

By Order of the Commission:

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00-24076 Filed 9-19-00; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00-C0014]

Galoob Toys, Inc., a 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 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Galoob Toys, Inc., a corporation, containing a civil penalty of \$400,000.

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 October 5, 2000.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00-C0014, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626, 1348.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: September 15, 2000.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. This Settlement Agreement, made by and between the staff ("the staff") of the U.S. Consumer Product Safety Commission ("the Commission") and Galoob Toys, Inc., ("Galoob"), a corporation, in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA"), is a settlement of the staff allegations set forth below.

I. The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051-2084.

3. Galoob is a corporation organized and existing under the laws of the State of Delaware. Its principal offices are located at 5 Thomas Mellon Circle, Suite 304, San Francisco, California. Galoob is a wholly owned subsidiary of Hasbro, Inc., ("Hasbro") Before it was acquired by Hasbro, Galoob Toys, Inc. was an independent corporation doing business as Lewis Galoob Toys, Inc.

II. Staff Allegations

4. From on or before November 1994 through approximately August 1998, Galoob, a corporation and toy manufacturer, made, sold and distributed into United States commerce over 8 million "flying" toys known as the "Sky Dancers". Galoob is, therefore, a manufacturer and distributor of a consumer product in U.S. commerce pursuant to 15 U.S.C. 2052 (a)(1), (4), (5) an (6).

5. On November 2, 1998 Hasbro purchased Galoob's stock and Galoob became one of Hasbro's wholly owned subsidiaries. Galoob remained and remains a corporation and a separate legal entity.

6. Galoob experienced several toy manufacturing/production problems resulting in unsafe performance of the Sky Dancers shortly after production began. In late 1994 and early 1995, production defects included: use of wings of uneven weight on the same Sky Dancer, improper methods for centering and affixing wings to the body of the toy; and producing wings with padding that was susceptible of coming off the wing.

7. In 1995 Galoob made several prospective changes in the design and production of the Sky Dancers intended to reduce performance problems and make the Sky Dancer safer to use. After Galoob distributed approximately 100,000 Sky Dancers into U.S. commerce, Galoob reworked a large number of Sky Dancers in inventory to attempt to eliminate safety defects. The approximately 100,000 Sky Dancers sold were not recalled or reworked.

8. Even as designed and produced as intended, the Sky Dancers are susceptible of causing injury. The Sky Dancer uses a pull cord to launch the hard plastic toy; to send it spinning up and away from its base at a high rate of speed. Once launched the Sky Dancer uses two propeller-like blades or "wings" (attached to the toy) spinning

rapidly to make it "fly," often in unpredictable directions and angles, allowing it to forcefully strike the user or nearby playmates, usually in the face or head.

9. Before formal ratification and signing the necessary documents to acquire Galoob, Hasbro examined Galoob's records reflecting its assets, liabilities and other documents including the history of the "Sky Dancers."

10. Between January 1995 and November 1998, Galoob received 165 injury complaints, including damage to the eyes, face and teeth. Hasbro learned of the problem with the product before acquiring Galoob.

11. On November 2, 1998, Hasbro acquired Galoob. Following the acquisition, on November 18, 1998 Hasbro/Galoob made a telephone report and, on November 23, 1998, sent a preliminary report letter to the CPSC staff under Section 15(b) of the CPSA, 15 U.S.C. 2064(b). By letter dated December 15, 1998, the CPSC staff requested full report information from the reporting firm pursuant to the CPSA. *Id.*

12. On January 14, 1999 Hasbro/Galoob filed a limited report with the Commission and filed its full report on April 8, 1999. Galoob undertook a voluntary recall of the Sky Dancers in June 2000.

13. Galoob, during 1994 testing and early production, and subsequently, as it received injury reports through 1998, obtained information which reasonably supported the conclusion that the Sky Dancers contained defects which could create a substantial product hazard but failed to report to the Commission in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b). Hasbro obtained such information before it formally acquired the stock of Galoob on November 2, 1998.

14. By failing to furnish information as required by section 15(b) of the CPSA, Galoob committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

15. The staff alleges this violation was committed "knowingly" as the term is defined in section 20(d) of the CPSC, 15 U.S.C. 2069(d).

III. Response of Galoob

16. Galoob denies the staff allegations numbered six through ten and 13 through 15 above. It denies the Galoob Sky Dancer contains a defect or that it creates a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a) or that it creates an unreasonable risk of serious injury or death pursuant to section 15(b) of the

CPSA. Galoob denies that Sky Dancers or Galoob has caused any injuries. Galoob further denies that it or Hasbro violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b) or 16 C.F.R. Part 1115.

