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U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Michael S. Solender
General Counsel

Tel: (301) 504-0980
Fax: (301) 504-0403
Email: cpsc-gc@cpsc.gov

Office of the General Counsel

March 9, 2001

Jean M. Cooper, Esq.
Hoey, King, Toker & Epstein
55 Water Street 28th Floor
New York, NY 10041

Re: FOIA Appeal S0100119
Tropitone Furniture Metal Dining Chair/File RP000001

Ms. Cooper:

By letter dated February 2, 2001, you appealed the decision of the Commission's Freedom of Information (FOI) Officer to withhold information responsive to your Freedom of Information Act (FOIA) request. Under authority delegated to me by the Commission, 16 C.F.R. § 101.12, I have reviewed your appeal and the responsive information. As explained below, I affirm the FOI Officer's decision to withhold the information pursuant to FOIA Exemptions 2, 4, 5(A), and 7(A). 5 U.S.C. §§ 552(b)(3), (b)(4), (b)(5), and (b)(7)(A).

FOIA Exemption 2 provides for withholding information that is specifically exempted from disclosure by any other statute. In applying FOIA Exemption 2 to the withheld information, I have determined that the information is exempt from disclosure under 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2052(a)(2).

Section 6(a)(2) expressly prohibits the disclosure of information reported to or obtained by the Commission that contains or relates to trade secrets or other confidential information, including commercial information. Section 6(a)(2) incorporates Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information obtained from a person if the disclosure of such information is confidential if its disclosure (1) would impair the competitive position of the person from whom the information was obtained, (2) would be injurious to the competitive position of the person to whom the information was obtained, or (3) would be injurious to the competitive position of the person to whom the information was obtained. Confidentiality is not automatically presumed if the information is not customarily disseminated to the public by the subject of the information being withheld pursuant to FOIA Exemption 4. Relying on CPSA and FOIA Exemption 4, the withheld information is confidential and thus exempt from disclosure.

Jean M. Cooper, Esq.
March 9, 2001

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In applying FOIA Exemption 3 to the withheld information, I am also relying on section 6(b)(1) of the CPSA. 15 U.S.C. § 2055(b)(1). Section 6(b)(1) requires the Commission to take reasonable steps to assure that product-specific information is accurate and that its release would be fair in the circumstances and reasonably related to effectuating the purposes of the CPSA. This provision also requires the Commission to give manufacturers an opportunity to comment on disclosure of the information. This has not occurred yet because the responsive information is a part of an open compliance file that is not subject to disclosure at this time.

In applying FOIA Exemption 3 to the withheld information, I am also relying on section 6(b)(5) of the CPSA. 15 U.S.C. § 2055(b)(5). Section 6(b)(5) of the CPSA prohibits the Commission from disclosing information to the public that a company submits to the Commission pursuant to section 15 of the CPSA, 15 U.S.C. § 2064, unless: (1) the Commission has issued an administrative complaint concerning the product, (2) the Commission has accepted in writing a remedial settlement agreement dealing with the product, or (3) the company has agreed to the disclosure. In this case, none of the three exceptions applies. Under FOIA Exemption 3, relying on CPSA section 6(b)(5), we are therefore withholding sales information, customer lists, and legal documents (resulting from lawsuits against the company), and other information submitted by the Tropitone Furniture Company. Some of this information is also confidential commercial information, as discussed above.

FOIA Exemption 5 provides for the withholding of certain inter-agency and intra-agency documents and incorporates the deliberative process privilege. This privilege protects advice, recommendations, and opinions that are part of the deliberative, consultative, and decision-making processes of the agency. Although this privilege applies only to the opinions or recommendations in a document and not to factual information, facts are withheld here because they are inextricably intertwined with the exempt portions. Exemption 5 also incorporates the attorney work-product doctrine, which protects documents prepared by an attorney, or someone under the supervision of an attorney, in anticipation of litigation. The information being withheld pursuant to FOIA Exemption 5 consists of intra-agency memoranda and internal staff notes relating to the compliance matter.

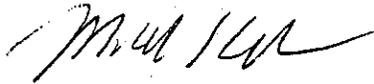
FOIA Exemption 7(A) provides for the withholding of investigatory information compiled for law enforcement purposes to the extent that the production of such information could reasonably be expected to interfere with enforcement proceedings. I have determined that the disclosure of some of the information, which is also being withheld under FOIA Exemption 5, could reasonably be expected to interfere with ongoing law enforcement proceedings. The information being withheld pursuant to FOIA Exemption 7, relying on CPSA section 6(b)(1) and Exemption 7(A) may be subject to disclosure once the case is closed. For information, the Compliance Staff Office could provide you with access information about the submitting your request.

Jean M. Cooper, Esq.
March 9, 2001

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You have the right to seek judicial review of this decision as provided by 5 U.S.C.
§ 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael S. Solender", written in a cursive style.

Michael S. Solender

HOEY, KING, TOKER & EPSTEIN

55 Water Street, 28th Floor
New York, New York 10041
(212) 612-4200
FAX (212) 612-4284

2001 FEB 12 A 9 52

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THOMAS M. McNALLY
DAVID S. KASDAN
JEAN M. COOPER
GREGORY WALTHALL
GLEN H. PARKER
RICHARD J. FREIRE
HOWARD B. COHEN
DONNA M. MARCOTRIGIANO
TIFFANY L. NCEO
ANGELA P. PENSABENE

February 2, 2001

FOIA Appeal, General Counsel
Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

Re: Shary v. CNY & Charles, Sally & Charles Inc.
Our File Number: 35354497
Date of Loss: 9/26/1998
FOIA Request: S0100119
Your File Number: RP000001

Dear Sir or Madam:

This office represents Charles, Sally and Charles, Inc., the City of New York and the Brooklyn Botanic Gardens in a negligence action commenced by Rhonda Shary. Ms. Shary allegedly sustained personal injury when she fell from a chair manufactured by Basta Sole and Tropitone Furniture Co.

This office requested and received a copy of the investigation report that your office generated as a result of this incident, however we have reason to believe that other incidents have occurred involving the same manufacturer and the same chair design. We would like to obtain copies of all investigation reports and results issued by the commission in this regard.

Our previous request for this information has been denied pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. Sections 552(b)(5) and (b)(7)(A). We are hereby appealing this denial. This information is necessary in order to properly defend my clients in litigation commenced by the plaintiff in the Supreme

Page 2 of 2

FOIA Appeal, General Counsel

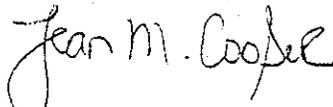
Shary v. City of New York and Charles, Sally & Charles, Inc.

Court of New York County.

Plaintiff claims to have sustained personal injuries as a result of a defective chair purchased and used by my clients. The information generated by the Consumer Product Safety Commission especially past and current investigation reports including the results will be vital pieces of information utilized during the course of discovery and the defense of this action. Any information you could provide at this time would be greatly appreciated.

Kindly contact the undersigned directly at (212) 612-4698 should you wish to discuss this matter in further detail or require any further information to process this request. Thank you for your time and immediate attention herein.

Very truly yours,



Jean M. Cooper



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

DEN 0100119

[Handwritten signature]

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

November 17, 2000

CERTIFIED MAIL

Jean M. Cooper, Esq.
Hoey, King, Toker & Epstein
55 Water Street 28th Floor
New York, NY 10041

Re: FOIA Request S0100119: Topitone Furniture Metal Dining Chair / Corrective Action or Recall Records. File RP000001

Dear Ms. Cooper:

Thank you for your Freedom of Information Act (FOIA) request to the U. S. Consumer Product Safety Commission (Commission). We must withhold from disclosure the records responsive to your request, which are from the Commission's Office of Compliance active law enforcement investigatory files pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank

exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$50.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

200010113

Rec'd
10/11

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TIFFANY L. NGEQ

DAVID P. FEEHAN
KAREN A. CORCORAN
ANNA-LISA BONVENTRE
DENISE A. CARIELLO

October 2, 2000

The U.S. Consumer Products Safety Commission
P.O. Box 70178
Staten Island, NY 10307
Attn: Jacqueline Martinez, Product Safety Investigator

Re: Shary v. CNY & Charles, Sally and Charles Inc.
Case No.: 000106CAA0243
Our File Number: 35354497
Date of Loss: 9/26/1998

1/A

Dear Ms. Martinez:

This office represents Charles, Sally and Charles, Inc., the City of New York and the Brooklyn Botanic Gardens in a negligence action commenced by Rhonda Shary. Ms. Shary allegedly sustained personal injury when she fell from a chair manufactured by Basta Sole and Tropitone Furniture Co.

4016

This office requested and received a copy of the investigation report that your office generated as a result of this incident, however we have reason to believe that other incidents have occurred involving the same manufacturer and the same chair design. We would like to obtain copies of all investigation reports and results issued by the commission in this regard.

rec'd
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Kindly contact the undersigned directly at (212) 612-4698 should you wish to discuss this matter in further detail or require any further information to process this request. Thank you for your time and immediate attention herein.

S-0100119

Very truly yours,
Jean M. Cooper
Jean M. Cooper

10/0104
MOO
BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 401, SALT LAKE CITY, UT 84111

U.S. CONSUMER PRODUCT SAFETY COMMISSION
ATTN. CHAIRMAN, PERSONAL
WASHINGTON D.C. 20207

FEBRUARY 9, 2001

APPEAL OF DETERMINATION OF NO RECORDS BY FOIA OFFICER TODD A STEVENSON OF JANUARY 29, 2001 TO MY FOIA/PA REQUEST SL010104.

