

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 01–C0009]

The Lane Company 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(e). Published below is a provisionally-accepted Settlement Agreement with The Lane Company, Inc., a corporation containing a civil penalty of \$900,000.

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 July 25, 2001.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 01–C0009, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Leonard H. Goldstein, Trial Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0980, 2202.

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

Dated: July 2, 2001.

Todd A. Stevenson,
Acting Secretary.

Settlement Agreement

1. The Lane Company, Inc. (“Lane”), a corporation, enters into this Settlement Agreement with the Consumer Product Safety Commission staff (“staff”), and agrees to entry of the Order incorporated herein, in accordance with 16 CFR 1118.20 of the procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (“CPSA”), 15 U.S.C. 2051, *et seq.*

I. The Parties

2. The staff is the staff of the Consumer Product Safety Commission (“Commission”), an independent federal regulatory agency established by Congress pursuant to section 4 of the CPSA, 15 U.S.C. 2053.

3. Lane is a corporation organized and existing under the laws of the Commonwealth of Virginia. Its principal offices are located at 701 Fifth St., Altavista, Virginia.

II. The Product

4. Lane manufactures various sizes and styles of cedar chests for sale to, and the personal use, consumption or enjoyment of, a consumer in or around a permanent or temporary household or residence. The cedar chests are, therefore, “consumer products” within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

5. When the lid of the cedar chest is closed, the cedar chest provides airtight protection of stored household and personal items that may otherwise be susceptible to moth damage. Lane cedar chests are sold in furniture stores throughout the United States under the brand name “Lane” and previously, at times, under the brand name “Virginia Maid.”

6. The cedar chests that are the subject of this Settlement Agreement were manufactured by Lane between 1912 and 1986. Lane manufactured approximately 12 million of the cedar chests during that period.

III. Staff Allegations

7. The design of the Lane cedar chests described in paragraph 6 of this Settlement Agreement incorporated a latching mechanism that caused the lid of the cedar chest to automatically latch when closed. Once latched, the lid could only be opened by depressing a release button on the outside of the cedar chest.

8. During the mid- to late 1970’s, Lane discussed with representatives of The National Lock Company (“National”) the development of a new lock (the “childproof lock”) for use on Lane cedar chests. National delivered a prototype of the childproof lock to Lane in 1979. The childproof lock required a manual activation of the latching mechanism from outside the cedar chest in order to latch the lid. The childproof lock was incorporated in all Lane cedar chests by 1987.

9. An intra-company memorandum on June 8, 1988 from A.J. Ottinger, Lane’s Vice President of Manufacturing, states that “National and Slaymaker were given the opportunity to design a ‘childproof’ lock because of liability concerns.”

10. The airtight design of the pre-1987 cedar chests coupled with the automatic latching feature of the lock used in such cedar chests created a risk of asphyxiation in the event that a child at play became entrapped in one of these cedar chests. This risk of asphyxiation was recognized in the patent documents (Patent No. 4,306,431) filed with the U.S. Patent Office on December 22, 1981 by the inventor of the childproof lock. In describing the “current” lock and the need for the childproof lock, the patent documents state that, “A problem may result, however, in the event that a small child enters the chest and lowers the lid. The latch mechanism may catch thereby preventing egress from the chest.”

11. Between April 1991 and February 1996, Lane received reports of suffocation deaths of 5 young children in 4 separate incidents involving a Lane cedar chest.

12. The staff sent Lane a case opening letter on March 26, 1996 stating that the staff had initiated an investigation regarding Lane’s

cedar chests and requesting information specified in the Commission’s regulations on “Substantial Product Hazards,” 16 CFR 1115.13(d). The company timely responded to the staff’s letter with the requested information on April 12, 1996. Lane subsequently conducted a nationwide campaign to replace old style locks on its cedar chests with a childproof lock.

13. Lane cedar chests described in paragraph 6 of this Agreement presented the same type of risk of death or injury that prompted the 1956 enactment of the Refrigerator Safety Act (“RSA”), 15 U.S.C. 1211, *et seq.*, which makes it unlawful to manufacture refrigerators unless the doors can be opened easily from the inside. The impetus from the RSA was the suffocation deaths of young children in abandoned refrigerators.

14. Lane cedar chests described in paragraph 6 of this Agreement contain a defect which could create a substantial product hazard, as described in 15 U.S.C. 2064(a)(2), and create an unreasonable risk of serious injury or death. Lane’s failure to immediately report such defect and unreasonable risk to the Commission, as required by 15 U.S.C. 2064(b), constituted a prohibited act under 15 U.S.C. 2068(a)(4). Lane “knowingly” failed to report and is, therefore, subject to civil penalties under 15 U.S.C. 2069.

IV. Lane’s Response

15. Lane denies each and every allegation set forth in paragraph 7 through 14 of this Settlement Agreement, including allegations that Lane cedar chests described in paragraph 6 of this Settlement Agreement contained a defect that created a substantial product hazard or an unreasonable risk of serious injury or death, that Lane violated the reporting requirements of 15 U.S.C. 2064(b), and that it committed a prohibited act under 15 U.S.C. 2068(4).

16. Lane asserts that the cedar chests were properly designed and manufactured and contained adequate warnings and labeling.