17. Galoob asserts that Sky Dancers were properly designed, tested and manufactured and contained adequate warnings and labeling.

18. Galoob enters this Settlement Agreements and Order for settlement purposes only, to avoid incurring legal costs and expenses.

IV. Agreement of the Parties

19. The Commission has jurisdiction over this matter and over Galoob under the Consumer Product Safety (CPSA), 15 U.S.C. 2051 *et seq.*

20. Galoob knowingly, voluntarily and completely waives any rights it may have in the above captioned case (1) to the issuance of a Compliant in this matter; (2) to an administrative or judicial hearing with respect to the staff allegations cited herein (3) to judicial review or other challenge or contest of the validity of the Commission's Order; (4) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (5) to a statement of findings of fact and conclusions of law with regard to the staff allegations.

21. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20.

22. The Settlement Agreement and Order becomes effective upon final acceptance by the Commission. Galoob shall pay a civil penalty in the amount of four hundred thousand and no/ dollars (\$400,000.00) within 10 calendar days of receiving service of such final Settlement Agreement and Order.

23. This Settlement Agreement and Order is not deemed or construed as an admission by Galoob (a) of any liability or wrongdoing by Galoob or, (b) that Galoob violated any law or regulation. Nothing contained in this Settlement Agreement and Order precludes Galoob from raising any defenses in any future litigation not arising out of the terms of this Settlement Agreement and Order.

24. Upon final acceptance of this Settlement Agreement by the Commission, the issuance of the implementing Order, and the full and timely payment by Galoob to the United States Treasury of a civil penalty in the amount of four hundred thousand dollars (\$400,000.00), the Commission

specifically waives its right to initiate, either by referral to the Department of Justice, or bringing in its own name, any action for civil penalties relating to any of the events that gave rise to the staff allegations in paragraphs four through 15, *supra*, against (a) Galoob; (b) any of Galoob's current or former parents, subsidiaries, affiliates, divisions or related entities; (c) any shareholder, director, officer, employee, agent or attorney of any entity referenced in (a) or (b), and (d) any successor, heir, or assign of the persons described in (a) or (b) above.

25. Upon final acceptance by the Commission, the parties agree that the Commission may publicize the terms of the Settlement Agreement and Order.

26. Galoob agrees to the entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

27. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. 2051 *et seq.*, and a violation of this Order may subject Galoob to appropriate legal action.

28. This Settlement Agreement and Order is binding upon and shall inure to the benefit of Galoob, its parent and each of their assigns or successors.

29. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or to contradict its terms.

30. If, after the effective date hereof, any provision of this Settlement Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Settlement and Order, such provision shall be fully severable. The rest of the Settlement Agreement and Order shall remain in full effect, unless the Commission determines that severing the provision materially impacts the purpose of the Settlement Agreement and Order.

31. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered, except in writing executed by the party against whom such amendment, modification, alteration, or waiver is sought to be enforced, and approved by the Commission.

Galoob Toys, Inc.
Dated: August 17, 2000.

Alfred J. Vurmhra,
Executive Vice President—Global Operations, Chief Financial Officer.

The U.S. Consumer Product Safety Commission.
Alan H. Schoem,
Assistant Executive Director, Office of Compliance.
Eric L. Stone,

Director, Legal Division, Office of Compliance.

Dated: August 9, 2000.

William J. Moore, Jr.,
Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Galoob Toys, Inc., a corporation, and the staff of the U.S. Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Galoob Toys, Inc., and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted, and it is

Further Ordered, that, upon final acceptance of the Settlement Agreement and Order, Galoob Toys, Inc. shall pay the Commission a civil penalty in the amount of FOUR HUNDRED THOUSAND AND no/100 dollars, (\$400,000.00) within ten (10) calendar days after service of this Final Order upon Galoob Toys, Inc.

Provisionally accepted and Provisional Order issued on the 15th day of September, 2000.

By Order of the Commission.

Sadye E. Dunn,

Secretary, U.S. Consumer Product Safety Commission.

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Wednesday, September 27, 2000, 10 a.m.–12:30 p.m.

PLACE: Corporation for National Service 1201 New York Avenue, NW, 8th Floor conference room, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

- I. Chair's Opening Remarks
- II. Approval of Prior Meeting Minutes
- III. Report by the Chief Executive Officer
- IV. Committee Reports
 - A. Executive Committee
 - B. Management, Audit, and Governance Committee Audit Report
 - C. Communications Committee
 - D. Planning and Evaluation Committee Strategic Plan