I APPEAL FOR FOLLOWING REASONS:

1. THE DETERMINATION BY STEVENSON IS SO UNSPECIFIC THAT IT VIOLATES FOIA/PA STANDARDS. HE DID NOT EVEN LIST THE DATE OF MY FOIA/PA REQUEST. THE REQUEST IS DATED JANUARY 12, 2001 AND IS FIVE PAGES LONG. ATTACHED TO IT WAS ALSO MY REQUEST FOR WAIVER OF FEES. I CLAIM THAT STEVENSON DELIBERATELY DOES NOT LIST THE REQUEST WITH A DATE TO COVER UP WHAT I REQUESTED EXACTLY AND TO WHAT SUBJECTS HE UNLAWFULLY DID NOT CONDUCT ANY SEARCH.

2. HE MISINFORMED ME THAT YOUR COMMISSION ONLY MAINTAINS RECORDS TO YOUR EMPLOYEES, IF THIS IS TRUE, HOW COME YOU CARRY THE NAME "CONSUMER PRODUCT SAFETY COMMISSION"? YOU MUST HAVE RECORDS TO CONSUMER PRODUCT SAFETY AND AS I HAVE REQUESTED. FURTHERMORE, IF YOU HAVE RECORDS ON EMPLOYEES YOU SHOULD HAVE SEARCHED AS TO PAGE FOUR OF MY FOIA/PA REQUEST, ASKING YOU FOR ANY RECORDS AS TO IF EMPLOYEES OF YOUR COMMISSION WORK SECRETLY FOR A GERMAN NAZI SECRET SERVICE.

FURTHERMORE, IF THE ATTORNEYS OF MARK RATHBUN OR AN INDEPENDENT OR SPECIAL COUNSEL OR U.S. CONGRESS MAILED YOU SUBPOENAS FOR MY CIVIL CASE OR FOIA/PA RECORDS YOU CAN'T JUST THROW THEM AWAY BUT YOU HAVE TO FILE THEM.

IN OTHER WORDS, IT APPEARS AS IF STEVENSON CONDUCTED NO ADEQUATE SEARCH AT ALL JUST ILLEGALLY TRIED TO GET RID OF MY FOIA/PA REQUEST TO DENY MY RIGHTS TO ME AND TO COVER UP THOSE RECORDS BEFORE ME.

3. ITEMS 1-8 HAD TO DO WITH GERMAN NAZI CRIMES. DID ANYBODY SEARCH TO THOSE RECORDS AND IF YES, WHO IN WHAT OFFICES AND WHAT RECORDS SYSTEMS AND WHAT TIME PERIOD?

ITEMS 9 - 13 HAD TO DO WITH THE ECONOMY AND BAD PRODUCTS. DID ANYBODY SEARCH TO THOSE RECORDS AND IF YES, IN WHAT OFFICES AND WHAT RECORDS TO WHAT TIME PERIOD?

ITEM 14 REQUESTED RECORDS ABOUT THE GERMAN BUNDESVERFASSUNGSSCHUTZ, ITEM 15 REQUESTED RECORDS ABOUT A PLACE IN UTAH WITH NAME CHATTANOOGA AND ITEM 16 REQUESTED RECORDS ABOUT PRESIDENT EISENHOWER. DID YOUR COMMISSION SEARCH TO THOSE ITEMS, WHO SEARCHED IN WHAT OFFICES, WHAT RECORDS SYSTEMS AND WHAT TIME PERIOD?

PAGE THREE OF THE JANUARY 12, 2001 ASKED THE COMMISSION TO SEARCH IF YOU HAVE RECEIVED NOW SUBPOENAS OF MARK RATHBUN'S (OR HIS FAMILY'S ATTORNEYS OR AN INDEPENDENT OR SPECIAL COUNSEL) OR SOMEBODY OF U.S. CONGRESS SUBPOENAED OR REQUESTED MY FOIA/PA OR LITIGATION RECORDS FROM YOUR COMMISSION. I REQUESTED A SEARCH FROM OCTOBER 15, 1999 TILL PRESENT TIME AND LISTED 11 NAMES AND OFFICES IN WHICH SEARCH SHOULD BE CONDUCTED. WAS THE SEARCH CONDUCTED, IF YES BY WHOM TO WHAT NAMES, SUBJECTS AND WHAT TIME PERIOD IN WHAT OFFICES AND RECORDS SYSTEMS?

4. I REQUESTED THE SEARCH RECORDS THAT YOUR COMMISSION GENERATED TO RETRIEVE THE RECORDS OF THE JANUARY 12, 2001 FOIA/PA REQUEST. THOSE ARE LOGS, CHECK LISTS, FOIA/PA WORK SHEETS, COMPUTER PRINTOUTS, E-MAIL, FAX TRANSMITTAL SHEETS, LETTERS, CARDS, NOTES, PHONE NOTES AND ANY OTHER FORM OF RECORDS RELATING TO ME OR THIS REQUEST.

MS. STEVENSON ILLEGALLY IGNORED THIS REQUEST FOR SEARCH RECORDS AND DID NOT MAIL ME ANY RECORDS.

I AM ENTITLED TO THE SEARCH RECORDS AND I REQUEST THEM AGAIN.

5. HE ALSO IGNORED MY REQUEST FOR SEARCH DECLARATION.
READ HERETO:

agency must be able to show "what records were searched, by whom, and through what process." Steinberg v. United States Department of Justice, 23 F. 3d 548, 552 (D.C. Cir. 1994) (remanding issue of adequacy of search where agency did not "describe in any detail" what records were searched, by whom, and through what process).

I AM AWARE THAT AN AGENCY HAS NO DUTY TO PROVIDE THE DECLARATION OF ADMINISTRATIVE LEVEL, BUT WHAT IS STOPPING YOU? IF YOU WOULD HAVE CLEAR CONSCIENCE WOULD HAVE CONDUCTED ADE- QUATE SEARCHES AND WOULD NOT ILLEGALLY COVER UP RECORDS TO WHICH I AM ENTITLED, YOUR COMMISSION WOULD NOT HESITATE TO PROVIDE THE SEARCH DECLARATION BY THE SEARCHERS.

PLEASE PROVIDE THE SEARCH DECLARATION, BECAUSE BY NOT PROVIDING ME WITH IT YOU FORCE ME TO SUE YOU AGAIN AND THEN YOU HAVE TO PROVIDE THE DECLARATIONS ANYWAY BUT ALSO WASTED A LOT OF TIME AND OF COURSE GOVERNMENTAL OR TAX PAYERS MONEY.

5. I AM AWARE OF THE MISSION OF THE COMMISSION AND I THINK YOU HAVE RECORDS TO MY REQUEST OF JANUARY 2, 2001 FROM UN- REASONABLE RISKS OF INJURY ASSOCIATED WITH CONSUMER PRODUCTS AND E.G. THE GERMANS BEHIND BAD PRODUCTS, HAZARDOUS SUBSTANCES, FLAMMABLE FABRICS, POISON, OTHER DANGEROUS PRODUCTS AND REFRIGERATORS AND CIGARETTES, HOME APPLIANCES, CLOTHING AND TOYS. EVEN IF GERMANS WOULD ACT MORE BEHIND THEIR AMERICAN OR OTHER AGENTS, I BET YOUR RECORDS COULD REVEAL THE GERMAN CONNECTION AND YOU SHOULD NOT TRY TO BE DEAF ON THIS SUBJECT. THEY STILL HAVE WORLD RULING PLANS AND THEY SURELY INVADE EVERY ASPECT OF THE AMERICAN OR INTERNATIONAL LIFE. DON'T TAKE MY REQUEST LIGHTLY.

6. I ALSO WROTE A REQUEST FOR INSPECTOR GENERAL INVESTIGATION OF JANUARY 12, 2001. NOBODY REPLIED TO THIS REQUEST. THIS REQUEST IS AGAIN ATTACHED. PLEASE FORWARD IT RIGHT AWAY IN AMENDED FORM TO YOUR INSPECTOR GENERAL.

7. FINALLY, MS. STEVENSON DENIED MY RIGHT FOR ADMINISTRATIVE APPEAL. HE DID NOT INFORM ME ON ANY APPEAL RIGHT. I ALSO HAVE A RIGHT FOR REVIEW OF HIS DETERMINATION BY SOMEBODY ELSE OF YOUR COMMISSION ON APPEAL THAN STEVENSON AGAIN. INFORM ME ALSO ABOUT MY STILL PENDING APPEALS OF MARCH 6 AND MARCH 27, 2000 (AGAIN ATTACHED). ALSO ENCLOSED IS MY FOIA/PA REQUEST OF FEBRUARY 8, 2001.

Enclosures: as mentioned

*Remailed on Febr. 9, 2001 to Chairman, personal.
What is status of this appeal?*

Barbara Schwarz, 335 East Broadway, Apt. 401, Salt Lake City, Ut. 84111

U.S. Consumer Product Safety Commission,
Attn. General Counsel Michael S. Solender
Washington D.C. 20207

March 6, 2000

APPEAL OF LETTER OF FEBRUARY 29, 2000 OF TODD A. STEVENSON OF
U.S. CONSUMER PRODUCT SAFETY COMMISSION, ON FOIA/PA NO: S0020175

I appeal his letter of February 29, 2000 (see copy attached), in response to my FOIA/PA request of February 8, 2000, because he did not mail me all records that I have requested.

