



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

Record of Commission Action  
Commissioners Voting by Ballot

1111 - 18th Street, N.W.  
Washington, D.C.

Voting: Chairman King  
Commissioner Pittle  
Commissioner Sloan  
Commissioner Zagoria

ITEM

Proposed Consent Agreement in the Matter of Spare Parts, et al.,  
CPSC Docket No. 78-1

(Material transmitted by the Office of the General Counsel on  
July 26, 1979)

DECISION

The Commission voted to accept the attached Consent Agreement and  
Order in the matter of Spare Parts, et al. The Order was issued  
by the Office of the Secretary to all participants in the above-  
referenced proceeding.

VOTE

Concurring: Chairman King (8/9/79)  
Commissioner Pittle (8/6/79)  
Commissioner Sloan (8/9/79)  
Commissioner Zagoria (8/6/79)

Attachment

For the Commission:

A handwritten signature in cursive script, reading "Sadye E. Dunn". The signature is written in dark ink and is positioned above a horizontal line.

Sadye E. Dunn  
Secretary

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of  
SPARE PARTS, a corporation also trading  
as "MR. MARTY", and  
STUART M. WEISER, individually and  
as an officer of the corporation.

AGREEMENT CONTAINING  
CONSENT ORDER TO  
CEASE AND DESIST

CPSC Docket 78-1

The staff of the Consumer Product Safety Commission (Commission) has investigated certain practices of Spare Parts, a corporation also trading as "Mr. Marty", and Stuart M. Weiser, individually and as an officer of the corporation (hereinafter identified as Consenting Parties in this Agreement). The Consenting Parties are willing to enter into an Agreement with the Commission containing an Order to Cease and Desist.

Therefore, the Consenting Parties and counsel for the Commission agree:

1. THAT the Consumer Product Safety Commission has jurisdiction in this matter under the following Acts: the Flammable Fabrics Act (15 U.S.C. 1191 et seq.); the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

2. THAT Spare Parts also trading as "Mr. Marty" is a corporation organized and doing business under the laws of the State of California.

Stuart M. Weiser is an officer of Spare Parts. He formulates, directs and controls the acts, practices and policies of the corporation.

3. Consenting Parties engage in the manufacture and sale of women's and girl's apparel, including sweatshirts composed of fabric obtained from and manufactured by other companies. Their office and principal place of business is located at 3655 South Grand Avenue, Los Angeles, California 90007.

4. THAT the Consenting Parties state that they are now and have been engaged in one or more of the following: the manufacture for sale, sale or offering for sale, in commerce, and the introduction, delivery for introduction, transportation and causing to be transported in commerce, and the sale or delivery after sale or shipment in commerce, of products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, which products are subject to the requirements of the

Flammable Fabrics Act, the Standard for the Flammability of Clothing Textiles (CS 19153), 16 CFR Part 1610 and the regulations issued by the Commission to implement the Clothing Textiles Standard (16 CFR Part 1610 Subpart B).

5. THAT on August 22, 1977, the Consenting Parties voluntarily recalled the violative styles of sweatshirts from all of their known customers.

6. THAT in accepting the terms of the Order, the Consenting Parties Agree:

(a) THAT the terms of the Order take effect upon their receipt of written notice that the Commission accepts the Consent Agreement, and that the Agreement and Order are available for public view at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D. C. 20207,

(b) TO forego any administrative and/or judicial review of the facts presented herein,

(c) THAT within 15 days of receipt of the Commission's written acceptance of this Agreement, Consenting Parties shall file with the Commission the written, notarized compliance report required by Paragraph VI of this Order,

(d) THAT the Commission waives the right to pursue criminal penalties under Section 7 of the Flammable Fabrics Act for the violations specifically charged in this Order; except that this waiver does not apply should the Commission discover additional evidence unavailable or unknown at the time this agreement is executed or evidence intentionally withheld in order to avoid criminal liability.

