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UNITED STATES OF AMERICA

CONSUMER PRODUCT SAFETY COMMISSION

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In the Matter of \_\_\_\_\_  
\_\_\_\_\_  
Honeywell Consumer Products, Inc. \_\_\_\_\_  
(formerly known as Duracraft \_\_\_\_\_  
Corp.) \_\_\_\_\_  
\_\_\_\_\_

CPSC Docket No. 02-C0001

SETTLEMENT AGREEMENT AND ORDER

1. Honeywell Consumer Products, Inc. ("HCP"), formerly known as Duracraft Corp. ("Duracraft"), enters into this Settlement Agreement and Order with the staff ("staff") of the U.S. Consumer Product Safety Commission ("Commission") in accordance with 16 C.F.R. Part 1118, Section 20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA").

I. THE PARTIES

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the CPSA, 15 U.S.C. §§ 2051-2084.

3. HCP is a corporation organized and existing under the laws of the State of Massachusetts. HCP's principal offices are located at 250 Turnpike Road, Southborough, Massachusetts 01772. Duracraft was a corporation organized under the laws of the State of Massachusetts. Honeywell Inc. ("Honeywell") is a corporation organized and existing under the laws of the State of Delaware.

4. On February 16, 1996, Honeywell made a tender offer to acquire the corporate stock of Duracraft. On May 1, 1996, Duracraft became a wholly-owned subsidiary. In

November 1996, Duracraft changed its name to Honeywell Consumer Products, Inc.

Duracraft currently exists as a d/b/a for HCP.

## II. STAFF ALLEGATIONS

### DH 3000/DH 900 HUMIDIFIERS

5. From 1990 through May, 1996, and in June 1996, after it was acquired by Honeywell, Duracraft imported and distributed approximately 1 million DH 3001-3006 and DH 901-904 warm mist humidifiers in the United States. These humidifiers were then sold to consumers throughout the U.S. for use in or around a household or residence. Therefore, Duracraft and Honeywell were "manufacturers" of a "consumer product" "distributed in commerce" pursuant to 15 U.S.C. § 2052 (a)(1), (4) and (11).

6. The humidifiers contained a water tank, base, heating element, and a mist chamber. Water passed from the tank into the base, and the heating element, located in the mist chamber, heated the water to vaporization temperature. The water vapor rose through the mist chamber where it mixed with cooler air, and was discharged into the surrounding environment by a blower and natural convection. A sensor rod or float switch shut the humidifier off when the water reservoir tank became empty.

7. Duracraft manufactured the DH 3000 series humidifiers until 1991. In 1991, Duracraft redesigned the humidifier because of leakage from the water tank, and re-named it the DH 900 series. The DH 900 series was manufactured without significant design change until October 1994. Duracraft informed CPSC staff that the units redesigned in 1991 did not exhibit any safety related defects during the firm's functional or life testing, and that no changes had been made to address any safety related defects.

8. As of February, 1996, 68 claims had been reported to Duracraft in which a DH 3000 series humidifier or a pre-1995 DH 900 series humidifier unit either emitted smoke or sparks or caught on fire. Nineteen of these incidents occurred in a child's room.

9. The humidifier's float switch could fail, and not shut down the product. The humidifiers also included a high-limit switch. When the temperature at the location of the switch reached a certain level, the high-limit switch activated, breaking the electrical circuit within the humidifier and turning off the heating element. However, the high-limit switch could also fail. If both the float switch and the high-limit switch failed, the heating element could remain on, and the humidifier could overheat and catch on fire.

10. Immediately following Honeywell's February, 1996 tender offer, referred to in paragraph 4, Honeywell began a due diligence investigation of Duracraft's business. The Disclosure Schedule to the Merger Agreement between Duracraft and Honeywell disclosed that "[u]nder cover of a letter dated November 30, 1995, the United States Consumer Product Safety Commission ('CPSC') provided the Company ('Duracraft') with product-related reports regarding certain of the Company's humidifier models. The Company has also received notice of requests for information regarding these models submitted to the CPSC under the Freedom of Information Act." On May 1, 1996, Honeywell completed its acquisition of Duracraft.

