DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK

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DEPARTMENT OF CONSUMER AFFAIRS, Complainant, -against- PARTY CITY CORPORATION Respondent.	**ASSURANCE OF DISCONTINUANCE** **Violation No. GL 5145704**

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Party City Corporation ("Respondent") was served with a Notice of Hearing charging Respondent with selling or offering to sell imitation firearms in violation of Section 10-131(g) of the New York City Administrative Code ("the Code"). Following an evidentiary hearing held on April 10, 2008, Administrative Law Judge ("the ALJ") Bruce Dennis found that Respondent violated §10-131(g) of the Code by offering for sale 761 imitation firearms and imposing fines. Respondent disagrees with the ALJ's findings. In order to avoid further litigation and preserve their resources and to bring finality to these proceedings, Respondent and the Department now enter into this Assurance of Discontinuance ('AOD") and agree as follows:

Injunctive Relief

1) Respondent shall not sell or offer for sale in New York City imitation firearms that do not comply with the coloring and marking requirements of 10-131(g) of the Code.

2) Respondent agrees that it shall not advertise or promote products for sale in its New York City stores that do not comply with the coloring and marking requirements of §10-131(g) of the Code. If Respondent advertises or promotes such products for legal sale outside of New York City, Respondent shall have in place demonstrable procedures that ensure that no such sales are accompanied by delivery to a point within the city of New York.

3) Within fifteen (15) days of the execution of this agreement, Respondent shall send a letter to the distributor of each of the below imitation firearms explaining that these items are illegal in New York City as they do not comply with §10-131(g) of the Code.

a. Western Revolver Single Holster (see attached picture A)
b. Western Revolver Double Holster (see attached picture B)
c. Secret Agent Gun (see attached picture C)

4) Within fifteen (15) days of the execution of this AOD, Respondent shall provide to the Department, an affidavit describing its compliance with paragraph 3 and shall also forward to the Department a copy of the letter it is sending to the distributors.

Fines

5) Upon execution of this agreement, Respondent agrees to pay the Department, by wire transfer, check or money order made payable to "NYC Department of Consumer Affairs", a fine of $500,000.00.

Policies and Training

6) Respondent shall develop and implement policies and procedures to ensure that imitation firearms that do not comply with §10-131(g) of the Code are not sold or offered for sale in New York City. These policies and procedures shall include providing all current and future employees who have any responsibility for purchasing, stocking, and/or selling of imitation firearms in the City of New York with a summary of §10-131(g) of the Code and of the legal consequences associated with selling or offering to sell such products in New York City.

7) Respondent specifically acknowledges and agrees that, by October 31, 2008:

   a. it will amend its corporate policies and procedures to conform with the above paragraphs; and

   b. it will distribute a copy of such policies and procedures to all of its locations in the City of New York; and

   c. it has appointed John Kupsch as Vice President of Product Compliance to serve as the Compliance Officer responsible for ensuring adherence to the terms of this AOD and to the policies, protocols and procedures implemented in conformance with this AOD; and

   d. it shall provide to the Department, upon fifteen (15) days notice, a report describing Respondent's compliance with this AOD and with all applicable laws and rules.

8) Respondent shall deliver to the undersigned representative of the Department, by October 31, 2008 proof of its compliance with the above paragraphs 6 and 7.

Independent Monitor

9) Respondent shall retain and pay for a mutually agreed upon Independent Monitor for a period of one year commencing 30 days from the execution of this agreement. The Independent Monitor's duties and responsibilities shall include, but not be limited to:

   a. reviewing each form of Respondent's advertising, that contains advertisements for imitation firearms, in media intended for circulation in New York City, to ensure compliance with this agreement and with all other applicable laws;

   b. performing random, unannounced inspections at Party City stores located throughout NYC to ensure compliance with the agreement, including performing a minimum of four inspections per week from the time period between October 20, 2008 through December 20, 2008;

   c. Respondent shall provide DCA with a copy of any signed Independent Monitor retainer agreements no later than ninety (90) days from the execution of this agreement. In addition, Respondent shall provide DCA with an accounting of how much it has paid the Independent Monitor at the end of each quarter.

