

ATTORNEY GENERAL OF THE STATE OF NEW YORK
ROCHESTER REGIONAL OFFICE

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In the Matter of

FAST FORWARD, LLC,

Respondent.
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ASSURANCE OF DISCONTINUANCE
PURSUANT TO EXECUTIVE LAW
SECTION 63, SUBDIVISION 15

I. INTRODUCTION AND BACKGROUND

Pursuant to Executive Law § 63(12) and Environmental Conservation Law (“ECL”) §37-0205, ELIOT SPITZER, Attorney General of the State of New York, caused an inquiry to be made into the business practices of FAST FORWARD, LLC., (“Respondent”). Based upon that inquiry, the ATTORNEY GENERAL makes the following findings:

II. ATTORNEY GENERAL’S FINDINGS

1. Respondent is a domestic limited liability company organized and existing under the laws of the state of New York with a principal place of business located at 10 West 33rd Street, Suite 705, New York, NY 10001.

2. Respondent operates a wholesale consumer products distribution business that sells baggage to retailers including, but not limited to, children’s lunch boxes and tote bags.

3. It came to the attention of the Attorney General that Respondent’s plastic Superman and Spiderman lunch boxes contained levels of lead that exceeded the ECL §37-0205 limits for packages. ECL §37-0205 in pertinent part provides that:

No package or packaging component shall be offered for sale or for promotional purposes by a manufacturer or distributor which includes in the package itself, or in any packaging component, inks, dyes, pigments, adhesives, stabilizers or any other additives to which lead, cadmium, mercury or hexavalent chromium has been included as an element during manufacture or distribution in excess of100 parts per million by weight (0.01%), effective January 1, 1994.

4. Between March 1, 2005 and September 30, 2005, Respondent sold vinyl children's lunch boxes to retailers in New York State. The Attorney General received lead content tests for two of Respondent's lunch boxes stylized with the Spiderman and Superman movie and comic characters indicating 2130 and 8180 parts per million respectively. Based upon the foregoing, the Attorney General alleges that Respondent sold the bags in violation of ECL §37-0205.

5. Attorney General alleges that, Respondent's violations of ECL §37-0205 constitute repeated and persistent illegality in violation of Executive Law §63(12).

III. AGREEMENT

6. Respondent is willing to enter into this Assurance of Discontinuance ("Assurance") Pursuant to Executive Law §63(15) without admission of any wrongdoing and the Attorney General is willing to accept it in lieu of commencing legal action.

7. This Agreement shall be binding upon, Fast Forward, LLC, its principals, employees, representatives, administrators, successors and assigns, or any other individual or entity through whom it may act ("Respondent").

8. IT IS AGREED that Respondent shall not engage in any illegal acts or practices in the operation of their business, including, but not limited to, selling or distributing products or packages in New York which contain lead or other substances in violation of ECL §37-0205.

9. IT IS FURTHER AGREED that Respondent will establish and implement procedures to prevent it from selling or distributing products which contain lead or other substances prohibited by ECL §37-0205 in New York and furnish a written copy of the procedures to the New York Attorney General upon execution of this Assurance.

10. IT IS FURTHER AGREED that Respondent will accept returns from its retail store customers of the products indicated on the schedule ("the Returnable Bags") annexed

hereto as Exhibit “A” and issue credits or refunds to the retail stores in exchange for the merchandise.

11. IT IS FURTHER AGREED that Respondent will issue cash refunds to eligible consumers who return a Returnable Bag to it post marked within (90) ninety days after the date of this Assurance.

12. Consumers may return Returnable Bags to the retail store from which it was purchased for a refund if they have a receipt or for store credit if they do not. Also consumers may return Returnable Bags to respondent at respondent’s expense, COD and enclose a Refund Request Form that indicates the price the consumer paid for the lunch box, in the form of Exhibit “B” annexed hereto.

13. Respondents shall pay reimbursements directly to eligible consumers by check within twenty (20) days of receiving a refund request form from a consumer. In the event of a conflict over the eligibility of a consumer, the Attorney General shall be the final arbiter of eligibility for refunds.

14. IT IS FURTHER AGREED that Respondent will maintain a toll free telephone line to answer consumer questions about the returnable bags from 9a.m. to 5 p.m. EST for at least 90 days after the execution of this Assurance.

15. IT IS FURTHER AGREED that Respondent will not resell or donate the Returnable Bags for use by consumers in New York State.

16. IT IS FURTHER AGREED that Respondent will dispose of all Returnable Bags, after performing hazardous waste determinations in accordance with 6 NYCRR § 372.2(a)(2), in compliance with all applicable State and federal legal requirements within 60 days of receipt of the Returnable Bags.

17. IT IS FURTHER AGREED that Respondent will provide to the Attorney General’s Office copies of all test results from any sampling for hazardous waste determinations pursuant to paragraph 16 above, within 3 days of receiving them and copies of all waste manifests or other documentation evincing disposal of the Returnable Bags within 5 days of their receipt.

19. IT IS FURTHER AGREED that Respondent will pay a civil penalty pursuant to ECL §37-0209 upon execution of this Assurance in the amount of \$5,000.00 and costs of the Attorney General's investigation in the amount of \$2,000.00. The payment shall be made payable to the "State of New York" by certified check and delivered to the State of New York, c/o Benjamin A. Bruce, Assistant Attorney General, 144 Exchange Boulevard, Rochester, New York 14614.

20. Respondent shall submit to the Attorney General, no later than (120) days following the execution of this Assurance, a sworn statement certifying that Respondent have complied with the provisions of this Assurance, including, but not limited to, documents further setting forth the manner and extent of Respondent's compliance, said statement having appended to it such exhibits and supporting documentation as may be necessary to demonstrate compliance.

21. Respondent shall deliver all documents and reports required by this Assurance to New York State Attorney General Eliot Spitzer, in care of Benjamin A. Bruce, Assistant Attorney General, Office of the Attorney General of the State of New York, 144 Exchange Boulevard, Rochester, New York 14614.

22. Nothing herein shall be construed to deprive any consumer or other person or entity of any private right under the law.

23. It is further understood and agreed that the acceptance of this Assurance by the Attorney General of the State of New York shall not be deemed or construed as an approval by the Attorney General of any of the activities of Respondent, its successors, agents or assigns and none of them shall make any representation to the contrary.

24. Pursuant to Executive Law §63(15), evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable statutes in any civil action or proceeding commenced by the Attorney General.

IN WITNESS WHEREOF, the undersigned subscribed their names hereto this ____ day of November, 2005.

FAST FORWARD, LLC

Approved by ELIOT SPITZER
Attorney General of the State of New York

By: _____

Title: _____

By: _____

Benjamin A. Bruce
Assistant Attorney General
Rochester Regional Office
144 Exchange Boulevard
Rochester, New York 14614

CORPORATE ACKNOWLEDGMENT

STATE OF NEW YORK)
 : ss
COUNTY OF)

On the ____ day of _____, 2005, before me personally appeared _____,
who duly acknowledged that ____ is the _____ of FAST FORWARD, LLC, the respondent
limited liability company described in and which executed the foregoing Assurance of Discontinuance;
and _____ duly acknowledged to me that _____ signed _____ name thereto as the _____
and was duly authorized to execute the foregoing Assurance of Discontinuance by the members of said
limited liability company.

Sworn to before me this _____
day of November, 2005.

Notary Public