

CONSUMER PRODUCT SAFETY COMMISSION**[CPSC Docket No. 03-C0004]****Blue Coral-Slick-50, Inc., 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 Blue Coral-Slick-50, Inc., containing a civil penalty of \$150,000.00.

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 September 24, 2003.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 03-C0004, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Belinda V. Bell, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7592.

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

Dated: September 3, 2003.

Todd A. Stevenson,
Secretary.

Settlement Agreement and Order

1. Blue Coral-Slick 50, Inc. (hereinafter, "Blue Coral" or "Respondent"), enters into this Settlement Agreement and Order (hereinafter, "Settlement Agreement" or "Agreement") with the staff of the Consumer Product Safety Commission, and agrees to the entry of the attached Order incorporated by reference herein. The purpose of the Settlement Agreement is to settle the staff's allegations that Blue Coral knowingly failed to comply with section 3 of the Poison Prevention Packaging Act (PPPA) and violated sections 4(a) and (c) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1263(a) and (c).

The Parties

2. The Commission is an independent federal regulatory agency responsible for

the enforcement of the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261-1278, and the Poison Prevention Packaging Act ("PPPA"), 15 U.S.C. 1471-76.

3. Blue Coral is a corporation, organized and existing under the laws of the State of Delaware, with its principal office located at 700 Milam Street, Houston, Texas.

Staff Allegations

4. On numerous occasions between September 1998 and August 2001, Blue Coral introduced or caused the introduction into interstate commerce; and received in interstate commerce and delivered or proffered delivery thereof for pay or otherwise, approximately 1 million Rain-X® brand products containing 6% methanol in non-child resistant containers. These products are described as follows: Rain-X® Super Glass Cleaner Concentrate in 10 oz and 16.9 oz bottles; Rain-X® Washer Fluid Concentrate in 10 oz, 16.9 oz, and 1.2 oz pouches; and Rain-X® Washer Fluid Additive in 2 oz pouches.

5. The products identified in paragraph 4 above failed to comply with the Commission's Poison Prevention Packaging Regulation which requires that household substances in liquid form containing 4 percent or more of methanol must be packaged in child resistant packaging. See 16 CFR 1700.14(A)(8).

6. The subject products are misbranded hazardous substances pursuant to section 2(p) of the FHSA, 15 U.S.C. 1261.

7. These misbranded hazardous substances presented in ingesting hazard which could cause blindness, serious illness or death to children.

8. Blue Coral knowingly introduced or caused the introduction into interstate commerce; and received in interstate commerce and delivered or proffered delivery thereof for pay or otherwise, the misbranded hazardous substances, described in paragraph 4 above, as the term knowingly is defined in section 5(c)(5) of the FHSA, in violation of sections 4(a) and (c) of the FHSA, 15 U.S.C. 1263(a) and (c) and is subject to civil penalties under section 5(c)(1) of the FHSA.

Response of Blue Coral

9. Blue Coral denies the staff allegations in paragraph 4 through 8, above. Blue Coral denies that it violated the FHSA, the PPPA or any other law, regulation or other requirement.

10. Blue Coral states that it notified the Commission and undertook a voluntary recall in this matter, in cooperation with the Commission,

promptly upon learning of the alleged failures described in paragraph 4-8, and took action to ensure that the products are packaged in accordance with the PPPA.

Agreement of the Parties

11. The Consumer Product Safety Commission has jurisdiction over Blue Coral and the subject matter of this Settlement Agreement and Order under the FHSA, 15 U.S.C. 1261-1278.

12. This Agreement is entered into for settlement purposes only and does not constitute an admission by Blue Coral or a determination by the Commission that Blue Coral knowingly violated the FHSA or the PPPA.

13. Blue Coral agrees to pay to the U.S. Treasury a civil penalty in the amount of one hundred fifty thousand and 00/100 dollars (\$150,000.00), in full settlement of this matter, payable within twenty (20) calendar days of receiving service of the final Settlement Agreement and Order.

14. Blue Coral knowingly, voluntarily and completely waives any rights it may have in the above captioned case (i) to the issuance of a Complaint in this matter; (ii) to an administrative or judicial hearing with respect to the staff allegations cited herein; (iii) to judicial review or other challenge or contest of the validity of the Settlement Agreement or the Commission's Order; (iv) to a determination by the Commission as to whether a violation has occurred with respect to Section 4 of the FHSA, 15 U.S.C. 1263; (v) to a statement of findings of fact and conclusions of law with regard to the staff allegations; and (vi) to any claims under the Equal Access to Justice Act.

15. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed in the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20. If the Commission does not receive any written requests 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).

16. The Settlement Agreement and Order shall become effective upon its final acceptance by the Commission and service of the final Order upon Blue Coral.

17. Upon provisional acceptance by the Commission, the Commission may publicize the terms of the Settlement Agreement and Order.