Records Disposal – Privacy Concerns

10) Respondent shall dispose of records containing personal identifying information such as social security numbers, driver's license numbers, non-driver identification card numbers, mother's maiden name, financial services account numbers or codes, savings account numbers or codes, checking account numbers or codes, debit card numbers or codes, automated teller machine numbers or codes, electronic serial numbers, and/or personal identification numbers by:

    a. Shredding the records before disposal;
    b. Destroying the personal identifying information contained in the record; and/or
    c. Modifying the record to make the personal identifying information unreadable.

11) Respondent shall immediately notify the Department and the police of any breach of security or unauthorized possession of personal identifying information that compromises the security, confidentiality, or integrity of such information.

12) Respondent shall shorten (truncate) the account information on electronically printed credit and debit card receipts given to consumers. Respondent shall not

include more than the last five digits of the credit card number and shall delete the card's expiration date.

13) Nothing in this AOD shall be construed as waiving or abrogating Respondent's responsibilities under federal, state or local law concerning record-keeping or record maintenance.

Pre- Clearance of Toy Guns

14) The Department will meet with representatives from Respondent to evaluate whether certain toy guns violate §10-131(g) of the Code according to the following terms:

a) the Department shall meet with representatives from Respondent to evaluate the legality of up to fifty (50) toy gun products once a year for a three-year period, subject to renewal;
b) Respondent shall provide thirty (30) days notice to the Department prior to the date it would like to meet with the Department to evaluate Respondent's toy guns;
c) Respondent shall not suggest in any way in its advertising, its stores, or anywhere else, that the Department has endorsed or approved any product which the Department has determined does not violate §10-131(g) of the Code;
d) with respect to pre-clearance of toy guns, the Department shall be the final arbiter in determining whether or not the toy guns Respondent brings to the Department may be sold in New York City.

Consequences of Breach

15) Respondent agrees that upon proof of any future violation of §10-131(g) of the Code by Respondent, at any New York City location owned or operated by Respondent, the Department shall be entitled to fines of at least $2,000.00 per count. This potential fine amount consists of $1,000.00 per count for violation of §10-131(g) of the Code, $500.00 per count for knowingly engaging in a deceptive trade practice under §20-700 of the Code ("the Consumer Protection Law"), and <u>not less than</u> $500.00 per count for breach of the terms of this settlement agreement, which constitutes a violation of Title 6 of the Rules of the City of New York ("RCNY") Section §6-42(c). Respondent understands that Respondent may also be liable for additional fines pursuant to the Consumer Protection Law.

Waiver of Appeals

16) Respondent hereby agrees to waive any further right to a hearing and/or appeal of the above-referenced citation under Title 20, Chapter 1, §20-104 of the New York City Administrative Code or under Article 78 of the New York State Civil Practice Law and Rules, §§7801-7806.

Miscellaneous

17) Nothing herein shall be construed to limit in any way the authority of the Department to exercise its enforcement powers under Chapter 1, Title 20 or under Chapter 2, Title 20 of the Code.

Authorized Representative For Respondent

18) Respondent is represented in this matter by Arthur Kremer, Esq., of Ruskin, Moscau, located at 1425 RexCorp Plaza, East Tower, 15th Floor, Uniondale, NY, 11556-1425.

