

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)
)
 CADET MANUFACTURING COMPANY,) CPSC Docket No. 99-1
)
 Respondent)

CONSENT AGREEMENT

This Consent Agreement is made by and between the staff of the Consumer Product Safety Commission, and Respondent, Cadet Manufacturing Company, a domestic corporation, to settle the above-captioned administrative action. The parties agree as follows:

Parties

1. The "staff" is the staff of the Consumer Product Safety Commission ("CPSC" or "the Commission"), an independent regulatory agency of the United States of America, established by Congress pursuant to Section 4 of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2053, as amended.

2. Respondent Cadet Manufacturing Company ("Cadet") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 2500 West Fourth Plain Boulevard, Vancouver, Washington 98660. Cadet manufactures and distributes in-wall electric heaters among other heating products.

Subject Matter

3. Since approximately 1978, Cadet has manufactured and sold and/or distributed in commerce in-wall electric heaters for use in homes and residences under the brand names “Cadet” and “Encore.” These include all models and variants within each model of the series FW (including models FW-051, FW-101, FW-122, FW-202, and FW-751), manufactured between 1978 and 1987; series FX (including models FX-051, FX-052, FX-071, FX-072, FX-101, FX-102, FX-122, FX-151, FX-152, FX-202, and FX-242), manufactured between 1985 and 1994; series LX (including models LX-242, LX-302, LX-402, and LX-482), manufactured between 1985 and 1994; series TK (including models TK-051, TK-071, TK-072, TK-101, TK-102, TK-151, and TK-152), manufactured between 1984 and 1998; series ZA (including models ZA-051, ZA-052, ZA-071, ZA-072, ZA-101, ZA-102, ZA-122, ZA-151, ZA-152, ZA-202, and ZA-242), manufactured between 1985 and 1999; series Z (including models Z-072, Z-101, Z-102, Z-151, Z-152, Z-202, and Z-208), manufactured between 1993 and 1999; and all series and models of the same or functionally identical heaters manufactured and distributed by Cadet under the Encore brand name, including series RX (including models RX-072, RX-101, RX-102, RX-151, RX-152, RX-202, and RX-242), manufactured between 1985 and 1994; series RLX (including models RLX-302, RLX-402, and RLX-482) manufactured between 1985 and 1994; series RK (including models RK-101 and RK-102), manufactured between 1984 and 1998; series RA (including models RA-101, RA-102, RA-151, RA-152, and RA-202), manufactured between 1985 and 1994; and series ZC (including models ZC-072, ZC-101, ZC-102, ZC-151, ZC-152, ZC-202, and ZC-208), manufactured between 1993 and 1999. For each of these heaters, the variants signified by the suffix T (with thermostat), W (white color), and TW (with thermostat and white color) found after the model number are

included. These heaters shall hereinafter be collectively referred to as “the Heaters.” Cadet manufactured approximately 1,950,000 of the Heaters for sale to consumers principally in the States of California, Idaho, Montana, Oregon, and Washington.

4. On January 14, 1999, the staff filed an Administrative Complaint (“Complaint”) against Cadet, seeking a determination that certain of the Heaters present a substantial product hazard within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2), and public notice and a recall of certain of the Heaters pursuant to Sections 15(c) and (d) of the CPSA, 15 U.S.C. §§ 2064(c) and (d). The Complaint alleges that certain of the Heaters are defective and present a substantial product hazard within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2), because their design and/or manufacture causes them to overheat, fail, and catch fire; and/or allow lint, dirt, or debris to build up within the heaters and catch fire. The Complaint also alleges that the design of certain of the Heaters can cause the Heaters to spew flames and/or burning or molten particles, or eject sparks into the living space of a home or residence, or energize the Heaters creating a risk of electric shock.

5. To date, the staff has received information alleging at least 264 instances of electrical fire or malfunction involving the Heaters: 115 units of series FX; 32 units of series FW; 5 units of series LX; 74 units of series ZA; 3 units of series TK; and 35 units of series Z; including 134 heaters that allegedly smoked, sparked, caught fire, emitted flame, and/or ejected burning particles as the result of the alleged defects identified and described in Paragraphs 8 through 10 of the Complaint. These incidents have allegedly caused or contributed to three deaths and two serious thermal burn injuries, and the staff also contends that the Heaters may cause serious electric shock injury and death.

6. Cadet denies each and all of the staff's allegations in the Complaint that Cadet's heaters are defective. Cadet contends that its heaters (other than Cadet's models Z152 and Z202) are safe when properly installed, maintained, and used. Cadet further denies generally and specifically any allegation that Cadet's heaters present a substantial risk of injury to the public, or present a substantial product hazard.

Agreement of the Parties

7. It is the express purpose of the parties entering this Consent Agreement to protect the public safety by carrying out the recall and replacement of the Heaters.

