First-Ever Criminal Prosecution for Failure to Report a Hazardous Product Defect

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Publications

Authors:

Beth Schneider Naylor
Maureen A. Bickley
Kaitlyn Hawkins-Yokley

Recently, a Federal grand jury in California indicted two corporate executives for failing to report a hazardous product defect to the Consumer Product Safety Commission (CPSC) in a timely manner.

The Consumer Product Safety Act (CPSA) requires manufacturers, importers, distributors and retailers to immediately report if a product fails to comply with a safety standard or regulation, contains a defect that creates a substantial product hazard, or creates an unreasonable risk of serious injury or death.

The Indictment

- Simon Chu and Charley Loh were executives of a company that sold Chinese-made dehumidifiers to consumers across the United States.
- In 2012, Chu and Loh learned that the plastic on the dehumidifiers was flammable and catching on fire through internal testing and field reports. They continued to sell the dehumidifiers into 2013 without informing the CPSC, retailers, or consumers.
- Chu and Loh did not report to the CPSC until March 14, 2013. The report did not mention the 2012 fires.
- In September 2013, unindicted co-conspirators and the CPSC announced a recall of 2.2 million of the Chinese-made dehumidifiers in the United States.
- Chu and Loh were indicted on March 28, 2019, for a knowing and willful failure to report information to the CPSC.

The Duty to Report

Under the CPSA, the duty to report extends to individual directors, officers, and agents of manufacturers, importers, and distributors of

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consumer products. 15 U.S.C. § 2064(b), 2068(a)(4). A knowing and willful violation of the CPSA could lead to imprisonment of not more than five years, a fine, or both. 15 U.S.C. § 2070 (b). It could also lead to civil penalties. 15 U.S.C.A. § 2069.

The Takeaway

To minimize the risk of running afoul of CPSC reporting requirements, manufacturers and sellers of consumers products should have rigorous internal processes to monitor and ensure compliance, as well as, have experienced CPSC counsel guide you if an issue arises and be your advocate before the CPSC.

Frost Brown Todd attorneys have a long track record of successfully navigating clients through the complexity of CPSC requirements.

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