11. On May 31, 1996, Duracraft submitted a telephone report under Section 15(b) of the CPSA to staff regarding a DH 900 series humidifier that failed in the room of a 1-½ year old child. The product overheated and melted. The child suffered smoke inhalation, and was treated in an emergency room.

12. Thereafter, Commission staff confirmed Duracraft's oral report, and requested a full report under Section 15(b) of the CPSA regarding Duracraft's warm mist humidifiers.

13. Commission staff initiated a site inspection of the Duracraft facilities in the summer of 1996. During this inspection, Duracraft managers stated that the company was not aware of any float switch failures. Moreover, the managers stated that the company had never observed any failures of the humidifier's safety devices.

14. Duracraft responded on October 9, 1996 and submitted its Section 15(b) report. Within its submission, Duracraft reported that it discovered on or about August, 1993, that the DH 900 series humidifiers could fail. The DH 3000 series also had the same failure mode as the DH 900 series. However, Duracraft did not offer to recall the product.

15. In November 1996, a 6-year-old child died during a fire, which CPSC attributes to a failed humidifier. HCP first received notice of the fire on or about May 25, 1997.

16. In mid-April, 1997, Duracraft (which was then named Honeywell Consumer Products) received a preliminary determination letter from the CPSC, and a request for a recall of the DH 3000 and the pre-1995 DH 900 series humidifiers.

17. On June 4, 1997, HCP advised the CPSC that it would voluntarily recall the DH 3000 and DH 900 series humidifiers, and presented its corrective action plan to CPSC staff. At that time, approximately eighty-five (85) failures had taken place, with twenty-two (22) incidents occurring in a child's room.

#### CZ 520 BASEBOARD HEATER

18. From September, 1995 through March, 1996, Duracraft imported and distributed 58,584 CZ 520 portable baseboard heaters in the United States. The CZ 520 heater was a movable baseboard heater that contained two heating assemblies, a selector switch, and a thermostat. Each heating assembly included a motor, a fan, a heating device, and a temperature-limiting device. The fan motor shafts were aligned on a central axis, and the temperature limiting devices were designed to shut down the product if the internal

temperature reached 90° C. When the selector switch was turned on "LOW", only one heating assembly was activated. Both heating assemblies were activated when the switch was turned on "HIGH".

19. In December, 1995, Duracraft began to receive reports from consumers who observed some CZ-520 units smoking or flaming. There were no reports of personal injury. As of February, 1996, Duracraft's testing on seven failed returns revealed that all of the heaters were experiencing low fan speeds.

20. The Disclosure Schedule to the Merger Agreement between Duracraft and Honeywell indicated that "the company ['Duracraft'] has received complaints concerning the company's CZ-520 heater model, relating to incidents of flames or smoke emanating from the unit. The Company has had a number of returns of this model and has received a claim for several hundred dollars involving the unit."

21. On June 4, 1997, HCP notified Commission staff that it had decided to recall the heater. At that time, Duracraft had received twenty (20) claims, some involving minor property damage, and 12% warranty returns (7,295 heaters). On July 22, 1997, HCP submitted a full report under Section 15(b) of the CPSA.

#### CERAMIC HEATERS

22. From January, 1989 through May 1, 1996 Duracraft and then from May 1, 1996 through March, 1998, HCP manufactured or purchased approximately 1.6 million model CZ-303, CZ-304, CZ-308, CZ-318, CZ-319, and CER-1 ceramic heaters for Duracraft and HCP's importation and distribution. The heaters are cubed shaped 7-½ inch tall portable air heaters with a ceramic heating element. The controls consist of a slide switch, which adjusts the heat output from 800 watts to 1,500 watts, a rocker switch, which turns the unit on and

off or turns on an internal fan, and a manual/automatic slide switch, which allows the user to set the heat output at a certain level or vary the output to maintain a consistent temperature.