8. The parties intend for this Consent Agreement and the attached Order (hereinafter "Order" or "the Order"), which is hereby incorporated by reference, to resolve all of the staff's allegations and requests for relief relating to the Heaters.

9. The Heaters are "consumer products" within the meaning of Section 3(a)(1) of the CPSA, 15 U.S.C. § 2052(a)(1).

10. Cadet is a "manufacturer" of "consumer product[s]," which are "distributed in commerce," as those terms are defined in Sections 3(a)(1), (4), and (11) of the CPSA, 15 U.S.C. §§ 2052(a)(1), (4), and (11).

11. The CPSC has jurisdiction over Cadet and the Heaters under Sections 3(a)(1), (4), and (11) and Section 15 of the CPSA, 15 U.S.C. §§ 2052(a)(1), (4), and (11), and § 2064.

12. For purposes of this settlement only, Cadet agrees not to contest the allegations in the Complaint that the Heaters contain a "defect which creates a substantial product hazard," as those terms are defined in Section 15(a) of the CPSA, 15 U.S.C. § 2064(a).

13. This Consent Agreement and Order shall take effect upon its final acceptance by the CPSC and final approval by the United States Bankruptcy Court for the Western District of Washington at Tacoma (hereinafter, "the Bankruptcy Court"). The date of final approval by the Bankruptcy Court shall hereinafter be referred to as "the Effective Date."

14. Upon acceptance by the CPSC of this Consent Agreement, and entry of the incorporated Order, and final approval by the Bankruptcy Court, Cadet knowingly, voluntarily, and completely waives and relinquishes any past, present, and/or future right or rights in this matter: (a) to an administrative or judicial hearing and to all further procedural steps, including findings of fact, conclusions of law, and/or further determination of whether the Heaters contain a defect which creates a substantial product hazard within the meaning of Section 15 of the CPSA; (b) to seek judicial review or otherwise challenge or contest the validity of this Consent Agreement and Order as issued and entered; (c) to seek judicial review of this or any past orders, findings, and/or determinations of the CPSC or the Presiding Officer in this matter, except as set forth in Paragraphs 23 and 25 of this Consent Agreement; and (d) to file any claim or to seek any remedy under the Equal Access to Justice Act.

15. Cadet agrees to fulfill all requirements of the incorporated Order.

16. The incorporated Order is issued under Sections 15(c) and (d) of the CPSA, 15 U.S.C. §§ 2064(c) and (d), and a violation of this Consent Agreement and the incorporated Order is a prohibited act within the meaning of Section 19(a)(5) of the CPSA, 15 U.S.C. § 2068(a)(5), and may subject Cadet to civil and/or criminal penalties under Sections 20 and 21 of the CPSA, 15 U.S.C. §§ 2069 and 2070.

17. Cadet acknowledges that any interested person may bring an action pursuant to Section 24 of the CPSA, 15 U.S.C. § 2073, in any United States District Court in which Cadet is found or transacts business to enforce the Order and to obtain appropriate injunctive relief.

18. The CPSC, the staff, and/or Cadet may disclose terms of this Consent Agreement and Order to the public.

19. This Consent Agreement and incorporated Order shall be binding upon the parties hereto and their successors, assigns, and any operating bankruptcy trustees or receivers. If, prior to the termination of this Consent Agreement and Order, Cadet merges with any other business entity or sells, assigns, or otherwise transfers substantially all of its assets, Cadet shall provide reasonable prior notice to the surviving corporation or the purchaser, assignee, or transferee of substantially all of Cadet's assets, of this Consent Agreement and Order, and of its binding effect upon said surviving corporation, purchaser, assignee, or transferee. The existence of this Consent Agreement and Order and its binding effect shall be noted in any agreement between Cadet and such surviving corporation, purchaser, assignee, or transferee. It shall be a condition of any such merger, sale, assignment, or transfer that the surviving corporation or the purchaser, assignee, or transferee shall execute a document agreeing to be bound by the provisions of this Consent Agreement and Order and shall submit to the jurisdiction of the CPSC for purposes of enforcement of this Consent Agreement and Order. In the event of any merger or sale, assignment, or transfer of substantially all of Cadet's assets, Cadet shall provide written notice to the staff no later than sixty (60) days prior to any such merger or asset sale, assignment, or transfer, except in the case of extenuating circumstances, in which

case Cadet shall notify the staff as soon as reasonably possible.

20. This Consent Agreement and Order have been negotiated by the parties. Cadet is not relying on the advice of the staff, nor anyone associated with the staff, as to legal, tax, or other consequences of any kind arising out of this Consent Agreement and Order, and Cadet specifically assumes the risk of all legal, tax, and other consequences.

