



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

March 25, 2004

Kelly H. Macfarlane, Esquire
Christensen & Jensen
Attorneys for Respondent,
Lifetime Products, Inc.
50 South Main Street, Suite 1500
Salt Lake City, UT 84144

CPSC 04-C0003
Lifetime Products, Inc.

Dear Mr. Kelly:

This is to inform you that the Consumer Product Safety Commission has accepted in final the Settlement Agreement and Order in the above entitled matter.

Payment of the civil penalty required by the ORDER shall be made according to the terms of the ORDER. A copy of the final ORDER is enclosed. Please pay by check made payable to the UNITED STATES TREASURY and mail your payments to Alan Schoem, Assistant Executive Director for Compliance, Consumer Product Safety Commission, Washington, DC 20207.

Sincerely,


Todd A. Stevenson
Secretary
Consumer Product Safety Commission

Enclosure

cc: Dennis C. Kacoyanis, Trial Attorney

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)
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Lifetime Products, Inc.)
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CPSC DOCKET NO. 04-C0003

ORDER

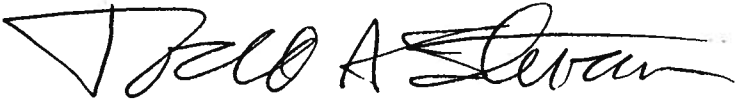
Upon consideration of the Settlement Agreement entered into between Respondent Lifetime Products, Inc., and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Lifetime Products, Inc.; and it appearing that the Settlement Agreement and Order is in the public interest, it is

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

FURTHER ORDERED that upon final acceptance of the Settlement Agreement and Order, Lifetime Products, Inc. shall pay to the Commission a civil penalty in the amount of EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00) in two installment payments of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) each. The first payment of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) is due on or before June 1, 2004 or within twenty (20) days after service upon Respondent of this Final Order of the Commission, whichever is later. The second payment of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) is due on or before December 31, 2004. Upon the failure of Respondent Lifetime Products, Inc. to make a payment or upon the making of a late payment by Respondent Lifetime Products, Inc. (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. §§ 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 4th date of March, 2004.

BY ORDER OF THE COMMISSION



TODD A. STEVENSON, SECRETARY
Consumer Product Safety Commission

Finally accepted and Final Order issued on the 25th day of March, 2004.

BY ORDER OF THE COMMISSION



TODD A. STEVENSON, SECRETARY
Consumer Product Safety Commission



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

March 5, 2004

Kelly H. Macfarlane, Esquire
Christensen & Jensen
Attorneys for Respondent,
Lifetime Products, Inc.
50 South Main Street, Suite 1500
Salt Lake City, UT 84144

CPSC 04-C0003
Lifetime Products, Inc.

Dear Mr. Kelly:

You are hereby notified that the Consumer Product Safety Commission has provisionally accepted the Settlement Agreement and Order in the matter of Lifetime Products, Inc., CPSC 04-C0003.

The Commission has placed the Agreement on the public record and shall announce provisional acceptance of the Agreement in the Federal Register. The Commission will receive and consider any comments or views concerning the Agreement that may be filed by interested persons within 15 days following announcement in the Federal Register.

The Commission may withdraw its acceptance of the Agreement if comments or views submitted disclose facts or considerations which indicate that the Agreement is inappropriate, improper or inadequate. Unless the Commission orders otherwise, the Agreement will be considered finally accepted by the Commission on the 16th calendar day after the date of the announcement in the Federal Register.

Sincerely,

Todd A. Stevenson
Secretary

Consumer Product Safety Commission

Enclosure

cc: Dennis C. Kacoyanis, Trial Attorney

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)
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Lifetime Products, Inc.) CPSC DOCKET NO. 04-C0003
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SETTLEMENT AGREEMENT AND ORDER

1. This Settlement Agreement is made by and between the staff ("the staff") of the U. S. Consumer Product Safety Commission ("the Commission") and Lifetime Products, Inc. ("Lifetime" or "Respondent"), a corporation, in accordance with 16 C.F.R. § 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA"). This Settlement Agreement and the incorporated attached Order settle the staff's 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 et seq.