He mailed me 17 pages. He mailed me:
Three times my FOIA/PA request of February 8, 2000, twice my FOIA/PA request of October 15, 1999, a copy of letter of General Counsel Solender of January 20, 2000, a copy of my FOIA/PA appeal of December 14, 1999 twice and the two exhibits hereto, he mailed me twice furthermore he mailed to me his letter of December 9, 1999 and of February 17, 2000. The only page that he mailed to me which was new to me was a memo from him to you the General Counsel of January 11, 2000 in regards of my appeal.

It is evident that the U.S. Consumer Product Safety Commission is unlawfully denying records to me. According to your letter of January 20, 2000 on 9120006, the Commission searched "approximately for two hours". If this is true, how come that you don't have any search documents, work sheets, notes, phone notes, computer printouts? ect.?

I requested on October 15, 1999 a search in 12 of your offices. It is a denial of my rights that Mr. Stevenson did not search in those offices as requested and again a denial of my rights to deny those records to me that were generated in order to process the request and the FOIA/PA appeal.

If you don't mail me the records generated by your Commission it must be concluded that you unlawfully conducted no search at all to my FOIA/PA request of October 15, 1999.

Furthermore, Ms. Stevenson did with no word explain to me in what offices and records systems as to what names and subjects and numbers as listed in my FOIA/PA request of February 8, 2000 he searched. He also did not provide me with the requested search declaration. It must be all added up to the fact that the U.S. Consumer Product Safety Commission unlawfully denied my records to me and violated federal law.

Please correct you: FOIA/PA office hereto immediately and provide me with the requested records, to which I am lawfully entitled.

enclosures

Barbara Schwarz

P.S. Note my FOIA/PA request of October 15, 1999 was mailed to me to your Chairman in Bethesda same day. Where is the correspondence between your Bethesda Office and your Wash. D.C. Office referring this request to you?

Remailed on Jan. 12, 2001.
What is status of this appeal?

Also remailed on
Feb. 9, 2001 to
Christian, personal

BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 401, SALT LAKE CITY, UT. 84111

U.S. CONSUMER PRODUCT SAFETY COMMISSION,
ATTN. GENERAL COUNSEL MICHAEL S. SOLENDER, PERSONAL MARCH 27, 2000
WASHINGTON D.C. 20207

APPEAL OF DETERMINATION OF YOUR COMMISSION, FOIA OFFICER TODD
A. STEVENSON OF MARCH 20, 2000.

MR. SOLENDER,

I AM MAILING YOU MY APPEAL OF MARCH 6, 2000 AGAIN, BECAUSE I BELIEVE
I HAVE THE RIGHT THAT SOMEBODY ELSE THAN MR. STEVENSON SHOULD REVIEW
MY APPEAL TO MR. STEVENSON'S DETERMINATION OF FEBRUARY 27, 2000.
ALSO, MR. STEVENSON HAS NOT ADDRESSED THE VARIOUS
PARAGRAPHS IN MY APPEAL LETTER. SEE HIS RESPONSE AND MY FOIA/PA
APPEAL IS ATTACHED AGAIN.

FURTHERMORE, NOTE THAT I AM EXTENDING MY FOIA/PA REQUEST OF
FEBRUARY 8, 2000. I AM INFORMED THAT YOUR COMMISSION RECEIVED
FROM THE U.S. DEPARTMENT OF JUSTICE INFORMATION, RECORDS ON
MY U.S. DISTRICT COURT OF COLUMBIA COURT CASE VS. DEPT. OF ENERGY,
77-3234 HHK, IN WHICH YOUR COMMISSION IS CO-DEFENDANT. THOSE RECORDS
MUST BE WITH YOU SINCE BEGINNING OF FEBRUARY.

I WANT FROM YOU COPIES OF ANY RECORDS PERTAINING TO THIS CASE, ALSO
LETTERS, FAX, E-MAILS, NOTES, PHONE NOTES, DRAFTS, COMPUTER PRINTOUTS,
ECT. SEARCH IN YOUR EXECUTIVE OFFICE FILES, YOUR LEGAL OFFICE FILES
AND IN YOUR FOIA OFFICE FILES.

EXPLAIN YOUR RECORDS SYSTEMS IN A DECLARATION TO ME AS WELL AS TO
HOW THE SEARCH FOR THOSE RECORDS WAS CONDUCTED, IN WHAT OFFICES, WHAT
RECORDS SYSTEMS, WHO CONDUCTED THE SEARCH AND WHAT YOU CAME UP WITH.

PLEASE ACKNOWLEDGE THIS FOIA/PA REQUEST AND THE RE-SUBMISSION OF MY
APPEAL OF MARCH 6, 2000 RIGHT AWAY AND INFORM ME ABOUT MY APPEAL
NUMBER AND THE NEW FOIA/PA REQUESTER NUMBER IN YOUR OFFICE.

SINCERELY

Barbara Schwarz
BARBARA SCHWARZ

ENCLOSURE: AS MENTIONED

Remailed amended on Febr. 9, 2001 to
Inspector General, personal. What is status of this letter?

BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 401, SALT LAKE CITY, UT. 84111

U.S. Consumer Product Safety Commission, January 12, 2001
Attn. Inspector General, personal
Washington D.C. 20207

REQUEST FOR INSPECTOR GENERAL INVESTIGATION

PLEASE INVESTIGATE IF BELOW LISTED EMPLOYEES MISINFORMED
A) MARK C. RATHBUN (DE ROTHSCHILD) AND/OR HIS ATTORNEYS, OR
B) ANYONE OF HIS FAMILY AND/OR THEIR ATTORNEYS, OR
C) AN INDEPENDENT OR SPECIAL COUNSEL, OR
D) ANYONE FROM U.S. CONGRESS,

HAVING NOT CERTAIN FOIA/PA OR LITIGATION RECORDS ON ME, BARBARA SCHWARZ OR MISPELLED VERSION SCHWARTZ, TO OBSTRUCT JUSTICE SO THAT THOSE AND THE ATTORNEYS AND U.S. CONGRESS CAN'T GET HOLD OF ME AS IMPORTANT WITNESS IN A FEDERAL INVESTIGATION AS TO GERMAN NAZI INFILTRATION OF THE U.S. GOVERNMENT AND AS TO FEDERAL CASE OF WRONGFUL INCARCERATION OF MARK C. RATHBUN (DE ROTHSCHILD) WHO COULD LOSE HIS LIFE BEHIND BARS, IF THEY DON'T FIND ME AS WITNESS.

INVESTIGATE ALSO IF THOSE JUST LISTED REQUESTED ALREADY SUCH IG INVESTIGATION FROM YOU.

INVESTIGATE: LAST 5 YEARS AND FOLLOWING EMPLOYEES

- 1) CHAIRMAN AND HIS STAFF
- 2) SECRETARY AND HIS STAFF
- 3) DEPUTY SECRETARY AND HIS STAFF
- 4) TODD A. STEVENSON
- 5) GENERAL COUNSEL MICHAEL SOLENDER AND HIS STAFF
- 6) THE DIRECTORS OF ANY OFFICES OF THE COMMISSION
- 7) THE EXECUTIVE DIRECTOR AND HIS STAFF
- 8) THE INSPECTOR GENERAL AND ALL OF HIS STAFF
- 9) SANDY BRADSHAW
- 10) ALAN SHAKIN,
- 11) ANY OTHER EMPLOYEE OF YOUR COMMISSION.

Please acknowledge the receipt of this letter right away.

INVESTIGATE WHO FORGED THE SIGNATURE OF TODD A. STEVENSON
IN YOUR COMMISSION'S LETTER OF JANUARY 24, 2001 TO ME UNDER
CASE NUMBER S-2001919104. AND WHY THIS LETTER WAS MAILED TO WRONG
APARTMENT NUMBER AND WRONG NAME.

INVESTIGATE FURTHER IF U.S. CONSUMER PRODUCT SAFETY COMMISSION

EMPLOYEES WORK SECRETLY FOR GERMAN NAZI SECRET SERVICE BY HEARING
THROUGH MICROCHIP MIDDLE EAR IMPLANTS TRANSLATED BUT GERMAN ORIGINATED
ORDERS THAT VIOLATE UNITED STATES LAWS, THE U.S. CONSTITUTION AND
ENDANGER NATIONAL SECURITY?

2. ANY INFORMATION/RECORDS AS TO WHAT YOUR COMMISSION
IS CONDUCTING TO INVESTIGATE, TO PREVENT AND TO REMOVE SUCH ILLEGAL
INFILTRATION OF AN UNITED STATES AGENCY.

PLEASE ACKNOWLEDGE THE RECEIPT OF THIS AMENDED REQUEST
RIGHT AWAY NOW.

BARBARA SCHWARZ

BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 401, SALT LAKE CITY, UT, 84111

U.S. CONSUMER PRODUCT SAFETY COMMISSION
ATTN. CHAIRMAN, PERSONAL
WASHINGTON D.C. 20207

FEBRUARY 8, 2001

FOIA/PA REQUEST

THIS IS A FREEDOM OF INFORMATION ACT/PRIVACY ACT REQUEST PURSUANT TO U.S. CODE, TITLE 5, 552 AND 552a. PLEASE PROVIDE ME AS SOON AS POSSIBLE WITH FOLLOWING RECORDS:

1. ANY RECORDS PERTAINING TO MY CIVIL CASES VS. DEPT. OF ENERGY, 99-3234-HHK AND MY CASE VS. DEPT. OF HEALTH, 00-1610-HHK, (BOTH IN D.C.C.) YOUR COMMISSION IS 0-DEFENDANT IN BOTH CASES BECUASE HAS PROVOKED THE CASES BY NOT GRANTING ME MY FOIA/PA RIGHTS.