21. For all purposes, this Consent Agreement and Order shall constitute an enforceable judgment obtained in an action or proceeding by a governmental unit to enforce its police and regulatory power. Cadet acknowledges and agrees that this Consent Agreement and Order are pursuant to the CPSC's police and regulatory power to remedy the alleged risk created by the Heaters, and that, once Cadet, with the proper authorization from the Bankruptcy Court, signs the Consent Agreement and incorporated Order, the Consent Agreement and the incorporated Order are not subject to an automatic stay in any bankruptcy proceeding involving Cadet.

22. The CPSC, at its sole discretion and upon reasonable notice to Cadet, may void, suspend, or rescind all, or any part, of this Consent Agreement and Order if Cadet has made material misrepresentations regarding, but not limited to, its financial condition as of the date of this Consent Agreement and Order; the projected manufacturing costs, service and handling costs, freight costs, notification costs, and factory set-up costs for replacement heaters; and/or the estimated number of the Heaters remaining to be remediated, and the staff has relied upon those misrepresentations in entering into this Consent Agreement.

23. If, after the Effective Date hereof, any provision of this Consent Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws

effective during the term of this Consent Agreement and Order, such provision shall be fully severable. The rest of the Consent Agreement and Order shall remain in full effect, unless the CPSC determines that severing the provision materially impacts the remediation program set forth in this Consent Agreement and Order. The CPSC determination shall constitute the final agency decision and shall be subject to judicial review, such review to be based upon the record of any such CPSC proceeding and according to law.

24. Cadet acknowledges that this Consent Agreement and Order have been negotiated between unrelated, sophisticated, and knowledgeable parties acting in their own self-interest and represented by counsel, and the provisions of this Consent Agreement and Order shall not be interpreted or construed against any person or entity because that person or entity or any of its attorneys or representatives drafted or participated in drafting this Consent Agreement and Order.

25. The provisions of this Consent Agreement and Order shall be interpreted in a reasonable manner to effect its purpose to remedy the alleged hazard that the Heaters pose. In the event of a dispute between the parties arising under this Consent Agreement and Order, the parties agree to submit the issue for determination by the CPSC. The CPSC determination shall constitute the final agency decision and shall be subject to judicial review, such review to be based upon the record of any such CPSC proceeding and according to law.

26. The existence of a dispute between the staff and Cadet over any provision of this Consent Agreement and Order shall not excuse, toll, or suspend any obligation or deadline imposed upon Cadet under this Consent Agreement and Order.

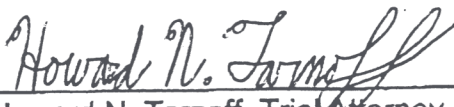
27. This Consent Agreement and Order shall not be waived, changed, amended,

modified, or otherwise altered, except in writing executed by the parties and approved by the CPSC.

28. This Consent Agreement and Order contain the entire agreement, understanding, representation, and interpretation of the parties herein, and nothing else may be used to vary or contradict its terms.

29. Cadet and the staff consent to the entry of the Order attached hereto.


Dated: 6/18/99


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Margaret H. Plank, Trial Attorney

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Alan H. Schoem, Assistant Executive
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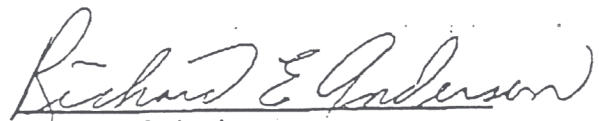
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UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
)	
CADET MANUFACTURING COMPANY,)	CPSC Docket No. 99-1
)	
Respondent)	
)	

ORDER

UPON CONSIDERATION of the Administrative Complaint (“Complaint”) filed against Respondent Cadet Manufacturing Company (“Cadet”) on January 14, 1999, and the Consent Agreement between the parties; and

The Consumer Product Safety Commission (“CPSC” or “the Commission”) having jurisdiction over the subject matter and Cadet;

IT IS HEREBY ORDERED THAT:

1. The Consent Agreement between Cadet and the staff of the CPSC (hereinafter, “the staff”) is accepted, and Cadet shall comply with all obligations of the Consent Agreement and this Order, upon final approval by the United States Bankruptcy Court for the Western District of Washington at Tacoma (“the Bankruptcy Court”). The date of final approval by the Bankruptcy Court shall hereinafter be referred to as “the Effective Date.”

2. All allegations of the Complaint are resolved by this Consent Agreement and Order. Based on the Consent Agreement, including Cadet’s agreement not to contest the allegations of the Complaint for settlement purposes, the CPSC finds that

the Consent Agreement and this Order are necessary to protect the public from the alleged hazard presented by Cadet's series FW, FX, LX, TK, ZA, and Z in-wall electric heaters, and the functionally identical heaters manufactured and distributed by Cadet under the Encore brand name, including series RX, RLX, RK, RA, and ZC. These heaters shall hereinafter be collectively referred to as "the Heaters."

