

<b>DOCKETED</b>	
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<b>Project Title:</b>	Settlement Agreements
<b>TN #:</b>	261082
<b>Document Title:</b>	Leslie's Poolmart, Inc & Cortz, Inc dba In The Swim Settlement Agreement and Release
<b>Description:</b>	N/A
<b>Filer:</b>	Wendy Maienknecht
<b>Organization:</b>	California Energy Commission
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## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (Agreement) is entered into between the California Energy Commission ("CEC"), with its principal office at 715 P Street, Sacramento, California 95814, and Leslie's Poolmart, Inc. and Cortz, Inc. d/b/a In The Swim (collectively "Leslie's"). Leslie's place of business is 2005 East Indian School Road, Phoenix, Arizona 85016 Leslie's and CEC are collectively referred to as the "Parties."

### I. RECITALS

(1) CEC's Appliance Efficiency Regulations at California Code of Regulations, Title 20, Article 4, sections 1601-1609 (Appliance Efficiency Regulations),<sup>1</sup> set forth the requirements to sell or offer for sale regulated appliances in California. The pertinent requirements include:

- Testing: The appliance is tested as required in section 1603, using the applicable test method set forth in section 1604.
- Efficiency: The appliance meets the required efficiency standards set forth in sections 1605.2 or 1605.3.
- Marking: The appliance is correctly marked and labeled as required under section 1607.
- Certification: The appliance is certified to CEC and appears in CEC's most recent Modernized Appliance Efficiency Database System (MAEDbS) as required under section 1606.

(2) CEC's enforcement authority includes the removal of non-complying appliances from MAEDbS, as set forth in section 1608, and the issuance of administrative civil penalties under section 1609.

(3) Leslie's sells several models of dedicated purpose pool pumps, replacement dedicated purpose pool pump motors, and pool heaters in California, either directly or through its retailers, distributors, or subsidiaries.

(4) Leslie's sells several brands of dedicated purpose pool pumps, replacement dedicated purpose pool pump motors, and pool heaters that are subject to the testing, efficiency, marking, and certification requirements for these appliance classes as described in paragraph I(1) above.

(5) While Leslie's does not manufacture dedicated purpose pool pumps, replacement dedicated purpose pool pump motors, or pool heaters, from September 2019 to September 2023, Leslie's sold or offered for sale in California directly or through its subsidiaries dedicated purpose pool pumps, replacement dedicated purpose pool pump motors, and pool heaters that were not listed in MAEDbS as required in section 1606 and did not meet the efficiency standards set forth in section 1605.3 (g)(6)(B).

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<sup>1</sup> All references are to California Code of Regulations, Title 20, Article 4, unless otherwise specified.

(6) Based on the above Recitals, CEC, through administrative adjudication, could impose penalties for each violation alleged, obtain injunctive relief to prohibit Leslie's from continuing to sell or offer for sale, non-compliant dedicated purpose pool pumps, replacement dedicated purpose pool pump motors, and pool heaters in California, and take any other enforcement action as allowed by law.

(7) Section 1609(b)(3) and California Public Resources Code section 25402.11(a)(2) identify the following factors CEC shall consider when determining the amount of an administrative civil penalty:

- The nature and seriousness of the violation.
- The number of violations.
- The persistence of the violation arising from the course of conduct that is subject of the enforcement proceeding.
- The length of time over which the violation occurred.
- The willfulness of the violation.
- The violator's assets, liabilities, and net worth.
- The harm to consumers and to the state that resulted from the amount of energy wasted due to the violation.

(8) Penalties must be set at levels sufficient to deter violations. In developing this Agreement CEC considered the facts of the case and applied the above factors to determine an appropriate settlement. Further, in this case Leslie's cooperated with CEC in the investigation by requesting the product manufacturers verify compliance with the requirements of the Appliance Efficiency Regulations; notifying manufacturers and blocking non-compliant units from being sold into the state of California; and by providing CEC sales data of non-compliant units. The efforts by Leslie's saved CEC time and resources in investigating the violations and minimized the impacts on the competitive business environment and energy consumption and the environment in California, from the non-compliant units.

(9) Leslie's is willing to enter into this Agreement solely for the purpose of settlement and resolution of this matter with CEC. CEC accepts this Agreement in termination of this matter. Accordingly, the Parties agree to resolve this matter completely by means of this Agreement, without the need for administrative adjudication. Neither this Agreement nor compliance therewith shall constitute or be construed as an admission by Leslie's of any fact, finding, conclusion, issue of law, or violation of law as to any person not a party to this Agreement.

## **II. TERMS AND RELEASE**

In consideration of the Recitals listed above which are incorporated into this section by reference, and the mutual agreements set forth below, CEC and Leslie's agree as follows:

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CALIFORNIA ENERGY COMMISSION and LESLIE'S POOLMART, INC. AND CORTZ, INC. D/B/A IN THE SWIM  
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(1) This Agreement covers the dedicated purpose pool pumps, replacement dedicated purpose pool pump motors, and pool heaters listed in the attachment.

