

hand using SCUBA and a catch bag. The purpose of the research is to collect information on habitat utilization, migration, and reproductive biology. On January 15, 1998, NMFS issued Permit 1106 authorizing the above activities.

Notice was published on December 17, 1997 (62 FR 66053) that an application had been filed by Dr. Issac Wirgin, of Institute of Environmental Medicine - New York University Medical Center (1107), to possess tissue samples of listed shortnose sturgeon (*Acipenser brevirostrum*) as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217-222). The purpose of the research is to determine if shortnose sturgeon exhibit genetic variation throughout their Atlantic coast range. The permit holder is not authorized to conduct any field collection exercises to obtain the samples. All of the samples must be obtained from previously authorized sources (permitted researchers, law enforcement authorities). All tissue samples will be maintained in a laboratory at the Institute of Environmental Medicine, New York University Medical Center.

An amendment to FPC's scientific research permit 822 was issued on February 10, 1998. Permit 822 authorizes FPC takes of endangered and threatened Snake River salmon associated with the Smolt Monitoring Program (SMP), conducted in part at the dams on the Snake and Columbia Rivers. The amendment provides an extension of the permit through December 31, 1998. On December 29, 1997, the permit was extended to expire on May 31, 1998 (63 FR 2364). An additional extension of permit 822 is necessary to synchronize the duration of the permit with permit 895, the permit that authorizes the U.S. Army Corps of Engineers (Corps) takes of ESA-listed species associated with the Federal Columbia River Power System (FCRPS) juvenile fish transportation program (Permit 895 expires on December 31, 1998). Since the SMP is integral to the implementation of the FCRPS biological opinion, the coordination of these two permits will allow NMFS to better monitor the cumulative impacts to ESA-listed species as a consequence of activities conducted by both FPC and the Corps.

Amendments to scientific research/enhancement permits 847 and 848 were issued on February 6, 1998. The amendments provide an extension of the duration of each permit through June 30, 1998. The permits were due to expire on March 31, 1998. Permits 847

and 848 authorize ODFW and WDFW respectively takes of adult and juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with hatchery supplementation programs. Extensions of the permits are necessary to allow ODFW and WDFW to continue enhancement activities while NMFS processes applications for new permits.

Dated: February 10, 1998.

**Patricia A. Montanio,**  
Deputy Director, Office of Protected Resources, National Marine Fisheries Service.  
[FR Doc. 98-4213 Filed 2-18-98; 8:45 am]  
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## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 98-C0007]

### In the Matter of Binky-Griptight, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

**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 Binky-Griptight, Inc., a corporation, containing a civil penalty of \$150,000.

**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 March 6, 1998.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 98-C0007, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

**FOR FURTHER INFORMATION CONTACT:**

Traci J. Williams, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0626.

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

Dated: February 12, 1998.

**Sadye E. Dunn,**  
Secretary.

### In the Matter of Binky-Griptight, Inc. a Corporation; Settlement Agreement and Order

1. Binky-Griptight, Inc. ("Binky-Griptight"), a corporation, enters into this Settlement Agreement and Order with the staff of the Consumer Product Safety Commission ("Commission" or CPSC) under the Consumer Product Safety Act ("CPSA"), 15 U.S.C. 2051-2084. The Settlement Agreement and Order comply with the procedures set forth in the Commission's Procedures for Consent Order Agreements. 16 CFR 1118.20.

#### I. The Parties

2. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory commission of the United States of America, established pursuant to section 4 of the CPSA, 15 U.S.C. 2053.

3. Binky-Griptight, Inc. is a corporation organized and existing under the laws of the State of New Jersey, with its principal corporate offices located at 519-523 Paterson Avenue, P.O. Box 3307, Wallington, New Jersey 07057.

#### II. Allegations of the Staff

4. Between April 1994 and August 1995, Binky-Griptight imported defective Binky Soft Latex Nipple Newborn Orthodontic pacifiers ("Li'l Binks"). Consequently, Binky-Griptight is a "manufacturer" as the term is defined in section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4).

5. The Li'l Binks were sold in retail stores throughout the United States. They were used by infants in their homes. As a result, the Li'l Binks are "consumer products" which were "distributed in commerce" as those terms are defined in section 3(a) (1) and (11) of the CPSA, 15 U.S.C. 2052(a) (1) and (11).

6. The handle of the Li'l Bink, which held the plug and the nipple, could crack and, if the cracking were severe, could cause the nipple and the plug to separate from the handle. If they separated from the handle, a child could choke on either the nipple or the plug. In May 1995, Binky-Griptight learned that the handle could crack. Also, Binky-Griptight received complaints about the cracked handles and detached plugs and nipples of the Li'l Bink. In September 1995, Binky-Griptight recalled the Li'l Binks from its customers.

