

**Needs and Uses:** ATP is a competitive cost-sharing program designed to assist United States' businesses pursue high-risk, enabling technologies with significant commercial/economic potential. The ATP provides multi-year funding through the use of cooperative agreements to single companies and to industry-led joint ventures. In order to participate, proposals must be submitted addressing the ATP criteria. The information is used to perform the technical and business reviews of the proposals to determine if an award should be granted.

**Affected Public:** Businesses or other for-profit organizations, not-for-profit institutions, individuals.

**Frequency:** On occasion, yearly, quarterly, biennially, semi-annually.

**Respondent's Obligation:** Required to obtain or retain a benefit.

**OMB Desk Officer:** Kamela White (202) 395-3630.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Forms Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Kamela White, Room 10236, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 15, 2000.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

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BILLING CODE 3510-13-P

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00-C0013]

### AZ3, Inc., d/b/a/ BCBG Max Azria, Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 C.F.R. 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with AZ3, Inc., d/b/a BCBG Max Azria, containing a civil penalty of \$75,000.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by October 5, 2000.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00-C0013, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** Seth B. Popkin, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626, 1358.

**SUPPLEMENTAL INFORMATION:** The test of the agreement and order appears below.

Dated: September 14, 2000.

**Sadye E. Dunn,**  
*Secretary.*

### Consumer Product Safety Commission

[CPSC Docket No. 00-C0013]

In the Matter of AZ3, Inc., d/b/a BCBG Max Azria; Settlement Agreement and Order

1. This Settlement Agreement and Order entered into between AZ3, Inc., d/b/a BCBG Max Azria ("BCBG"), and the staff ("Staff") of the United States Consumer Product Safety Commission ("Commission"), in accordance with 16 CFR 1118.20.

#### I. The Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051-2084 ("CPSA").

3. BCBG is a corporation organized and existing under the laws of the state of California. Its principal offices are located at 2761 Fruitland Avenue, Vernon, California. BCBG is a clothing manufacturer and retailer.

#### II. Staff Allegations

A. 1996 Violations of the Clothing Standard and the FFA

4. From August through December 1996, BCBG imported 3,198 two-textured chenille sweaters, and distributed, sold, and offered for sale in the United States 3,089 of those imported sweaters (collectively "Sweaters").

5. The Sweaters were subject to the Standard for the Flammability of Clothing Textiles, 16 CFR 1610 ("Clothing Standard") issued under the Flammable Fabrics Act, 15 U.S.C. 1191-1204 ("FFA"), and, specifically, under section 4 of the FFA, 15 U.S.C. 1193.

6. In 1996, the Staff tested the Sweaters and found that the Sweaters were classified as "Class 3" under the Clothing Standard. These test results established that the sweaters were dangerously flammable and unsuitable for clothing because of their rapid and intense burning. See 16 CFR 1610.3(a)(3).

7. In 1996, the staff requested that BCBG take corrective action. BCBG agreed to a voluntary recall of the Sweaters, and, on December 18, 1996, the Staff announced a recall of the Sweaters.

8. BCBG knowingly violated section 3(a) of the FFA, 15 U.S.C. 1192(a), and the Clothing Standard, by importing, distributing, selling, and offering for sale in commerce the Sweaters, as the term "knowingly" is defined in section 5(e)(4) of the FFA, 15 U.S.C. 1194(e)(4). See also 16 CFR 1610.32(a). Pursuant to section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1), these violations subjected BCBG to a civil penalty.

B. 1999 Violations of the Clothing Standard and the FFA

9. After the recall, from 1997 to 1999, the Staff contacted BCBG on a regular basis to encourage BCBG to destroy, export, or recondition BCBG's inventory of the Sweaters so that the Sweaters would not enter United States commerce. The Staff warned BCBG of the dangers posed by the BCBG's continued retention of the Sweaters.

10. BCBG declined to destroy the Sweaters and told the Staff that BCBG was seeking foreign buyers for the Sweaters.

11. From approximately July 1999 through September 9, 1999, BCBG sold 185 of the Sweaters, and offered for sale a greater number, in the BCBG employee sales store. The persons shopping at this store included BCBG employees and their families, friends, and guests, middlemen and buyers who may resell their purchases at another store, and other members of the public.

12. By offering these violative Sweaters for sale in United States commerce, and by selling them, BCBG knowingly violated section 3(a) of the FFA, 15 U.S.C. 1192(a), and the Clothing Standard, as the term "knowingly" is defined in section 5(e)(4) of the FFA, 15 U.S.C. 1194(e)(4). See also 16 CFR 1610.32(a). Pursuant to section 5(e)(1) of the FFA, 15 U.S.C. 1194(e)(1), these violations subjected BCBG to a civil penalty.

C. 1999 CPSA Violations

13. Each of the Sweaters is a "consumer product," and BCBG is a "manufacturer" and "retailer" of a

consumer product, as those terms are defined in sections 3(a)(1), (4), and (6) of the CPSA, 15 U.S.C. 2052(a)(1), (4), and (6).

