

Complaint

109 F.T.C.

IN THE MATTER OF

AQUANAUTICS CORPORATION

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3207. Complaint, Feb. 17, 1987—Decision, Feb. 17, 1987*

This consent order requires, among other things, a San Francisco manufacturer of marine survival suits to notify owners and users of its suits of a safety defect that is potentially life-threatening and send a repair kit to all users and purchasers it can identify to correct the product defect.

Appearances

For the Commission: *Theodore H. Hoppock.*

For the respondents: *Theodore C. Whitehouse, Willkie, Farr & Gallagher, Washington, D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. 45 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that respondent Aquanautics Corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 4560 Horton Street, Building Q, #111, Emeryville, CA.

PAR. 2. Respondent owns and controls a wholly-owned subsidiary, Bremerton Asset Corporation, formerly called Imperial Manufacturing Corporation ("Imperial"). Prior to the sale of part of Imperial's assets on or about March 1985, Imperial was engaged in the manufacturing, advertising, marketing, distributing, and selling to the public of exposure suits—one-piece, hooded, jump suit-like garments made of flexible, buoyant material—which are designed for emergency use to increase the chance of survival in cold water.

PAR. 3. Prior to April 1980, a predecessor to respondent's wholly-owned subsidiary Imperial, called Imperial Manufacturing Company,

manufactured exposure suits equipped with an inflatable bladder called a high rider ring which is intended to be inflated after the exposure suit has been put on by means of an inflator tube glued to the elbow of the high rider ring (hereinafter "the Imperial exposure suit"). In the course and conduct of the business of the predecessor to respondent's wholly-owned subsidiary Imperial, the Imperial exposure suit was offered for sale and sold to purchasers located in various States of the United States and the District of Columbia. Respondent's wholly-owned subsidiary Imperial and its predecessor, at all times mentioned herein, maintained a substantial course of trade in exposure suits in or affecting commerce, as "commerce" is defined by the Federal Trade Commission Act, as amended.

PAR. 4. In the further course and conduct of its aforesaid business, respondent's wholly-owned subsidiary Imperial and its predecessor at all times mentioned herein made numerous statements in various advertisements and promotional materials prepared and disseminated for use in selling the Imperial exposure suit. Illustrative and typical, but not inclusive of the statements employed as aforesaid, are the following:

1. Imperial Survival Suits combine the best thermal protection available with indestructable flotation.
2. Our suit gives you the thermal protection and buoyancy needed to stay alive for hours. . . .
3. A revolutionary advancement in life-saving devices, the Imperial Survival Suit gives you the flotation and warmth needed to survive the rigors of the cold, unforgiving ocean.
4. High Rider Ring—A flotation ring that may be attached to the suit for added support to the head and shoulders.

PAR. 5. Respondent's wholly-owned subsidiary Imperial and its predecessor through the use of the aforesaid statements, and by the offering of the Imperial exposure suit for sale by said predecessor of Imperial as a product fit for improving the chance of survival in ocean waters have represented, directly or by implication, that the Imperial exposure suit will consistently and safely provide the necessary flotation and head and shoulder support for the user to float safely in cold ocean water for lengthy periods of time, thereby substantially diminishing the likelihood of drowning.

PAR. 6. In truth and in fact, due to the design of the inflator tube and the high rider ring, the high rider ring on the Imperial exposure suit, which is intended to provide the support of the head and shoulders, would not consistently inflate or remain inflated in actual use. Therefore, the Imperial exposure suit will not consistently and safely provide the necessary flotation and head and shoulder support for the

user to float safely in cold ocean water for lengthy periods of time, thereby substantially diminishing the likelihood of drowning.

Therefore the representation set forth in Paragraph Five was false and misleading.

PAR. 7. The acts and practices of respondent, herein alleged, were all to the prejudice and injury of the public and constituted unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules;

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Aquanautics Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at One Maritime Plaza, Suite 1750, in the City of San Francisco, State of California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

For the purpose of this order, the following definitions shall apply:

1. *The Imperial exposure suit* means an exposure suit manufactured by Imperial Manufacturing Corporation before April 1980 for sale in the United States or for use on vessels documented or numbered pursuant to 46 U.S.C. 12101-12122 or on mobile offshore drilling units subject to Coast Guard regulation pursuant to 43 U.S.C. 1333, equipped with an inflatable bladder, called a high rider ring, which includes an inflator tube which is glued, but not clamped, to the elbow of the high rider ring.

2. *Imperial Manufacturing* means the company which manufactured and sold the Imperial exposure suit.

3. *Person* means any individual, partnership, corporation, firm, trust, estate, cooperative, association, or other entity.

4. *Distributor* means any person who purchased or received on consignment the Imperial exposure suit for resale.

5. *Retailer* means any person, other than a distributor, who sold the Imperial exposure suit to the public.

6. *Owner* means any person who purchased the Imperial exposure suit from Imperial Manufacturing, a distributor, or a retailer.