7. Binky-Griptight obtained information which reasonably supported the conclusion that the Li'l Binks contained defects which could create a substantial product hazard or an unreasonable risk of serious injury or death, but failed to report that information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

### III. Response of Binky Griptight, Inc.

8. Binky-Griptight, Inc. denies the allegations of the staff that the Li'l Binks contained any defects which could create a substantial product hazard or an unreasonable risk of serious injury or death, pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a); it denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b).

9. Binky-Griptight further states that after it identified and corrected the cracking problem and conducted a further recall with the oversight of Commission staff, it also ceased distribution of the affected style of pacifier in 1996. To date, Binky-Griptight has not received any claims or allegation of injury from the Li'l Binks covered by this settlement.

### IV. Agreement of the Parties

10. The Commission has jurisdiction over this matter under the CPSA, 15 U.S.C. 2051-2084.

11. Binky-Griptight agrees to pay the Commission one hundred and fifty thousand and 00/100 dollars (\$150,000.00), payable as follows: \$50,000 twenty days after final acceptance of the Order, \$50,000 on the one-year anniversary date of the final acceptance of the Order, and \$50,000 on the two-year anniversary date of the final acceptance of the Order.

2. Binky-Griptight knowingly, voluntarily, and completely waives any rights it may have to an administrative or judicial hearing with respect to the staff allegations cited herein, to judicial review or other challenge or contest of the validity of the Commission's Order, to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), occurred, and to a statement of findings of fact and conclusion of law with regard to the staff allegations.

13. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this 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).

14. The Settlement Agreement and Order take effect upon final acceptance

by the Commission and their service upon Binky-Griptight.

15. Upon final acceptance of this Settlement Agreement by the Commission, the Commission will issue a press release to advise the public of the civil penalty Settlement Agreement and Order.

16. Binky-Griptight agrees to entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

17. This Settlement Agreement and Order are binding upon Binky-Griptight and its assigns and successors.

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

Dated: January 12, 1998.

Binky-Griptight, Inc.

Kurt Jetta,

*Binky-Griptight, Inc.*

The Consumer Product Safety Commission.

Alan H. Schoem,

*Assistant Executive Director, Office of Compliance.*

Eric L. Stone, Director,

*Division of Administrative Litigation, Office of Compliance.*

Dated: January 21, 1998.

Traci J. Williams, Trial Attorney,

*Division of Administrative Litigation, Office of Compliance.*

### Order

Having considered the terms and conditions of the Settlement Agreement entered into between Respondent, Binky-Griptight, Inc., a corporation, and the staff of the Consumer Product Safety Commission, having recognized the Commission's jurisdiction over the subject matter and Binky-Griptight, Inc., and having concluded that the Settlement Agreement and Order are in the public interest, it is *ordered* that the Settlement Agreement be and hereby is accepted. And it is *further ordered* that Binky-Griptight, Inc. shall pay the Commission a civil penalty in the amount of one hundred and fifty thousand and 00/100 dollars (\$150,000.00), payable as follows: \$50,000 twenty days after final acceptance of the Order, \$50,000 on the one-year anniversary date of the final acceptance of the Order, and \$50,000 on the two-year anniversary date of the final acceptance of the Order.

Upon Failing to make a payment or upon making a late payment, the outstanding balance of the civil penalty is due and payable by Binky-Griptight, Inc., and the interest on the outstanding balance shall accrue and be paid at the

federal legal rate of interest under the provisions of 28 U.S.C. 1961 (a) and (b).

Provisionally accepted and Provisional Order issued on the 12th day of February, 1998.

By Order of the Commission.

Sadye E. Dunn,

*Secretary, Consumer Product Safety Commission.*

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## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 98-C0006]

### In the Matter of The Limited, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of a Settlement Agreement under the Flammable Fabrics Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Flammable Fabrics Act in the **Federal Register** in accordance with the terms of 16 CFR 1605.13(d). Published below is a provisionally-accepted Settlement Agreement with The Limited, Inc., a corporation, containing a civil penalty of \$200,000.

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 March 6, 1998.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 98-C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Howard Tarnoff, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0626.

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

Dated: February 11, 1998.

Sadye E. Dunn,

*Secretary.*

*In the Matter of The Limited, Inc., a Corporation; Settlement Agreement*

1. The Limited, Inc. and its subsidiary and/or affiliated companies (hereinafter, "The Limited" or "Respondent") enters