



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Ann Marie Buerkle
 Commissioner Robert S. Adler
 Commissioner Marietta S. Robinson
 Commissioner Elliot F. Kaye
 Commissioner Joseph P. Mohorovic

ITEM:

Kawasaki Heavy Industries, Ltd., Kawasaki Motors Corp., U.S.A., and Kawasaki Motors Manufacturing Corp., U.S.A.—Recommendation to accept \$5.2 million settlement for alleged violations of the Consumer Product Safety Act
(Briefing Package dated May 22, 2017, OS No. 3231)

DECISION:

On April 26, 2017, the Commission voted (3-1-1) to take other action and reject the Settlement Agreement and Order and instruct the staff to: 1) Reinstate the section 19(a)(13) misrepresentation allegation; and 2) Seek a civil penalty settlement amount higher than \$5.1 million; and 3) If a settlement cannot be reached, refer this case to the Department of Justice to initiate a civil penalty action, seeking up to the maximum civil penalty authorized by law and any other appropriate remedies. Commissioner Adler, Commissioner Kaye and Commissioner Mohorovic voted to take other action regarding the Settlement Agreement and Order (explained above). Commissioner Robinson voted to provisionally accept the Settlement Agreement and Order. Acting Chairman Buerkle voted to take other action and provisionally accept the Settlement Agreement and Order with an amendment so as to reduce the penalty amount to \$3.0 million.

On May 30, 2017, the Commission voted 4-1 to provisionally accept the Settlement Agreement and Order, which orders Kawasaki Heavy Industries, Ltd., Kawasaki Motors Corp., U.S.A., and Kawasaki Motors Manufacturing Corp., U.S.A. (collectively, "Kawasaki") to pay a civil penalty of \$5.2 million and to take other remedial actions. The provisional Settlement Agreement and Final Order will be announced in a Federal Register Notice. The Compliance Division staff of the Office of the General Counsel negotiated the proposed settlement agreement. The agreement resolves staff allegations that the Kawasaki knowingly violated section 19(a)(4) of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2068(a)(4), by failing to timely report under section 15(b) of the CPSA about its recreational off-highway vehicles that posed an injury hazard to consumers, and violated section 19(a)(13), 15 U.S.C. § 2068(a)(13), by making a material

misrepresentation to staff during the course of an investigation. Section 20(a)(1) of the CPSA, 15 U.S.C. § 2069(a)(1), permits the imposition of civil penalties for any person who knowingly commits prohibited acts. Commissioner Adler, Commissioner Kaye, Commissioner Robinson and Commissioner Mohorovic voted to provisionally accept the Settlement Agreement and Order. Acting Chairman Buerkle voted to reject the Settlement Agreement and Order.

For the Commission:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson".

Todd A. Stevenson
Secretary

*Ballot vote due April 26, 2017 and May 30, 2017