

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

\_\_\_\_\_  
In the Matter of \_\_\_\_\_  
Haier America Trading, LLC \_\_\_\_\_  
\_\_\_\_\_

CPSC Docket No. 09-C0030

SETTLEMENT AGREEMENT

1. In accordance with 16 C.F.R. § 1118.20, Haier America Trading, LLC (“Haier America”) and the staff (“Staff”) of the United States Consumer Product Safety Commission (“Commission”) enter into this Settlement Agreement (“Agreement”). The Agreement and the incorporated attached Order (“Order”) settle the Staff’s allegations set forth below.

PARTIES

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. §§ 2051 – 2089 (“CPSA”).

3. Haier America is a limited liability company organized and existing under the laws of New York, with its principal offices located in New York, New York. At all times relevant hereto, Haier America sold appliances.

STAFF ALLEGATIONS

4. From in or about January to July, 2004, Haier America distributed in commerce, including through importation and sale to retailers, multiple units of the Haier America Oscillating Tower Fan model FTM140GG (“Fan”).

5. The Fans are “consumer product[s],” and, at all times relevant hereto, Haier America was a “manufacturer” of those consumer products, which were “distributed in

commerce," as those terms are defined in CPSA sections 3(a)(5), (8), and (11), 15 U.S.C. § 2052(a)(5), (8), and (11).

6. From May to October, 2004, Haier America received 14 reports of Fan incidents, some of which involved fires and injuries.

7. From May to October, 2004, Haier America obtained information about the Fans through investigation, testing, and analysis.

8. The incident reports and other information that Haier America received about the Fans raised defect and hazard concerns for Haier America.

9. On November 22, 2005, Haier America and the Commission announced a recall of the Fans. As indicated in part in the recall Press Release, the defect and hazard involved repeated bending of the Fan wires from the base to the tower during oscillation, which caused the wires to break and arc, resulting in a fire hazard.

10. By no later than July 1, 2004, Haier America had obtained information that reasonably supported the conclusion that the Fans contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 15(b)(3) and (4), 15 U.S.C. § 2064(b)(3) and (4), required Haier America to immediately inform the Commission of the Fans' defect and risk.

11. Haier America did not report to the Commission regarding the Fans until December 22, 2004, after the Commission staff requested that Haier America report. In addition, at the time that it reported, Haier America failed to furnish all required information. Haier America thereby failed to immediately and adequately inform the Commission about the Fans' defect and risk as required by CPSA sections 15(b)(3) and (4), 15 U.S.C. § 2064(b)(3) and (4). This failure constituted a prohibited act under CPSA section 19(a)(4), 15 U.S.C. § 2068(a)(4).

12. Haier America knowingly committed this prohibited act, as the term “knowingly” is defined in CPSA section 20(d), 15 U.S.C. § 2069(d). Pursuant to CPSA section 20, 15 U.S.C. § 2069, Haier America’s prohibited act subjected it to civil penalties.

HAIER AMERICA RESPONSE

13. Haier America denies the Staff’s allegations set forth in paragraphs 4-12 above, including, but not limited to, any allegation that Haier America failed timely to notify the Commission in accordance with section 15 of the CPSA.

AGREEMENT OF THE PARTIES

14. Under the CPSA, the Commission has jurisdiction over this matter and over Haier America.

15. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Haier America, or a determination by the Commission, that Haier America knowingly violated the CPSA. Upon issuance of, and Haier America’s compliance with, the final Order, the Commission regards this matter as resolved and agrees not to bring a civil penalty action against Haier America based upon the Staff’s allegations set forth in paragraphs 4-12 above regarding the Fan.

16. In settlement of the Staff’s allegations, Haier America shall pay a civil penalty in the amount of five hundred eighty-seven thousand five hundred dollars (\$587,500.00) within twenty (20) calendar days of service of the Commission’s final Order accepting the Agreement. The payment shall be by check payable to the order of the United States Treasury.

17. Upon provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the *Federal Register* in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). In accordance with 16 C.F.R. § 1118.20(f), if the Commission

does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date it is published in the *Federal Register*.

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

19. The Commission may publicize the terms of the Agreement and the Order.

20. The Agreement and the Order shall apply to, and be binding upon, Haier America and each of its successors and assigns.

21. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject those persons or entities referenced in the preceding paragraph to appropriate legal action.

22. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

23. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the

Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Haier America agree that severing the provision materially affects the purpose of the Agreement and the Order.

Haier America Trading, LLC

Dated: \_\_\_\_\_

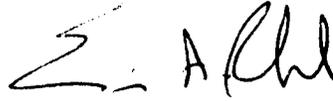
By:



Michael Jermal, President and CEO  
Haier America Trading, LLC  
1356 Broadway  
New York, N.Y. 10018

Dated: 6/1/09

By:



Eric A. Rubel, Esq.  
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U.S. CONSUMER PRODUCT SAFETY  
COMMISSION STAFF

Cheryl A. Falvey  
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Assistant General Counsel  
Office of the General Counsel

Dated: 6/19/09

By:



Seth B. Popkin  
Lead Trial Attorney  
Division of Compliance  
Office of the General Counsel

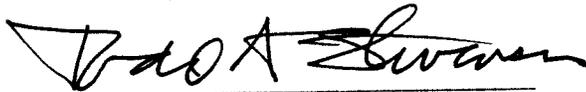


set forth at 28 U.S.C. § 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 28<sup>th</sup> day of July,

2009.

BY ORDER OF THE COMMISSION:



Todd A. Stevenson  
Todd A. Stevenson, Secretary  
U.S. Consumer Product Safety Commission