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CLIENT ALERT

CPSC Civil Penalty News: Philips Lighting N.A. Agrees to Pay $2 Million Penalty

December 2015

On November 24, 2015, the U.S. Consumer Product Safety Commission (CPSC) announced that Philips Lighting North America had agreed to pay a $2 million civil penalty to resolve an enforcement matter involving floor lamps.

Philips Lighting recalled its EnergySaver and Marathon Fluorescent flood lamps back in August 2011 because of the risk that the glass would detach and strike people or objects underneath.

According to the CPSC, Philips Lighting received numerous reports of the glass separating from lamps and proceeded with attempted design changes before reporting the matter to the CPSC. The civil penalty matter stemmed from this alleged failure to timely report.

As part of the settlement agreement, Philips Lighting agreed not only to the civil penalty, but also to the implementation of a compliance program. The requirement to implement an internal, risk-based compliance program reflects an increasingly common trend in enforcement actions at the CPSC and at other federal agencies, including the Federal Trade Commission, the Federal Communications Commission, and the Securities and Exchange Commission.

Other CPSC Civil Penalties in 2015

Philips Lighting is certainly not the first company to pay a multi-million dollar penalty to resolve a CPSC enforcement action:

- In September 2015, Phil & Teds agreed to pay $3.5 million to resolve allegations that the company made material misrepresentation to staff during a 2011 investigation of high chair amputation incidents.
- In August 2015, Johnson Health Tech agreed to pay $3 million to resolve allegations that it failed to report smoking and sparking issues with its exercise equipment. Of note, this multi-million dollar civil penalty settlement occurred in a case in which no injuries were reported.

Other CPSC civil penalties announced in 2015 included a $1.825 million settlement by LG in July 2015 and a $3.4 million settlement by Office Depot in May 2015.

None of these, however, topped the highest CPSC penalty to date, a $4.3 million settlement by Baja announced back in October 2014. In that case, CPSC alleged that Baja failed to report gas cap leaks in its mini-bikes that could lead to fire and burn hazards.

What Do the 2015 Penalty Cases Tell Us?

The Philips Lighting case confirms CPSC's continued aggressive pursuit of penalty matters, and the importance of effective internal compliance programs as a tool for reducing the risk of and providing a defense in consumer product safety and other regulatory enforcement matters. One New Year's Resolution for consumer product companies in 2016 should be to review their internal compliance and risk management practices and procedures to make sure that they are up to date, well documented, and robust. For more information about good risk management and compliance practices, see our Advertising & Product Risk Management page.

Other Articles in This Month's Edition:

- Revised EU Novel Foods Regulation Simplifies Approval Process, Increases Food Innovation, and Maintains High Food Safety Standards
- Highlights of OEHHA's New Draft Warning Regulation – A Win for California Businesses?
- 'Tis the Season ... For Supplements
- Advertisers in the Ring – A Roundup of Year End Competitor Advertising Challenges: 2015 Closes With Dietary Supplements & Green Claims

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