2. THE SEARCH RECORDS TO MY FOIA/PA REQUEST OF JANUARY 12, 2001, S1010104. WITH RECORDS I MEAN ANY RECORDS RELATED TO THIS REQUEST OR OTHERWISE RELATED TO ME: LETTERS, CARDS, NOTES, PHONE NOTES, MEMORANDA, E-MAIL, COMPUTER PRINTOUTS, FAX TRANSMITTAL SHEETS, WORK SHEETS, LOGS, AND ANY OTHER FORM OF RECORDS.

SEARCH IN ALL OF YOUR OFFICES, ALL COMPONENTS.

EXPLAIN YOUR RECORDS SYSTEMS TO ME AND INFORM ME IN WHAT SYSTEMS AND OFFICES WAS SEARCHED AND BY WHOM.

SEARCH FROM PRESENT TIME AS FAR BACK INTO TIME AS POSSIBLE.

PROVIDE ME WITH THE SEARCH RECORDS AND CORRESPONDENCE THAT YOU GENERATE TO RETRIEVE THOSE INFORMATION/RECORDS.

PROVIDE ME WITH SEARCH DECLARATION BY SEARCHER AS TO HOW IN DETAIL SEARCH WAS CONDUCTED. READ:

If challenged, the agency must be able to show "what records were searched, by whom, and through what process." Steinberg v. United States Department of Justice, 23 F. 3d 548, 552 (D.C. Cir. 1994) (remanding issue of adequacy of search where agency did not "describe in any detail" what records were searched, by whom, and through what process). See also, Hunsberger v. FBI, 111 F.3d 122 (1st Cir. 1997) (per curiam) (specifically determining that agency affidavit, because both detailed and nonconclusory, showed that a reasonable search had been made); Sousa v. United States Department of Justice, No. 95-375, 1996 U.S. Dist. LEXIS 18627, at 31-33 (D.D.C. Dec. 9, 1996) (directing agency to amend affidavits to "provide a description of their filing system and an explanation of why only certain files were searched).

ACKNOWLEDGE RECEIPT OF THIS FOIA REQUEST RIGHT AWAY AND PROVIDE ME WITH MY FOIA REQUESTER NUMBER IN YOUR OFFICES.

BARBARA SCHWARZ



6 1010104

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

January 29, 2001

Barbara Schwarz
335 East Broadway, Apt. 401
Salt Lake City, UT 84111

Re: FOIA Request S1010104: Records about Yourself, Germans and Terrorists,
or Mark C. Rathbun (De Rothschild)

Dear Ms. Schwarz:

Thank you for your Freedom of Information Act (FOIA) request to the Commission. Our search of the Commission files and indices failed to reveal any record or reference to the subjects of your request, other than your previous FOIA request and appeal. The Commission does not maintain records identified to individuals other than our employees.

The matter about which you corresponded does not fall within our jurisdiction. As a result, we do not maintain any records responsive to your inquiries and cannot respond to your concerns. The Commission is an independent regulatory agency of the federal government. Its mission is to protect the consumer from unreasonable risks of injury associated with consumer products, such as home appliances, clothing and toys. It has jurisdiction over more than 15,000 consumer products, and administers the following safety laws: The Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, the Refrigerator Safety Act and the Cigarette Safety Act. Our records usually concern issues of safety and compliance with existing regulations for specific manufacturers and their consumer products.

Processing your request, including searching files and preparing this information, cost \$35.00. In this instance, we waived the charges.

Sincerely,

Todd A. Stevenson

DEPARTMENT OF THE SECRETARY
FREEDOM OF INFORMATION

BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 481, SALT LAKE CITY, UT. 84111

2001 JAN 18 P 12:08
U.S. Consumer Product Safety Commission
Attn: Secretary, Personal
Washington D.C. 20207

January 12, 2001

SLC

FREEDOM OF INFORMATION ACT, PRIVACY ACT REQUEST

THIS IS A FOIA/PA REQUEST, PURSUANT TO U.S. CODE, TITLE 5, 552 AND 552a. PLEASE PROVIDE ME AS SOON AS POSSIBLE WITH FOLLOWING RECORDS:

1. AS TO THAT THE GERMANS (GERMAN GOVERNMENT, CURRENT OR FORMER EAST AND WEST, GERMAN SECRET SERVICE ORGANIZATIONS, GERMAN ENTERPRISES, FACTORIES, BUSINESSES, ORGANIZATION, GERMAN CITIZEN, GERMAN TERRORISTS, GERMAN NAZIS) SECRETLY STIR UP WARS TO DRAW THE UNITED STATES INTO IT, EITHER WITH U.S. FORCES OR FINANCIALLY?

9999

2. AS TO THAT THE GERMANS (AS LISTED ABOVE) SECRETLY HIRE AND RUN GOVERNMENTAL LEADERS THAT ARE HOSTILE TO THE UNITED STATES AND TERRORISTS THAT TARGET THE UNITED STATES?

SLC
2/5

3. AS TO THAT THE GERMANS (AS LISTED ABOVE) SECRETLY RUN SPIES AGAINST THE UNITED STATES?

4. AS TO THAT THE GERMANS (AS LISTED ABOVE) ARE SECRETLY BEHIND NUCLEAR, BIOLOGICAL, CHEMICAL OR ANY OTHER FORM OF WEAPONS AIMED TOWARDS DESTRUCTION OF HUMAN LIFE?

5. AS TO THAT ADOLF HITLER DID NOT DIE IN 1945 BUT WAS RESCUED BY OTHER NAZIS AND AS TO THAT THE BURNED UNIFORM AND REMAINS BELONGED TO SOMEBODY ELSE THAN HITLER?

6. AS TO THAT TERRORISTS AS BIN LADEN OR OTHER TERRORISTS FROM FOLLOWING COUNTRIES WORK SECRETLY FOR THE GERMANS: AFGANISTAN, IRAN, IRAQ, LYBIA, INDIA, CHINA, YEMEN, SAUDI ARABIA, RUSSIA, KUWAIT, PAKISTAN, FORMER YUGOSLAVIA, ALGERIA, ISRAEL, PALESTINA, ECT?

7. AS TO THAT COMMUNISM IS NOT FOR EXAMPLE A RUSSIAN IDEA, BUT WAS A GERMAN IDEA TO CONTROL THE WORLD?

8. AS TO THAT THE GERMANS (AS LISTED ABOVE) SECRETLY RUN THE FORMER SOVIET UNION, KOREA, VIETNAM, CUBA, CHINA AND ANY OTHER COMMUNISTIC COUNTRY TO CONTROL THE WORLD WITH COMMUNISM IF GERMAN NAZI GERMAN CAN'T WIN, BUT THAT THEY CHANGED IT BECAUSE THERE IS NOT MUCH MONEY TO MAKE WITH COMMUNISM, BUT THEY STILL SECRETLY RUN THOSE AND OTHER COUNTRIES?

S-1010104

9. AS TO THAT THE GERMANS (AS LISTED UNDER ITEM 1 OF THIS FOIA/PA REQUEST) SECRETLY CONTROL THE WORLD AND THE U.S. ECONOMY AND CAN LET IT CRASH WHENEVER THEY FEEL THE TIME IS RIPE TO DO SO, BECAUSE THEY HELPED THE CEO'S AND OTHER EXECUTIVES TO THEIR POSITIONS AND THEY WILL DO WHATEVER THE GERMANS SECRETLY TELL THEM TO DO, BECAUSE THEY "OWE THE GERMANS THEIR CARREERS".

X
10. DO YOU HAVE ANY RECORDS AS TO THAT THE GERMANS, (AS LISTED UNDER ITEM 1 OF THIS FOIA/PA REQUEST) ORDER THEIR AGENTS TO PRODUCE DISHONEST OR BADLY MADE OR EVEN DANGEROUS PRODUCTS TO HARM THE AMERICAN PEOPLE AND TO LET GERMANS OR EUROPEAN PRODUCTS APPEAR TO BE OF MORE VALUE.

11. DO YOU HAVE ANY RECORDS AS TO THAT THE U.S. ECONOMY WOULD BE NOT SO WELL OFF IF NOT I, WHO BLOWS THE WHISTLE ON THE GERMANS AND THEIR DESPICABLE AND ILLEGAL INFLUENCE IN THE USA WOULD HAVE DIFFICULTIES TO SURVIVE IN THE USA, BECAUSE CAN'T PROFIT FROM THE SO-CALLED BOOM OF THE U.S. ECONOMY AND HAVE TROUBLES TO SURVIVE TO BLOW THE WHISTLE IN ALL DETAILS ON THE GERMANS, BECAUSE LIVING COSTS ARE GETTING MUCH TOO EXPENSIVE FOR ME IN THE USA?

12. DO YOU HAVE ANY INFORMATION AS TO ITEM 11?

13. DO YOU HAVE ANY RECORDS AS TO THAT THE U.S. ECONOMY WOULD BE EVEN MORE STABLE AND BETTER AND STRONGER WITHOUT THE SECRET GERMAN INFLUENCE?

14. DO YOU HAVE ANY RECORDS/INFORMATION AS TO WHAT THE GERMAN SECRET SERVICE, BUNDESVERFASSUNGSSCHUTZ AND OTHER GERMAN SECRET SERVICES ARE UP TO?

