

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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In the matter of)	
)	
CHEMETRON CORPORATION,)	CPSC Docket No.: 02-1
f/k/a Chemetron Investments, Inc.)	
)	
and)	
)	
CHEMETRON INVESTMENTS, INC.,)	
f/k/a Chemetron Corporation)	
)	
and)	
)	
SUNBEAM CORPORATION)	
)	
and)	
)	
SPRINKLER CORPORATION OF)	
MILWAUKEE, INC., f/k/a Star Sprinkler)	
Corporation, f/k/a Grunau Sprinkler)	
Manufacturing Company, Inc.)	
)	
and)	
)	
GRUCON CORPORATION)	

COMPLAINT

Nature of Proceedings

1. This is an administrative proceeding pursuant to section 15 of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2064, for public notification and remedial action to protect the public from a substantial product hazard presented by failure of the Star ME-1 fire sprinkler manufactured from 1977 to 1995. This proceeding is governed by the Rules of Practice

for Adjudicative Proceedings before the United States Consumer Product Safety Commission, 16 C.F.R. Part 1025.

Jurisdiction

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

Parties

3. Complaint Counsel is the staff of the Legal Division of the Office of Compliance of the United States Consumer Product Safety Commission (“Commission”), an independent regulatory commission established by section 4 of the CPSA, 15 U.S.C. § 2053.

4. Respondent Chemetron Corporation (“CC”), formerly and also known as “Chemetron Investments, Inc.” and formerly doing business as “Star Sprinkler,” is a Delaware corporation, with its principal place of business at 2381 Executive Center Drive, Boca Raton, Florida 33431. CC manufactured the Star ME-1 from in or about 1976 to in or about 1982.

5. Respondent Chemetron Investments, Inc. (“CI”), formerly and also known as “Chemetron Corporation,” is a Delaware corporation, with its principal place of business at 2381 Executive Center Drive, Boca Raton, Florida 33431.

6. Respondent Sunbeam Corporation (“Sunbeam”) is a Delaware corporation, with its principal place of business at 2381 Executive Center Drive, Boca Raton, Florida 33431. Under an Asset Purchase Agreement dated September 28, 1990, Sunbeam acquired the stock and assets of CC and CI. CC and CI have been and are Sunbeam subsidiaries. By virtue of the Asset Purchase Agreement and Sunbeam’s stock and assets acquisition of CC and CI, Sunbeam assumed CC’s and CI’s liabilities for the Star ME-1 relief sought herein.

7. Respondent Sprinkler Corporation of Milwaukee, Inc., formerly known as “Star Sprinkler Corporation” and “Grunau Sprinkler Manufacturing Company, Inc.” (“SCM”), is a Wisconsin corporation with its last known principal place of business at 307 West Layton Avenue, Milwaukee, Wisconsin 53207. SCM manufactured the Star ME-1 from in or about 1983 through in or about early 1996.

8. Respondent Grucon Corporation (“Grucon”) is a Delaware corporation with its principal place of business at 1100 West Anderson Court, Oak Creek, Wisconsin 53154. From 1983 to the present, Grucon owned and operated SCM under a variety of names. Grucon and SCM have engaged in actions disregarding corporate form and identities, and/or they have failed to take actions to properly maintain corporate form and identities. These actions, failures, and related effects include, but are not limited to, the following: common business interests, common control and management, SCM’s dependence on Grucon, SCM’s absence of assets or employees, SCM’s undercapitalization, SCM’s board of directors resolution to temporarily pay down the credit lines and debt obligations of Grucon and other Grucon subsidiaries with proceeds of SCM’s assets sale, SCM’s board of directors resolution to pay to Grucon proceeds of SCM’s assets sale, SCM’s failure to make corporate filings, and/or Grucon’s guarantees on behalf of SCM.

