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Issued in Washington, DC, on June 5, 2000.

Alan L. Seifert,

Deputy Director.

[FR Doc. 00-14523 Filed 6-8-00; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00-C0010]

Red Rock Trading Co., Inc., a Corporation, and Blackjack Fireworks, Inc., a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Federal Hazardous Substances Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e)-(h). Published below is a provisionally-

accepted Settlement Agreement with Red Rock Trading Co., Inc., a corporation, and Blackjack Fireworks, Inc., a corporation, containing a civil penalty of \$90,000.¹

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 June 24, 2000.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00-C0010, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT:

Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626, 1346.

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

Dated: June 5, 2000.

Sadye E. Dunn,
Secretary.

Settlement Agreement and Order

1. Red Rock Trading Company, Inc. (hereinafter, "Red Rock"), a corporation and Blackjack Fireworks, Inc. (hereinafter, "Blackjack"), a corporation enter into this Settlement Agreement and Order (hereinafter, "Settlement Agreement" or "Agreement") with the staff of the Consumer Product Safety Commission, and agree to the entry of the attached Order incorporated by

reference herein. The purpose of the Settlement Agreement is to settle the staff's allegations that Red Rock and Blackjack knowingly violated sections 4(a) and (c) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1263(a) and (c)."

I. The Parties

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

3. Red Rock is a corporation organized and existing under the laws of the State of Nevada. Red Rock's corporate address is 6000 South Eastern, Suite 11E, Las Vegas, NV 89119. Red Rock imports and distributes consumer fireworks.

4. Blackjack is a corporation organized and existing under the laws of the State of Nevada. Blackjack's corporate address is 6000 South Eastern, Suite 11E, Las Vegas, NV 89119. Blackjack sells consumer fireworks.

II. Allegations of the Staff

5. On 19 occasions between December 14, 1994 and May 20, 1999, Red Rock and Blackjack introduced or caused the introduction in interstate commerce of 36 different kinds of fireworks devices (703,823 retail units) identified and described below that failed to comply with the Commission's Fireworks Regulations at 16 CFR Part 1507 and 16 CFR 1500.14(b)(7) and 1500.17(a)(3).

| Collection date * Entry date | Sample No. | Product | Violation |
|---------------------------------|-------------|-----------------------------------|---|
| 12/14/94 * | T-830-7216 | Bottle Rockets | Fuse Attachment. |
| 05/08/95 | T-830-4030 | Candle Star | Fuse Burn Time, Side Ignition. |
| 05/08/95 | T-830-4162 | News Transmitter | Fuse Attachment, Fuse Burn Time. |
| 06/02/95 | T-830-7345 | Moon Traveller | Fuse Burn Time, Fuse Attachment. |
| 09/26/96 * | 96-860-6467 | Jumping Jacks | Fuse Burn Time. |
| 09/26/96 * | 96-860-6468 | Whistling Moon Traveller | Stick Rigidity. |
| 09/26/96 * | 96-860-6470 | General Custer's Last Stand | Fuse Burn Time. |
| 09/26/96 * | 96-860-6472 | Artillery Shell | Fuse Burn Time. |
| 04/21/97 * | 97-830-3219 | Cobra Black Snake | Excess Arsenic. |
| 04/21/97 * | 97-860-3220 | Battle of Colors | Excess Pyrotechnic, Composition. |
| 05/15/97 | 97-830-4214 | Night Shell | Fuse Burn Time. |
| 05/15/97 | 97-830-4215 | Overlord in Sky | Excess Pyrotechnic, Composition, Pyrotechnic Leakage. |
| 05/15/97 | 97-830-4216 | Battle of Colors | Excess Pyrotechnic, Composition, Fuse Burn Time, Burnout/Blowout. |
| 06/19/97 | 97-830-3259 | Spring Thunder | Excess Pyrotechnic, Composition. |
| 06/19/97 | 97-830-3530 | Rattles Colored Snakes | Excess Arsenic. |
| 07/11/97 | 97-830-6350 | Ninja Shell | Fuse Burn Time. |
| 04/09/98 | 98-860-6074 | News Transmitter | Fuse Burn Time. |
| 04/09/98 | 98-860-6079 | 7 Shot Night Shell | Fuse Attachment, Tipover. |
| 05/05/98 | 98-860-6848 | Sky Travel Barrage | Fuse Burn Time. |
| 05/21/98 | 98-860-6999 | Victory Celebration | Fuse Attachment. |

