

CONSUMER PRODUCT SAFETY COMMISSION

(CPSC Docket No. 11-C0005)

Viking Range Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission

ACTION: Notice

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 C.F.R. § 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Viking Range Corporation, containing a civil penalty of \$450,000.00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by (insert date that is 15 calendar days from publication date).

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 11-C0005, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814-4408.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Trial Attorney, Division of Enforcement and Information, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7583. SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

June 21, 2011

(Date)

Todd A. Stevenson

Secretary

inch refrigerators with bottom freezers under the Viking brand name (the “Refrigerators”). The Refrigerators were sold nationwide through retailers and authorized Viking distributors for between \$4,700 and \$6,400.

5. The Refrigerators are “consumer products” and, at all times relevant hereto, Viking was a “manufacturer” of these consumer products, which were “distributed in commerce,” as those terms are defined or used in sections 3(a)(5), (8) and (11) of the CPSA, 15 U.S.C. § 2052(a)(5), (8) and (11).

6. The Refrigerators are defective because the “tower” hinges attaching the Refrigerator door to the cabinet can detach, allowing the door to fall on consumers.

7. Viking received its first complaints involving hinge failure in January 2001 and introduced redesigned hinges by January 2002.

8. By September 2006, Viking stopped using the “tower” hinge on new production. By April 2008, Viking had received eight injury complaints. In April 2008, Viking developed a new field repair fix kit for consumers whose refrigerators exhibited problems with the hinges.

9. Despite being aware of the information set forth in Paragraphs six through eight, Viking did not report to the Commission until April of 2009. By that time, Viking was aware of at least ten injury reports involving Refrigerator hinge failures. The Refrigerators were recalled in June of 2009.

10. Although Viking had obtained sufficient information to reasonably support the conclusion that the Refrigerators contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or death, Viking failed to immediately inform the Commission of such defect or risk as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. § 2064(b)(3) and (4). In failing to do so, Viking knowingly violated section

19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4) as the term “knowingly” is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

11. Pursuant to section 20 of the CPSA, 15 U.S.C. § 2069, Viking is subject to civil penalties for its knowing failure to report as required under section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

RESPONSE OF VIKING RANGE CORPORATION

12. Viking denies the allegations of the Staff that the Refrigerators contain a defect which could create a substantial product hazard or create an unreasonable risk of serious injury or death, and denies that it violated the reporting requirements of Section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

AGREEMENT OF THE PARTIES

13. Under the CPSA, the Commission has jurisdiction over this matter and over Viking.

14. In settlement of the Staff’s allegations, Viking shall pay a civil penalty in the amount of four hundred fifty thousand dollars (\$450,000.00) within twenty (60) calendar days of receiving service of the Commission’s final Order accepting the Agreement. The payment shall be made electronically to the CPSC via www.pay.gov.

15. The parties enter into this Agreement for settlement purposes only. The Agreement does not constitute an admission by Viking or a determination by the Commission that Viking violated the CPSA’s reporting requirements.

16. Upon provisional acceptance of the Agreement by the Commission, 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). 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 16th calendar day after the date it is published in the *Federal Register*, in accordance with 16 C.F.R. § 1118.20(f).

17. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Viking knowingly, voluntarily and completely waives any rights it may have in this matter to the following: (i) an administrative or judicial hearing; (ii) judicial review or other challenge or contest of the Commission's actions; (iii) a determination by the Commission as to whether Viking failed to comply with the CPSA and the underlying regulations; (iv) a statement of findings of fact and conclusions of law; and (v) any claims under the Equal Access to Justice Act.

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

19. The Agreement and the Order shall apply to and be binding upon Viking and each of its successors and/or assigns.

20. The Commission issues the Order under the provisions of the CPSA, and a violation of the Order may subject Viking and each of its successors and/or assigns to appropriate legal action.

21. 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.

22. If any provision of the Agreement or 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 Viking agree that severing the provision materially affects the purpose of the Agreement and the Order.

VIKING RANGE CORPORATION

Dated: 5/19/11

By: _____
Fred Carl, Jr., President and Chairman of the Board
Viking Range Corporation
111 W. Front Street
Greenwood, MS 38930

Dated: 5/20/11

By: _____
Michael J. Gidding, Esquire
Brown & Gidding PC
3201 New Mexico Avenue, NW, Suite 242
Washington, DC 20016-2756
Counsel for Viking Range Corporation

U.S. CONSUMER PRODUCT SAFETY
COMMISSION STAFF

Cheryl A. Falvey
General Counsel

Mary B. Murphy
Assistant General Counsel

Dated: 6/17/11

By: _____
William J. Moore, Jr, Trial Attorney
Division of Compliance
Office of the General Counsel

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of:)	
)	
VIKING RANGE CORPORATION)	
)	CPSC Docket No.: <u>11-C0005</u>
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ORDER

Upon consideration of the Settlement Agreement entered into between Viking Range Corporation (“Viking”), and the U.S. Consumer Product Safety Commission (“Commission”) staff, and the Commission having jurisdiction over the subject matter and over Viking, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

ORDERED that the Settlement Agreement be, and is, hereby, accepted; and it is

FURTHER ORDERED that Viking shall pay a civil penalty in the amount of four hundred fifty thousand dollars (\$450,000.00) within sixty (60) days of service of the Commission’s final Order accepting the Settlement Agreement. The payment shall be made by electronically to the CPSC via www.pay.gov. Upon the failure of Viking to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Viking at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b).

(continued on next page)

Provisionally accepted and provisional Order issued on the 17th day of June, 2011.

BY ORDER OF THE COMMISSION:

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

[FR Doc. 2011-16198 Filed 06/27/2011 at 8:45 am; Publication Date: 06/28/2011]