17. In April 1996, Lane filed a report under section 15(b) of the CPSA and proposed a voluntary lock replacement program for its cedar chests. In addition, since 1996, Lane has worked cooperatively with the Commission staff in advertising and implementing its voluntary lock replacement program and has committed in excess of \$1 million to the program to resolve this matter.

18. Prior to April 1996, Lane did not have reason to believe that the cedar chests posed a substantial product hazard or an unreasonable risk of serious injury or death. Lane believes the information available to it did not reasonably support the conclusion that the cedar chests were defective or created an unreasonable risk within the meaning of the CPSA, and, therefore, no report was required under section 15(b) of the Act. For these reasons, Lane was not required to, and did not, report to the Commission prior to April 1996.

Furthermore, Lane believes that the information currently available to it does not reasonably support the conclusion that the cedar chests are defective, pose a substantial product hazard or create an unreasonable risk of serious injury or death.

19. By entering into this Settlement Agreement and Order, Lane does not admit any liability or wrongdoing, nor does Lane admit that its cedar chests contain a defect which could create a substantial product hazard or that its cedar chests create an unreasonable risk of serious injury or death. This Settlement Agreement and Order is agreed to by Lane for settlement purposes only, to avoid incurring additional legal costs and does not constitute, and is not evidence of, an admission of any liability or wrongdoing by Lane.

V. Agreement of the Parties

20. The Commission has jurisdiction over this matter under the CPSA.

21. Upon final acceptance by the Commission of this Settlement Agreement and issuance of the Final Order, Lane knowingly, voluntarily and completely waives any rights it may have to:

- a. the issuance of a complaint in this matter;
- b. an administrative or judicial hearing with respect to the staff allegations discussed in paragraphs 7 through 14 above;
- c. judicial review or other challenge or contest of the validity of the Commission's Order;
- d. a determination by the Commission as to whether a violation of 15 U.S.C. 2064(b) has occurred;
- e. a statement of findings of fact and conclusions of law with regard to the staff allegations; and
- f. any claims under The Equal Access to Justice Act.

22. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, the 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(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order shall be deemed finally accepted on the 16th day after the date it is published in the Federal Register, in accordance with 16 CFR 1118.20(f).

23. The Settlement Agreement and Order becomes effective upon final acceptance of the Settlement Agreement by the Commission and service of the Final Order upon Lane.

24. Lane agrees to pay to the United States Treasury a civil penalty in the amount of Nine Hundred Thousand Dollars (\$900,000) within thirty (30) calendar days after receipt of service of the Final Order in this matter. Upon payment of such civil penalty, all reporting claims under 15 U.S.C. 2064(b) against Lane, its current and former officers, directors, employees, agents, attorneys, parents and affiliates relating to the cedar chests that are described in paragraph 6 of this Settlement Agreement will be considered to be released.

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

26. This Settlement Agreement and Order are entered into for settlement purposes only and shall not constitute a determination or

admission of any fault, liability or statutory or regulatory violation. Nothing contained in this Settlement Agreement and Order precludes Lane from raising any defenses in any future litigation not arising out of the terms of this Settlement Agreement and Order.

27. The Commission's Order in this matter is issued under the provisions of the CPSA and 16 CFR 1118.20, and a violation of this Order may subject Lane to appropriate legal action.

28. This Settlement Agreement and Order is binding upon and shall inure to the benefit of Lane, its current and former officers, directors, employees, agents, attorneys, parents and affiliates.

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

30. For the purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had been issued, and upon provisional acceptance of this Settlement Agreement, the Commission may publicize the terms of the Settlement Agreement and Order.

The Lane Company, Inc.

Jerry Ruff,

Vice President

Dated: June 5, 2001.

Consumer Product Safety Commission Staff

Michael S. Solender,

General Counsel.

Alan C. Shakin,

Assistant General Counsel.

Dated: June 19, 2001.

Leonard H. Goldstein,

Attorney, Office of the General Counsel.

Order

Upon consideration of the Settlement Agreement entered into between The Lane Company, Inc. and the staff of the U.S. Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and The Lane Company, 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, provisionally accepted, and

It Is Further Ordered, that upon final acceptance of the Settlement Agreement and issuance of the Final Order, The Lane Company, Inc. shall pay the United States Treasury a civil penalty in the amount of Nine Hundred Thousand Dollars (\$900,000) within 30 calendar days after service upon The Lane Company, Inc. of a copy of the Final Order.

By direction of the Commission, this Settlement Agreement is provisionally accepted pursuant to 16 CFR 1118.20(d) and shall be placed on the public record, and the Commission shall announce the provisional acceptance of the Settlement Agreement in the Commission's Public Calendar and in the **Federal Register**.

So Ordered by the Commission, this 2nd day of July, 2001.

Todd A. Stevenson,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 01-17112 Filed 7-9-01; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE-ZXI-RM), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 10, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Institutional Research & Analysis, Office of Policy, Planning & Analysis, United States Military Academy, West Point, New York 10966, (ATTN: Dr. William Burke). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614-0454. *Title, Associated Form, and OMB Number:* West Point Engineering Graduates Surveys.

Needs and Uses: Perceptions of graduates on the effectiveness of the U.S. Military Academy programs and curricular are needed for periodic accreditation by the Accreditation Board