14. BCBG is subject to section 15(b) of the CPSA, 15 U.S.C. 2064(b), which requires every manufacturer and retailer of a consumer product distributed in commerce, who obtains information which reasonably supports the conclusion that such product creates an unreasonable risk of serious injury or death, to immediately inform the Commission of such risk.

15. BCBG employees had knowledge of the 1999 Sweaters sales and offers of sale as they were occurring, i.e., from approximately July 1999 through September 9, 1999. Pursuant to 16 C.F.R. 1115.14(b), the employees' knowledge may be imputed to BCBG.

16. BCBG's management acquired actual knowledge of the 1999 Sweaters sales and offers of sale no later than September 9, 1999. This knowledge, including the fact that the Sweaters were classified as "Class 3" under the Clothing Standard, reasonably supported the conclusion that the 1999 Sweaters sales created an unreasonable risk of serious injury or death. Under the circumstances, BCBG was required to inform the Commission of such risk within 24 hours, i.e., by September 10, 1999. *See* CPSA 15(b), 15 U.S.C. 2064(b); 16 CFR 1115.14 (d), (e).

17. BCBG failed to inform the Staff of the 1999 Sweaters sales and the associated risks until October 19, 1999. This failure violated the CPSA. *See* CPSA § 19(a)(4), 15 U.S.C. 2068(a)(4).

18. BCBG knowingly failed to inform the Staff of the 1999 Sweaters sales in a timely manner, as the term "knowingly" is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d). Pursuant to section 20(a)(1) of the CPSA, 15 U.S.C. 2069(a)(1), this failure subjected BCBG to a civil penalty.

### III. Response of BCBG

19. BCBG denies the Staff's allegations that BCBG knowingly or otherwise violated the Clothing Standard, the FFA, or the CPSA, and the content found in paragraphs 4–18.

20. In January 1999, BCBG sold and shipped 509 Sweaters, of the approximately 979 Sweaters in its possession, to buyers in Japan and Israel, and BCBG did so properly pursuant to Commission procedures.

21. From September 9, 1999, and continuing through the date of this Settlement Agreement and Order, BCBG conducted a voluntary recall effort concerning the 1999 Sweaters sales.

### IV. Agreement of the Parties

22. The Commission has jurisdiction over this matter under the CPSA, the FFA, and the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

23. This Settlement Agreement and Order is in settlement of the Staff's allegations and does not constitute an admission by BCBG that the law has been violated or of anything contained in paragraphs 4–18.

24. In settlement of this matter, BCBG shall pay to the Commission a civil penalty in the amount of seventy-five thousand dollars (\$75,000.00). BCBG shall pay this sum in two (2) payments as follows: (a) BCBG shall deliver to the Commission forty thousand dollars (\$40,000.00) within twenty (20) calendar days of service of the Commission's Order accepting this Agreement; and (b) BCBG shall deliver to the Commission thirty-five thousand dollars (\$35,000.00) within fifty (50) calendar days of service of the Commission's Order accepting this Agreement. Each payment shall be by check payable to the order of the United States Treasury.

25. BCBG knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to the issuance of a Complaint, (2) to an administrative or judicial hearing, (3) to judicial review or other challenge or contest of the validity of the Commission's Order, (4) to a determination by the Commission as to whether or not BCBG failed to comply with the FFA or CPSA, as alleged, (5) to a statement of findings of fact and conclusions of law, and (6) to any claims under the Equal Access to Justice Act.

26. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). In accordance with 16 CFR 1118.20(f), if the Commission does not receive any written request not to accept the Settlement Agreement and Order within fifteen (15) days, the Settlement Agreement and Order shall be deemed finally accepted on the sixteenth (16th) day after the date it is published in the **Federal Register**.

27. This Settlement Agreement and Order becomes effective upon its final acceptance by the Commission and service upon BCBG.

28. The Commission may publicize the terms of the Settlement Agreement and Order.

29. This Settlement Agreement and Order shall apply to, and be binding

upon, BCBG and its successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device, or instrumentality.

30. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or contradict its terms.

31. BCBG agrees to entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

Dated: August 14, 2000.

By: Max Azria, President and CEO, AZ3, Inc., d/b/a BCBG Max Azria.

The Consumer Product Safety Commission.

Alan H. Schoem,

*Assistance Executive Director, Office of Compliance.*

Eric L. Stone,

*Director, Legal Division, Office of Compliance.*

Dated: August 17, 2000.

By: Seth B. Popkin, Trial Attorney, Legal Division, Office of Compliance.

### Consumer Product Safety Commission

[CPSC Docket No. 00–C0013]

In the Matter of AZ3, Inc., d/b/a BCBG Max Azria; *Order*

Upon consideration of the Settlement Agreement entered into between AZ3, Inc., d/b/a BCBG Max Azria ("BCBG"), and the United States Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over BCBG, and it appearing that the Settlement Agreement and Order is in the public interest, it is

*Ordered*, that the Settlement Agreement be, and hereby is, accepted; and it is

*Further Ordered*, that BCBG shall pay to the Commission a civil penalty in the amount of seventy-five thousand dollars (\$75,000.00), and that BCBG shall pay this sum in two (2) payments as follows: (a) BCBG shall deliver to the Commission forty thousand dollars (\$40,000.00) within twenty (20) calendar days of service of this final Order upon BCBG; and (b) BCBG shall deliver to the Commission thirty-five thousand dollars (\$35,000.00) within fifth (50) calendar days of service of this final Order upon BCBG. Each payment shall be by check payable to the order of the United States Treasury.

