease 2019 (“COVID-19”). The virus quickly spread across the globe.

3. On January 31, 2020, the Secretary of Health and Human Services (“HHS”) declared a national public health emergency under 42 U.S.C. § 247d as a result of the spread of COVID-19 to and within the United States. On March 11, 2020, the World Health Organization (“WHO”) characterized the COVID-19 outbreak as a global pandemic. On March 13, 2020, the President of the United States issued Proclamation 9994 declaring a national emergency beginning on March 1, 2020, as a result of the rapid spread of COVID-19 within the United States.

4. According to the Centers for Disease Control and Prevention (“CDC”), the virus that causes COVID-19 is believed to spread through respiratory droplets produced when an infected person coughs or sneezes. The virus can be transmitted if these droplets land in the mouths or noses of nearby people. Because of the highly contagious nature of the virus, the CDC has issued guidance recommending the use of face coverings to prevent the spread of the virus. Vital personal protective equipment (“PPE”) includes N95 filtering facepiece respirators and PPE face masks.

5. On March 18, 2020, responding to the pandemic, the President of the United States issued Executive Order 13909, *see* 85 Fed. Reg. 16,227, invoking the powers vested in the President by the Defense Production Act of 1950, 50 U.S.C. §§ 4501 *et seq.* (the “Act”).

6. The Act authorizes the President to, among other things, “allocate materials . . . in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.” 50 U.S.C. § 4511(a)(2). The President may exercise this authority “to control the general distribution of any material in the civilian market” if the President finds “(1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.” 50 U.S.C. § 4511(b).

7. To prevent the hoarding of scarce materials during the global pandemic, the Act further provides that “no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation.” 50 U.S.C. § 4512. The Act requires the President to publish in the Federal Register “every designation of materials the accumulation of which is unlawful and any withdrawal of such designation,” and authorizes the President to “prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this chapter.” *Id.*

8. In Executive Order 13909, the President found “that health and medical resources needed to respond to the spread of COVID–19, including personal protective equipment and ventilators, meet the criteria specified in section 101(b) of the Act (50 U.S.C. 4511(b)).” The President further delegated authority to the Secretary of HHS to “identify additional specific health and medical resources that meet the criteria of section 101(b).”

9. On March 25, 2020, the Secretary of HHS exercised authority delegated to him by the President and published a notice, *see* 85 Fed. Reg. 17592, designating certain health and medical resources under the Act as scarce materials or materials the supply of which would be threatened by accumulation in excess of reasonable demands of business, personal, or home consumption, or for the purpose of resale at prices in excess of prevailing market prices (the “Designated Scarce Materials”). These Designated Scarce Materials include, among others: (i) “N-95 Filtering Facepiece Respirators” and (ii) “PPE face masks, including any masks that cover the user’s nose and mouth and may or may not meet fluid barrier of filtration efficiency levels.”

10. The Defense Production Act makes the willful performance of any act prohibited by § 4512, “or any rule, regulation or order thereunder,” a crime punishable by a fine of not more than \$10,000 or imprisonment for not more than one year. 50 U.S.C. § 4513. Accordingly, willfully accumulating designated scarce or threatened materials either (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, is a criminal offense.

### **KG IMPORTS’s Violation of the Defense Production Act**

11. KG IMPORTS engaged in importing various items into the United States from abroad and selling those items in the United States. KG IMPORTS was not established until in or about April 2020; thus, it had not imported items relating to health care or PPE until that time.

12. In connection with its business, KG IMPORTS utilized storage space at 1965 Swarthmore Avenue in Lakewood, New Jersey, and other off-site warehouse space located at 155 N. Oberlin Avenue in Lakewood, New Jersey (the “155 N. Oberlin Location”) (collectively, the “Warehouse Locations”).

13. Beginning in or about March 2020, with the COVID-19 pandemic affecting New Jersey and the rest of the United States and world, KG IMPORTS began to import large quantities of PPE items from international manufacturers to resell in the United States. When it did not deliver PPE directly to customers, KG IMPORTS stored the PPE at the Warehouse Locations, among other places, and sold the PPE to various customers, including health care providers, health care suppliers, and end users in New Jersey and elsewhere.

14. Between on or about March 25, 2020 and on or about April 20, 2020, KG IMPORTS accumulated PPE and other health and medical resources, including PPE three-ply disposable, non-medical face masks, which were Designated Scarce Materials, for the purpose of resale at prices in excess of prevailing market prices. On April 23, 2020, pursuant to a lawfully obtained search warrant, law enforcement seized PPE from the 155 N. Oberlin Location, including approximately 11 million three-ply, disposable, non-medical face masks, some of which belonged to KG IMPORTS and the remainder of which belonged to CSG Imports LLC, a company charged by separate complaint with violating the Defense Production Act by price-gouging on sales of PPE.

15. On various dates between in or about April 2020 and in or about May 2020, KG IMPORTS offered PPE, which were Designated Scarce Materials, for sale, and sold them at prices that exceeded prevailing market prices for those items. For example:

a. KG IMPORTS imported three-ply, disposable, non-medical face masks into the United States for a blended per-unit cost of \$0.37, and KG Imports sold them on the following occasions for the following net sales price in the following quantities, resulting in markups ranging from \$0.11 to \$0.43 [approximate gross profit per face mask in brackets]:

- i. April 6, 2020: \$0.70 (30,000 masks) [\$0.33]
- ii. April 6, 2020: \$0.70 (10,000 masks) [\$0.33]
- iii. April 7, 2020: \$0.80 (90,000 masks) [\$0.43]
- iv. April 7, 2020: \$0.70 (10,000 masks) [\$0.33]
- v. April 8, 2020: \$0.70 (5,000 masks) [\$0.33]
- vi. April 8, 2020: \$0.55 (110,000 masks) [\$0.18]
- vii. April 10, 2020: \$0.70 (116,000 masks) [\$0.33]
- viii. April 10, 2020: \$0.70 (40,000 masks) [\$0.33]
- ix. April 13, 2020: \$0.70 (28,000 masks) [\$0.33]
- x. April 16, 2020: \$0.70 (5,000 masks) [\$0.33]
- xi. April 16, 2020: \$0.70 (10,000 masks) [\$0.33]
- xii. April 17, 2020: \$0.70 (10,000 masks) [\$0.33]
- xiii. April 28, 2020: \$0.48 (1,530,000 masks) [\$0.11]
- xiv. May 5, 2020: \$0.48 (1,981,950 masks) [\$0.11]
- xv. May 7, 2020: \$0.50 (12,000 masks) [\$0.13]