23. In January, 1990, Duracraft began to receive complaints about the heaters smoking or flaming. As of February, 1996, Duracraft had notice of at least thirty-three (33) incidents. The CPSC had knowledge of an additional twelve (12) incidents. There were no reports of personal injury. Nearly all of the complaints noted the above type of damage.

24. Duracraft's product tests on several failed units, conducted after Honeywell's acquisition of Duracraft, between May, 1996 and June, 1997, confirmed the units could fail. Honeywell was informed of the reports by HCP's general counsel, outside counsel, and Duracraft's management in June, 1997.

25. On July 22, 1997, a consultant hired by Honeywell concluded that a defective rocker switch, or the seepage of a foreign substance into the rocker switch, could create an internal electrical arc and ignite the unit. Honeywell sent this report to the Commission. Thus, the heaters could present a fire hazard to the consumer.

26. On October 10, 1997, as a result of a Commission staff initiated investigation, staff requested a report under Section 15(b) of the CPSA for the heaters. HCP provided this report on December 2, 1997. On March 16, 1998, HCP agreed to voluntarily recall the products. By that time, Duracraft and HCP had received fifty-six (56) complaints of these ceramic heaters smoking and melting. HCP had received one complaint of smoke inhalation, and was notified that several failures had caused extensive property damage.

27. Duracraft failed to report the defects to the Commission in a timely manner, as required by Section 15(b) of the CPSA, 15 U.S.C. § 2064(b). Honeywell received information concerning product failures at the time it acquired Duracraft, and continued to obtain information after that time. After the acquisition, Honeywell and HCP failed to report

the defects to the Commission in a timely manner, as required by Section 15(b) of the CPSA, 15 U.S.C. § 2064(b). A failure to furnish information under section 15(b) of the CPSA is a prohibited act under 15 U.S.C. § 2068 (a)(4). Duracraft and HCP “knowingly” failed to report, as that term is defined in 15 U.S.C. § 2069 (d), and are subject to a civil penalty, pursuant to 15 U.S.C. § 2069 (a)(1).

### III. RESPONSE OF HCP

28. HCP denies all of the allegations of the staff set forth in paragraphs 5-27 above. HCP states that the products described in paragraphs 5-27 above do not contain any defect that would create a substantial product hazard pursuant to Section 15(a) of the CPSA, 15 U.S.C. § 2064(a). These products do not create an unreasonable risk of serious injury or death pursuant to Section 15(b) of the CPSA, 15 U.S.C. § 2064(b). HCP did not violate the reporting requirements of Section 15(b) of the CPSA, 15 U.S.C. § 2064(b), or 16 C.F.R. Part 1115. No other violation of law occurred warranting imposition of a civil penalty. In settling this matter, HCP does not admit any fault, liability or statutory or regulatory violation.

29. For each of the products at issue, as soon as HCP received the information and knowledge necessary to trigger a Section 15(b) report, it acted promptly to file the report in a timely manner.

30. Honeywell has consistently taken responsibility for any potential safety problems in connection with its products. The staff’s allegations relate directly to Honeywell’s acquisition of Duracraft. The majority of the events at issue transpired prior to Honeywell’s acquisition of Duracraft or its involvement in Duracraft’s product-safety matters. Honeywell’s due diligence review of Duracraft was customary in the context of public company acquisitions and did not reveal all issues or details about specific products. Information about consumer claims that Honeywell did receive during its due diligence

review was not unusual for a consumer products company. Honeywell did not receive information about the extent of the consumer claims until it completed the acquisition.

31. HCP is entering into this Settlement Agreement for settlement purposes only, to avoid incurring additional legal costs and expenses.

#### IV. AGREEMENT OF THE PARTIES

32. The Commission has jurisdiction over this matter under the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2051 et seq.