3. Cadet shall immediately cease and desist manufacturing for sale, offering for sale, distributing in commerce, and/or importing into the customs territory of the United States any of the Heaters, whether by itself or through its subsidiaries, affiliates, Cadet-owned distribution centers, or any other persons or entities over whom Cadet has control.

4. To remedy the substantial product hazard allegedly created by the Heaters, Cadet shall perform the following remedial actions:

a. Cadet shall provide replacement heaters, at the prices set forth in Appendix A of this Order, to persons who purchased the Heaters, current Heater owners, and parties with the legal capacity to act on behalf of Heater owners who make a written request for removal and replacement of the Heaters and who provide to Cadet reasonable proof of ownership of the Heaters (a receipt, serial number, date code, or other evidence of ownership, but not the receipt alone) within twenty-four (24) months after the Effective Date of this Order. These persons shall hereinafter be collectively referred to as "Heater Claimants." The series and models of the replacement heaters and the prices for the replacement heaters are set forth in Appendix A of this Order.

b. Cadet shall provide to Heater Claimants, at Cadet's cost plus ten percent (10%), any fittings, fixtures, and/or appurtenances (hereinafter, collectively

“replacement parts”) necessary for proper replacement of the Heaters with replacement heaters.

c. Except as otherwise agreed by Cadet, the purchase price for replacement heaters and replacement parts shall be paid to Cadet by Heater Claimants concurrently with shipment by Cadet.

d. Cadet shall manufacture the replacement heaters in a manner that is consistent with the following provisions:

1) the replacement heaters shall utilize over temperature limit control switches that are equivalent or better than the specifications of Therm-O-Disc, Inc.’s 60T over temperature limit control switches;

2) the replacement heaters shall contain an audible alarm or manual reset switch that will be triggered when the over temperature limit control switch is tripped;

3) to the extent feasible, the replacement heaters shall utilize a one-piece blower wheel;

4) the replacement heaters shall be assembled utilizing the minimum practicable amount of in-house crimping;

5) the replacement heaters shall contain labeling that will warn users of the hazards and risks associated with airflow that is impeded or reduced by lint, dirt, or debris, and/or objects that are placed too close to the heaters (this labeling shall be in substantially the same form as set forth in Appendix B of this Order); and

6) the replacement heaters shall contain installation instructions that: (a) alert owners and installers that the replacement heaters must not be installed in

insulated walls; and (b) inform owners how to clean and maintain the replacement heaters.

e. Cadet shall undertake the following quality assurance program for the manufacture of its replacement heaters, which shall include statistically valid sampling of all incoming components and finished heaters:

1) Cadet shall train all appropriate manufacturing personnel in component handling and shall require all appropriate manufacturing personnel to undertake a periodic review of handling methods;

2) Cadet shall implement a quality control inspection process of all incoming components, including the over temperature limit control switches, elements, blower wheels, and wire assemblies;

3) Cadet shall create written wire assembly/terminal crimping instructions and unit assembly instructions, and copies of the instructions shall be provided to all appropriate manufacturing personnel;

4) Cadet shall confirm that the crimping process of terminal wire combinations conforms to the manufacturing specifications;

5) Cadet shall undertake increased inspections of the crimping equipment and associated tooling; and

6) Cadet shall implement a statistically valid inspection and sampling program for all of its finished replacement heaters.

f. Cadet shall provide the capacity, in accordance with the production schedule attached hereto as Appendix C, to produce at least 225,000 fan heaters per twelve (12) month period to meet the demand for replacement heaters, until such time as the recall program is completed.

g. If Cadet receives requests for replacement heaters at a rate that exceeds its monthly capacity to manufacture the replacement heaters, as specified by the production schedule attached hereto as Appendix C, Cadet shall devise a plan for prioritizing replacement heater distribution. Cadet's plan for replacement heater distribution shall be submitted to the staff for approval prior to implementation. In the event the staff disagrees with Cadet's plan for replacement heater distribution, Cadet shall implement a feasible plan as amended or devised by the staff.