3. Lifetime is a corporation organized and existing under the laws of the State of Utah with its principal corporate offices located at Clearfield, UT.

II. ALLEGATIONS OF THE STAFF

4. Between 1994 and May 2000, Lifetime manufactured and distributed nationwide approximately 1.7 million portable basketball hoops ("basketball hoop(s)" or "product(s)").

5. The basketball hoops are sold to and/or are used by consumers for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise and are, therefore, "consumer products" as defined in section 3(a)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2052(a)(1). Respondent is a "manufacturer" and "distributor" of the basketball hoops, which were "distributed in commerce" as those terms are defined in sections 3(a)(4), (5), (11), and (12) of the CPSA, 15 U.S.C. §§ 2052(a)(4), (5), (11), and (12).

6. In the normal course of assembling the product, the consumer must use a 3 3/4" bolt to connect the product's pole braces to the pole. The instruction for attaching the bolt states, "Completely tighten all base and pole brace hardware at this time."

7. Because the consumer has no reference point for determining when the bolt is "tight enough," it is reasonably foreseeable that the consumer will tighten the 3 ¾" bolt until it is difficult to turn. When this occurs, the exposed threaded portion of the bolt can protrude from the pole.

8. The portable basketball hoop is defective because it is designed so that when the consumer tightens the 3 ¾" bolt until it is difficult to turn, the exposed threaded portion of the bolt can protrude from the pole. If this occurs, a person playing basketball can come into contact with the exposed threaded portion of the protruding bolt, and suffer serious injury including a possible fracture to the leg and/or serious lacerations.

9. Between March 1999 and March 2000, Lifetime learned of four basketball players who had received serious lacerations to their legs when they came in contact with the basketball hoop's protruding bolt. Also, one of these basketball players broke his leg.

10. On or about May 23, 2000, Lifetime made changes to its product consisting of the following: (a) a cap nut to cover the bolt; (b) replacement of the 3 ¾" bolt with a smaller 3 ½" bolt; and (c) revision of the assembly instructions warning consumers of serious injuries if they over-tightened the bolt.

11. From April 2000 to July 2001, Lifetime learned of 19 additional reports of basketball players sustaining lacerations to their legs when they came in contact with the basketball hoop's protruding bolt. Some of these lacerations were quite severe and required numerous sutures to close the wounds.

12. By the time the staff opened its investigation of Lifetime in July 2001, Lifetime had obtained information about 23 reports of injuries that occurred when basketball players came in contact with the product's protruding bolt.

13. As set forth in more detail in paragraphs 4 through 10 above, Lifetime obtained information which reasonably supported the conclusion that the basketball hoop described in paragraph 4 above contained a defect which -given the pattern of the defect, the severity of the risk of injury, and the number of products-could create a substantial product hazard. Lifetime failed to report such information to the Commission as required by section 15(b)(2) of the CPSA, 15 U.S.C. § 2064(b)(2).

14. As set forth in more detail in paragraphs 4 through 10 above, Lifetime obtained information which reasonably supported the conclusion that the basketball hoop described in paragraph 4 above created an unreasonable risk of serious injury. Lifetime failed to report such information to the Commission as required by section 15(b)(3) of the CPSA, 15 U.S.C. § 2064(b)(3).

15. By failing to provide the information to the Commission as required by sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. §§ 2064(b)(2) and (3), Lifetime violated section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4).

16. Lifetime committed this failure to report to the Commission "knowingly" as the term "knowingly" is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d), thus, subjecting Lifetime to civil penalties under section 20 of the CPSA, 15 U.S.C. § 2069.