7. *User* means any person who uses or has available for use the Imperial exposure suit irrespective of the ownership of that suit.

8. *Panduit strap* means the plastic strap of the type used to secure the inflator tube to the high rider rings used on exposure suits manufactured by Imperial Manufacturing after April 1980.

9. *The modification contemplated by this order* means the installation of two Panduit straps to reinforce the attachment of the inflator tube to the elbow of the high rider ring and installation of two additional Panduit straps to reinforce the attachment of the inflator nozzle to the inflator tube.

10. *United States* means the fifty states, the District of Columbia and all commonwealths, territories and possessions.

I.

It is ordered, That respondent Aquanautics Corporation, a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the Imperial exposure suit or any other exposure suit in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do

forthwith cease and desist from representing directly or by implication, that any such exposure suit provides the necessary flotation and head and shoulder support for the user to float safely in cold or rough water or diminishes the likelihood of drowning, unless such is the case.

II.

It is further ordered, That respondent do forthwith cease and desist from failing to:

A. Not later than twenty (20) days after the date of service of this order, send, by first-class mail in an envelope clearly marked on the front with the words "Contains Exposure Suit Safety Information And New Safety Straps", to each owner or user of the Imperial exposure suit for whom respondent possesses, controls, or has access to a mailing address the following:

1. A copy of Attachment A(1) to this order. The "Customer Response Card" depicted in Attachment A(1) shall be provided with prepaid postage sufficient to allow it to be mailed first class to the address contained thereon without the need of any additional postage;

2. A sufficient number of Panduit straps to effect the modification contemplated by this order on each of the Imperial exposure suits respondent's records show that the owner or user has;

3. A copy of Attachment B to this order.

B. Respondent shall not be obliged to send the materials listed in subparagraphs 1 through 3 of Paragraph A herein to the owner or user of the Imperial exposure suit if respondent has records which show that:

1. The owner or user of the Imperial exposure suit previously has received the modification contemplated by this order; or

2. The Imperial exposure suit was purchased for use on vessels or structures on which the United States Coast Guard requires the carriage of Coast Guard approved exposure suits pursuant to the following regulations:

- a. 46 CFR 33.37;
- b. 46 CFR 94.41;
- c. 46 CFR 108.513; or
- d. 46 CFR 192.41.

C. Not later than twenty (20) days after the service of this order, place and cause to be disseminated the advertisements attached as Attachments E(1) and E(2) to this order in two consecutive issues of

the following publications beginning in the earliest possible issue of each such publication:

1. *National Fisherman*;
2. *The Fisherman's News*;
3. *The Fisherman*;
4. *Alaska Fisherman's Journal*;
5. *The Fish Boat*;
6. *Pacific Fishing*; and
7. *Commercial Fisheries News*.

The first such advertisement in each publication shall be full page in size and be in the form of Attachment E(1); the second shall be one-half page in size and be in the form of Attachment E(1) or Attachment E(2).

D. Not later than (30) days after the service of this order, send, by first-class mail, to each of the approximately 8,000 current holders of "Fisheries Entry Permits" issued by the State of Alaska, at the address shown on the list of holders of such permits available from the State of Alaska, a copy of Attachments A(2) and B to this order and a sufficient number of Panduit straps to effect the modification contemplated by this order on one (1) Imperial exposure suit.

III.

It is further ordered, That:

A. Not later than fifteen (15) days after the date of service of this order, respondent shall contact the following distributors of the Imperial exposure suit and obtain from each distributor, or from the distributor's available records, the names and addresses of all persons, including retailers, to whom the Imperial exposure suit was sold by such distributors to the extent that the distributors have such information:

1. Atlantic Survival Company;
2. King Neptune Company;
3. Nordby Company;
4. Seattle Marine and Fishing Supply Co.;
5. Shelikoff Net Company;
6. Eagle Enterprises, Inc.;
7. Englund Marine Supply Company, Inc.; and
8. Harry's Plumbing and Heating.

B. Not later than fifteen (15) days after the date of service of this order, respondent shall send, by first class mail, to all retailers (a) known to it to have sold the Imperial exposure suit or (b) which

become known to it to have sold the Imperial exposure suit as a consequence of the efforts described in Paragraph III.A, above, the following:

1. A letter in the form of Attachment C(1) to this order;
2. A copy of a display poster, at least 24 inches by 36 inches, with the form and content of Attachment D to this order; and
3. A minimum of sixty (60) Panduit straps which the retailer shall be requested to distribute free of charge to any person who requests them to effect the modification contemplated by this order. Thereafter, respondent shall furnish additional Panduit straps free of charge to any distributor or retailer who requests them for application to the Imperial exposure suit to effect the modification contemplated by this order.

Respondent shall, within forty-five (45) days after the date of service of this order, obtain from each such retailer, or from the available records of each such retailer, the names and addresses of all persons known or reasonably believed to be owners or users of the Imperial exposure suit to the extent that: (a) the retailers have such information and (b) the retailers are willing or able to make such information available to respondents.