5. Cadet shall enter into an Escrow Agreement which provides for the creation and administration of an Escrow Account. The Escrow Agreement shall be in a form and content acceptable to the staff and shall be approved by the staff prior to execution. The Escrow Agreement shall be consistent with the terms of this Consent Agreement and Order and shall contain such terms as are customary and are acceptable to the staff, including the following provisions:

a. The Escrow Account shall be established pursuant to this Consent Agreement and Order. The Escrow Account shall not be part of Cadet's bankruptcy estate. Cadet and/or Cadet's estate shall have no interest, whether legal, equitable, or otherwise, in the funds in the Escrow Account.

b. The Escrow Account shall remain in effect until the earlier of seventy-three (73) months from the Effective Date of this Order, or until all claims arising from the removal and replacement of the Heaters have been paid in full and all expenses of the Escrow Account have been paid in full. Upon termination of the Escrow Account, all remaining funds in the Escrow Account that were originally deposited by Cadet shall be distributed to CPSC-approved designees.

c. The staff shall appoint the Disbursing Agent for the Escrow Account, who shall have appropriate experience as a claims administrator. The staff shall identify the Disbursing Agent as soon as possible after entry of this Order, and in no event later than the effective date of the plan of reorganization in Cadet's bankruptcy case.

d. Commencing on the Effective Date of this Order, Cadet shall deposit into the Escrow Account fifty percent (50%) of all proceeds, including punitive and treble damages, recovered by Cadet or its successors or assigns (hereinafter, "the Proceeds"), after deduction of actual costs and attorney's fees, from claims and lawsuits against its insurers or other third parties relating to alleged defects in the Heaters, but not including claims to recover accounts receivable generated upon sale of the Heaters, (hereinafter, "the Claims"), regardless of whether such Proceeds are paid directly to Cadet, its attorneys, agents, and/or representatives. However, Cadet shall deposit into the Escrow Account sixty percent (60%) of the Proceeds, after deduction of actual costs and attorney's fees, from claims and lawsuits against the manufacturer(s) of the heating elements used in the series Z heaters, regardless of whether such Proceeds are paid directly to Cadet, its attorneys, agents, and/or representatives. These deposits shall hereinafter be referred to as the "Claim Recovery Deposits." Cadet shall continue to make such deposits until the earlier of seventy-two (72) months after the Effective Date of this Order, or until all replacement heaters have been shipped and paid in full and all expenses of the Escrow Account have been paid in full.

e. The staff or Cadet may cause additional amounts to be deposited into the Escrow Account by third parties who contributed to the manufacture, sale, distribution, installation, exportation, and importation of the Heaters.

f. The Disbursing Agent shall pay to Cadet from the Escrow Account Eleven Dollars (\$11.00) per replacement heater shipped by Cadet. These payments from the Escrow Account shall be made to Cadet weekly or monthly (at Cadet's option), based upon the number of replacement heaters shipped by Cadet during the preceding week or month. Cadet shall furnish, in a timely manner, to the Disbursing Agent all information necessary for the Disbursing Agent to properly administer and disburse the funds in the Escrow Account, including, but not limited to, a list of the names and addresses of the Heater Claimants, the number of replacement heaters covered by each request, and verification of the quantities of replacement heaters that are shipped pursuant to those requests. Cadet may receive advances from the Escrow Account solely for the purpose of financing Cadet's commencement of the Heater replacement program, upon receiving written approval from the staff.

6. Cadet shall provide replacement heaters, at the prices set forth in Appendix A of this Order, to any Heater Claimant who makes a written request for removal and replacement of Heaters and who provides to Cadet reasonable proof of ownership of the Heaters (a receipt, serial number, date code, or other evidence of ownership, but not the receipt alone) on or before the date that is twenty-four (24) months after the Effective Date of this Order.

7. Those Heater Claimants who, on or after October 23, 1997, but prior to the Effective Date of this Order, (a) already removed and replaced or contracted to remove and replace their Heaters; and (b) provide the Disbursing Agent, within twenty-four (24) months of the Effective Date of this Order, with verification of removal and replacement of the Heaters (e.g., work order, bill, receipt, or other documentation from the person or

company replacing the Heaters), shall be entitled to receive a payment of Twenty-Five Dollars (\$25.00) per replaced Heater from the Disbursing Agent.

8. Cadet shall provide notice to the public, its customers, and Heater Claimants of the alleged risks and hazards posed by the Heaters and the remedy to which Heater Claimants are entitled under this Order. All notices shall be in a form and content acceptable to the staff and shall be approved by the staff prior to dissemination. Cadet must conduct the following notice program:

a. By the Effective Date of this Order, Cadet shall have an adequately staffed, operational toll-free recall information telephone line (hereinafter, "Recall Hotline"). The Recall Hotline shall provide a general overview of the alleged risks and hazards associated with the Heaters and shall provide the details of Cadet's Heater replacement program. Cadet shall make available trained customer service representatives to help callers participate in the recall, to provide assistance for callers with questions and problems regarding the recall, and to enable Heater Claimants to check the status of their claims. The Recall Hotline shall operate from 7:00 A.M. until 7:00 P.M. Pacific Standard Time, Monday through Friday, for the first six weeks after it becomes operational. Staffing and hours of operation may be reassessed by Cadet in consultation with the CPSC staff after week six.