Agreed to for the Respondent by:
Arthur Kremer, Esq.
Attorney for Respondent

9/18/2008

Signature Date

Arthur Kremer

Print Name

Accepted for the Department by:
[redacted]
Staff Counsel

[redacted] 9/19/08

Signature Date

[redacted]

Print Name

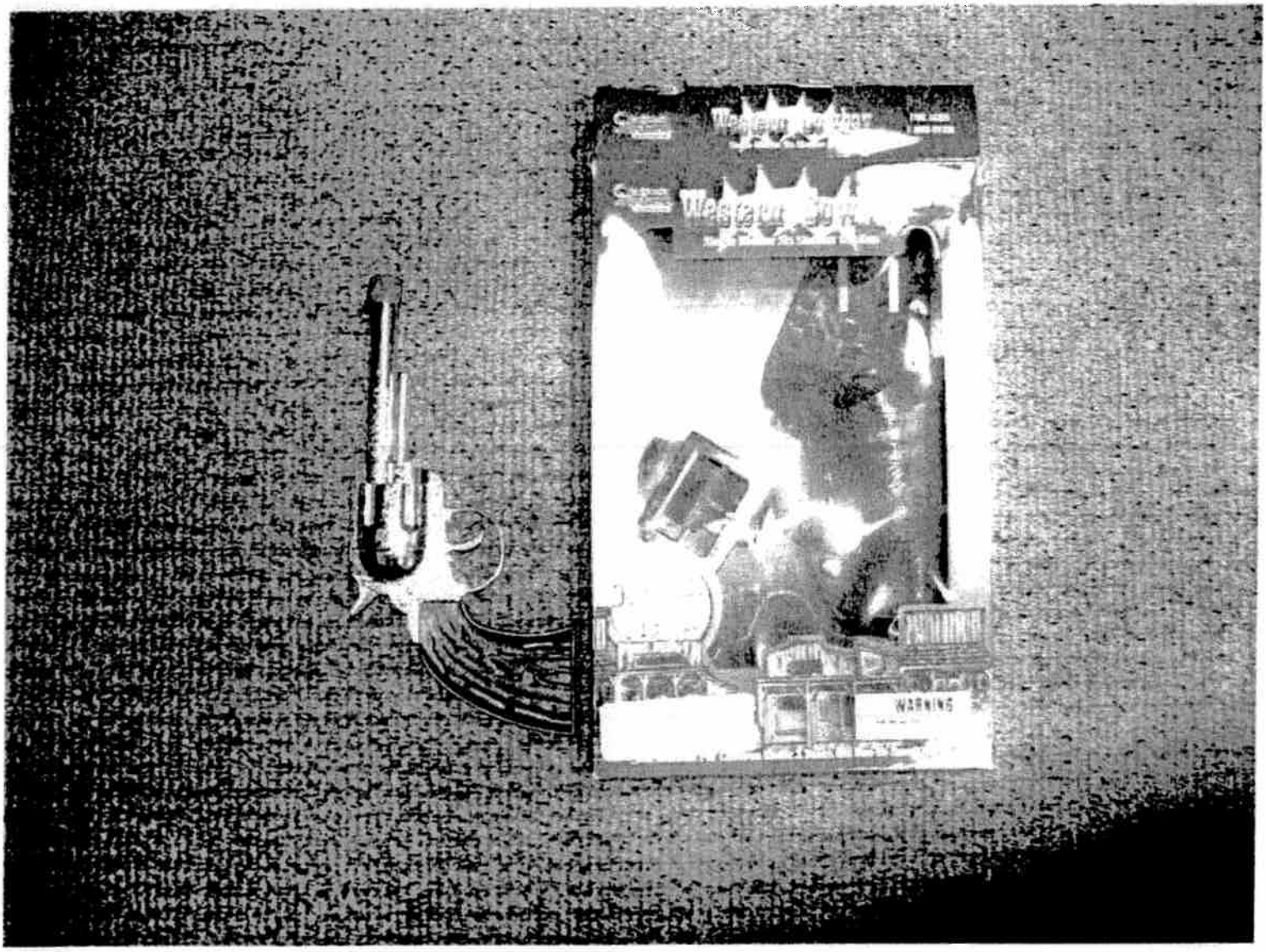
Accepted for the Department by:
[redacted]
Deputy Director of Legal Services Division