¹ Chairman Ann Brown and Commissioner Thomas H. Moore voted to provisionally accept the agreement. Commissioner Mary Sheila Gall voted to

reject the agreement. Chairman Brown and Commissioner Gall filed statements concerning their respective votes, copies of which are available

from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

| Collection date * Entry date | Sample No. | Product | Violation |
|---------------------------------|-------------|----------------------------|---|
| 05/22/98 | 98-860-6810 | Smoke Toy Device | Fuse Burn Time, Side Ignition, External Flame. |
| 05/22/98 | 98-860-6811 | 2 Color Smoke | Fuse Burn Time, External Flame. |
| 06/19/98 | 98-830-3830 | Night Shell | Tipover, Side Ignition. |
| 06/19/98 | 98-830-3831 | Thunder Crackling | Labeling, Excess Pyrotechnic, Composition, Fuse Burn Time, Side Ignition. |
| 06/19/98 | 09-830-3832 | Thunder & Rain | Labeling Excess Pyrotechnic, Composition, Fuse Burn Time, Side Ignition. |
| 06/19/98 | 98-830-3833 | Command Teste | Excess Pyrotechnic, Composition. |
| 06/19/98 | 98-830-3834 | Sunglow | Excess Pyrotechnic, Composition. |
| 06/15/98 | 98-830-6843 | Moon Travellers | Stick Rigidly. |
| 06/15/98 | 98-830-6844 | Air Travel | Fuse Burn Time. |
| 12/09/98 | 99-830-3311 | 96 Color Peal | Fuse Burn Time, Side Ignition. |
| 03/30/99 | 99-860-5662 | 10 Ball Roman Candle | Fuse Burn Time. |
| 03/30/99 | 99-860-5663 | 10 Ball Roman Candle | Excess Pyrotechnic, Composition. |
| 04/19/99 | 99-860-6063 | Jumping Jacks | Pyrotechnic, Leakage. |
| 05/12/99 | 99-860-5654 | Small Festival Balls | Fuse Burn Time. |
| 05/12/99 | 99-860-5658 | Dragon Dancing | Side Ignition. |
| 05/20/99 | 99-860-6192 | Artillery Shell | Pyrotechnic, Leakage. |

6. Each of the fireworks devices identified in paragraph 5 above is a "banned hazardous substance" pursuant to section 2(q)(1)(B) of the FHSA, 15 U.S.C. 1261(q)(1)(B), 16 CFR Part 1507, and 16 CFR 1500.17(a)(3).

7. Each of the fireworks devices identified in paragraph 5 above that failed to comply with the labeling requirements are "misbranded hazardous substances" pursuant to section 3(b) of the FHSA, 15 U.S.C. 1262(b) and 16 CFR 1500.14(b)(7).

8. Red Rock and Blackjack knowingly introduced or caused the introduction in interstate commerce; or received in interstate commerce and delivered or proffered delivery thereof for pay or otherwise, the banned and misbranded hazardous fireworks identified in paragraph 5 above, in violation of sections 4(a) and (c) of the FHSA, 15 U.S.C. 1263(a) and (c).

