

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

CPSC
2018 FEB 16 12 48 07
Office of the Secretary
FOI

In the Matter of)
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BRITAX CHILD SAFETY, INC.)
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Respondent.)

CPSC DOCKET NO.: 18-

COMPLAINT

Nature of the Proceedings

1. This is an administrative enforcement proceeding pursuant to Section 15 of the Consumer Product Safety Act (“CPSA”), as amended, 15 U.S.C. § 2064, for public notification and remedial action to protect the public from the substantial risks of injury presented by various models of single and double occupant B.O.B. jogging strollers designed with a dropout fork assembly and quick release mechanism (“Strollers”), which were imported and distributed by B.O.B. Trailers, Inc. (“B.O.B.”) and Britax Child Safety, Inc. (“Respondent”).

2. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission (the “Commission”), 16 C.F.R. Part 1025.

Jurisdiction

3. This proceeding is instituted pursuant to the authority contained in Sections 15(c), (d), and (f) of the CPSA, 15 U.S.C. § 2064(c), (d), and (f).

Parties

4. Complaint Counsel is the staff of the Division of Compliance within the Office of the General Counsel of the Commission (“Complaint Counsel”). The Commission is an independent federal regulatory agency established pursuant to Section 4 of the CPSA, 15 U.S.C. § 2053.

5. Respondent is a South Carolina corporation with its principal place of business located at 4140 Pleasant Road, Fort Mill, South Carolina 29708.

6. Upon information and belief, Respondent acquired B.O.B. in October 2011. Prior to its acquisition by Respondent, B.O.B. was a “manufacturer” and “distributor” of a “consumer product” that is “distribute[d] in commerce,” as those terms are defined in Sections 3(a)(5), (7), (8), and (11) of the CPSA, 15 U.S.C. § 2052(a)(5), (7), (8), and (11).

7. B.O.B. was merged into Respondent in or around December 2011. Respondent assumed all assets and liabilities of B.O.B. and is the successor to B.O.B.

8. As successor to B.O.B., Respondent is responsible for any remedial action or other relief ordered by the Commission in this matter related to Strollers imported or distributed by B.O.B. or Respondent.

9. As an importer and distributor of the Strollers, Respondent is a “manufacturer” and “distributor” of a “consumer product” that is “distribute[d] in commerce,” as those terms are defined in Sections 3(a)(5), (7), (8), and (11) of the CPSA, 15 U.S.C. § 2052(a)(5), (7), (8), and (11).

The Consumer Product

10. The Strollers are various models of single and double occupant 3-wheeled B.O.B. jogging strollers designed with a dropout fork assembly and quick release (“QR”) mechanism.

11. Upon information and belief, the Strollers include the following models: Revolution, Sport Utility Stroller, Ironman, SUS Duallie, Ironman Duallie, Revolution SE, Revolution CE, Stroller Strides, Revolution SE Duallie, Stroller Strides Duallie, Revolution Pro, Revolution Pro Duallie, Revolution Flex, Revolution SE Plus, Revolution Flex Duallie, Revolution SE Duallie Plus, and Revolution SE Demo.

12. The Strollers are consumer products that were imported and distributed in U.S. commerce and offered for sale to consumers for their personal use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise.

13. Upon information and belief, the Strollers were manufactured by Fran Wheel Enterprise, Co., LTD in Shen Zhen City, Guang Dong, China.

14. Upon information and belief, B.O.B. designed the Strollers and imported and distributed an undetermined number of Strollers in U.S. commerce between 1997 and December 2011.

15. Upon information and belief, following B.O.B.'s merger into Respondent in or about December 2011, Respondent imported or distributed approximately 493,000 of the Strollers in U.S. commerce.

16. Upon information and belief, Respondent ceased importation of the Strollers in or about September 2015.

17. Upon information and belief, the Strollers were sold at mass retailers and independent stores nationwide for \$400 to \$650.

18. Upon information and belief, the Strollers are available for sale in second-hand markets.

19. Upon information and belief, the Strollers are designed with a dropout fork

assembly that enables consumers to quickly detach and remove the wheel by engaging the QR lever. The QR lever is a device that supplies the clamping force required to hold the Stroller wheel securely in place.

20. Upon information and belief, the QR consists of two end nuts and springs on a skewer that is threaded through the center of the front wheel. An adjustment lever is attached to the end of the skewer.

21. Upon information and belief, the QR connects the front wheel to the front fork of the Stroller. The front fork consists of dropouts where the wheel is inserted and additional ridges that protrude from the fork ends to function as a secondary retention device.

22. A consumer who is assembling the Stroller for first use or who has detached the front wheel after using the Stroller must attach the front wheel and engage the QR correctly.

23. Upon information and belief, the same dropout assembly design is present on all Stroller models imported by B.O.B. and Respondent from 1997 through September 2015.

The Defect Present in the Strollers

24. The design of the Strollers allows a consumer to operate the Stroller without the front wheel being secured correctly.

25. The Strollers are defective because the QR can fail to secure the front wheel to the fork, allowing the front wheel to detach suddenly during use.

