

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into by and between the United States Department of Justice and the Consumer Product Safety Commission ("CPSC" or the "Commission")(collectively, "the Government"), and the General Electric Company ("GE"), a New York corporation. This agreement is based on the following facts and allegations:

The Government has asserted a claim for civil penalties against GE based on the Government's allegation that GE failed to timely inform the CPSC of defective products, specifically, certain models of dishwashers manufactured by GE, that create substantial product hazards and pose unreasonable risks of serious injury to consumers. GE denies such allegations but is entering into this Agreement in order to resolve this matter.

THE PARTIES

GE is a manufacturer of a broad range of products, including consumer products. GE is incorporated in the State of New York, and has its principal place of business in Fairfield, Connecticut. GE Appliances is located in Louisville, Kentucky. GE does business throughout the United States.

The CPSC is an independent federal agency that was created to protect the public against unreasonable risks of injury from consumer products. The CPSC enforces the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2051 *et. seq.* The principal offices of the CPSC are at 4330 East West Highway, Bethesda, Maryland. 16 C.F.R. § 1000.4(a).

THE LAW

Under the CPSA, "[e]very manufacturer of a consumer product . . . and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product . . . contains a defect which could create a substantial product hazard" must "immediately inform the Commission" of the defect unless it "has actual knowledge that the Commission has been adequately informed" of the defect. 15 U.S.C. § 2064(b)(2). The CPSA defines a "substantial product hazard" as a product defect that "creates a substantial risk of injury to the public." 15 U.S.C. § 2064(a)(2).

The CPSA also requires any manufacturer, distributor, or retailer who "obtains information which reasonably supports the conclusion that [a] product . . . creates an unreasonable risk of serious injury or death" to "immediately inform the Commission" of the risk unless the manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of the risk. 15 U.S.C. § 2064(b)(3). Regulations promulgated pursuant to the CPSA define "serious injury" to include any significant injury. 16 C.F.R. § 1115.6(c).

The CPSA regulations provide that the requirement that reports be made "immediately"

means "within 24 hours" after a company has obtained the requisite information regarding a defect or unreasonable risk. 16 C.F.R. § 1115.14(e). Because of this time limit, the regulations permit initial reports to be made by telephone to the CPSC's headquarters in Bethesda, Maryland. 16 C.F.R. § 1115.13(b), (c).

The CPSA regulations require that a full report be submitted to the CPSC, and that it include any complaints related to the safety of the product. 16 C.F.R. § 1115.13(d).

The failure to furnish information required by 15 U.S.C. § 2064(b) is a prohibited act under the CPSA. 15 U.S.C. § 2068(a)(4).

Any person who knowingly fails to furnish such information may be punished by the assessment of civil penalties. 15 U.S.C. § 2069(a)(1).

THE GOVERNMENT'S ALLEGATIONS

GE is a major manufacturer of household appliances, including dishwashers. Between April 1983 and January 1989, GE manufactured dishwashers with the model numbers GSD500D, GSD500G, and GSD540. Between May 1985 and January 1989, GE manufactured dishwashers under the trade name "Hotpoint" with the model numbers HDA467, HDA477, and HDA487. All six models of dishwashers employed an identical slide switch, enabling consumers to choose between a heated and a non-heated drying cycle ("slide switch").

The GE and Hotpoint dishwashers were produced for sale to consumers for use in or around a household or residence. The GE and Hotpoint dishwashers were distributed for sale throughout the United States.

The Government alleges that all of the six GE and Hotpoint dishwasher models suffer from a common defect because the slide switch can overheat, causing the plastic body of the switch to melt and, in some cases, ignite. The Government further alleges that the defective slide switch was used in all the dishwasher models identified above manufactured between April 1983 and January 1989.

The Government alleges that the defect in the dishwashers created a substantial product hazard.

The Government alleges that the design of the dishwashers created an unreasonable risk of serious injury to consumers.

The Government alleges that GE obtained information about fire, smoking, and melting incidents relating to the dishwashers.

The Government alleges that between 1992 and November 1998, GE obtained information identifying the defective slide switches in the dishwashers as the cause of at least

forty-nine (49) incidents of fire.

The Government alleges that the CPSC was not informed about any problem with the GE dishwasher models and the danger they posed to consumers until GE reported the problem by telephone in November 1998.