15. DO YOU HAVE ANY RECORDS PERTAINING A VILLAGE IN UTAH WITH NAME CHATTANOOGA. (NOT TENNESSEE)

16. DO YOU HAVE ANY RECORDS ON FORMER U.S. PRESIDENT DWIGHT DAVID EISENHOWER.

ON OCT. 15, 1999, I WROTE A FOIA/PA REQUEST TO YOUR AND REQUESTED AMONGST OTHER RECORDS, RECORDS AS TO IF THE ATTORNEYS OF MARK C. RATHBUN (DE ROTHSCHILD) OR HIS FAMILY, OR ANY INDEPENDENT OR SPECIAL COUNSEL, REQUESTED MY RECORDS, E.G. FOIA/PA OR LITIGATION RECORDS FROM YOU.

I WASN'T EVER PROVIDED WITH CLEAR EVIDENCE THAT SUCH SEARCH WAS EVER CONDUCTED, HOWEVER, A LONG TIME PASSED SINCE THEN AND IT IS HIGHLY PROBABLE THAT THOSE RECORDS EXIST NOW. I HEREWITH AS YOU TO SEARCH IN ALL YOUR OFFICES FOR FOLLOWING RECORDS:

- X
- DO YOU HAVE ANY INQUIRIES OR SUBPOENAS OF
1. MARK C. RATHBUN (DE ROTHSCHILD) OR/AND HIS ATTORNEYS,
 2. ANYONE ELSE WITH NAME RATHBUN (DE ROTHSCHILD) OR/AND THEIR ATTORNEYS,
 3. ANY SPECIAL COUNSEL,
 4. ANY INDEPENDENT COUNSEL,
 5. ANYBODY OF U.S. CONGRESS,

REQUESTING MY RECORDS, E.G. FOIA/PA OR LITIGATION RECORDS FROM YOUR OFFICES, (ANY OFFICE)?

SEARCH FOR MY NAME BARBARA SCHWARZ AND MISSPELLED VERSION SCHWARTZ. SEARCH TIME PERIOD OCT. 15, 1999 TILL PRESENT TIME.

SEARCH IN FOLLOWING OFFICES AND IN FILES OF FOLLOWING OF YOUR EMPLOYEES:

- 1) CHAIRMAN AND HIS STAFF
- 2) SECRETARY AND HIS STAFF
- 3) DEPUTY SECRETARIES AND THEIR STAFF
- 4) TODD A. STEVENSON
- 5) GENERAL COUNSEL AND ALL OF HIS STAFF
- 6) THE DIRECTOR OF ANY OFFICES OF THE COMMISSION
- 7) EXECUTIVE DIRECTOR AND HIS STAFF
- 8) INSPECTOR GENERAL AND HIS STAFF
- 9) SANDY BRADSHAW
- 10) ALAN SHAKIN
- 11) ANY OTHER EMPLOYEE OF THE COMMISSION

1. ANYTHING AS TO THAT U.S. Consumer Product Safety Commission EMPLOYEES WORK SECRETLY FOR GERMAN NAZI SECRET SERVICE BY HEARING THROUGH MICROCHIP MIDDLE EAR IMPLANTS TRANSLATED BUT GERMAN ORIGINATED ORDERS THAT VIOLATE UNITED STATES LAWS, THE U.S. CONSTITUTION AND ENDANGER NATIONAL SECURITY?

2. ANY INFORMATION/RECORDS AS TO WHAT YOUR COMMISSION IS CONDUCTING TO INVESTIGATE, TO PREVENT AND TO REMOVE SUCH ILLEGAL INFILTRATION OF AN UNITED STATES AGENCY.

SEARCH IN ALL OF YOUR OFFICES, ALL COMPONENTS:

EXPLAIN YOUR RECORDS SYSTEMS TO ME AND INFORM ME IN WHAT SYSTEMS AND OFFICES WAS SEARCHED AND BY WHOM.

SEARCH FROM PRESENT TIME AS FAR BACK INTO TIME AS POSSIBLE.

PROVIDE ME WITH THE SEARCH RECORDS AND CORRESPONDENCE THAT YOU GENERATE TO RETRIEVE THOSE INFORMATION/RECORDS.

PROVIDE ME WITH SEARCH DECLARATION BY SEARCHER AS TO HOW IN DETAIL SEARCH WAS CONDUCTED. READ:

If challenged, the agency must be able to show "what records were searched, by whom, and through what process." Steinberg v. United States Department of Justice, 23 F. 3d 548, 552 (D.C. Cir. 1994) (remanding issue of adequacy of search where agency did not "describe in any detail" what records were searched, by whom, and through what process). See also, Hunsberger v. FBI, 111 F.3d 122 (1st Cir. 1997) (per curiam) (specifically determining that agency affidavit, because both detailed and nonconclusory, showed that a reasonable search had been made); Sousa v. United States Department of Justice, No. 95-375, 1996 U.S. Dist. LEXIS 18627, at 31-33 (D.D.C. Dec. 9, 1996) (directing agency to amend affidavits to "provide a description of their filing system and an explanation of why only certain files were searched).

ACKNOWLEDGE RECEIPT OF THIS FOIA REQUEST RIGHT AWAY AND PROVIDE ME WITH MY FOIA REQUESTER NUMBER IN YOUR OFFICES.

Barbara Schwarz

BARBARA SCHWARZ

BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 401, SALT LAKE CITY, UT. 84111

U.S. Consumer Product Safety Commission

Attn. Secretary, personal
Washington D.C. 20530

January 12, 2001

REQUEST FOR WAIVER OF PROCESSING, COPY AND SEARCH FEES OR RECORDS PERTAINING TO INQUIRIES/SUBPOENAS OF MARK C. RATHBUN'S (DE ROTHSCHILD) OR HIS FAMILY'S ATTORNEYS OR AN INDEPENDENT OR SPECIAL COUNSEL OR CONGRESS FOR ANY RECORDS, E.G. FOIA/PA OR LITIGATION RECORDS ON ME, BARBARA SCHWARZ OR MISSPELLED VERSION SCHWARTZ.

PLEASE SEARCH IN ALL OFFICES AND COMPONENTS AS TO MY FOIA/PA REQUEST OF JANUARY 12, 2001 AS ATTACHED AND WAIVE THE FEES HERETO. I AM IMPECUNIOUS, I CAN'T PAY THOSE FEES, BUT I URGENTLY NEED THOSE RECORDS, BECAUSE THOSE ATTORNEYS AND LIKELY EVEN U.S. CONGRESS TRIES TO GET HOLD OF ME AS IMPORTANT WITNESS IN A FEDERAL CASE AND FEDERAL INVESTIGATION AS TO IF GERMAN NAZI'S SECRETLY INFILTRATED GOVERNMENTAL OFFICES OF THE UNITED STATES AND ENDANGER NATIONAL SECURITY.

I CAN PROVE SUCH AN EXISTANCE OF SUCH A NAZI CONSPIRACY WITHIN THE U.S. GOVERNMENT, THOSE ATTORNEYS NEED TO KNOW WHERE TO FIND ME, THEY ONLY CAN GET HOLD OF ME, IF THEY KNOW WHERE I RESIDE AND I JUST CAN GET HOLD OF THEM ONLY, IF I AM INFORMED WHERE THEY ARE LOCATED.

THE GERMAN NAZI INFILTRATION OF THE UNITED STATES GOVERNMENT MUST BE DOCUMENTED TO U.S. CONGRESS AND TO THE PUBLIC OF THE UNITED STATES, E.G. ON THE INTERNET. THE INTEREST BY THE AMERICAN PUBLIC IN THIS NAZI CONSPIRACY IS VERY HIGH, BECAUSE IT IS NOT THE GOVERNMENT THEY ELECTED TO LEAD SECRETLY THE COUNTRY. EVIDENCE EXIST THAT THE UNITED STATES CITIZEN, ALL OF THEM WOULD BE MUCH BETTER OFF, INCLUDING THE AGENTS, PEOPLE THAT GERMAN NAZI HIRE TO SECRETLY WORK FOR THEM, IF THIS NAZI INFILTRATION WOULD BE ORDERLY CONVICTED. IN ORDER TO DO THIS PROPERLY AND COMPLETELY, I HAVE TO FIND THOSE ATTORNEYS AND THOSE ATTORNEYS HAVE TO FIND ME, THIS IS POSSIBLE, IF THE RECORDS, THEIR INQUIRIES AND SUBPOENAS FOR MY RECORDS, ARE BEING SEARCHED IN EACH OFFICE AND MADE AS SOON AS POSSIBLE AVAILABLE TO ME, I IMMEDIATELY COULD CONTACT THEM AND COULD ARRANGE MY TESTIMONY IN THE PROPER FORUM.

ALSO, I CAN PROVE THAT THE SAME GERMAN NAZI CONSPIRACY WRONGFULLY ARRESTED MARK C. RATHBUN (DE ROTHSCHILD), AND THAT THEY FRAMED HIM IN COURT. HE IS A STRICT OPPONENT OF SECRET GOVERNMENT INFILTRATION AND MIGHT LOSE HIS LIFE BEHIND BARS, IF THE U.S. GOVERNMENT DOES NOT PROVIDE ME WITH THE RECORDS AS LISTED ABOVE, I DON'T KNOW THE CORRECT PLACE OF INCARCERATION OF MARK C. RATHBUN AND THAT IS WHY I CAN'T TESTIFY FOR HIM AND CAN'T PROVE THAT HE IS INNOCENT.

