UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

CPSC/OFC OF THE SECRETARY
FREEDOM OF INFORMATION
1999 JAN 14 P 5: 21

In the Matter of CADET MANUFACTURING COMPANY, 2500 W. Fourth Plain Boulevard Vancouver, Washington 98660, a Domestic Corporation	)	CPSC DOCKET NO. 99- 1

COMPLAINT

Nature of 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 substantial risks of injury presented by certain electric in-wall heaters manufactured by Cadet Manufacturing Company of Vancouver, Washington. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission, 16 C.F.R. Part 1025.

Jurisdiction

2. 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

3. Complaint Counsel is the staff of the Legal Division, Office of Compliance, Consumer Product Safety Commission, an independent federal regulatory commission established pursuant to section 4 of the CPSA, 15 U.S.C. § 2053.

4. Respondent Cadet Manufacturing Company ("Cadet") is a domestic corporation last organized and existing under the laws of the State of Washington, since 1993, with its principal place of business located at 2500 W. Fourth Plain Boulevard, Vancouver, Washington 98660.

5. Cadet manufactures electric heaters for use in or around a permanent or temporary household or residence; and is, therefore, a "manufacturer" of "consumer product[s]," as those terms are defined in sections 3(a)(1) and (4) of the CPSA, 15 U.S.C. §§ 2052(a)(1) and (4).

Consumer Products

6. Since 1978, Cadet has manufactured and distributed in commerce electric in-wall heaters for use in homes and residences under the brand names "Cadet" and "Encore," all models and variants within each model of the series FW (models FW-051, FW-101, FW-122, FW -202, FW-202, and FW-751), manufactured between 1978 and 1989; series FX (models FX-051, FX-052, FX-071, FX-072, FX-101, FX-102, FX-151, FX-122, FX-152, FX-202, and FX-242), manufactured between 1984 and 1995; series LX (models LX-242, LX-242, LX-302, LX-302, LX-402, LX-402, and LX-482), manufactured between 1984 and 1995; series TK (models TK-051, TK-071, TK-072, TK-101, TK-102, TK-151, and TK-152), manufactured between 1986 and 1998); series ZA (models ZA-051, ZA-052, ZA-071, ZA-072, ZA-101, ZA-102, ZA-122, ZA-151, ZA-152, ZA-202, ZA-242, manufactured between 1984 and 1995); first generation series Z (models Z-072, Z-101, Z-102, Z-152, Z-202,and Z-208), manufactured between

1993 and 1997; and/or all series and models of the same or functionally identical heaters manufactured and distributed by Cadet under the Encore brand (hereinafter collectively, the "heaters"). Each of the heaters is, therefore, a "consumer product" "distributed in commerce" within the meaning of sections 3(a)(1) and (11) of the CPSA, 15 U.S.C. §§ 2052(a)(1), and (11), respectively.

7. Each of the heaters consists of a motor-driven fan, a heating element, and an over- temperature limit control switch ("OTC") housed in a metal box that is intended to be installed in a wall or under cabinets. The heater is connected to the main electric power supply in the home or residence. When energized with electric current, the fan of the heater pulls room air over the heating element, and pushes the heated air back into the room.

Product Defect

8. The heaters within series FW, FX, LX, TK, ZA, and/or the same or functionally identical Encore brand heaters, are defective because their design causes the heaters to overheat, fail, and catch fire; and/or allow lint, dirt, or debris to within the heaters and catch fire. The heater design can also cause the heaters to spew flames and/or burning or molten particles, or eject sparks into the living space of a home or residence, or energize the heaters creating a risk of electric shock.

9. The heaters within the series FW, FX, LX, TK, ZA heaters, and/or same or functionally identical Encore brand heaters, are defective because they were manufactured or assembled with inadequate or faulty components, electrical

connections, and/or contacts, which cause the components, electrical connections, and/or contacts to fail, overheat, and catch fire; and/or allow lint, dirt, or debris within the heaters to catch fire. These defects can also cause the heaters to spew flames and/or burning or molten particles, or eject sparks into the living space of a home or residence.

10. The heaters within the first generation Z series, and/or the same or functionally identical Encore heaters, are defective in design or manufacture because the heater element can overheat, explode, and spew molten metal particles into the living space of a home or residence.

Substantial Product Hazards and Risks of Injury

11. The design defects in the series FW, FX, LX, TK, ZA heaters, and/or the same or functionally identical Encore brand heaters, identified in paragraph 8 above are prevalent within those heaters.

