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| | | |
|-------------------------------|---|--------------------------------|
| UNITED STATES OF AMERICA, | : | UNITED STATES DISTRICT COURT |
| | : | DISTRICT OF NEW JERSEY |
| Plaintiff, | : | |
| | : | |
| - v. - | : | |
| | : | Honorable |
| \$15,000,000 IN UNITED STATES | : | Civil Action No. 14- 309 (SNG) |
| CURRENCY FORMERLY HELD | : | |
| BY SHAKE-N- GO FASHION, | : | SETTLEMENT AGREEMENT |
| INC. AND MODEL MODEL | : | |
| HAIR FASHION, INC. | : | |
| | : | |
| Defendant <i>in rem</i> . | : | |

Plaintiff, the United States Attorney’s Office for the District of New Jersey, Paul J. Fishman, United States Attorney, by Evan S. Weitz and Aaron Mendelsohn, Assistant United States Attorneys, and Claimant, Shake-N-Go Fashion, Inc. and Model Model Hair Fashion, Inc. (collectively hereinafter “SNG”), by Nixon Peabody, LLP, hereby enter into this Settlement Agreement (the “Agreement”) and stipulate and agree as follows:

1. The United States intends to file a Verified Complaint for Forfeiture *In Rem* (the “Complaint”), in the United States District Court for the District of New Jersey, seeking forfeiture of \$15,000,000 in United States currency formerly held by SNG (the “defendant

property”), pursuant to 31 U.S.C. § 5317(c), as property involved in a violation of 31 U.S.C. § 5324, or a conspiracy to commit such a violation, and as property traceable to such property.

2. The United States and SNG wish to resolve this action without litigation, with \$15,000,000 as *Substitute Res* to be forfeited to the United States in full satisfaction of any claims the United States may have against SNG, within the scope of or related to this investigation or to the facts alleged in the Complaint.

3. SNG represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion.

4. In order to avoid the delay, uncertainty, inconvenience, and expense of protracted litigation, the United States and SNG agree as set forth below.

THE COMPLAINT

5. SNG acknowledges and agrees that the United States will file a Civil Forfeiture Complaint (the “Complaint”) against the defendant property based upon allegations that funds in at least that amount are subject to forfeiture, pursuant to 31 U.S.C. § 5324.

6. SNG further takes full responsibility for the acts of their officers, directors, and employees as described in the Complaint and does not dispute that the allegations in the Complaint are true and accurate.

THE AGREEMENT

7. This Agreement is effective for a period of two years from the date of the filing of the Complaint with the District Court.

8. The United States enters into this Agreement based upon the individual facts and circumstances of this case including: (a) SNG’s substantial cooperation with the United States’ investigation, which included conducting an extensive internal investigation and voluntarily

providing documents and making employees available to the United States for interviews; (b) SNG's willingness to fully accept responsibility for its own actions and those of its officers, directors, and employees, as described in the Complaint; (c) the extensive remedial measures both taken and anticipated to be taken by SNG as described in this Agreement; and (d) the substantial monetary penalty imposed by this Agreement.

9. SNG has taken and will continue to take the following remedial measures:
 - a. SNG has appointed and will continue to engage a General Counsel to oversee and consult on all legal and compliance issues;
 - b. SNG will retain a qualified independent consulting firm, as approved by the United States, to oversee the implementation of a Bank Secrecy Act ("BSA") compliance program and SNG's continued compliance with that program and the terms of this Agreement;
 - c. During the two-year term of this Agreement, SNG will provide quarterly reports to the United States due on the last date of each quarter (e.g. March 31, June 30, September 30, and December 31), to be authored by the independent consulting firm, describing the state of SNG's compliance program;
 - d. SNG will appoint a qualified individual, approved by the United States, to serve as a senior level executive to oversee all day-to-day compliance issues and SNG will remove that responsibility from the Chief Financial Officer;
 - e. SNG will establish and enforce written policies on how to receive and process cash payments and how to otherwise comply with the BSA, including the timely filing of any and all Internal Revenue Service Forms 8300;
 - f. SNG will implement mandatory employee training on BSA compliance;
 - g. SNG will not permit its customers to deposit cash directly into accounts controlled by SNG;
 - h. SNG will agree to cooperate with any and all future investigations by the United States and/or other state and local authorities; and
 - i. SNG will produce any documents requested by the United States within seven business days and will allow the United States to inspect SNG's

premises on demand without the need for the United States to seek a warrant or issue a subpoena.