I HAVE ABSOLUTELY NO COMMERCIAL INTEREST. I HAVE A PRIVATE INTEREST IN THOSE RECORDS AND VERY MUCH SO A HISTORIAL AND EDUCATIONAL INTEREST OF WHICH THE AMERICANS SHOULD PROFIT. IT IS ALSO POSSIBLE THAT THE RECORDS REVEAL THAT SOME GOVERNMENT OFFICIALS LIES LIED TO THOSE ATTORNEYS AND EVEN CONGRESS. THIS ALSO WILL BE HELD UP FOR PUBLIC CONSUMPTION AND SHED LIGHT AS TO HOW THE RECORDS REVEAL THE RECORDS REVEAL A GERMAN INFILTRATED THE RECORDS REVEAL A GERMAN INFILTRATED

Barbara
BARBARA SCH

Remailed on Jan. 12, 2001.
What is status of this appeal?

BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 403, SALT LAKE CITY, UT. 84111

U.S. CONSUMER PRODUCT SAFETY COMMISSION,
ATTN. GENERAL COUNSEL MICHAEL S. SOLENDER, PERSONAL MARCH 27, 2000
WASHINGTON D.C. 20207

APPEAL OF DETERMINATION OF YOUR COMMISSION, FOIA OFFICER TODD
A. STEVENSON OF MARCH 20, 2000.

MR. SOLENDER,

I AM MAILING YOU MY APPEAL OF MARCH 6, 2000 AGAIN, BECAUSE I BELIEVE
I HAVE THE RIGHT THAT SOMEBODY ELSE THAN MR. STEVENSON SHOULD REVIEW
MY APPEAL TO MR. STEVENSON'S DETERMINATION OF FEBRUARY 27, 2000.
ALSO, MR. STEVENSON HAS NOT ADDRESSED THE VARIOUS
PARAGRAPHS IN MY APPEAL LETTER. SEE HIS RESPONSE AND MY FOIA/PA
APPEAL IS ATTACHED AGAIN.

FURTHERMORE, NOTE THAT I AM EXTENDING MY FOIA/PA REQUEST OF
FEBRUARY 8, 2000. I AM INFORMED THAT YOUR COMMISSION RECEIVED
FROM THE U.S. DEPARTMENT OF JUSTICE INFORMATION, RECORDS ON
MY U.S. DISTRICT COURT OF COLUMBIA COURT CASE VS. DEPT. OF ENERGY,
99-3234 HHK, IN WHICH YOUR COMMISSION IS CO-DEFENDANT. THOSE RECORDS
MUST BE WITH YOU SINCE BEGINNING OF FEBRUARY.

I WANT FROM YOU COPIES OF ANY RECORDS PERTAINING TO THIS CASE, ALSO
LETTERS, FAX, E-MAILS, NOTES, PHONE NOTES, DRAFTS, COMPUTER PRINTOUTS,
ECT. SEARCH IN YOUR EXECUTIVE OFFICE FILES, YOUR LEGAL OFFICE FILES
AND IN YOUR FOIA OFFICE FILES.

EXPLAIN YOUR RECORDS SYSTEMS IN A DECLARATION TO ME AS WELL AS TO
HOW THE SEARCH FOR THOSE RECORDS WAS CONDUCTED, IN WHAT OFFICES, WHAT
RECORDS SYSTEMS, WHO CONDUCTED THE SEARCH AND WHAT YOU CAME UP WITH.

PLEASE ACKNOWLEDGE THIS FOIA/PA REQUEST AND THE RE-SUBMISSION OF MY
APPEAL OF MARCH 6, 2000 RIGHT AWAY AND INFORM ME ABOUT MY APPEAL
NUMBER AND THE NEW FOIA/PA REQUESTER NUMBER IN YOUR OFFICE.

SINCERELY

Barbara Schwarz
BARBARA SCHWARZ

ENCLOSURE: AS MENTIONED

BARBARA SCHWARZ, 335 EAST BROADWAY, APT. 401, SALT LAKE CITY, UT. 84111
U.S. Consumer Product Safety Commission
Attn. Inspector General, *personal* January 12, 2001
Washington D.C. 20207

REQUEST FOR INSPECTOR GENERAL INVESTIGATION

PLEASE INVESTIGATE IF BELOW LISTED EMPLOYEES MISINFORMED
A) MARK C. RATHBUN (DE ROTHSCHILD) AND/OR HIS ATTORNEYS. OR
B) ANYONE OF HIS FAMILY AND/OR THEIR ATTORNEYS. OR
C) AN INDEPENDENT OR SPECIAL COUNSEL, OR
D) ANYONE FROM U.S. CONGRESS,

HAVING NOT CERTAIN FOIA/PA OR LITIGATION RECORDS ON ME, BARBARA SCHWARZ OR MISPELLED VERSION SCHWARTZ, TO OBSTRUCT JUSTICE SO THAT THOSE AND THE ATTORNEYS AND U.S. CONGRESS CAN'T GET HOLD OF ME AS IMPORTANT WITNESS IN A FEDERAL INVESTIGATION AS TO GERMAN NAZI INFILTRATION OF THE U.S. GOVERNMENT AND AS TO FEDERAL CASE OF WRONGFUL INCARCERATION OF MARK C. RATHBUN (DE ROTHSCHILD) WHO COULD LOSE HIS LIFE BEHIND BARS, IF THEY DON'T FIND ME AS WITNESS.

INVESTIGATE ALSO IF THOSE JUST LISTED REQUESTED ALREADY SUCH IG INVESTIGATION FROM YOU.

INVESTIGATE: LAST 5 YEARS AND FOLLOWING EMPLOYEES

- 1) CHAIRMAN AND HIS STAFF
- 2) SECRETARY AND HIS STAFF
- 3) DEPUTY SECRETARY AND HIS STAFF
- 4) TODD A. STEVENSON
- 5) GENERAL COUNSEL MICHAEL SOLENDER AND HIS STAFF
- 6) THE DIRECTORS OF ANY OFFICES OF THE COMMISSION
- 7) THE EXECUTIVE DIRECTOR AND HIS STAFF
- 8) THE INSPECTOR GENERAL AND ALL OF HIS STAFF
- 9) SANDY BRADSHAW
- 10) ALAN SHAKIN,
- 11) ANY OTHER EMPLOYEE OF YOUR COMMISSION.

Please acknowledge the receipt of this letter right away.

Pls. forward this
letter right away
to your Inspector
General

Schwarz

7

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207-0001

OFFICE OF THE GENERAL COUNSEL

Michael S. Solender
General Counsel
Tel: 301-504-0980 ext. 2299
Fax: 301-504-0403
E-Mail: msolender@cpsc.gov

March 5, 2001

Michael J. Izzo, Jr., Esq.
Cozen and O'Connor
1900 Market Street
Philadelphia, Pennsylvania 19103

Re: FOIA Appeal 0090003 on home pool chemicals

Dear Mr. Izzo:

On February 9, 2001, you appealed the decision of the Commission's Freedom of Information Officer to withhold information responsive to your Freedom of Information Act (FOIA) request. Under authority delegated to me by the Commission, 16 C.F.R. § 1015.7, I have reviewed your appeal. I affirm the Freedom of Information Officer's decision to withhold (1) the name of a consumer whose complaint was mailed to you on January 26, 2001 and (2) a letter from Arch Chemical's attorney that commented on disclosure of the responsive information mailed to you on January 26.

(1) Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3), provides for withholding information that is specifically exempted from disclosure by another statute. In applying Exemption 3 to the consumer's name, I am relying on section 25(c) of the Consumer Product Safety Act, 15 U.S.C. § 2074(c), which restricts the disclosure of identifying information on victims of incidents with consumer products. In addition, Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6), exempts from disclosure certain information that would constitute a clearly unwarranted invasion of personal privacy.

(2) Disclosure of the Arch Chemical letter is governed by section 6(b)(1) of the Consumer Product Safety Act, 15 U.S.C. § 2055(b)(1). This provision requires that, before disclosing information that would enable the public to identify the manufacturer or private labeler of a consumer product, the Commission "shall take reasonable steps to assure . . . that such

Michael J. Izzo, Jr., Esq.
Page 2

disclosure is fair in the circumstances. . ." By regulation, the Commission has addressed the "fairness" of disclosing a manufacturer's comments on disclosure of product-specific information:

(a) The steps set forth below are the steps the Commission has determined are reasonable to take to assure disclosure of information to the public is fair in the circumstances:-

(1) The Commission will accompany information disclosed to the public with the manufacturer's or private labeler's comments unless the manufacturer or private labeler asks in its section 6(b) comments that its comments or a designated portion thereof not accompany the information.

16 C.F.R. § 1101.33(a). See also 16 C.F.R. §§ 1101.24(b) and (c), which specify how and when a manufacturer must claim confidentiality and object to disclosure of its comments.

Arch Chemical has asked that its comments be withheld in their entirety. We are therefore withholding the letter.

Your appeal also commented on the quantity of incident information that you obtained from Olin Corporation, compared to the quantity that you obtained from us. We have informed our Office of Compliance of your observation.

You have the right to seek judicial review of this decision, as provided by 5 U.S.C. § 552(a)(4)(B).

Sincerely,



Michael S. Solender

COZEN AND O'CONNOR

A PROFESSIONAL CORPORATION

THE ATRIUM

1900 MARKET STREET

PHILADELPHIA, PA 19103

TELEPHONE

(215) 665-2000

(800) 523-2900

FACSIMILE

(215) 665-2013

WWW.COZEN.COM

ATLANTA, GA

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CHERRY HILL, NJ

CHICAGO, IL

DALLAS, TX

LONDON, UK

LOS ANGELES, CA

NEW YORK, NY

NEWARK, NJ

SAN DIEGO, CA

SAN FRANCISCO, CA

SEATTLE, WA

WEST CONSHOHOCKEN, PA

WILMINGTON, DE

MICHAEL J. IZZO, JR.
DIRECT DIAL (215) 665-2030
DIRECT FAX (215) 701-2030
E-MAIL: MIZZO@COZEN.COM

February 9, 2001

FOIA Appeal
General Counsel
Attn: Office of the Secretary
U.S. Consumer Product Safety
Commission
Washington, D.C. 20207

RECEIVED
FEB 14 A 4 01
U.S. CONSUMER PRODUCT SAFETY COMMISSION

6938 ARCH

Re: FOIA Request S0090003
Our File: Home Depot v. Olin Corp., et al
Our File No.: 51915

Dear Sir:

I am writing to appeal the partial denial of access to records with regards to the captioned request.