[redacted] 9/19/08

Signature Date

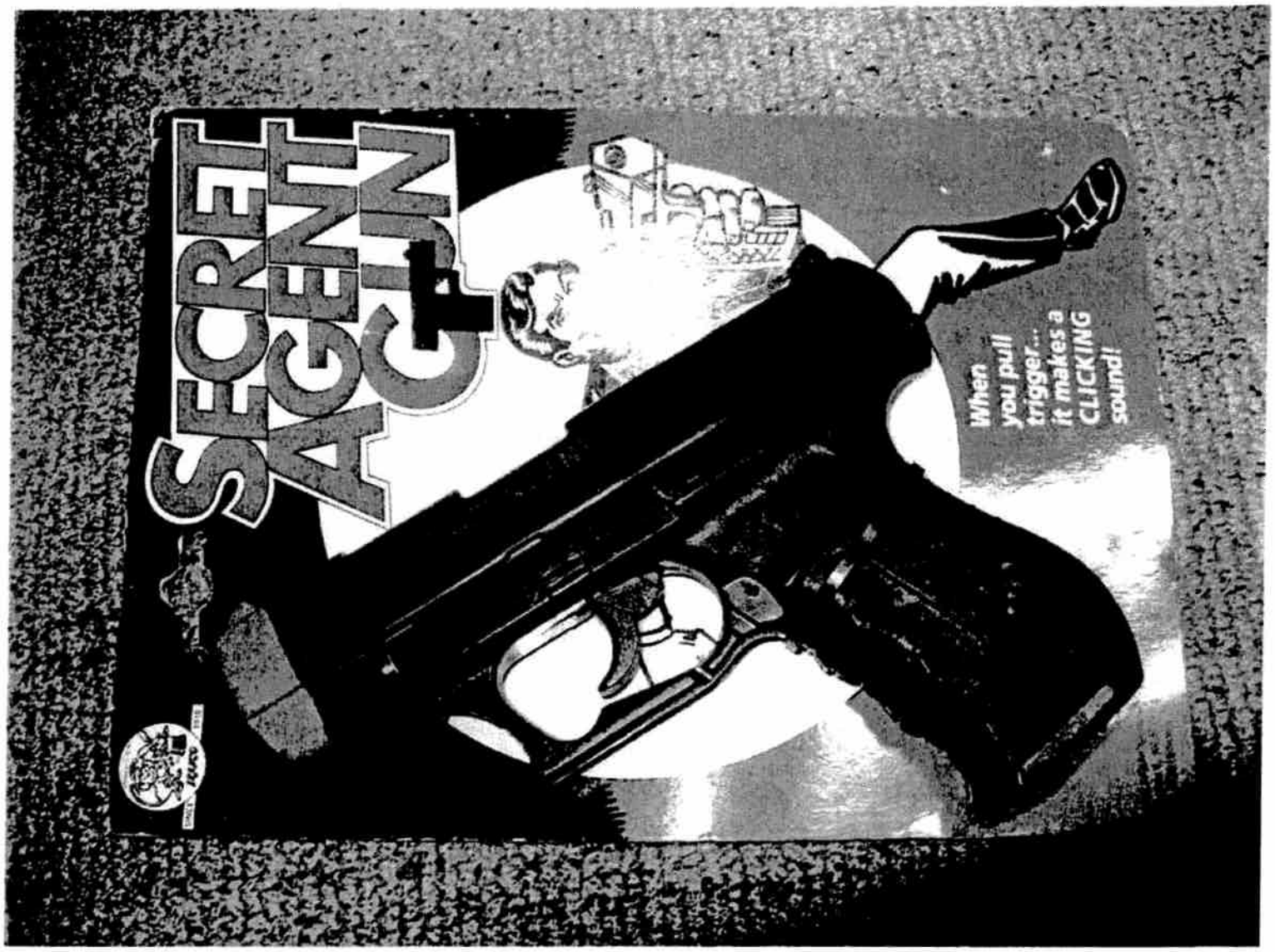
[redacted]

Print Name



EX. A

EX. B


SECRET AGENT
When you pull trigger... it makes a CLICKING sound!

EX. C