THE FORFEITURE

10. SNG has agreed to forfeit the defendant property to resolve the allegations in the Complaint. These funds consist of (a) \$2,502,218.30 seized from SNG-held bank accounts on June 25, 2013, which was authorized by seizure warrants issued by the Honorable Joseph A. Dickson, United States Magistrate Judge for the District of New Jersey; (b) \$9,497,781.82 surrendered to the United States at the execution of this Agreement; and (c) a credit of \$3,000,000 as detailed in paragraphs 11-12, *infra*. As to the \$9,497,781.82, \$6,000,000 will be contributed by the current individual shareholders of SNG as claw-backs of profit distributions.

11. Recognizing the extensive costs associated with the remedial measures described in this Agreement, the United States has agreed to provide a \$3,000,000 credit to SNG toward the defendant property.

12. In the event that SNG does not comply with or violates this Agreement, SNG agrees to surrender \$3,000,000 to the United States unless SNG can demonstrate that SNG violated this Agreement unknowingly. The United States further reserves its rights to seek any and all additional criminal and civil penalties authorized by law in the event that SNG does not comply with or violates this Agreement.

OTHER TERMS

13. SNG agrees that the defendant property constitutes *Substitute Res* in settlement of all allegations contained within the Complaint.

14. Upon executing this Agreement, SNG will immediately surrender \$9,497,781.82 to the United States Department of Homeland Security.

15. Upon receiving the \$9,497,781.82, the United States will commence a civil forfeiture action against all of the seized or surrendered funds, totaling \$12,000,000 (the “forfeited funds”).

16. SNG represents that it has an exclusive interest in the forfeited funds and waives any notice of any forfeiture proceedings brought against the forfeited funds, pursuant to 18 U.S.C. § 983(a)(4)(A) and Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure.

17. SNG abandons any and all interest it has in the forfeited funds and consents to the filing of any orders of forfeiture with the Court in order to accomplish the forfeiture of the forfeited funds.

18. SNG guarantees that no other individual or entity has any claims to the forfeited funds.

19. SNG shall hold and save harmless the United States, its agents, employees, and/or any other persons who assisted in the seizure or release, from any and all claims that might result from any action taken in regards to this matter.

20. SNG hereby waives any rights to directly or collaterally challenge in this Court, the Court of Appeals, or any other forum, the seizure and forfeiture that is the subject of this agreement, including but not limited to a waiver of the Federal Tort Claims Act, a Bivens action, an action for costs, and all constitutional and statutory defenses and claims in any forum.

21. In consideration of the above undertakings and SNG’s willingness to resolve this action without litigation, this Agreement shall result in full satisfaction of any claims that the United States Attorney’s Office for the District of New Jersey may have against SNG for any act within the scope of or related to this investigation or the facts alleged in the Complaint.

22. The provisions of this Agreement shall apply to, be binding on, and inure to the benefit of SNG and the United States and their successors and assigns.

23. This Agreement is governed by the laws of the United States, and the exclusive jurisdiction and venue for any dispute arising between and among SNG and the United States under this Agreement will be the United States District Court for the District of New Jersey.

24. The undersigned individuals signing this Agreement on behalf of SNG represents and warrants that he has full authority to execute this Agreement, and the United States signatory represents that he or she is signing this Agreement in his or her official capacity and that he or she is authorized to execute this Agreement.

25. Facsimiles of signatures shall constitute acceptable, binding signatures for the purpose of this Agreement.

26. SNG and the United States will bear their own legal and other costs incurred in connection with this matter, including, but not limited to, the preparation and performance of this Agreement.

The undersigned hereby consent
to the entry and form of this
Settlement Agreement:

FOR THE UNITED STATES OF AMERICA:

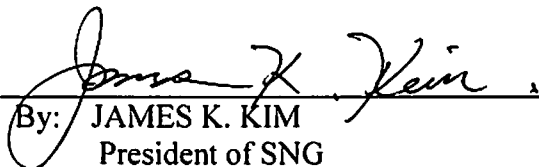
PAUL J. FISHMAN
United States Attorney



By: EVAN S. WEITZ
AARON MENDELSON
Assistant United States Attorneys
970 Broad Street, Suite 700
Newark, New Jersey 07101
Counsel for Plaintiff

Dated: January 15th, 2014

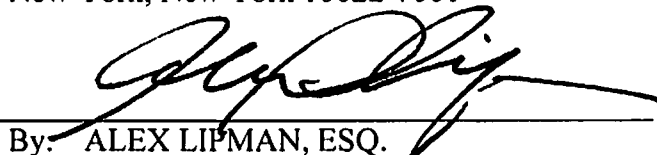
FOR SHAKE-N-GO FASHION, INC. and MODEL MODEL HAIR FASHION, INC.:



By: JAMES K. KIM
President of SNG

Dated: January 14, 2014

Nixon Peabody, LLP
437 Madison Avenue
New York, New York 10022-7001



By: ALEX LIPMAN, ESQ.

Dated: January 14, 2014