C. Not later than thirty (30) days after the service of this order, respondent shall send to each distributor of the Imperial exposure suit from which respondent obtained, pursuant to Paragraph III.A above, (a) the names and addresses of all persons to whom the Imperial exposure suit was sold by that distributor or (b) the response that the distributor had no records of the names and addresses of any owners or users of the Imperial exposure suit, the following:

1. A letter in the form of Attachment C(2) to this order;
2. A copy of a display poster, at least 24 inches by 36 inches, with the form and content of Attachment D to this order; and
3. A minimum of sixty (60) Panduit straps which the distributor shall be requested to distribute free of charge to any person who requests them to effect the modification contemplated by this order. Thereafter, respondent shall furnish additional Panduit straps free of charge to any distributor who requests them for application to the Imperial exposure suit to effect the modification contemplated by this order.

D. Not later than forty-five (45) days after service of this order, respondent shall send, by first class mail, to all distributors and retailers of the Imperial exposure suit, except for those distributors and retailers from which respondent obtained, (a) the names and addresses of all persons known or reasonably believed to be owners or

users of the Imperial exposure suit or (b) the response that the distributor or retailer had no records of the names and addresses of any owners or users of the Imperial exposure suit, the following:

1. A letter in the form of Attachment C(3) to this order;
2. A copy of a display poster, at least 24 inches by 36 inches, with the form and content of Attachment D to this order; and
3. A minimum of sixty (60) Panduit straps which the distributor or retailer shall be requested to distribute free of charge to any person who requests them to effect the modification contemplated by this order. Thereafter, respondent shall furnish additional Panduit straps free of charge to any distributor or retailer who requests them for application to the Imperial exposure suit to effect the modification contemplated by this order.

E. Respondent shall pay, to each retailer or distributor to whom it is required to send Attachment C(3), the sum of ten (10) dollars for each name and address of an owner or user of the Imperial exposure suit such retailer or distributor provides to respondent. Respondent shall pay the ten (10) dollars even if the address provided is not a current address. Said payment must be made within thirty (30) days of respondent's receipt of such names and addresses.

Provided, however, That respondent shall not be required to pay for any name and address provided to it pursuant to this provision if:

1. respondent determines and documents that the named person(s) never owned or used the Imperial exposure suit; or
2. respondent previously had obtained the name and address from any retailer or distributor prior to the date Attachment C(3) was sent to such retailer or distributor; or
3. the name and address is not contained or reflected in the regularly kept business records of such distributor or retailer.

IV.

It is further ordered That:

A. Respondent shall send, by first-class mail, to each person reported to respondent to be or who claims to respondent to be an owner or user of the Imperial exposure suit, within twenty (20) days of respondent's receipt of said report or claim, Attachments A(1) and B and four (4) Panduit straps for each of the Imperial exposure suits reported or claimed to be owned or used by that person.

B. Respondent shall within ten (10) days of the return of any mailing made pursuant to Section II.A, Sections III.B, C, or D, or Section IV.A of this order marked by the Post Office as undeliverable, make

a reasonable search for the current address of the addressee of each returned mailing. For mailings made pursuant to Sections II.A or IV.A, this search shall include the use of the pertinent telephone directory, contacting the relevant ship registries and listings and contacting fishermen's unions.

C. Respondent shall, within ten (10) days of locating a new address through the search required by Section IV.B, send, by first-class mail, the same Attachment(s) and number of Panduit straps sent to the original address to each person for whom a new address is found.

V.

It is further ordered, That:

A. Respondent keep and maintain for three years from the date of service of this order the following records:

1. The names, addresses and dates of mailing of all notices or Panduit straps required by this order;
2. For each contact respondent makes pursuant to the requirements of Section III.A, the name and address of each distributor contacted; the name of the representative or employee of respondent who made the contact; and a record of the response the distributor made to the contact, including, but not limited to, the following information: (a) did the distributor state that it had records of the names and addresses of owners or users of the Imperial exposure suit which it agreed to provide to respondent; (b) did the distributor state that it had records of the names and addresses of owners or users of the Imperial exposure suit which, for any reason, it would not agree to provide to respondent; (c) did the distributor state that it had no records of the names and addresses of owners or users of the Imperial exposure suit; and (d) any other response the distributor made regarding respondent's efforts to obtain from it the names and addresses of owners or users of the Imperial exposure suit;
3. Each response page attached to Attachment C(1) and C(2) of this order returned to respondent by a distributor or retailer of the Imperial exposure suit;
4. The names, addresses, date of receipt and source of the report of all persons reported to respondent to be owners or users of the Imperial exposure suit;
5. The amount of payment, the date of payment and the name and address of the recipient of all payments made pursuant to Section III.E of this order; and
6. The total number of Panduit straps disseminated by respondent pursuant to the provisions of this order.