9. There was and/or is such unity of interest and ownership between SCM and Grucon that the purported separate personalities of the corporations did not and/or do not exist. Given the compelling public interest at stake in effectuating the relief sought herein, and SCM’s reported lack of assets with which to fund such relief, adherence to the fiction of the separate corporate existences of SCM and Grucon would promote injustice and/or inequitable consequences.

10. Each of the Respondents was and/or is a “manufacturer” and/or a “distributor” as those terms are defined in section 3(a)(4) and (5) of the CPSA, 15 U.S.C. § 2052(a)(4) and (5).

Consumer Product

11. The Star ME-1 fire sprinkler is a dry fire sprinkler manufactured under the “Star” brand name that was labeled and sold as model “ME-1” in various sizes, temperature ratings, finishes, and installation positions (“Star ME-1”). The Star ME-1 is intended to suppress and/or extinguish fire.

12. The Star ME-1 is an article produced and distributed for the personal use, consumption, and/or enjoyment of a consumer in or around a household or residence, in recreation, or otherwise. The Star ME-1 is used in, among other places, day care centers, nursing homes, and health care facilities. The Star ME-1 is a “consumer product” that was “distributed in commerce,” as those terms are defined in section 3(a)(1) and (11) of the CPSA, 15 U.S.C. § 2052(a)(1), (11).

Defect

13. The Star ME-1 is intended to operate in accordance with applicable industry standards and building code requirements. The Star ME-1 is intended to operate when the temperature to which it is exposed reaches a particular level, at which point a thermal sensing element at the exposed end of the sprinkler should melt, and water should flow through and discharge from the sprinkler.

14. As a result of inadequate design and/or manufacturing, the Star ME-1 has failed and is likely to fail to operate as intended in fires.

15. The inadequate design and/or manufacturing of the Star ME-1 constitutes a “defect” as that term is used in section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

Substantial Risk of Injury and Substantial Product Hazard

16. From 1977 through 1995, Respondents manufactured and/or distributed approximately 700,000 Star ME-1's.

17. Star ME-1's are likely to fail to operate as intended in a fire. Failure of the Star ME-1 to operate as intended in a fire creates a likelihood the fire will grow and spread, exposing consumers to the risk of serious injury and death.

18. The defect in the Star ME-1 manufactured from 1977 through 1995 creates a "substantial risk of injury to the public" within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

19. The Star ME-1 manufactured from 1977 through 1995 constitutes a "substantial product hazard" as that term is defined and used in section 15(a)(2), (c), and (d) of the CPSA, 15 U.S.C. § 2064(a)(2), (c), and (d).

Relief Sought

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

A. Determine that the Star ME-1 manufactured from 1977 through 1995 was distributed in commerce and presents a "substantial product hazard" within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

B. Determine under section 15(c) of the CPSA, 15 U.S.C. § 2064(c), that public notification is required to protect the public adequately from the substantial product hazard presented by the Star ME-1 manufactured from 1977 through 1995, and order that the

Respondents:

1. Give prompt public notice of the defect in the Star ME-1 manufactured from 1977 through 1995, the risk of injury and the hazard to the public, and the remedies available to remove the risk of injury and hazard;

2. Mail such notice to each person who is or has been a manufacturer, distributor, or retailer of the Star ME-1;

3. Mail such notice to each person to whom the Respondents know the Star ME-1 manufactured from 1977 through 1995 was delivered or sold; and

4. Include in such notice a complete description of the risk and hazard presented, a warning that the Star ME-1 manufactured from 1977 through 1995 must be replaced immediately, clear instructions informing consumers of the means by which to avail themselves of any and all remedies ordered by the Commission, and such other information as the Commission may order.