III. LIFETIME'S RESPONSE

17. Lifetime denies the staff's allegations that it violated the CPSA as set forth in paragraphs 4 through 16 above.

18. Lifetime denies that the portable basketball hoop contains a defect which could create a substantial product hazard, or creates an unreasonable reasonable risk of serious injury and further denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

19. Based on an examination of basketball hoops involved in consumer injuries and on testing of basketball hoops by Lifetime, Lifetime concluded that the bolt protruded from the pole because consumers had over-tightened the bolt contrary to the assembly instructions. Lifetime believes and has advised the staff that the basketball hoop if properly assembled meets the relevant ASTM Voluntary Standard.

20. Lifetime enters this Settlement Agreement and Order for settlement purposes only, to avoid incurring additional legal costs and expenses. In settling this matter, Lifetime does not admit any fault, liability, statutory, or regulatory violation.

IV. AGREEMENT OF THE PARTIES

21. The Consumer Product Safety Commission has jurisdiction over this matter and over Lifetime under the Consumer Product Safety Act, 15 U.S.C. § 2051 et seq.

22. This Agreement is entered into for settlement purposes only and does not constitute an admission by Lifetime or a determination by the Commission that Lifetime knowingly violated the CPSA's reporting requirement.

23. In settlement of the staff's allegations, Lifetime agrees to pay a civil penalty in the amount of eight hundred thousand dollars (\$800,000.00) as set forth in the incorporated Order.

24. Upon final acceptance of this Agreement by the Commission and issuance of the Final Order, Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondent failed to comply with the CPSA and the underlying regulations, (4) to a statement of findings of fact and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

25. Upon provisional acceptance of this Agreement by the Commission, this Agreement shall be placed on the public record and shall be published in the Federal Register in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). If the Commission does not receive any written objections within 15 days, the Agreement will be deemed finally accepted on the 16th day after the date it is published in the Federal Register.

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

27. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. § 2051 et seq. A violation of this Order may subject Lifetime to appropriate legal action.

28. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations apart from those contained in this Settlement Agreement and Order may not be used to vary or contradict its terms.

29. The provisions of this Settlement Agreement and Order shall apply to Lifetime and each of its successors and assigns.

RESPONDENT, LIFETIME PRODUCTS, INC.

Dated: 02/13/04

By: Barry Mower
Barry Mower
President
Lifetime Products, Inc.
P.O. Box 160010
Freeport Center
Building D-11
Clearfield, UT 84016-0010

Dated: 02/13/04

By: Kelly H. Macfarlane
Kelly H. Macfarlane, Esquire
Christensen & Jensen
Attorneys for Respondent, Lifetime Products, Inc.
50 South Main Street
Suite 1500
Salt Lake City, UT 84144

COMMISSION STAFF

Alan H. Schoem
Assistant Executive Director
Office of Compliance
Consumer Product Safety Commission
Washington, D.C. 20207-0001

Eric L. Stone, Director
Legal Division
Office of Compliance

Dated: 02/18/04

By: 

Dennis C. Kacoyanis, Trial Attorney
Legal Division
Office of Compliance

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)

Lifetime Products, Inc.)

) CPSC DOCKET NO. 04-C0003
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ORDER

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FURTHER ORDERED that upon final acceptance of the Settlement Agreement and Order, Lifetime Products, Inc. shall pay to the Commission a civil penalty in the amount of EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00) in two installment payments of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) each. The first payment of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) is due on or before June 1, 2004 or within twenty (20) days after service upon Respondent of this Final Order of the Commission, whichever is later. The second payment of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) is due on or before December 31, 2004. Upon the failure of Respondent Lifetime Products, Inc. to make a payment or upon the making of a late payment by Respondent Lifetime Products, Inc. (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. §§ 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 4th date of March, 2004.

BY ORDER OF THE COMMISSION



TODD A. STEVENSON, SECRETARY
Consumer Product Safety Commission

Finally accepted and Final Order issued on the 25th day of March, 2004.

BY ORDER OF THE COMMISSION

A handwritten signature in blue ink, appearing to read "Todd A. Stevenson". The signature is fluid and cursive, with the first name "Todd" being the most prominent.

TODD A. STEVENSON, SECRETARY
Consumer Product Safety Commission