(2) For selling or offering for sale in California, dedicated purpose pool pumps, replacement dedicated purpose pool pump motors, and pool heaters identified in paragraph I(5), whose model numbers are listed in the attachment, did not meet the efficiency standards prescribed in section 1605.3 (g)(6)(B), and/or were not certified to MAEDbS as required by section 1606, and, in consideration of the factors listed in paragraph I(7) and I(8) above, Leslie's shall pay as an administrative civil penalty the total sum of \$85,000.00 by electronic transfer to CEC by January 2, 2025 or within 10 days of receipt of the CEC's banking information and instructions needed to complete the electronic transfer. Banking information and instructions necessary to complete the electronic transfer shall be provided by CEC.

(3) Leslie's also agrees to require that manufacturers of any and all regulated appliances it will sell or offer for sale in California submit proof to Leslie's that the regulated appliance is properly certified in MAEDbS prior to the product being sold/distributed by Leslie's. Leslie's will establish policies and practices to ensure the products it sells are certified in MAEDbS.

(4) This Agreement shall apply to and be binding upon Leslie's and its principals, officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and upon CEC and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.

(5) In consideration of the payment specified above, CEC hereby releases Leslie's and its, principals, directors, officers, agents, employees, shareholders, subsidiaries, predecessors, and successors from any and all claims for violations of section 1608 (efficiency, marking, certification), relating to the time frame and appliances identified in paragraph I(5), whose model numbers are identified in the attachment.

(6) This Agreement constitutes the entire agreement and understanding between CEC and Leslie's concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between CEC and Leslie's concerning these claims.

(7) No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all Parties to this Agreement.

(8) Leslie's further agrees that if the subject matter of this Agreement comes before CEC in an administrative adjudication, neither any member of CEC, nor the Executive Director, shall be disqualified because of prior consideration of this Agreement.

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(9) Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.

(10) This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules. Any litigation arising out of or related to this Agreement shall be filed in the Superior Court of California, County of Sacramento.

(11) Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect.

(12) The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Agreement.

(13) This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either Party on the ground that said Party drafted it.

(14) This Agreement is effective upon signature by a representative of Leslie's with authority to bind the company, and signature by the Executive Director of CEC. The Parties agree that fax or scanned signatures and multiple signature pages are acceptable for purposes of executing this Agreement, which may be signed in counterparts.

**California Energy Commission**

By:   
Name: Drew Bohan  
Title: Executive Director  
Date: 1/8/2025

**Leslie's Poolmart, Inc. & Cortz, Inc. d/b/a In The Swim**

By:   
Name: Ben Lindquist  
Title: SVP & General Counsel  
Date: 12/20/24

**Attachment**

**Replacement Dedicated-Purpose Pool Pump Motor Models**

**Century AO Smith Brand**

B116	B668	QC1102	USQ1252
B124	B796	SK1152	UST1202
B131	BN25V1	SK1302V1	UST1252
B228SE	BN35V1	SQ1152	ASQ095
B230SE	BN40SS	SQ1202	BN34V1
B2748	EUSN1202	SQ1302V1	BN36
B2841V1	HSQ1072	ST1202	BN50V1
B2843	HSQ1102	T3102	BN51
B2853V1	HSQ1152	UCT1102	SQ1052
B638	Q3102	USN1102	ST1052
B662	QC1072	USQ1102	

**Emerson Brand**

ASB653
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**Hayward Brand**

SPX3215Z1MR	SPX2707Z1M
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**Jacuzzi Brand**

JMR100T	JMR150T	JMR200T	JMS100T
JMS150T	JMS200T		

**Marathon Brand**

5U172	RBE-101-1050
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**Pentair Brand**

355024S
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**US Motors Brand**

AGL10FL1	ASB748	ASB844	EEQK750
AGL75FL1	ASB796	AST225	EB121
ASB603	ASB809	EB668	EZBN50
ASB634	ASB841	EEQK1500	SPL15FL2S
ASB654	ASB842	EEQK500	SPX3215Z1BER

**Pool Heater Models**

**Jacuzzi Brand**

JHX85	JHX132HCN2
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**Pentair Brand**

EC-462024	EC-462025	EC-462026	EC-462027
EC-462028			

**Raypak Brand**

9243
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**Dedicated-Purpose Pool Pump Models**

**Game Brand**

4710
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**Gecko Brand**

91041930-000	02115000-1010	02120000-1010	02620000-1010
05340009-5040	07030003-6040		

**Hayward Brand**

EF750	W3S180T93S	EF1000	W3CC15093S
W3EC40C92S			

**Jacuzzi Brand**

JHX152SP63110CF	JHX202SP63180CF	JZ202SP63
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**Raypak Brand**

18188	18192	18195	18203
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**Waterway Brand**

3810430-1PDA	PH1150-3	522-5167-3S
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**Lomart Brand**

1-2365-071
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**Splash Brand**

NE6150
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**Pool Pump Control**

**Hayward Brand**

GLX-CTL-TR-RJ
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**Intermatic Brand**

P1121	PE153	PE153PF	PF1102T
RC2343PT	T32404R		

**Pentair Brand**

520138	EC-523404	520546
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