

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Mr. Sidney Lo, Owner
Great Dollar Bargain
4030A International Blvd
Oakland, CA 94601

Respondent.

Docket HWCA **2017-7364**

CONSENT ORDER

Health and Safety Code
Section 25187, 25214.2, 25214.3

The State Department of Toxic Substances Control (Department) and Great Dollar Bargain (Respondent) enter into this Consent Order and agree as follows:

1. Respondent sold and offered for sale or promotional purposes jewelry at 4030A International Blvd, Oakland, CA 94601 (Site).

2. The Department obtained jewelry offered for sale and being sold by the Respondent on March 7, 2017 at the Site.

3. The Department alleges the following violations:

On March 7, 2017, Respondent offered for sale and sold jewelry for retail sale in California, in violation of Health and Safety Code section 25214.2, subdivisions (a)-(b). The Department's analytical test results showed the jewelry contained lead and cadmium in concentrations exceeding the levels specified in Health and Safety Code, section 25214.1, subdivision (e)(1), and section 25214.2, subdivisions (b)(2)-(3) and (d).

4. The parties wish to avoid the expense of litigation and to ensure prompt compliance with section 25214.1 through 25214.3.5 in Article 10.1.1, Chapter 6.5, Division 20, of the Health and Safety Code.

5. Jurisdiction exists pursuant to Health and Safety Code sections 25187, 25214.2, and 25214.3. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto. Health and Safety Code, section 25214.3, subdivision (b)(1), authorizes the Department to file an administrative action with the Office of Administrative Hearings for violations of specified provisions of the Health and Safety Code, including, but not limited to, Health and Safety Code, section 25214.2.

6. Respondent waives any right to a hearing in this matter.

7. This Consent Order shall constitute full settlement of the violation alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

8. Respondent shall comply with the following:

8.1. Respondent shall not sell, offer for sale or promotional purpose, or ship, jewelry that does not comply with Article 10.1.1, Chapter 6.5, Division 20, of the Health and Safety Code immediately upon the effective date of this Consent Order.

8.2. Respondent shall remove any non-compliant jewelry, including jewelry in its possession, on its shelves, on display, or in inventory, identified in the Department's June 9, 2017 Notice of Violations, attached and incorporated herein as Exhibit A. On June 22, 2017, Respondent notified the Department in writing that they have complied with this section and removed non-compliant items from its possession.

8.3. Respondent shall keep and maintain all records related to the purchase, sale, offer for sale, or disposal of jewelry item(s), including but not limited to any jewelry screening results, test reports, and supporting documentation, for at least five (5) years from date of purchase.

8.4. Respondent herein certifies under penalty of perjury that any disposal of non-compliant jewelry has been done in accordance with all applicable state and federal laws and regulations.

8.5. Respondent shall make all payments at the time(s) and in accordance with any other conditions set forth in Section 9 (Payments).

8.6. Submittals: All submittals, including this signed Consent Order, from Respondent pursuant to this Consent Order shall be sent simultaneously:

To: Ms. Bonny Lew
Environmental Scientist
Office of Criminal Investigations
Department of Toxic Substances
Control 8800 Cal Center Dr.
Sacramento, CA 95826-3200

To: Ms. Leah White
Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control

P.O. Box 806
Sacramento, CA 95812-0806

8.7. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a member of the Office of Criminal Investigations or the Office of Legal Counsel, Department of Toxic Substances Control. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

8.8. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

8.9. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements.

8.10. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this

Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

8.11. Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records and merchandise present on the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and obtaining samples to conduct analytical tests that the Department may deem necessary.

8.12 Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that

request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

8.13. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 10.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

8.14. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

8.15. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

8.16. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

9. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$1,280.00. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Bonny Lew
Environmental Scientist
Office of Criminal Investigations
Department of Toxic Substances Control
8800 Cal Center Dr.
Sacramento, CA 95826-3200

To: Leah White
Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

10.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

10.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

10.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

10.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department, once the Department receives the signed version from Respondent.

10.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

SIGNATURES

Dated: 9/5/2017

Signature Redacted

Mr. Sidney Lo, Owner
Great Dollar Bargain

Signature Redacted

Dated: 9/12/17

Dylan Clark
Senior Environmental Scientist (Supervisor)
Hazardous Waste Management Program
Department of Toxic Substances Control