12. The manufacturing or assembly defects in the series FW, FX, LX, TK, ZA heaters, and/or the same or functionally identical Encore brand heaters, identified in paragraph 9 above are prevalent within those heaters.

13. The design or manufacturing defects in the first generation series Z heaters, and/or the same or functionally identical Encore brand heaters, identified in paragraph 10 above are prevalent within those heaters.

14. The defects identified and described in paragraphs 8 through 10 above have caused or contributed to serious thermal burns and death, and are likely to cause

serious electric shock injury and death.

15. The staff knows of at least 183 instances of electrical fire or malfunction involving the heaters: 85 units of series FX; 18 units of series FW; 2 unit of series LX; 49 units of series ZA; 2 units of series TK; and 27 units of series Z (first generation); including 131 heaters that allegedly smoked, sparked, caught fire, emitted flame, and/or ejected burning particles or molten metal particles as the result of the defects identified and described in paragraphs 8 through 10 above.. These incidents have resulted in three deaths and two burn injuries.

16. Between 1978 and 1998, Cadet manufactured approximately 1,800,000 potentially defective heaters that present the hazards and risks of injury described in paragraphs 14 and 15 above.

17. It is likely that the series FX, FW, LX, TK, first generation Z, ZA heaters, and/or the same or functionally identical Encore brand heaters, will continue to fail in the same way and to present the same hazards and risks of injury as a result of the defects described in paragraphs 8 through 10 above, if public notice and remedial actions are not taken to eliminate or reduce the risk of injury presented by the heaters. Each of the heaters, therefore, presents a "substantial product hazard" within the meaning of sections 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2), by reason of the substantial risk of injury or death alleged in paragraphs 11 through 17 above.

Relief Sought

Complaint Counsel requests the Commission to issue the following relief.

A. Determine that the heaters present a substantial product hazard within the meaning of section 15(a)(2), 15 U.S.C. § 2064(a)(2).

B. Determine that public notification under section 15(c) of the CPSA, 15 U.S.C. § 2064(c), is required to protect the public adequately from the risks of injury presented by the heaters.

C. Order Cadet, under section 15(c) of the CPSA, 15 U.S.C. §2064(c), to give such notice as is reasonably necessary to protect the public.

D. Order Cadet, under section 15(d) of the CPSA, 15 U.S.C. § 2064(d), to cease manufacturing for sale, offering for sale, and distributing in commerce the defective heaters.

E. Order Cadet under section 15(d) of the CPSA, 15 U.S.C. § 2064(d), to elect one of the following remedial actions:

1. Repair each heater in such a manner that it is free of defect and works in a proper and safe manner.
2. Replace each heater with a new heater, free of any defect, that works in a proper and safe manner.
3. Refund the purchase price of each heater, including the costs of materials, labor, and profit.

F. Order Cadet to submit a corrective action plan satisfactory to the Commission that requires Cadet to undertake public notice and remedial actions in

accordance with paragraphs C, D, and E above, pursuant to section 15(d) of the CPSA, 15 U.S. C. § 2064(d).

G. Order Cadet 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.

H. Grant such other and further relief as the Commission may deem necessary.

ISSUED BY ORDER OF THE COMMISSION:

January 14, 1999
Dated

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LIST AND SUMMARY OF DOCUMENTARY EVIDENCE

1. Catalogue of Cadet in-wall electric heaters.
2. Failure Analysis and Product Hazard Identification of In-Wall Electric Heaters, CPSC-S-98-5076, dated April 24, 1998, by J. Aronstein, Ph.D., Consulting Engineer, relating to the series FW, FX, LX, ZA and TK heaters.
3. Inspection of In-Wall Electric Heaters, CPSC-S-98-5155, dated August 7, 1998, by J. Aronstein, Ph.D., Consulting Engineer relating to the series X, LX, TK, and Z heaters.
4. Consumer complaints, claims, and/or lawsuits relating to malfunctioning or defective Cadet heaters.
5. CPSC In-Depth Epidemiological Investigation Reports of incidents involving Cadet heaters.
6. CPSC Product Safety Assessments from the Directorate for Engineering Sciences, CPSC, on malfunctioning or defective Cadet heaters.
7. Fire Department reports involving Cadet heaters.

8. Evaluative reports from consultants and/or experts on behalf of the claimant or the insurance carrier of claimants for loss incurred in fire incidents involving Cadet heaters.

9. Cadet internal correspondence relating to claims for faulty or defective heaters.