



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
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COMMISSIONER PETER A. FELDMAN

**STATEMENT OF COMMISSIONER PETER A. FELDMAN ON
“WOEFULLY INADEQUATE” PENALTY AGREEMENT WITH
VORNADO AIR, LLC**

JULY 7, 2022

This week, the Commission approved a woefully inadequate settlement with Vornado Air, LLC (Vornado) regarding some of the most serious charges I have seen during my time as a commissioner. The company’s conduct included failing – not for the first time – to report a serious fire hazard arising from its space heaters. Had the firm made a timely report, as it is required to do under federal law, it is possible that the gruesome death of a 90-year-old man, [reported](#) to be a World War II veteran living in an assisted living facility, could have been avoided.

The fine the Commission has levied against Vornado does not reflect the seriousness of the conduct at issue. As a result, I oppose the decision to accept the provisional settlement agreement. Moreover, I fear our actions here not only fail to provide just punishment but also fail to promote respect for our reporting requirements or to deter future violations.

This agreement is fundamentally flawed for three key reasons: the underlying facts in this case are particularly egregious; there is no adequate explanation for how staff arrived at this penalty amount; and this settlement fails to take advantage of an opportunity to send an important message – not just to Vornado, but to the entire product safety community – that when companies endanger consumers and fail to report, they will pay a steep price.

Vornado is a [repeat offender](#), and its defective product resulted in at least 19 fires and the [horrific death of an elderly man](#). The firm kept this product on the market for almost 9 years, between 2009 to 2018, before initiating a recall. There is evidence that corporate leadership at Vornado knew about the defect as early as 2014 and may have actively concealed this information from the Commission. Nevertheless, the firm continued to sell the product for years, declining to provide notice to its regulator or to American consumers.

These facts put this civil penalty case almost in a league of its own, with similarly situated cases few and far between. Two failure-to-report cases come to my mind when considering the instant case: *Polaris* and *Gree*, both involving fire hazards. In the [first case](#), Polaris, a repeat offender, sold off-road vehicles that caused one death and less than a dozen burn injuries. The company failed to report for two years. In the [second case](#), Gree, a first-time offender, sold dehumidifiers

that caused only property damage with no deaths or injuries. That firm failed to report for about a year. The facts in *Vornado*, in my view, are at least as bad, if not worse than these cases. In both, the Commission initially sought, and ultimately agreed to, significantly higher civil penalties at or near the maximum. The *Polaris* and *Gree* settlements could and should have guided the Commission here. Inexplicably, the Commission is letting *Vornado* walk away with a penalty even less stringent than our [most recent failure-to-report case](#), *Cybex*, which involved a first-time offense with no fatalities. The product at issue in *Cybex* didn't even catch fire; it involved a handle separation. Yet the Commission saw fit to settle that case for \$7.95 million.

The \$7.5 million *Vornado* settlement, less than half of what we could have justifiably sought, will only contribute to the incoherent manner the Commission has applied its civil penalty authority. Have a death? Face a lower penalty. Report late but within 14 months? Face a higher penalty. I cannot identify an underlying doctrine or principle. I anticipate that the product safety community will be confused about the expectations the Commission is setting going forward for how we will deal with similar conduct. Who can blame them? This settlement will be a major cause of that confusion. Regrettably, I never received an adequate explanation for how we reached this amount. But whatever the origin of the settlement, *this* Commission approved it. It is ours to own and defend.

Rather than support this inadequate fine, I offered an alternative option that would have instructed staff to seek a significantly higher penalty, either through continued negotiation or litigation. I believe such a penalty would have demonstrated that this Commission, with its new membership, is taking violations seriously.

If we fail to adequately punish egregious behavior, as I fear we have done here, we are signaling that we are not willing to use the full authority granted to us by Congress. This will embolden companies to continue to ignore their reporting obligations and jeopardize our ability as a Commission to fulfill our mission to keep consumers safe.

We had the opportunity here to seek true accountability and to signal to other companies that behavior like *Vornado's* is entirely unacceptable. I believe we missed that opportunity. In the meantime, I will continue to support higher penalties for the worst conduct. I will also support other forms of relief when our monetary civil penalty authority isn't enough. Every tool at CPSC's disposal should be on the table as the Commission negotiates and approves settlement agreements going forward. We can, and must, do better.