Provisionally accepted and Provisional Order issued on the 14th day of September, 2000.

By Order of the Commission:

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 00-24076 Filed 9-19-00; 8:45 am]

BILLING CODE 6355-01-M

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00-C0014]

### Galoob Toys, Inc., a Corporation, Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Galoob Toys, Inc., a corporation, containing a civil penalty of \$400,000.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by October 5, 2000.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00-C0014, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** William J. Moore, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626, 1348.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: September 15, 2000.

**Sadye E. Dunn,**

*Secretary.*

### Settlement Agreement and Order

1. This Settlement Agreement, made by and between the staff ("the staff") of the U.S. Consumer Product Safety Commission ("the Commission") and Galoob Toys, Inc., ("Galoob"), a corporation, in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA"), is a settlement of the staff allegations set forth below.

### I. The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051-2084.

3. Galoob is a corporation organized and existing under the laws of the State of Delaware. Its principal offices are located at 5 Thomas Mellon Circle, Suite 304, San Francisco, California. Galoob is a wholly owned subsidiary of Hasbro, Inc., ("Hasbro") Before it was acquired by Hasbro, Galoob Toys, Inc. was an independent corporation doing business as Lewis Galoob Toys, Inc.

### II. Staff Allegations

4. From on or before November 1994 through approximately August 1998, Galoob, a corporation and toy manufacturer, made, sold and distributed into United States commerce over 8 million "flying" toys known as the "Sky Dancers". Galoob is, therefore, a manufacturer and distributor of a consumer product in U.S. commerce pursuant to 15 U.S.C. 2052 (a)(1), (4), (5) and (6).

5. On November 2, 1998 Hasbro purchased Galoob's stock and Galoob became one of Hasbro's wholly owned subsidiaries. Galoob remained and remains a corporation and a separate legal entity.

6. Galoob experienced several toy manufacturing/production problems resulting in unsafe performance of the Sky Dancers shortly after production began. In late 1994 and early 1995, production defects included: use of wings of uneven weight on the same Sky Dancer, improper methods for centering and affixing wings to the body of the toy; and producing wings with padding that was susceptible of coming off the wing.

7. In 1995 Galoob made several prospective changes in the design and production of the Sky Dancers intended to reduce performance problems and make the Sky Dancer safer to use. After Galoob distributed approximately 100,000 Sky Dancers into U.S. commerce, Galoob reworked a large number of Sky Dancers in inventory to attempt to eliminate safety defects. The approximately 100,000 Sky Dancers sold were not recalled or reworked.

8. Even as designed and produced as intended, the Sky Dancers are susceptible of causing injury. The Sky Dancer uses a pull cord to launch the hard plastic toy; to send it spinning up and away from its base at a high rate of speed. Once launched the Sky Dancer uses two propeller-like blades or "wings" (attached to the toy) spinning

rapidly to make it "fly," often in unpredictable directions and angles, allowing it to forcefully strike the user or nearby playmates, usually in the face or head.

9. Before formal ratification and signing the necessary documents to acquire Galoob, Hasbro examined Galoob's records reflecting its assets, liabilities and other documents including the history of the "Sky Dancers."

10. Between January 1995 and November 1998, Galoob received 165 injury complaints, including damage to the eyes, face and teeth. Hasbro learned of the problem with the product before acquiring Galoob.

11. On November 2, 1998, Hasbro acquired Galoob. Following the acquisition, on November 18, 1998 Hasbro/Galoob made a telephone report and, on November 23, 1998, sent a preliminary report letter to the CPSC staff under Section 15(b) of the CPSA, 15 U.S.C. 2064(b). By letter dated December 15, 1998, the CPSC staff requested full report information from the reporting firm pursuant to the CPSA. *Id.*

12. On January 14, 1999 Hasbro/Galoob filed a limited report with the Commission and filed its full report on April 8, 1999. Galoob undertook a voluntary recall of the Sky Dancers in June 2000.

13. Galoob, during 1994 testing and early production, and subsequently, as it received injury reports through 1998, obtained information which reasonably supported the conclusion that the Sky Dancers contained defects which could create a substantial product hazard but failed to report to the Commission in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b). Hasbro obtained such information before it formally acquired the stock of Galoob on November 2, 1998.

14. By failing to furnish information as required by section 15(b) of the CPSA, Galoob committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

15. The staff alleges this violation was committed "knowingly" as the term is defined in section 20(d) of the CPSC, 15 U.S.C. 2069(d).

### III. Response of Galoob

16. Galoob denies the staff allegations numbered six through ten and 13 through 15 above. It denies the Galoob Sky Dancer contains a defect or that it creates a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a) or that it creates an unreasonable risk of serious injury or death pursuant to section 15(b) of the