b. By the Effective Date of this Order, Cadet shall have an operational website (hereinafter, "the Recall Website") which notifies the public of the alleged risks and hazards associated with the Heaters and provides the details of Cadet's Heater replacement program. The Recall Website shall contain a summary of the recall, the requirements for participation, a question and answer document incorporating a list of

commonly asked questions about the recall, a list of the series and models of the replacement heaters and the prices for the replacement heaters (as set forth in Appendix A of this Order), a hyper-link to the CPSC press release announcing the recall, and such other information as the staff and Cadet find necessary to inform the public adequately about the recall.

c. Cadet shall obtain the names and addresses of purchasers and owners of the Heaters and occupants of residences and homes that contain the Heaters from all available sources, including consumer complaints, warranty records, registration cards, dealer and distributor lists, and previous recall records. Within ten (10) days after the Effective Date of this Order, and for as long as new additions to this list become available, Cadet shall mail the staff-approved notice to these people and entities.

d. Within ten (10) days after the Effective Date of this Order, Cadet shall mail the staff-approved notice to its old and current distributors, dealers, and wholesale customers.

e. Within ten (10) days after the Effective Date of this Order, Cadet shall mail the staff-approved notice to *ASHRAE Journal, Buildings Magazine, Building Operating Management, Commercial Property News, Consulting Specifying Engineer, Electrical Contractor Magazine, Engineered Systems, Facilities Design and Management, Journal of Property Management, National Real Estate Investor, NFPA Journal, Reeves Journal, The ASHI Reporter, and The Air Conditioning Heating and Refrigeration News*.

f. Within ten (10) days after the Effective Date of this Order, Cadet shall mail the staff-approved notice to the state fire marshals in all fifty States of the United States of America and all local fire marshals or Authorities Having Jurisdiction (“AHJ’s”) in

the States of Idaho, Montana, Oregon, and Washington.

g. Within ten (10) days after the Effective Date of this Order, and again between one hundred and eighty (180) and one hundred and eighty-five (185) days thereafter, Cadet shall mail the staff-approved notice to all electric utility companies in the States of California, Idaho, Montana, Oregon, and Washington.

h. Within ten (10) days after the Effective Date of this Order, Cadet shall mail the staff-approved notice to selected homeowner and property insurance companies (e.g., Allstate, Prudential, State Farm, Travelers).

i. Within ten (10) days after the Effective Date of this Order, Cadet shall mail the staff-approved notice to the American Homeowners Association (AHA), the American Society of Heating Refrigeration Air Conditioning Engineers (ASHRAE), the American Society of Home Inspectors, Inc. (ASHI), the American Subcontractors Association, the Building Officials and Code Administrators (BOCA), the Building Owners and Managers Association (BOMA), Consumer Federation of America, Consumers Union, Independent Electrical Contractors Inc. (IEC), the International Association of Electrical Inspectors (IAEI), the International Conference of Building Officials (ICBO), the National Association of Homebuilders (NAHB), the National Association of Realtors, the National Electrical Contractors Association (NECA), and the National Fire Protection Association (NFPA).

j. Within ten (10) days after the Effective Date of this Order, and again between one hundred and eighty (180) and one hundred and eighty-five (185) days thereafter, Cadet shall purchase space for publication of three column x 7.5" advertisements of the staff-approved notice in newspapers [\(as listed in Appendix F of this](#)

~~Order~~) in the States of California, Idaho, Montana, Oregon, and Washington.

9. Within five (5) days after the Effective Date of this Order, Cadet shall request that Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL, withdraw its listing of approval for the Heaters. Cadet shall also purge from its Underwriters Laboratories' listings all in-wall electric heater designs that are not currently in use.

10. Cadet shall not, without first both notifying and consulting with the staff ninety (90) calendar days in advance, manufacture for sale, offer for sale, distribute in commerce, and/or import into the customs territory of the United States, whether by itself or through its subsidiaries, affiliates, Cadet-owned distribution centers, or any other persons or entities over whom Cadet has control, any in-wall electric heaters containing either of the following components: (a) an over-temperature limit control switch encased within a nominal one-half (1/2) inch or smaller diameter phenolic (plastic) housing; or (b) a zig-zag fine wire heater element.

11. Cadet shall devise procedures to encourage the destruction of the Heaters. Cadet shall destroy all finished goods inventory of the Heaters and returned Heaters, from whatever source, and will not use any component parts of any returned or finished goods for the manufacture or sale of any other product. Cadet shall provide to the staff a quarterly accounting, in a format acceptable to the staff, of all returned and destroyed Heaters after the Effective Date of this Order, until the earlier of thirty-six (36) months from the Effective Date of this Order or when the staff agrees with Cadet that further reports are unnecessary.