I recently received the CPSC's response to our request for records relating to reported incidents and investigation of incidents of fires, explosions and personal injuries attributed to calcium hypochlorite-based home pool chemicals, specifically those produced or manufactured by Olin Corporation and Bio-Lab, Inc. Attached is a copy of the original request for your review.

I am somewhat surprised at the sparse number of documents the CPSC produced to us, that being twenty-five (25) pages in all. We are currently in litigation with Olin Corporation and Bio-Lab as a result of a calcium hypochlorite fire at a Home Depot store in Quincy, MA in 1995. Over the course of discovery Olin has produced thousands of pages of documents, including PLARs (Product Liability Accident Reports), pertaining to fires, explosions and personal injuries that were reported to them by consumers who purchased their product, as well as from merchants who distributed their products.

Our original request was made in August 2000 and we were periodically informed by the CPSC that our request was being sent to the manufacturers in question for

February 9, 2001
Page 2

comment as provided by Statute. We request that you provide us copies of the manufacturers comments relating to our request and additionally, that you identify and produce all documents withheld from disclosure and the reasons therefor.

Very truly yours,

COZEN AND O'CONNOR


BY: MICHAEL J. IZZO, JR.

MJI/has
Enclosure

COZEN AND O'CONNOR

A PROFESSIONAL CORPORATION

ATLANTA, GA
CHARLOTTE, NC
CHERRY HILL, NJ
DALLAS, TX
LONDON, UK
LOS ANGELES, CA

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NEW YORK, NY
NEWARK, NJ
SAN DIEGO, CA
SEATTLE, WA
WEST CONSHOHOCKEN, PA
WILMINGTON, DE

HENRY A. SIARCZYNSKI
LITIGATION MANAGER
DIRECT DIAL (215) 665-2082
E-MAIL: HSIARCZYNSKI@COZEN.COM

August 18, 2000

FOIA REQUEST
Office of the Secretary
U.S. CONSUMER PRODUCT SAFETY
COMMISSION
Washington, DC 20207

Re: Home Depot v. Olin, et al
Our File No.: 51915
Freedom of Information Act Request

Dear Sir/Madam:

Pursuant to the Freedom of Information Act, we are requesting any and all records and/or reports issued by, and on file with, the CPSC pertaining to all Calcium Hypochlorite-based home pool chemical products, including, but not limited to, the following products manufactured by the Olin Corporation, 501 Merritt Parkway, Norwalk, CT and Bio-Lab, Inc., 627 College Avenue, Decatur, GA.:

"Shock", "HTH Super Shock It" "Sock It", "Pool Time All-Purpose Shock",
"Aqua-Chem All-Purpose Shock", "BioGuard Burn-Out", "BioGuard CLC",
"Hydrotech Shock". "Pool Shock", "Nokout", "Pool Shock", "Burn Out",
"Break Out", "Sun-King Shock", "Watermaster Shock Treatment",
"Reflections Shock Treatment"

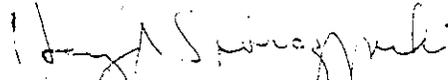
The request includes all records from 1980 through the present date regarding any reported fires, explosions and personal injuries attributed to these products.

August 18, 2000
Page 2

Please contact me at your earliest opportunity regarding the results of your search as well as the estimated cost in having these records reproduced.

Very truly yours,

COZEN AND O'CONNOR



BY: HENRY A. SIARCZYŃSKI
Litigation Manager to:
Michael J. Izzo, Esquire

HAS

Cc: Michael J. Izzo
Robert M. Caplan



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

0938
ARC

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

JAN 26 2001

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

CERTIFIED MAIL

Henry A. Siarczynski
Cozen and O'Connor
The Atrium
1900 Market Street
Philadelphia, PA 19103

Re: FOIA Request S0090003: Calcium Hypochlorite-Based Home Pool Chemical Products / Super Sock It, Pool Time and Aqua-Chem / Complaints, Reported Incidents or Investigations of Incidents / File Search 1990 to Present

Dear Mr. Siarczynski:

Enclosed are consumer complaints that are responsive to your above-identified Freedom of Information Act (FOIA) request.

Under section 6(b) of the Consumer Product Safety Act (CPSA), the Commission must take reasonable steps to assure that any disclosed information on consumer products is accurate and that its disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the CPSA. 15 U.S.C. § 2055(b). Section 6(b) also requires the Commission to permit identified manufacturers of consumer products to comment on release of the information.

Please note that the Commission has received the enclosed consumer complaints through formal investigation systems designed to identify specific products that are associated with injury or death. As a step to assure the accuracy of the information under section 6(b), the Commission has obtained confirmation of the information from the submitters of the complaints. See 16 CFR § 1101.32(a)(3). The Commission has made no determinations about any causes of the incidents.

As a further step to assure accuracy and as a step to assure the fairness of disclosure in the circumstances under section 6(b), the Commission has provided the manufacturers of the products the opportunity to comment on disclosure of the information. See 16 CFR §§ 1101.32(b) and .33(a)(1). However, the manufacturers either did not respond or asked that we not disclose their comments.

We are withholding the name of a consumer complainant who asked that we do so. See 15 U.S.C. § 2074(c) and 5 U.S.C. § 2055(b)(6).

You may appeal this partial denial of access to records by writing to the General Counsel, within thirty (30) days of receipt of this letter, at FOIA Appeal, General Counsel, Attn: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

Sincerely,

Todd A. Stevenson

Enclosures



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

September 5, 2000

Henry A. Siarczynski
Cozen and O'Connor
The Atrium
1900 Market Street
Philadelphia, PA 19103

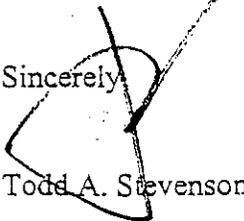
Re: FOIA Request S0090003: Calcium Hypochlorite-Based Home Pool Chemical Products / Super Shock It, Pool Time and Aqua-Chem / Complaints, Reported Incidents or Investigations of Incidents / File Search 1990 to Present / (No records located for Shock, HTH Super Shock It, BioGuard Burn-Out, BioGuard CLC, Hydrotech Shock, Pool Shock, Nokout, Burn Out, Break Out, Sun-King Shock, Watermaster Shock Treatment and Reflections Shock Treatment.)

Dear Mr. Siarczynski:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). We have located records that are responsive to your request. Before we can release this material, we must, by law, provide any firms whose identities can be readily ascertained by the public, the opportunity to comment. (Please see the enclosed Section 6(b)(1) of the Consumer Product Safety Act and the regulations.) Therefore, we first must give the information we intend to release and a copy of your letter to the firms. The firms have 30 days to respond. If the companies claim that the information is inaccurate or confidentiality for proprietary information, we must evaluate these comments and renotify the firms if we overrule any claims.

Please be assured that we are handling your request as quickly as possible. We simultaneously are writing to you and notifying the firms. The firms' responses and our analysis of any comments, however, will take more than 30 days. You will receive all records to be released at the earliest possible date.

Sincerely,


Todd A. Stevenson

200008232

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COZEN AND O'CONNOR

PROFESSIONAL CORPORATION

THE ATRIUM

1500 MARKET STREET
PHILADELPHIA, PA 19103

TELEPHONE
(215) 665-2000
(800) 523-2900

FACSIMILE
(215) 665-2013

WWW.COZEN.COM

NEW YORK, NY

NEWARK, NJ

SAN DIEGO, CA

SEATTLE, WA

WEST CONSHOHOCKEN, PA

WILMINGTON, DE

ATLANTA, GA

CHARLOTTE, NC

CHERRY HILL, NJ

DALLAS, TX

LONDON, UK

LOS ANGELES, CA

OFFICE OF THE SEA
FREE INFORMATION
2000 AUG 22 P 12:33

HENRY A. SIARCZYNSKI
LITIGATION MANAGER
DIRECT DIAL (215) 665-2062
E-MAIL: HSIARCZYNSKI@COZEN.COM

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Rec
8/20

August 18, 2000

FOIA REQUEST
Office of the Secretary
U.S. CONSUMER PRODUCT SAFETY
COMMISSION
Washington, DC 20207

11A

Re: Home Depot v. Olin, et al
Our File No.: 51915
Freedom of Information Act Request

Dear Sir/Madam:

0938

D-4

Pursuant to the Freedom of Information Act, we are requesting any and all records and/or reports issued by, and on file with, the CPSC pertaining to all Calcium Hypochlorite-based home pool chemical products, including, but not limited to, the following products manufactured by the Olin Corporation, 501 Merritt Parkway, Norwalk, CT and Bio-Lab, Inc., 627 College Avenue, Decatur, GA.:

- "Shock"; "HTH Super Shock It"; "Sock It"; "Pool Time All-Purpose Shock";
- "Aqua-Chem All-Purpose Shock"; "BioGuard Burn-Out"; "BioGuard CLC";
- "Hydrotech Shock"; "Pool Shock"; "Nokout"; "Pool Shock"; "Burn Out";
- "Break Out"; "Sun-King Shock"; "Watermaster Shock Treatment";
- "Reflections Shock Treatment"

The request includes all records from 1980 through the present date regarding any reported fires, explosions and personal injuries attributed to these products.