B. Respondent shall, upon request, make the records specified in Section V.A available to the Federal Trade Commission for inspection and copying.

VI.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VII.

It is further ordered, That respondent shall, within one hundred twenty (120) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail, the manner and form in which it has complied with this order.

ATTACHMENT A(1)

[COMPANY LETTERHEAD]

URGENT NOTICE Re:
Your Personal Safety

Dear Imperial Survival Suit Owner:

This letter is to inform you of the need to make *immediate modifications* on your Imperial Model 1409 exposure suit equipped with a high rider ring because you may be in danger during an emergency if you use it without modifying it.

The National Transportation Safety Board has concluded that a *serious safety hazard* may exist in Imperial Model 1409 exposure suits equipped with high rider rings manufactured before April 1980.

According to our records, you have purchased an Imperial Model 1409 exposure suit equipped with a high rider ring made between 1975 and April 1980. As part of an agreement we have reached with the Federal Trade Commission, we are sending you this important safety warning and modification kit for your Imperial exposure suit.

We have received reports that the inflator tube assembly, which is used to inflate the high rider ring in these suits, has separated when individuals have attempted to inflate the high rider ring in emergency situations. This separation prevents inflation of the high rider ring, which, when inflated, helps keep the head and shoulders above water.

If the high rider ring cannot be inflated, the exposure suit does not provide you with the added head and shoulder support ("freeboard") intended, and your chance of survival in an emergency situation may be reduced.

We have developed a *free*, simple modification kit to fix this problem and eliminate the safety hazard. We have enclosed this modification kit and the instructions for its use in this mailing. You can complete the modification in just a few minutes time. Once

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modified, your Imperial exposure suit will afford you all of the protection intended when it was manufactured. The modification kit meets Coast Guard Standards.

If you should have any additional Model 1409 Imperial exposure suits manufactured prior to April 1980, or know of anyone else who has one, please be sure to fill out and mail the enclosed card. We will send anyone mailing us this card additional *free*, easy-to-use kits for modifying the inflator tube.

Sincerely,

AQUANAUTICS CORPORATION

Enclosures

Customer Response Card

Please send me additional free modification kit(s) for my Imperial Model 1409 exposure suit(s) to the address below.

Name _____

Address _____

of Kits needed _____

Postage Paid

Aquanautics Corporation
FTC Compliance
4560 Horton Street
Building Q, # 111
Emeryville, CA 94608

ATTACHMENT A(2)

[COMPANY LETTERHEAD]

URGENT NOTICE Re:
Your Personal Safety

Dear Fisheries Entry Permit Holder:

This letter is to inform you of the need to make *immediate modifications* on any Imperial Model 1409 exposure suit equipped with a high rider ring in your possession because you may be in danger during an emergency if you use it without modifying it.

The National Transportation Safety Board has concluded that a *serious safety hazard* may exist in Imperial Model 1409 exposure suits equipped with high rider rings manufactured before April 1980. You can determine if an Imperial Model 1409 exposure suit was manufactured before April 1980 by checking the high rider ring. If there are no plastic tie-down straps on the inflator tube, it was manufactured before April 1980 and needs modification.

Because of your occupation, you may have purchased an Imperial Model 1409 exposure suit equipped with a high rider ring made between 1975 and April 1980. As part

of an agreement we have reached with the Federal Trade Commission, we are sending you this important safety warning and modification kit for such an Imperial exposure suit.

We have received reports that the inflator tube assembly, which is used to inflate the high rider ring in these suits, has separated when individuals have attempted to inflate the high rider ring in emergency situations. This separation prevents inflation of the high rider ring, which, when inflated, helps keep the head and shoulders above water.

If the high rider ring cannot be inflated, the exposure suit does not provide you with the added head and shoulder support ("freeboard") intended, and your chance of survival in an emergency situation may be reduced.

We have developed a free, simple modification kit to fix this problem and eliminate the safety hazard. We have enclosed this modification kit and the instructions for its use in this mailing. You can complete the modification in just a few minutes time. Once modified, the Imperial exposure suit will afford you all the protection intended when it was manufactured. The modification kit meets Coast Guard standards.

If you should have any additional Model 1409 Imperial exposure suits manufactured prior to April 1980, or know of anyone else who has one, please be sure to fill out and mail the enclosed card. We will send anyone mailing us this card additional free, easy-to-use kits for modifying the inflator tube.

Sincerely,

AQUANAUTICS CORPORATION

Enclosures

Customer Response Card

Please send me additional free modification kit(s) for my Imperial Model 1409 exposure suit(s) to the address below.