12. Cadet shall generate and maintain in a database information that includes and is retrievable by: (a) Heater Claimant name, address, and telephone number; (b) date

of receipt of each order for replacement heaters; (c) quantity, series, and model of each Heater being replaced; (d) quantity, series, and model of each replacement heater; (e) inclusive production dates of each replacement heater; (f) date of shipment of each replacement heater; (g) date of the completed fulfillment of each order for replacement; (h) if applicable, reason(s) why a replacement heater order is delayed or could not be fulfilled; and (i) such other data as is reasonably necessary for the staff to monitor the effectiveness of the Heater replacement program. This information shall be immediately available to the staff and the Disbursing Agent, upon request.

13. Beginning with the Effective Date of this Order, and by 5:00 P.M. Eastern Standard Time on the tenth (10th) business day of every month thereafter for the first six (6) months and quarterly thereafter, Cadet shall provide to the staff a cumulative status report in a format acceptable to the staff. The status reports shall be made until the earlier of seventy-three (73) months from the Effective Date of this Order, or when the staff agrees with Cadet that further reports are unnecessary. This status report shall include:

a. a cumulative report of pending and completed replacement heater orders that contains the data specified in Paragraph 12 above, sorted by date, and accompanied by a copy of the complete computer database file(s) on electronic media that contains the data specified in Paragraph 12 above;

b. a complete and accurate statement of the reason(s) for any failure by Cadet to produce replacement heaters in at least ninety percent (90%) of the quantities that are specified in the production schedule attached hereto as Appendix C, or to ship replacement heaters during the month following the month in which they were produced; and

c. the status of the Claims described in Paragraph 5.d. of this Order.

14. Cadet shall immediately notify the staff in writing if:

a. Underwriters Laboratories, Inc. (UL) withdraws or discontinues its approval or listing, no longer approves or lists, modifies its approval or listing, or issues a Variation Notice for any of the replacement heaters at any time, for any reason whatsoever; ~~and~~or

b. Cadet obtains information with respect to the replacement heaters that is reportable under Section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

15. Cadet shall provide to the staff a copy of all filings it makes with the Bankruptcy Court within three (3) business days of making such filings. Cadet shall provide to the staff any and all of its quarterly or annual financial statements (audited and unaudited) within five (5) business days of completion or receipt from the auditor. Cadet shall notify the staff in writing of any planned changes in corporate officers and directors at least thirty (30) days before such changes occur, except in the case of extenuating circumstances, in which case Cadet shall notify the staff as soon as reasonably possible. Cadet shall also notify the staff in writing of any merger or sale, assignment, or transfer of substantially all of Cadet's assets at least sixty (60) days prior to such event, except in the case of extenuating circumstances, in which case Cadet shall notify the staff as soon as reasonably possible.

16. Cadet shall allow the CPSC and/or the staff to inspect any and all records regarding the replacement heaters, remediation program, any class action lawsuits regarding the Heaters, any bankruptcy proceedings involving Cadet, and any claims or lawsuits against Cadet's insurers or other third parties relating to the Heaters, and to

inspect all manufacturing, design, receiving, and/or inventory facilities regarding the replacement heaters at any time during normal business hours, upon reasonable notice.

17. In addition to any penalty it may incur pursuant to Paragraph 16 of the Consent Agreement, if Cadet fails to make timely contributions to the Escrow Account as required by Paragraph 5 of this Order, Cadet shall be liable for additional contributions to the Escrow Account. Such additional contributions shall include the following:

a. Interest at the percentage rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717, for any period after the due date; and

b. A five percent (5%) per month penalty charge if the deposit is not made within thirty (30) days after the due date.

18. Cadet and the staff shall evaluate the effectiveness of the Heater replacement program, as prescribed by this Consent Agreement and Order, on an on-going basis. Cadet shall undertake such additional notice or corrective actions as the staff and Cadet determine are necessary to make the Heater replacement program as effective as possible.

19. This Order, and all of the obligations it imposes upon Cadet, shall terminate in its entirety when Cadet has completely fulfilled all obligations under the Consent Agreement and Order and upon the final distribution of all funds to be placed in the Escrow Account pursuant to Paragraphs 5-7 of this Order, whichever is later.

BY ORDER OF THE CONSUMER PRODUCT SAFETY COMMISSION



Sadye Dunn, Secretary
Consumer Product Safety Commission

Dated: July 30, 1999

Appendix A

Cadet Manufacturing Recall Heater Pricing

<u>New Model</u>	<u>Model to be Recalled</u>	<u>Recall Heater Price to Consumers</u>	
Model CT	Replaces Model LX, RX RLX	\$	48.73
Model ZM/RM	Replaces Model Z, ZA, RA, ZC	\$	33.44
Model C	Replaces Model FX, FW, RX	\$	25.26
Model UC	Replaces Model TK, RK	\$	56.76

REF: APPENDIX B

PROPOSED FAN HEATER LABELS: REVISED 17JUN99 REV B.