In issuing the Order and accepting the Consent Agreement, the Commission agrees:

7. THAT this Agreement is for settlement purposes only and does not constitute an admission by the Consenting Parties that the law has been violated. Therefore, if this Agreement is not accepted by the Commission it may not be used in adjudicative proceedings, either administrative or judicial.

8. THAT no agreement, understanding, representation or interpretation not contained in this Agreement or Order may be used to vary or contradict the terms of the Order.

## ORDER

### I

IT IS ORDERED THAT Spare Parts, a corporation also trading as "Mr. Marty," its successors and its officers, and Stuart M. Weiser, individually and as an officer of the corporation, (hereinafter referred to as Respondents), and their agents, assigns, representatives and employees directly or through any corporation, subsidiary, division or other instrumentality, do forthwith cease and desist from manufacturing for sale, selling, offering for sale in commerce, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce any article of wearing apparel; or manufacturing for sale, selling, or offering for sale any article of wearing apparel made of fabric or related material which has been shipped or received in commerce as "commerce" and "article of wearing apparel," "fabric" and "related material" are defined in the Flammable Fabrics Act, which article of wearing apparel is subject to, and fails to comply with, the requirements of the Standard for the Flammability of Clothing Textiles, 16 C.F.R. 1610, Subpart A (hereinafter referred to as the Standard).

### II

IT IS FURTHER ORDERED that Paragraph I of this Order shall not be deemed to have been violated as to any such articles of wearing apparel manufactured, distributed or sold by Respondents which do not comply with the requirements of the Standard if Respondents are able to establish (1) that such articles of wearing apparel were manufactured by Respondents from fabric guaranteed in accordance with section 8 of the Flammable Fabrics Act (15 U.S.C. 1197) to comply with the requirements of the Standard and (2) that Respondents did not know and should not have reasonably known that the guaranteed fabric did not comply with the Standard; and if Respondents halt the manufacture, distribution and sale of such non-complying articles of wearing apparel and immediately undertake good faith efforts to give public notice and recall and recondition or destroy any such articles of wearing apparel determined at any time not to comply with the Standard.

### III

IT IS FURTHER ORDERED that the Respondents shall notify all customers who may have purchased "Spare Parts" sweatshirts in styles 3401 (bell-shaped sleeve) and 3405 and "Mister Marty" sweatshirts in style 6402 that those articles do not comply with the Standard for the Flammability of Clothing Textiles (16 CFR 1610, Subpart A) and may be dangerously flammable and that any customer who has purchased a sweatshirt in any of the styles described above may return it to the Corporation and Weiser for replacement or a complete refund of the purchase price at the option of the Corporation and Weiser.

products, and the results of such action.

#### VII

IT IS FURTHER ORDERED for a period of 10 years from the date this Order is issued by the Commission on a final basis, that Respondents shall notify the Commission at least 30 days prior to any proposed change in the status of any corporation named a Respondent in this Order such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change which may affect its compliance obligations arising out of this Order.

#### VIII

IT IS FURTHER ORDERED for a period of 5 years from the date this Order is issued by the Commission on a final basis, that any individual who is named as a Respondent to this Order shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include his current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

#### IX

IT IS FURTHER ORDERED that the Respondents shall distribute a copy of this Order to each of the operating divisions of any corporation which is named as a respondent to this Order.

#### X

The Commission may conduct inspections and/or require the Respondents to submit written reports to determine compliance with this Order, and may direct the Respondents to submit products or permit the Commission to select products sufficient to test.

Signed this 6th day of July, 1979.

SPARE PARTS, a corporation also trading  
as "Mr. Marty"

By: [Signature], President  
(Title)

3655 S. Grand Avenue  
(Street)

Los Angeles, CA 90007  
(City and State)

[Signature]  
Stuart M. Weiser, individually and as  
an officer of the corporation.

CONSUMER PRODUCT SAFETY COMMISSION

By: [Signature]  
Counsel for the Consumer Product  
Safety Commission

ACCEPTED BY THE COMMISSION ON AUGUST 9, 1979

[Signature]  
Sadye E. Dunn, Secretary  
Consumer Product Safety Commission