Name _____

Address _____

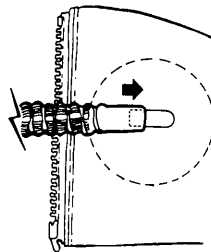
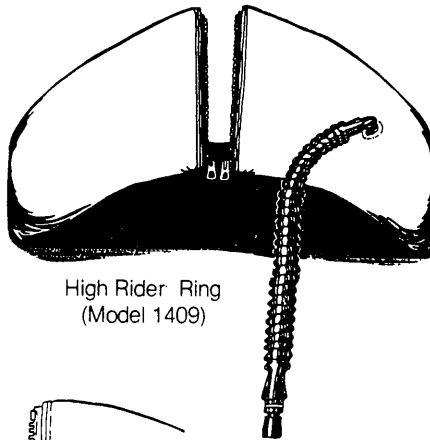
of Kits needed _____

Postage Paid

Aquanautics Corporation
FTC Compliance
4560 Horton Street
Building Q, #111
Emeryville, CA 94608

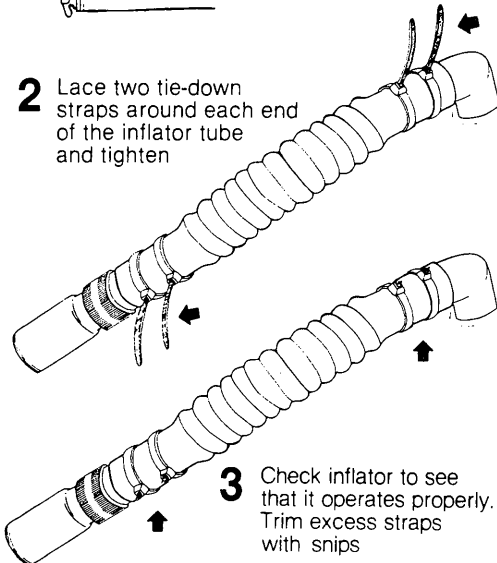
ATTACHMENT B

Tie-Down Strap Installation Instructions for the Imperial Exposure Suit



1 If hose has detached or loosened, push firmly all the way onto elbow

2 Lace two tie-down straps around each end of the inflator tube and tighten



3 Check inflator to see that it operates properly. Trim excess straps with snips

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ATTACHMENT C(1)

[COMPANY LETTERHEAD]

URGENT NOTICE Re:
The Safety of Your Customers

Dear (Name of retailer):

Imperial Manufacturing manufactured and sold an exposure suit equipped with a high rider ring (Model 1409) between 1975 and April 1980. The National Transportation Safety Board has concluded that a *serious safety hazard* may exist in this model exposure suit.

We have received reports that the inflator tube assembly, which is used to inflate the high rider ring in these suits, has separated when individuals have attempted to inflate the high rider ring in emergency situations. This separation prevents inflation of the high rider, which, when inflated, helps keep the head and shoulders above water.

If the high rider ring cannot be inflated, the exposure suit does not provide the added head and shoulder support ("freeboard") intended and may reduce the chance of survival.

We have reached an agreement with the Federal Trade Commission to attempt to 1) notify by mail as many owners and users of Imperial survival suit Model 1409 as we can find of the hazard inherent in their suit and 2) provide them, free of charge, the necessary Panduit (tie-down) straps to eliminate the hazard.

We need your help in locating the names and addresses of purchasers or users of Model 1409 exposure suits equipped with a high rider ring manufactured prior to April 1980. Accordingly, we are making an urgent request that you check your records for, and provide us with, the names and addresses of any purchaser or user of an Imperial Model 1409 exposure suit equipped with a high rider ring manufactured prior to April 1980 sold by your firm. Moreover, if you know the name and address of any other owner or user of these suits, please provide them to us also.

We [have enclosed] or [will be sending] a poster which explains to your customers the hazard and how to get a free modification kit to remedy the hazard. Please put this poster in a highly visible location in your place of business so that your customers may be informed of the hazard and spread the word to their colleagues.

We [have also enclosed] or [will also send] a supply of 60 Panduit straps and instructions for their use. As the instructions explain, the simple installation of four of these straps on the inflator tube assembly of Imperial survival suit Model 1409 will eliminate this safety hazard. Please make these Panduit straps and instructions available free of charge to anyone who owns or uses a Model 1409 exposure suit. If you should need more of these straps, please call Nik Salmela collect at 206-692-5601, and we will rush more to you as quickly as possible.

Please fill out the attached response page and return it to our attention at your earliest convenience. Thank you for your valuable assistance in our effort to eliminate this safety hazard.

Sincerely,

AQUANAUTICS CORPORATION

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[company letterhead]

[ADDRESSEE]

PLEASE CHECK THE APPROPRIATE BOXES:

- ☐ We do not have records of the owners and users of Imperial Model 1409 Survival Suits equipped with a high rider ring manufactured before April 1980.
- ☐ We do have records of the owners and users of Imperial Model 1409 Survival Suits equipped with a high rider ring manufactured before April 1980.
- ☐ We will make these names and addresses available to Aquanautics Corporation.
- ☐ We will not make these names and addresses available to Aquanautics Corporation.