33. HCP knowingly, voluntarily and completely waives any rights it may have to:

- a. the issuance of a complaint in this matter;
- b. an administrative or judicial hearing with respect to the staff allegations discussed in paragraphs 5 through 27 above;
- c. judicial review or other challenge or contest of the validity of the Commission's Order;
- d. a determination by the Commission as to whether a violation of Section 15(b) of the CPSA, 15 U.S.C. § 2064 (b) has occurred;
- e. a statement of findings of fact and conclusion of law with regard to the staff allegations; and
- f. to any claims under The Equal Access to Justice Act.

34. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be published in the Federal Register in accordance with 16 C.F.R. Part 1118 Section 20, and the Commission may further publicize the terms of the Settlement Agreement and Order.

35. The Settlement Agreement and Order becomes effective upon final acceptance by the Commission and service of the Order upon HCP.



36. HCP agrees to pay to the United States Treasury a civil penalty in the amount of Eight Hundred Thousand Dollars (\$800,000.00) within 30 calendar days of HCP's receiving service of the final Settlement Agreement and Order.

37. HCP agrees to the entry of the attached Order, which is incorporated herein by reference, and to be bound by its terms.

38. This Settlement Agreement and Order are entered into for settlement purposes only and shall not constitute a determination of any fault, liability or statutory or regulatory violation by HCP.

39. Compliance by HCP with the Settlement Agreement and Order in the above-captioned case fully resolves and settles the allegations of violations of Section 15(b) of the CPSA set out above.

40. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. § 2051, et seq., and 16 C.F.R. Part 1118, Section 20, and a violation of this Order may subject HCP to appropriate legal action.

41. This Settlement Agreement and Order is binding upon and shall inure to the benefit of HCP and its corporate parents, assigns or successors.

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

HONEYWELL CONSUMER PRODUCTS, INC.

\_\_\_\_\_  
DATED: \_\_\_\_\_

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Alan H. Schoem, Assistant Executive Director  
Office of Compliance

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**HONEYWELL CONSUMER PRODUCTS, INC.**

Victor P. Patrick, Assistant Clerk and Assistant Secretary



DATED: Sept. 14, 2001

**U.S. CONSUMER PRODUCT SAFETY COMMISSION**

Alan H. Schoem, Assistant Executive Director

Eric L. Stone, Director, Legal Division  
Office of Compliance



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Jimmie L. Williams, Jr.  
Trial Attorney, Legal Division  
Office of Compliance

DATED: 9/17/01

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

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|-------------------------------------|--------------------------|
| In the Matter of )                  |                          |
| Honeywell Consumer Products, Inc. ) | CPSC Docket No. 02-C0001 |
| (formerly known as Duracraft )      |                          |
| Corp.) )                            |                          |
| )                                   |                          |
| )                                   |                          |
| )                                   |                          |

ORDER

Upon consideration of the Settlement Agreement entered into between Honeywell Consumer Products, Inc., formerly known as Duracraft Corp., and the staff of the U.S. Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Honeywell Consumer Products, Inc., and it appearing that the Settlement Agreement and Order is in the public interest, it is

ORDERED, that the Settlement Agreement be, and hereby is, accepted, and it is

FURTHER ORDERED, that upon final acceptance of the Settlement Agreement and Final Order, Honeywell Consumer Products, Inc. shall pay the Commission a civil penalty in the amount of Eight Hundred Thousand Dollars (\$800,000.00) within 30 calendar days after service of this Final Order upon Honeywell Consumer Products, Inc.


Honeywell Consumer Products, Inc.  
(formerly known as Duracraft Corp.)

CPSC DOCKET NO. 02-C0001

Provisionally accepted and Provisional Order issued on the 29th day of October

2001.

BY ORDER OF THE COMMISSION



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Todd A. Stevenson, Acting Secretary  
U.S. Consumer Product Safety Commission