26. The design of the Strollers allows consumers to attach the front wheel and engage the QR in a manner that indicates that the wheel is secured to the fork, when it is not.

27. If the QR is not engaged correctly, the front wheel can separate from the front fork of the Stroller during use, leading to sudden detachment.

28. Visual inspection does not enable consumers to determine whether the QR is engaged correctly and the front wheel is secured.

29. A consumer can believe that the QR is engaged correctly and will only discover the failure when the wheel detaches from the front fork while the Stroller is in use and the Stroller stops suddenly and unexpectedly.

30. When the front wheel of the Stroller detaches suddenly during use, the fork can plant or dig into the ground, causing the Stroller to come to an abrupt stop and tip over.

31. When the front wheel of the Stroller detaches suddenly, child occupants and adults who are operating the Strollers may suffer serious injuries.

32. In numerous instances, the instructions accompanying the Strollers do not mitigate this risk.

33. Upon information and belief, the instructions accompanying the Strollers include but are not limited to the following statement: “[t]he front wheel is correctly clamped in place by the force generated when the quick release lever is closed and the cam action pulls the lever housing against one dropout, and pulls the adjusting nut against the other dropout, clamping the hub between the dropouts.”

34. Upon information and belief, although Strollers sold after approximately June 2013 included a removable hang tag that addressed the hazard of an incorrectly adjusted QR, that warning is not available to consumers following first use.

35. Consumers may not read, may fail to follow, or may misunderstand the instructions on how to tighten the QR and secure the front wheel.

36. Despite following the instructions, consumers may nevertheless fail to correctly engage the QR lever.

The Substantial Risk of Injury Posed by the Strollers

37. Upon information and belief, consumers have sustained injuries, some of which required medical treatment and surgery, when the QR failed to secure the front wheel of the Stroller, causing it to detach suddenly during use.

38. Upon information and belief, children have been injured when the QR failed to secure the front wheel of the Stroller, causing it to detach suddenly during use, and have sustained injuries including a concussion, injuries to the head and face requiring stitches, dental injuries, contusions, and abrasions.

39. Upon information and belief, adults have been injured when the QR failed to secure the front wheel of the Stroller, causing it to detach suddenly during use, and have sustained injuries including a torn labrum, fractured bones and torn ligaments, contusions, and abrasions.

40. Upon information and belief, children and adults were injured because the defective design of the Strollers allowed the front wheel to detach suddenly while the Stroller was in use.

41. The defect present in the Strollers creates a substantial risk of injury to adults and children when the QR fails to secure the front wheel to the fork, allowing the front wheel to detach suddenly during use.

42. The design defect presents a substantial risk of injury, because injuries, including serious injuries as defined in 16 C.F.R. § 1115.6(c), are likely to occur and have occurred when the front wheel detaches.

Legal Authority Under the CPSA

43. Under the CPSA, the Commission may order a firm to provide notice to the public and take remedial action if the Commission determines that a product “presents a

substantial product hazard.” 15 U.S.C. § 2064(c) and (d).

44. Under CPSA Section 15(a)(2), a “substantial product hazard” is “a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.” 15 U.S.C. § 2064(a)(2).

45. A product may contain a design defect even if it is manufactured exactly in accordance with its design and specifications if the design presents a risk of injury to the public. 16 C.F.R. § 1115.4.

46. A design defect may also be present if a risk of injury occurs as a result of the operation or use of the product, or the failure of the product to operate as intended. 16 C.F.R. § 1115.4.

Count I

The Strollers are a Substantial Product Hazard Under Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2), Because They Contain a Product Defect That Creates a Substantial Risk of Injury to the Public.

47. Paragraphs 1 through 46 are hereby realleged and incorporated by reference as if fully set forth herein.

48. The Strollers are a consumer product.

49. The Respondent and B.O.B. imported and distributed Strollers which contain a product defect because the QR can fail to secure the front wheel to the fork, allowing the front wheel to detach suddenly during use.

50. The defect creates a substantial risk of injury to the public because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise.

51. Therefore, because the Strollers are defective and create a substantial risk of injury, the Strollers present a substantial product hazard within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

RELIEF SOUGHT

Wherefore, in the public interest, Complaint Counsel requests that the Commission:

A. Determine that the Strollers present a “substantial product hazard” within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

B. Determine that extensive and effective public notification under Section 15(c) of the CPSA, 15 U.S.C. § 2064(c), is required to adequately protect the public from the substantial product hazard presented by the Strollers, and order Respondents under Section 15(c) of the CPSA, 15 U.S.C. § 2064(c), to:

- (1) Cease distribution of the Strollers;
- (2) Notify all persons that transport, store, distribute, or otherwise handle the Strollers, or to whom such Strollers have been transported, sold, distributed or otherwise handled, to immediately cease distribution of the Strollers;
- (3) Notify appropriate state and local public health officials;
- (4) Give prompt public notice of the defect in the Strollers, including the incidents and injuries associated with the use of the Strollers, including posting clear and conspicuous notice on Respondent’s website, and providing notice to any third party website on which Respondent has placed the Strollers for sale, and provide further announcements in languages other than English and on radio and television;
- (5) Mail notice to each distributor or retailer of the Strollers; and

(6) Mail notice to every person to whom the Strollers were delivered or sold.