Signature of authorized agent _____

Title _____ Date _____

ATTACHMENT C(2)

[COMPANY LETTERHEAD]

URGENT NOTICE Re:
The Safety of Your *Customers*

Dear (Name of distributor):

[OPTIONAL INTRODUCTORY PHRASE: As explained in his earlier contact with you], Imperial Manufacturing manufactured and sold an exposure suit equipped with a high rider ring (Model 1409) between 1975 and April 1980. The National Transportation Safety Board has concluded that a *serious safety hazard* may exist in this model exposure suit.

We have received reports that the inflator tube assembly, which is used to inflate the high rider ring in these suits, has separated when individuals have attempted to inflate the high rider ring in emergency situations. This separation prevents inflation of the high rider, which, when inflated, helps keep the head and shoulders above water.

If the high rider ring cannot be inflated, the exposure suit does not provide the added head and shoulder support ("freeboard") intended and may reduce the chance of survival.

We have reached an agreement with the Federal Trade Commission to attempt to 1) notify by mail as many owners and users of Imperial survival suit Model 1409 as we can find of the hazard inherent in their suit and 2) provide them, free of charge, the necessary Panduit (tie-down) straps to eliminate the hazard. You already have assisted us in this effort by providing us with any names and addresses of owners and users of this Imperial Survival suit which you have.

We [have enclosed] or [will be sending] a poster which explains to your customers the hazard and how to get a free modification kit to remedy the hazard. Please put this poster in a highly visible location in your place of business so that your customers may be informed of the hazard and spread the word to their colleagues.

We [have also enclosed] or [will also send] a supply of 60 Panduit straps and instructions for their use. As the instructions explain, the simple installation of four of these straps on the inflator tube assembly of Imperial survival suit Model 1409 will eliminate this safety hazard. Please make these Panduit straps and instructions available free of charge to anyone who owns or uses a Model 1409 exposure suit. If you should need more of these straps, please call Nik Salmela collect at 206-692-5601, and we will rush more to you as quickly as possible.

Please fill out the attached response page and return it to our attention at your

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earliest convenience. Thank you for your valuable assistance in our effort to eliminate this safety hazard.

Sincerely,

AQUANAUTICS CORPORATION

[company letterhead]

[ADDRESSEE]

PLEASE CHECK THE APPROPRIATE BOXES:

- [] We do not have records of the owners and users of Imperial Model 1409 Survival Suits equipped with a high rider ring manufactured before April 1980.
- [] We do have records of the owners and users of Imperial Model 1409 Survival Suits equipped with a high rider ring manufactured before April 1980.
- [] We will make these names and addresses available to Aquanautics Corporation.
- [] We will not make these names and addresses available to Aquanautics Corporation.

Signature of authorized agent _____
 Title _____ Date _____

ATTACHMENT C(3)

[COMPANY LETTERHEAD]

URGENT NOTICE Re:

The Safety of Your *Customers*

This is so important that we will *pay* you to help us.

Dear (Name of distributor or retailer):

As we explained in our earlier contact with you, we urgently need your help in locating your customers who purchased an Imperial exposure suit (Model 1409) and we will pay you to help us. *Your efforts might save the life of one of your customers or neighbors.*

Between 1975 and April 1980, Imperial Manufacturing manufactured and sold an exposure suit equipped with a high rider ring (Model 1409). The National Transportation Safety Board has concluded that a *serious safety hazard* may exist in this model exposure suit.

We have received reports that the inflator tube assembly, which is used to inflate the high rider ring in these suits, has separated when individuals have attempted to inflate the high rider ring in emergency situations. This separation prevents inflation of the high rider, which, when inflated, helps keep the head and shoulders above water.

If the high rider ring cannot be inflated, the exposure suit does not provide the added head and shoulder support ("freeboard") intended and may reduce the chance of survival.

We have reached an agreement with the Federal Trade Commission to attempt to 1) notify by mail as many owners and users of Imperial survival suit Model 1409 manufactured prior to April 1980 as we can find of the hazard inherent in their suit and 2) provide them, free of charge, the necessary Panduit (tie-down) straps to eliminate the hazard.

We need your help in locating the names and addresses of purchasers or users of Model

1409 exposure suits equipped with a high rider ring manufactured prior to April 1980. Accordingly, we are making an urgent request that you check your records for, and provide us with, the names and addresses of any purchaser or user of an Imperial Model 1409 exposure suit equipped with a high rider ring manufactured prior to April 1980 sold by your firm. Moreover, if you know the name and address of any other owner or user of these suits, please provide them to us also.

We understand that such a records check is not without cost to you. In an attempt to help defray the cost of searching for and providing us with the requested names and addresses, *we will pay you ten dollars (\$10.00) for each name and address of a purchaser or user of an Imperial Model 1409 survival suit you send us.* You will receive your payment even if you do not have the most current address for the purchaser or user. You will receive this payment within 30 days of our receipt of your *bona fide* list of names and addresses.