III. Response of Red Rock and Blackjack

9. Red Rock and blackjack deny the allegations of the staff set forth in paragraphs 5 through 8 above.

10. Red Rock's and Blackjack's products comply with all federal statutes and regulations (including those cited above) and are specifically manufactured to comply with such laws. Red Rock and Blackjack, in fact, have arranged for many of their products to be tested by qualified individuals to ensure compliance with all such laws. Moreover, Red Rock and Blackjack are aware of no injuries associated with any products imported by them over the years.

11. Red Rock and Blackjack vehemently deny they knowingly introduced or caused the introduction in interstate commerce; or received in

interstate commerce and delivered or proffered delivery thereof for pay or otherwise any banned hazardous substances and/or misbranded hazardous substances, including the alleged banned hazardous substances and/or alleged misbranded hazardous substances described above in paragraph 5.

12. Red Rock and Blackjack are only entering into this Settlement Agreement because of the tremendous legal cost of contesting a fine action against the Commission in Court as well as the negative publicity that could be associated with a long drawn out trial.

IV. Agreement of the Parties

13. The Consumer Product Safety Commission has jurisdiction over Red Rock and Blackjack, and the subject matter of this Settlement Agreement and incorporated Order under the following acts: Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, and the Federal Hazardous Substances Act, 15 U.S.C. 1261 *et seq.*

14. Red Rock and Blackjack agree to the entry of the attached Order which is incorporated herein by reference.

15. This Settlement Agreement and Order is entered into for the purposes of settlement only and does not constitute a determination by the Commission or an admission by Red Rock and Blackjack that Red Rock and Blackjack knowingly violated the FHSA and the Commission's Fireworks Regulations.

16. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Red Rock and Blackjack knowingly, voluntarily, and completely waived any rights they may have in this matter (1) to an administrative or judicial hearing (2) to judicial review or

other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Red Rock and Blackjack failed to comply with the FHSA, (4) to a statement of findings of fact and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

17. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued, and the Commission may publicize the terms of the Settlement Agreement and incorporated Order.

18. In settlement of the staff's allegations, Red Rock and Blackjack agree to pay a civil penalty of \$90,000.00 as set forth in the incorporated Order.

19. Upon the full payment of the civil penalty as set forth in the Final Order, the Commission fully releases, acquits, and forever discharges Red Rock and Blackjack and its officers, directors, and/or employees from all claims for civil penalties, demands for civil penalties, liabilities for civil penalties, actions for civil penalties, or causes of actions for civil penalties for all violations from December 14, 1994 through December 31, 1999 for which the Commission has issued letters of advice to Red Rock and Blackjack.

20. Upon provisional acceptance of this Settlement Agreement by the Commission, the Commission will place the Settlement Agreement and the incorporated Order on the public record, and publish it in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e)-(h). If the Commission does not receive any written requests not to accept the Settlement Agreement within 15 days, the Settlement Agreement shall

be deemed finally accepted and the Final Order issued on the 16th day.

21. Red Rock and Blackjack have recently become members of the American Fireworks Standards Laboratory (AFSL). Based on current data, the Commission staff believes that fireworks imported under the AFSL testing and certification program are more likely to comply with the Commission's Fireworks Regulations than non-AFSL fireworks are. Accordingly, the Commission will not pursue FHSA violations against Red Rock and Blackjack for those fireworks products legitimately tested and certified by AFSL as complying with the Commission's Fireworks Regulations, as the AFSL program is currently structured and administered. However, the Commission staff will continue to monitor the AFSL program. If the Commission staff determines that the AFSL program does not adequately assure compliance with the fireworks regulations, it will notify Red Rock and Blackjack in writing. After providing such written notice to Red Rock and Blackjack, the Commission staff will have the enforcement discretion to pursue violations of the FHSA and the Commission's Fireworks Regulations against Red Rock and Blackjack for AFSL tested fireworks products received and/or imported by Red Rock and Blackjack after such notification date. The Commission staff's determination on the adequacy of the AFSL testing and certification program is neither reviewable nor subject to challenge by Red Rock and Blackjack nor provides a basis for Red Rock and Blackjack to challenge this Agreement.

22. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations apart from those contained in this Settlement Agreement and incorporated Order may not be used to vary or contradict its terms.

23. The provisions of this Settlement Agreement and Order shall apply to Red Rock and Blackjack and each of their successors and assigns.

24. Upon final acceptance of this Agreement, the Commission shall issue the attached Final Order.

Respondent's Red Rock Trading Company, Inc. and Blackjack Fireworks, Inc.

Dated: March 13, 2000.

Tim McCoy,

President, Red Rock Trading Company, Inc. and Blackjack Fireworks, Inc., 6000 South Eastern, Suite 11E, Las Vegas, NV 89119.

Commission Staff

Alan H. Schoem,

Assistant Executive Director, Consumer Product Safety Commission, Office of Compliance, Washington, D.C. 20207-0001.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

Dated: March 16, 2000.

Dennis C. Kacoyanis,

Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Respondents Red Rock Trading Company, Inc., a corporation, Blackjack Fireworks, Inc., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Red Rock Trading Company, Inc. and Blackjack Fireworks, 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 Order, Red Rock Trading Company, Inc. and Blackjack Fireworks, Inc. shall pay a civil penalty in the amount of ninety thousand and 00/100 dollars (\$90,000.00) in three (3) payments. The first payment of forty thousand and 00/100 dollars (\$40,000.00) shall be due within twenty (20) days after service upon Red Rock Trading Company, Inc. and Blackjack Fireworks, Inc. of the Final Order of the Commission accepting the Settlement Agreement (hereinafter, the "anniversary date"). The second payment of twenty-five thousand and 00/100 dollars (\$25,000.00) shall be paid on or before August 1, 2000. The third payment of twenty-five thousand and 00/100 dollars (\$25,000.00) shall be made within one year of the anniversary date. Upon the failure of Red Rock Trading Company, Inc. and Blackjack Fireworks, Inc. to make a payment or upon Red Rock Trading Company, Inc. and Blackjack Fireworks, Inc. making a late payment (a) the entire amount of the civil penalty shall be due and payable, and (b) 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 (c).

Provisionally accepted and Provisional Order issued on the 5th day of June, 2000.

By order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 00-14543 Filed 6-8-00; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

Reissuance of MFTRP No. 1A as MFTRP No. 1B, Including PowerTrack Requirements

AGENCY: Military Traffic Management Command, DoD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command (MTMC), as the Department of Defense (DoD) Traffic Manager for surface and surface intermodal traffic management services, hereby cancels MTMC Freight Traffic Rules Publication (MFTRP) No. 1A in its entirety and replaces it with MFTRP No. 1B, effective September 30, 2000. The actual text of the 1B will be available on the Internet at MTMC's website at www.mtmc.army.mil by clicking in succession on: (1) Transportation Services, (2) Freight Logistics, (3) Freight Traffic Rules Publications and then clicking on the appropriate box indicating the 1B. In conjunction with the replacement of the 1A with the 1B, use of the PowerTrack automated billing and payment system will become mandatory on September 30, 2000 for all DoD freight shipped in accordance with the 1B motor rules publication. Specifically, motor carriers wishing to transport DoD freight effective September 30, 2000 must have a signed agreement with US Bank and be PowerTrack certified to be eligible to pick up shipments on or after that date. The 1B is being issued by MTMC Headquarters in Alexandria, Virginia; however, responsibility for the publication after its original issuance will pass from MTMC Headquarters to MTMC's Deployment Support Command at Fort Eustis, Virginia.

DATES: MFTRP No. 1A is cancelled and MFTRP No. 1B is effective September 30, 2000.

ADDRESSES:

(Until September 30, 2000)

Headquarters, Military Traffic Management Command, ATTN: MTOP-MRM, Room 10N-07, Hoffman II Building, 200 Stovall Street, Alexandria, VA 22332-5000, attn: Jerome Colton, e-mail: