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First-Ever Sentencing of Corporate Executives for Failure to Report Under Consumer Product Safety Act

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As we previously reported, in November 2023, two corporate executives were convicted of conspiracy and failure to report defective dehumidifiers in violation of the Consumer Product Safety Act (CPSA). This groundbreaking prosecution was the first-ever criminal conviction of corporate executives for failure to report under the CPSA. On June 16, US District Court Judge Dale S. Fischer sentenced the two defendants to 38 and 40 months in prison, plus three years of supervised release. The court also ordered the defendants to pay fines of $5,000 and $12,000, respectively. The sentencing followed a yearslong series of civil and criminal enforcement actions relating to the recalled Gree dehumidifiers. Both defendants have appealed their convictions and sentences to the US Court of Appeals for the Ninth Circuit.

The case serves as a reminder that violations of the CPSA could result in not only civil penalties, but also criminal prosecution of individual executives and employees. In light of these developments, companies should consider evaluating and enhancing their regulatory compliance and CPSA reporting programs, as well as training their employees and executives on CPSA reporting obligations.

Background

Section 15(b) of the CPSA imposes an affirmative reporting requirement on manufacturers, retailers, importers and distributors of consumer products. Companies must promptly notify the Consumer Product Safety Commission (CPSC) when they obtain information that reasonably supports the conclusion that a product contains a defect that could create a substantial product hazard or poses an unreasonable risk of serious injury or death. Failure to timely report the information can result in civil penalties (for "knowing" violations), as well as criminal penalties (for "willful" violations).

The defendants were part-owners and executives of Gree USA, which imported and sold residential dehumidifiers that were made by Gree Electric Appliances of Zhuhai. The defendants had received "multiple reports" that the dehumidifiers they imported were "defective, dangerous and could catch on fire." Despite knowing that they had a reporting obligation under Section 15(b), the defendants failed to report the information to CPSC for at least six months, continuing to sell the hazardous products during that period. The defective dehumidifiers were later subject to multiple recalls, with more than 450 reported fires and millions of dollars in property damage attributed to the recalled units. Recent CPSC warnings also have linked at least four deaths to the recalled products.

In addition to the individual sentences, the Gree companies paid $91 million in total monetary penalties (including $15.45 million in civil penalties to CPSC). Gree USA also pleaded guilty to willfully failing to notify CPSC, and the other companies entered into a deferred prosecution agreement related to the same charge.

CPSC continues to focus on hazardous products that harm Americans

Regardless of recent political developments at CPSC – three Democratic commissioners were removed in May and then ordered reinstated on June 13 – the agency has remained committed to compliance and enforcement. According to a May 15 announcement, the agency issued 28 product safety recalls and warnings during the week of May 12 – "a new agency record and more than double the agency's previous weekly high for safety warnings." In its May 15 announcement, CPSC emphasized its focus on "foreign violators," stating that "the Commission will not hesitate to warn Americans about dangerous products, particularly in cases involving foreign firms that are unreachable when problems arise."

CPSC Acting Chairman Peter Feldman reiterated that message in his comments on the Gree executives' sentencing, stating that, "hese Chinese-made products were hazardous, and the defendants knew it. Today's sentences are a clear message that the CPSC will take a hard line against executives who break American laws and endanger families." Similarly, US Attorney for the Central District of California Bill Essayli emphasized that the Department of Justice (DOJ) will continue to enforce product safety laws, stating that, "orporate executives who choose to ignore the law will be held accountable – especially when death and serious injuries result."

Key takeaways

- DOJ and CPSC have demonstrated their willingness to pursue not only civil and criminal liability against corporate **entities**, but also criminal prosecution of **individuals** who fail to report product safety hazards under the CPSA. The risks are not hypothetical – individuals who are found to have willfully violated the CPSA could face up to five years in prison.
- Section 15(b) of the CPSA imposes reporting obligations not only on manufacturers, but also on retailers, importers and distributors. Therefore, American companies and executives should remain alert to civil and criminal liabilities for failing to report product safety issues of imported goods.
- Companies should consider strengthening their Section 15(b) reporting and compliance programs, including regular training for employees on Section 15(b) obligations and internal reporting protocols. A robust internal reporting system that allows issues to be escalated quickly may help mitigate risks.
- An effective compliance program requires ongoing evaluation, including periodic audits focused on high-risk areas and real-time reviews of recent product safety incidents for lessons learned. A culture of compliance – driven by leadership and reinforced throughout the organization – can help ensure that compliance expectations are understood and met at every level.

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