In addition, we have [enclosed] or [already sent you] a poster which explains to your customers the hazard and how to get a free modification kit to remedy the hazard. Please put this poster in a highly visible location in your place of business so that your customers may be informed of the hazard and spread the word to their colleagues.

We have also [enclosed] or [already sent you] a supply of 60 Panduit straps and instructions for their use. As the instructions explain, the simple installation of four of these straps on the inflator tube assembly of Imperial survival suit Model 1409 will eliminate this safety hazard. Please make these Panduit straps and instructions available free of charge to anyone who owns or uses an Imperial Model 1409 exposure suit equipped with a high rider ring manufactured before April 1980. If you should need more of these straps, please call Nik Salmela collect at 206-692-5601, and we will rush more to you as quickly as possible.

We're counting on you to make your best effort to locate the names and addresses of owners and users of this exposure suit. Thank you for your valuable assistance in our effort to eliminate this safety hazard.

Sincerely,

AQUANAUTICS CORPORATION

IMPORTANT SAFETY NOTICE

For Imperial Exposure Suit users
with High Rider Ring

SAFETY MODIFICATION NEEDED

Ask your Dealer for the FREE Safety Modification Kit

WHO: If you own an Imperial Survival Suit equipped with a High Rider Ring (Model 1409) manufactured before April 1980 - contact your nearest Imperial Dealer immediately.

To determine when your suit was made, look for the manufacturing date stamp inside the back of the neck of the suit. If there is NO date stamp, the suit was manufactured prior to 1981. Then check your High Rider Ring. If there are no plastic tie-down straps on the inflator tube, it was manufactured before April 1980 & needs modification.

WHY: A defect may exist causing the inflator assembly on the High Rider Ring to separate, preventing its proper inflation. Proper inflation of this ring is important because it holds the body in a more upright position - increasing your chance of survival. The only modification needed is to the High Rider Ring accessory. The suit itself is in no other way affected.

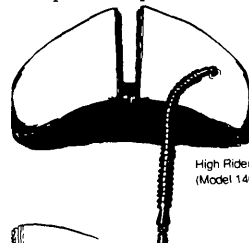
FREE FIX: The modification required is easy and quick. And there's no need to bring in the suit for this modification. Just ask your dealer for the FREE Safety Modification Kit.

This do-it-yourself kit contains four simple-to-install tie-down straps. These will ensure a secure connection to keep the High Rider Ring inflated when in use (see illustrations at right). Though this modification is quick and easy, it's important that it be made for your assured safety. The kit meets Coast Guard standards. If your dealer is out of the kit simply write us for a free kit at:

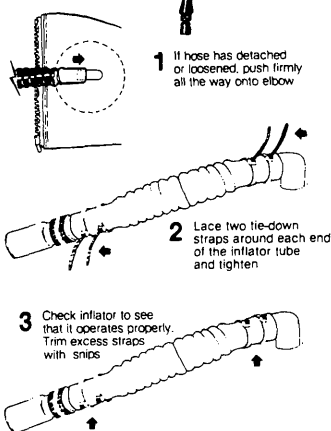
AQUANAUTICS

One Maritime Plaza, Suite 1750
San Francisco, CA 94111

Tie-Down Strap Installation Instructions for the Imperial Exposure Suit



High Rider Ring
(Model 1409)



1 If hose has detached or loosened, push firmly all the way onto elbow

2 Lace two tie-down straps around each end of the inflator tube and tighten

3 Check inflator to see that it operates properly. Trim excess straps with snips

ATTACHMENT E(1)

IMPORTANT SAFETY NOTICE

For Imperial Exposure Suit users
with High Rider Ring

SAFETY MODIFICATION NEEDED

Send or call for a FREE Safety Modification Kit

WHO: If you own an Imperial Survival Suit equipped with a High Rider Ring (Model 1409) manufactured before April 1980-contact Aquanautics Corporation for a FREE safety modification kit.

To determine when your suit was made, look for the manufacturing date stamp inside the back of the neck of the suit. If there is NO date stamp, the suit was manufactured prior to 1981. Then check your High Rider Ring. If there are no plastic tie-down straps on the inflator tube, it was manufactured before April 1980 & needs modification.

WHY: A defect may exist causing the inflator assembly on the High Rider Ring to separate, preventing its proper inflation. Proper inflation of this ring is important because it holds the body in a more upright position - increasing your chance of survival.

The only modification needed is to the High Rider Ring accessory. The suit itself is in no other way affected.

FREE FIX: The modification required is easy and quick. And there's no need to bring in the suit for this modification. We will send you a FREE safety modification kit to correct this problem.

This do-it-yourself kit contains four simple-to-install tie-down straps. These will ensure a secure connection to keep the High Rider Ring inflated when in use (see illustrations at right). Though this modification is quick and easy, it's important that it be made for your assured safety. The kit meets Coast Guard standards.