ON THE GRILL OUTSIDE SURFACE:

WARNING! RISK OF FIRE!
HIGH TEMPERATURE - KEEP ALL MATERIALS AWAY FROM HEATER - 3 FEET MINIMUM.
CLEAN REGULARLY - AT LEAST EVERY 6 MONTH. CLEANING INSTRUCTION INSIDE
OF GRILL. TURN ELECTRICAL POWER OFF AT THE PANEL BEFORE REMOVING GRILL.
FAILURE TO FOLLOW WARNING MAY CAUSE HEATER TO EJECT SPARKS
AND / OR IGNITE MATERIALS.

IMPORTANT!
THIS HEATER IS PROTECTED BY A HIGH TEMPERATURE RESET SWITCH. ALLOW 10
MINUTES TO COOL AND CLEAN HEATER BEFORE PUSHING RESET BUTTON. IF RESET
DOES NOT RESTORE HEATER OPERATION, THE HEATER NEEDS TO BE REPLACED.
TURN ELECTRICAL POWER OFF AT THE PANEL BEFORE REMOVING GRILL.

ON THE GRILL INSIDE SURFACE:

CLEANING INSTRUCTIONS!
MAKE SURE ELECTRICAL POWER IS TURNED OFF AT THE PANEL.
TO REMOVE LINT AND DEBRIS, BLOW DOWN THROUGH THE HEATING ELEMENT.
VACUUM DEBRIS OUT OF BLOWER WHEEL. CLEAN AND REINSTALL GRILL.
WARNING: DO NOT TOUCH THE HEATING ELEMENT! RISK OF DAMAGE AND INJURY.

Appendix C

Sheet Manufacturing Recall Heater Production Schedule

	8/31/99	9/30/99	10/31/99	11/30/99	12/31/99	1/31/00	2/28/00	3/31/00	4/30/00	5/31/00	6/30/00	7/31/00	12 Months Ending
total # of Shifts	1	1	2	2	2	2	2	2	2	2	2	2	22
estimated Fan Production Capacity per Week	4,000	4,000	7,500	7,500	7,500	7,500	10,000	10,000	10,000	10,000	10,000	10,000	98,000
of Weeks in Month	4	5	4	4	5	4	4	5	4	4	5	4	52
total Fan Production Capacity per Week	16,000	20,000	30,000	30,000	37,500	30,000	40,000	50,000	40,000	40,000	50,000	40,000	423,500
an Production Required to Meet Core Business needs	13,600	18,000	14,400	14,400	18,000	17,323	10,935	11,847	10,400	10,400	13,000	13,600	165,905
total Recall Units Produced	2,400	2,000	15,600	15,600	19,500	12,677	29,065	38,153	29,600	29,600	37,000	26,400	257,595
cumulative Recall Units Produced	2,400	4,400	20,000	35,600	55,100	67,777	96,842	134,995	164,595	194,195	231,195	257,595	
total Units Produced As a % of Overall Capacity	0.15	0.10	0.52	0.52	0.52	0.42	0.73	0.76	0.74	0.74	0.74	0.66	0.61

Appendix C

Global Manufacturing Recall Heater Production Schedule

	8/31/00	9/30/00	10/31/00	11/30/00	12/31/00	1/31/01	2/28/01	3/31/01	4/30/01	5/31/01	6/30/01	7/31/01	12 Months Ending
total # of Shifts	2	2	2	2	2	2	1	1	1	1	1	1	18
Estimated Fan Production Capacity per Week	10,000	10,000	10,000	10,000	10,000	10,000	5,000	5,000	5,000	5,000	5,000	5,000	90,000
of Weeks in Month	4	5	4	4	5	4	4	5	4	4	5	4	52
total Fan Production Capacity per Week	40,000	50,000	40,000	40,000	50,000	40,000	20,000	25,000	20,000	20,000	25,000	20,000	390,000
in Production Required to Meet Core Business needs	13,600	18,000	14,400	14,400	18,000	17,323	10,935	11,847	10,460	10,460	13,000	13,600	165,903
total Recall Units Produced	26,400	32,000	25,600	25,600	32,000	22,677	9,065	13,153	9,600	9,600	12,600	6,400	224,095
unulative Recall Units Produced	283,995	315,995	341,595	367,195	399,195	421,872	430,937	444,090	453,690	463,290	475,290	481,690	
recall Units Produced As a % of Overall Capacity	0.66	0.64	0.64	0.64	0.64	0.57	0.45	0.53	0.48	0.48	0.48	0.32	0.57