C. Determine that action under Section 15(d) of the CPSA, 15 U.S.C. § 2064(d), is in the public interest and additionally order Respondent to:

(1) Repair the defect in the Strollers;

(2) Replace the Strollers with a like or equivalent product which does not contain the defect;

(3) Refund the purchase price of the Stroller;

(4) Make no charge to consumers, and to reimburse consumers, for any reasonable and foreseeable expenses incurred in availing themselves of any remedy provided under any Commission Order issued in this matter, as provided by Section 15(e)(1) of the CPSA, 15 U.S.C. § 2064(e)(1);

(5) Reimburse retailers for expenses in connection with carrying out any Commission Order issued in this matter, including the costs of returns, refunds and/or replacements, as provided by Section 15(e)(2) of the CPSA, 15 U.S.C. § 2064(e)(2);

(6) Submit a plan satisfactory to the Commission, within ten (10) days of service of the Final Order, directing that actions specified in Paragraphs B(1) through (6), and C(1) through (5) above be taken in a timely manner;

(7) To submit monthly reports, in a format satisfactory to the Commission, documenting the progress of the corrective action program;

(8) For a period of five (5) years after issuance of the Final Order in this matter, to keep records of its actions taken to comply with Paragraphs B(1) through (6), C(1) through (5), above, and supply these records to the Commission

for the purpose of monitoring compliance with the Final Order; and

(9) For a period of five (5) years after issuance of the Final Order in this matter, to notify the Commission at least sixty (60) days prior to any change in its business (such as incorporation, dissolution, assignment, sale, or petition for bankruptcy) that results in, or is intended to result in, the emergence of a successor corporation, going out of business, or any other change that might affect compliance obligations under a Final Order issued by the Commission in this matter.

D. Order that Respondent shall take other and further actions as the Commission deems necessary to protect the public health and safety and to comply with the CPSA.

ISSUED BY ORDER OF THE COMMISSION:

Dated this 16th day of February, 2018



By: Robert Kaye
Assistant Executive Director
Office of Compliance and Field Investigation
(301) 504-6960

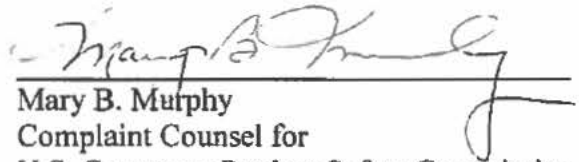
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U.S. Consumer Product Safety Commission
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CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2018, I served the foregoing Complaint and List and Summary of Documentary Evidence upon all parties of record in these proceedings by mailing, certified mail and Federal Express, postage prepaid, a copy to each at their principal place of business, and e-mailing a courtesy copy to counsel, as follows:

Britax Child Safety, Inc.
4140 Pleasant Road
Fort Mill, SC 29708

Erika Z. Jones
Mayer Brown LLP
1999 K Street, NW
Washington, DC 20006
ejones@mayerbrown.com


Mary B. Murphy
Complaint Counsel for
U.S. Consumer Product Safety Commission

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LIST AND SUMMARY OF DOCUMENTARY EVIDENCE

Pursuant to 16 C.F.R. § 1025.11(b)(3) of the Commission's Rules of Practice for Adjudicative Proceedings, the following is a list and summary of documentary evidence supporting the charges in this matter. Complaint Counsel reserves the right to offer additional or different evidence during the course of the proceedings.

1. Claims, complaints, medical records, and reports concerning incidents or injuries involving various models of single and double occupant 3-wheeled B.O.B. jogging strollers designed with a dropout fork assembly and quick release mechanism ("Strollers").
2. Documents or communications involving consumers related to the Strollers, including their attention to, and understanding of, the Strollers' functions, warnings, labeling, and instructions.
3. Documents evidencing the Strollers' warnings, instructions, labeling, packaging, advertising, and marketing since the introduction of the Strollers in 1997.
4. Documents related to Respondent's corporate structure and Respondent's relationship with B.O.B. Trailers, Inc. ("B.O.B."), including without limitation documents related

to Respondent's acquisition and merger with B.O.B.

5. Documents relating to the design, manufacturing, importation, and distribution of the Strollers.
6. Correspondence between Respondent and CPSC staff related to the Strollers.
7. Documents related to any incidents or injuries involving the Strollers.
8. Technical reports, analyses or evaluations of the Strollers, including but not limited to CPSC Product Safety Assessments from the Directorate for Engineering Sciences (including the Divisions of Mechanical Engineering, Health Sciences, and Human Factors) and Directorate for Epidemiology, concerning the Strollers.
9. Technical records, technical analyses, and evaluations of the Strollers conducted by or for Respondent.
10. Information provided by Respondent to Commission staff pertaining to the Strollers.
11. Information or documents pertaining to any products liability, personal injury, or other lawsuits made against Respondent in connection with the Strollers.

Dated this 16 day of February, 2018

A handwritten signature in cursive script, appearing to read "Mary B. Murphy", is written over a horizontal line.

Mary B. Murphy
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