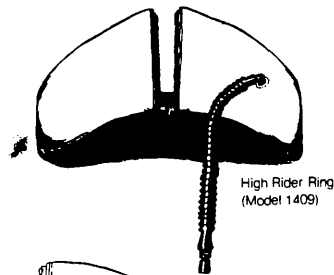
For your FREE modification kit,
simply write to:

AQUANAUTICS
CORPORATION

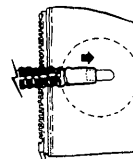
One Maritime Plaza, Suite 1750
San Francisco, CA 94111

or call us collect at (415) 658-6629

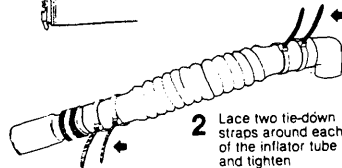
Tie-Down Strap Installation Instructions for the Imperial Exposure Suit



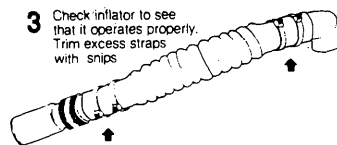
High Rider Ring
(Model 1409)



1 If hose has detached or loosened, push firmly all the way onto elbow



2 Lace two tie-down straps around each end of the inflator tube and tighten



3 Check inflator to see that it operates properly. Trim excess straps with snips

IMPORTANT SAFETY NOTICE

For Imperial Exposure Suit with High Rider Ring

SAFETY MODIFICATION NEEDED

WHO: If you own an Imperial Exposure Suit equipped with a High Rider Ring (Model 1409) manufactured before April 1980 - contact Aquanautics Corporation for a FREE safety modification kit.

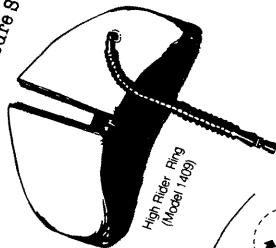
WHY: A defect may exist causing the inflator assembly on the High Rider Ring to separate, preventing its proper inflation. Proper inflation of this ring is important to survival. The only modification needed is to the High Rider Ring accessory. The suit itself is in no other way affected.

FREE FIX: The modification required is easy and quick. And there's no need to bring in the suit for this modification. We will send you a FREE safety modification kit to correct this problem. This do-it-yourself kit contains four simple-to-install tie-down straps. These will ensure a secure connection to keep the High Rider Ring inflated when in use (see illustrations at right). Though this modification is quick and easy, it's important that it be made for your assured safety. The kit meets Coast Guard standards.

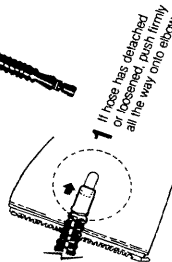
For your FREE modification kit, simply write to:

One Maritime Plaza, Suite 1750 • San Francisco, CA 94111
or call us collect at (415) 865-8829

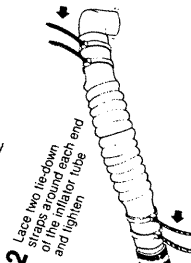
Tie-Down Strap
Installation Instructions
for the
Imperial Exposure Suit



High Rider Ring
(Model 1409)



1 If hand has detached or loosened, push firmly all the way onto elbow



2 Lace two tie-down straps around each end of the inflator tube and tighten



3 Check inflator to see that it operates properly with straps

AQUANAUTICS CORP.
Decision and Order
ATTACHMENT E(2)

Complaint

109 F.T.C.

IN THE MATTER OF

J.C. PENNEY COMPANY, INC.

CONSENT ORDER IN REGARD TO ALLEGED VIOLATION OF SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3208. Complaint, Feb. 20, 1987—Decision, Feb. 20, 1987*

This consent order prohibits, among other things, a New York City-based retailer from bringing any debt-collection cases in judicial districts other than those in which a customer lives or signed the disputed sales contract. Further, respondent is required to either transfer to a closer court, or dismiss entirely, all pending cases brought in "distant forums."

Appearances

For the Commission: *Rachelle V. Brown.*

For the respondents: *Raymond A. Messina* and *Mallory Duncan*, in-house counsel, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that J. C. Penney Company, Inc., a corporation, ("respondent") has violated Section 5(a) of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. J.C. Penney Company, Inc., is a Delaware corporation, with its principal office and place of business located at 1301 Avenue of the Americas, New York, New York.

PAR. 2. Respondent is a general merchandise and catalog sales retailer, engaged in the advertising, offering for sale, sale, and distribution of clothing, household goods, and various other articles of merchandise.

PAR. 3. The acts and practices of respondent, as alleged in this complaint, have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, respondent regularly extends credit (hereinafter referred to as "consumer credit accounts") for the purpose of facilitating consumers' purchases of respondent's products.

PAR. 5. In the course and conduct of attempting to collect allegedly delinquent consumer credit accounts in Virginia, respondent,