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

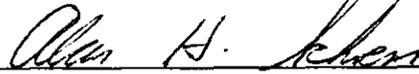
1. To elect to repair the defect in all the Star ME-1's manufactured from 1977 through 1995 so they will operate as intended and required and not present a risk of injury and hazard to the public; to replace all the Star ME-1's manufactured from 1977 through 1995 with a like or equivalent product that does not contain the defect, operates as intended and required, and will not present a risk of injury and hazard to the public; or to refund to consumers the purchase price of the Star ME-1's manufactured from 1977 through 1995;

2. To make no charge to consumers and to reimburse them for any foreseeable expenses incurred in availing themselves of any remedy provided under any Commission Order issued in this matter;
3. To reimburse distributors, dealers, contractors, and installers for expenses in connection with carrying out any Commission Order issued in this matter;
4. To submit a plan satisfactory to the Commission for taking action under C(1) through (3) above;
5. To submit monthly reports documenting progress of the corrective action program;
6. For a period of five (5) years after entry of a Final Order in this matter, to keep records of all actions taken to comply with C(1) through (5) above, and to supply those records to the Commission, upon request, for the purpose of monitoring compliance with the Final Order;
7. To notify the Commission at least 60 days prior to any change in the Respondents' business (such as incorporation, dissolution, assignment, sale, or petition for bankruptcy) that results in, or is intended to result in, the emergence of successor ownership, the creation or dissolution of subsidiaries, going out of business, or any other change that might affect compliance with any Order issued by the Commission in this matter; and
8. To take such 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 7th day of October, 2001



Alan H. Schoem
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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2001, I served the foregoing Complaint upon all parties of record in these proceedings by mailing, certified mail, postage prepaid, a copy to each at their principal places of business, and courtesy copies to their counsel, as follows:

Chemetron Corporation
2381 Executive Center Drive
Boca Raton, Florida 33431

Chemetron Investments, Inc.
2381 Executive Center Drive
Boca Raton, Florida 33431

Sunbeam Corporation
2381 Executive Center Drive
Boca Raton, Florida 33431

Sprinkler Corporation of Milwaukee, Inc.
307 West Layton Avenue
Milwaukee, Wisconsin 53207

Grucon Corporation
1100 West Anderson Court
Oak Creek, Wisconsin 53154

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A handwritten signature in black ink, appearing to read 'Seth B. Popkin', is written over a horizontal line.

Seth B. Popkin
Complaint Counsel for
U.S. Consumer Product Safety Commission

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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SPRINKLER CORPORATION OF MILWAUKEE, INC., f/k/a Star Sprinkler Corporation, f/k/a Grunau Sprinkler Manufacturing Company, Inc.)	
)	
and)	
)	
GRUCON CORPORATION)	

LIST AND SUMMARY OF DOCUMENTARY EVIDENCE

Pursuant to 16 C.F.R. § 1025.11(b)(3) of the Rules of Practice for Adjudicative Proceedings before the United States Consumer Product Safety Commission, the following is a list and summary of documentary evidence supporting the charges in this matter. Complaint Counsel reserves the right to offer additional evidence during the course of the proceeding.

1. Correspondence between the U.S. Consumer Product Safety Commission (“Commission”) staff and the Respondents, between the Commission staff and other persons/entities, and between or among other persons/entities.

2. Fire incident records, including, but not limited to, documentation reporting that in 1993, three (3) Star ME-1's manufactured by Sprinkler Corporation of Milwaukee, Inc., f/k/a "Star Sprinkler Corporation" and "Grunau Sprinkler Manufacturing Company, Inc." ("SCM"), failed to discharge water after their thermal sensing elements melted during a fire in a Missouri nursing home. The manufacturer's documentation reports that the sprinkler system pressure was 40 psi, the piston did not move until forced out, and the O-ring was glued to teflon.

3. Correspondence from SCM to the Missouri nursing home referenced above, after the fire, recommending that the nursing home replace all the dry sprinklers in the nursing home.

4. Company memoranda, notes, records, and correspondence concerning the Star ME-1, the Star ME-1's design and performance, and related matters, including, but not limited to, 1996 and 1997 Grinnell Corporation correspondence and/or memoranda regarding Star ME-1 failures and failure modes.