The Government alleges that before November 1998 when GE reported to the CPSC, GE had obtained information that reasonably supported the conclusion that the dishwashers contained a defect that could create a substantial product hazard, *i.e.*, a defect that could create a substantial risk of injury to the public.

The Government alleges that GE knowingly violated 15 U.S.C. § 2068(a)(4) by failing immediately to furnish the CPSC with this information.

GE'S RESPONSE

GE contests and denies the Government's allegations. In particular, GE denies that the dishwashers contained a defect, and that the dishwashers presented a substantial product hazard or unreasonable risk of serious injury to consumers. GE asserts that at all times GE closely monitored the safety performance of the dishwashers as well as its reporting obligations under the Consumer Product Safety Act. GE denies that there were any reported injuries associated with the product hazard in question, and GE was not aware of facts that arguably could have given rise to a reporting obligation until the time that GE did in fact file a report with the CPSC, in November 1998. GE asserts that it never knowingly failed to file a required report with the CPSC. GE has entered into this settlement in order to resolve this claim without the expense and distraction of litigation. By agreeing to this settlement, GE does not admit any of the allegations set forth above in this Settlement Agreement.

AGREEMENT OF THE PARTIES

Based on the foregoing facts and allegations, the Government and GE have entered into this Settlement Agreement as follows:

1. GE agrees to pay a civil penalty to the United States Treasury of One Million Dollars (\$1,000,000.00) (the "Settlement Amount"), which sum shall be received by the United States Treasury within 15 days of the last signature on this Agreement. Payment of the Settlement Amount shall be made by electronic funds transfer pursuant to written instruction provided by the Government. If GE fails to make payment of the Settlement Amount within the time set forth above, starting the sixteenth day following the last signature on this Agreement, interest on the Settlement Amount shall accrue and be paid at the federal rate of interest under the provisions of 28 U.S.C. §§ 1961(a) and (b).
2. In consideration of the payment to be made in paragraph 1, the Government fully

releases, acquits, and forever discharges GE and its current and former employees, agents, and representatives, from all claims, demands, liabilities, actions, or causes of action for a civil penalty, pursuant to sections 19(a)(4) and 20 of the CPSA, 15 U.S.C. §§ 2068(a)(4), 2069, for failure to report information supporting the conclusion that the products listed below had a potential for overheating, melting, burning, smoking, or flaming associated with the slide switch, which potential was addressed in the Corrective Action programs announced by the CPSC on or about October 18, 1999, and December 14, 2000:

- (a) dishwashers manufactured by GE with the model numbers GSD500D, GSD500G, and GSD540, with serial numbers containing A,M,R,S,T,V or Z as the second character; and
 - (b) dishwashers manufactured by GE under the trade name "Hotpoint" with the model numbers HDA467, HDA477, and HDA487, with serial numbers containing A,M,R,S,T,V or Z as the second character.
- 3. The Government further fully releases, acquits, and forever discharges GE and its current and former employees, agents, and representatives, from all claims, demands, liabilities, actions, or causes of action for a civil penalty, pursuant to sections 19(a)(4) and 20 of the CPSA, 15 U.S.C. §§ 2068(a)(4), 2069, for failure to report information supporting the conclusion that hazards other than the hazards covered by the foregoing paragraph 2 were presented by the products referenced in the foregoing paragraph 2, provided that such hazards were the subject of or potentially indicated by the documents and information provided to the Government in connection with the corrective action and civil penalty proceedings and investigations concerning the products referenced in paragraph 2. This release in paragraph 3 shall not extend to information not disclosed to the Government prior to the date of this Settlement and as to which the Government was not otherwise "adequately informed," as that term is used in Section 15(b) of the Consumer Product Safety Act, by the other information in the Government's possession.
- 4. This Settlement Agreement does not constitute an admission by GE that it has violated the reporting requirements in any manner, or a finding of fact or law by the CPSC, with respect to any potential action to which reference is made in paragraph 2 of the Settlement Agreement.
- 5. GE agrees that the Government shall not be precluded from publicizing in full the terms of this Settlement Agreement, or the allegations set forth in this Settlement Agreement, notwithstanding the terms of Section 6(b) of the CPSA, 15 U.S.C. § 2055 (b).

6. This Settlement Agreement shall be binding on all successors and assigns of GE.
7. This Settlement Agreement constitutes the entire agreement between the parties and no additional terms or conditions exist or shall be implied or deemed to exist.

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