5. Star ME-1 engineering drawings, engineering records, and product illustrations showing the product's design, components, materials, manufacturing specifications, operational information, and minimal engineering changes.

6. Technical records, technical analyses, evaluations, and installation site records concerning the Star ME-1.

7. Public notices from SCM and Star Sprinkler, Inc. (a successor to Respondents), advising that the Star ME-1 manufactured from 1975 through 1981 may not operate properly under fire conditions, notifying of failure modes of these sprinklers, and warning that fire protection agencies and officials should be notified so that the potential hazard is evaluated and/or corrected.

8. Computer and other data compilations, test procedures, test records, videotapes of testing, and other documents relating to Star ME-1 testing, analysis, and failures, including, but not limited to, photographs, notes, and product tear down and analysis records providing information on failure modes and inadequate design and/or manufacturing.

9. Star ME-1 test results and records including, but not limited to, those of Underwriters Laboratories, Inc., Factory Mutual Research Corporation, the United States Naval Academy, and Grinnell Corporation showing model, manufacture date, test date, activation and nonactivation, pressures of activation and nonactivation, and origin sites of tested sprinklers. The test results show, *inter alia*, that 64% of the tested Star ME-1's did not activate as required and thus failed the testing, and that many of the tested Star ME-1's failed at pressures far exceeding requirements.

10. Industry standards, including, but not limited to, National Fire Protection Association and Underwriters Laboratories, Inc. standards.

11. Underwriters Laboratories, Inc.'s warnings about dry sprinklers with O-ring seals and analyses that O-ring sealed sprinklers can degrade over time.

12. Transactional documents including, but not limited to, asset and stock purchase agreements and other contracts by which Respondents acquired, *inter alia*, the Star assets, product line, and/or liability.

13. Documents showing the relationship between Grucon Corporation ("Grucon") and SCM, and the relationships among Grucon and its subsidiaries SCM, Grunau Company, Inc. ("GC"), and Grunau Project Development, Inc. ("GPD"), including, but not limited to, Grucon's and SCM's actions and inactions disregarding, and/or failing to properly maintain, corporate form and identities. These documents include, but are not limited to, purchase agreements

providing, in part, as follows: that Grucon guaranteed SCM's obligations, that notices to SCM were to be sent to Grucon and not to SCM, that SCM was required to cause a Grucon principal and director and Grucon to enter into a noncompetition agreement, and that Grucon was required to cause GC to enter into a supply agreement with Grinnell Corporation pursuant to which GC would agree to purchase from Grinnell Corporation fire protection products at specified prices and terms (and GC and Grinnell agreed to such purchases at discounted prices).

14. Corporate and business records/filings including, but not limited to, articles of incorporation, name change information, and board of directors meeting minutes or records. The board records show that SCM's directors resolved to pay to Grucon proceeds of the 1996 sale of SCM's assets, and SCM's directors resolved to temporarily pay down the lines of credit and debt obligations of Grucon, GC, and GPD with some of the proceeds of the 1996 SCM assets sale.

15. Company reports and website materials that include information on Respondents' operations, management, and history.

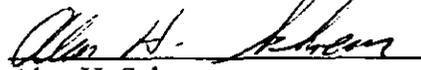
16. Public records relating to the Respondents, including, but not limited to, annual reports and records concerning corporate standing/status, and evidencing common management and control among certain Respondents.

17. Correspondence to Grucon from Underwriters Laboratories, Inc. concerning Star ME-1 testing, and from Grinnell Corporation to Grucon concerning a Star ME-1 warranty, lubricant, and sprinkler operations issue.

18. Documents evidencing Star ME-1 services GPD and/or a GPD employee/officer performed for SCM, and evidencing GPD's material involvement with Star ME-1 matters, including, but not limited to, a GPD metallurgical engineer report regarding Star ME-1 analysis.

19. Documents provided by the Respondents and other persons/entities, including, but not limited to, documents referenced above.

Dated this 9th day of October, 2001



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