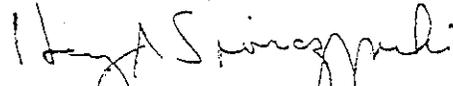
50090003

August 18, 2000
Page 2

Please contact me at your earliest opportunity regarding the results of your search as well as the estimated cost in having these records reproduced.

Very truly yours,

COZEN AND O'CONNOR



BY: HENRY A. SIARCZYNSKI
Litigation Manager to:
Michael J. Izzo, Esquire

HAS

Cc: Michael J. Izzo
Robert M. Caplan



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Michael S. Solender
General Counsel

Office of the General Counsel

Tel: (301) 504-0980
Fax: (301) 504-0403
Email: cpsc-gc@cpsc.gov

April 6, 2001

Ms. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Appeal of Records for Seven Products

S1020014; Graco Infant Swings/File CA000033
S1020017; Cosco Infant Carrier/ File CA 980048
S1020018; Cosco High Chair Model Options 5/ File CA000019
S1020019; Evenflo On My Way Infant Carrier/Car Seat/File CA970094
S1020022; Century Car Seat/Infant Carrier/File CA 000039
S1020024; Kolcraft Car Seat/Infant Carrier/ File CA980049
S1020026; Safety 1st Baby Walkers/File CA970033

Dear Ms. Felcher:

By letter dated March 7, 2001, you appealed the decision of the Commission's Freedom of Information (FOI) Officer to withhold information responsive to your Freedom of Information Act (FOIA) request. Under authority delegated to me by the Commission, 16 C.F.R. § 1015.7, I have reviewed your appeal and the responsive information. As explained below, I affirm, for now, the FOI Officer's decision to withhold the information pursuant to FOIA Exemptions 3, 4, 5, and 7(A). 5 U.S.C. §§ 552(b)(3), (b)(4), (b)(5), and (b)(7)(A). However, please note that the Commission announced this week that it has settled civil penalty cases involving three of the products that are the subject of your request. Therefore, you should check with Todd Stevenson on when to resubmit your FOIA request for the files on those three products. At that time, we will be in a position to determine what additional materials can be cleared and released to the public.

This letter (and the others you have received from Commission staff to date) lay out the legal reasons why some of the materials you are requesting that relate to unsafe products cannot be released. We certainly understand your desire to receive the files promptly. However, no matter how compelling we may find the reasons you need the materials, we have a responsibility to interpret in good faith and comply with the applicable laws, specifically the FOIA and the Consumer Product Safety Act (CPSA). As you know, these laws dictate what information we

Ms. E. Maria Felcher
April 6, 2001

Page 2

can and cannot disclose. We recognize and respect the importance of giving the public access to this type of information and seek to facilitate that access where possible. The remainder of this letter is an explanation of how we apply the laws to your request and the procedures we are following.

Let me address specifically at the outset one of the reasons some of the materials are being withheld. FOIA Exemption 7(A)(all statutory citations are provided in the fuller discussion below) provides for the withholding of investigatory information compiled for law enforcement purposes to the extent that the production of such information could reasonably be expected to interfere with enforcement proceedings. Even after the Commission announces a product recall, a case often remains open because the staff continues to work on the case by, for example, monitoring the recall or evaluating reporting violations for possible civil penalty actions. After the compliance staff has closed a case involving a recalled product, we provide the manufacturer with an opportunity to comment on disclosure of the case file. We do this to comply with section 6(b)(1) of the CPSA and Exemption 3 of the FOIA. After this clearance process, much -- but usually not all -- of the information is often disclosed to the public. We complete this process as quickly as we can. We know that members of the public often use information from our files to buttress the Commission's product safety efforts and we certainly do not desire to hinder those efforts

I turn now to a more specific discussion of the legal reasons the materials are being withheld at this time. FOIA Exemption 3 provides for withholding information that is specifically exempted from disclosure by another statute. In applying FOIA Exemption 3 to the withheld information, I am relying on sections 6(a)(2) and (b)(1) of the CPSA. 15 U.S.C. §§ 2055(a)(2) and (b)(1).

Section 6(a)(2) of the CPSA expressly prohibits the disclosure of information reported to or otherwise obtained by the Commission that contains or relates to trade secrets or other confidential commercial information. Section 6(a)(2) incorporates Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information obtained from a person. Commercial information is confidential if disclosure is likely (1) to impair the government's ability to obtain the necessary information in the future or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. In addition, voluntarily-submitted information is confidential provided it is not customarily disclosed to the public by the submitter. The information being withheld pursuant to FOIA Exemption 3, relying on CPSA section 6(a)(2), and FOIA Exemption 4 consists of sales data, financial statements, customer lists, and test reports.

Section 6(b)(1) of the CPSA requires the Commission to take reasonable steps to assure that product-specific information is accurate and that its release would be fair in the circumstances and reasonably related to effectuating the purposes of the CPSA. This provision also requires the Commission to give manufacturers an opportunity to comment on disclosure of the information. This has not occurred yet because the responsive information is a part of an open compliance file that is not subject to disclosure at this time.

Ms. E. Maria Felcher
April 6, 2001

Page 3

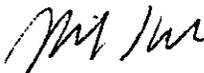
FOIA Exemption 5 provides for the withholding of certain inter-agency and intra-agency documents and incorporates the deliberative process privilege. This privilege protects advice, recommendations, and opinions that are part of the deliberative, consultative, and decision-making processes of the agency. Although this privilege applies only to the opinions or recommendations in a document and not to factual information, facts are withheld here because they are inextricably intertwined with the exempt portions. Exemption 5 also incorporates the attorney work-product doctrine, which protects documents prepared by an attorney, or someone supervised by an attorney, in anticipation of litigation. The information being withheld pursuant to FOIA Exemption 5 consists of intra-agency memoranda and internal staff notes relating to these compliance matters.

FOIA Exemption 7(A) provides for the withholding of investigatory information compiled for law enforcement purposes to the extent that the production of such information could reasonably be expected to interfere with enforcement proceedings. I have determined that disclosure of some of the information, which is also being withheld under FOIA Exemption 5, could reasonably be expected to interfere with ongoing law enforcement proceedings.

As mentioned at the beginning of this letter, some of the information being withheld pursuant to FOIA Exemption 3, relying on CPSA section 6(b) and Exemption 7(A), may be subject to disclosure once the case is closed and the clearance process is complete. Todd Stevenson, the Commission's FOI Officer, can provide you with more information about re-submitting your request.

I hope this letter gives you a bit more insight into the rationale for our actions. We welcome your interest in consumer safety and are grateful for your efforts to draw attention to consumer issues. You have the right to seek judicial review of this decision as provided by 5 U.S.C. § 552(a)(4)(B).

Sincerely,



Michael S. Solender



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Michael S. Solender
General Counsel

Office of the General Counsel

Tel: (301) 504-0980
Fax: (301) 504-0403
Email: cpssc-gc@cpssc.gov

April 6, 2001

Ms. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Appeal of Records for Seven Products

S1020014; Graco Infant Swings/File CA000033
S1020017; Cosco Infant Carrier/ File CA 980048
S1020018; Cosco High Chair Model Options 5/ File CA000019
S1020019; Evenflo On My Way Infant Carrier/Car Seat/File CA970094
S1020022; Century Car Seat/Infant Carrier/File CA 000039
S1020024; Kolcraft Car Seat/Infant Carrier/ File CA980049
S1020026; Safety 1st Baby Walkers/File CA970033

Dear Ms. Felcher:

By letter dated March 7, 2001, you appealed the decision of the Commission's Freedom of Information (FOI) Officer to withhold information responsive to your Freedom of Information Act (FOIA) request. Under authority delegated to me by the Commission, 16 C.F.R. § 1015.7, I have reviewed your appeal and the responsive information. As explained below, I affirm, for now, the FOI Officer's decision to withhold the information pursuant to FOIA Exemptions 3, 4, 5, and 7(A). 5 U.S.C. §§ 552(b)(3), (b)(4), (b)(5), and (b)(7)(A). However, please note that the Commission announced this week that it has settled civil penalty cases involving three of the products that are the subject of your request. Therefore, you should check with Todd Stevenson on when to resubmit your FOIA request for the files on those three products. At that time, we will be in a position to determine what additional materials can be cleared and released to the public.

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Ms. E. Marla Felcher
April 6, 2001

Page 2

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Section 6(b)(1) of the CPSA requires the Commission to take reasonable steps to assure that product-specific information is accurate and that its release would be fair in the circumstances and reasonably related to effectuating the purposes of the CPSA. This provision also requires the Commission to give manufacturers an opportunity to comment on disclosure of the information. This has not occurred yet because the responsive information is a part of an open compliance file that is not subject to disclosure at this time.

Ms. E. Marla Felcher
April 6, 2001

Page 3

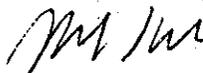
FOIA Exemption 5 provides for the withholding of certain inter-agency and intra-agency documents and incorporates the deliberative process privilege. This privilege protects advice, recommendations, and opinions that are part of the deliberative, consultative, and decision-making processes of the agency. Although this privilege applies only to the opinions or recommendations in a document and not to factual information, facts are withheld here because they are inextricably intertwined with the exempt portions. Exemption 5 also incorporates the attorney work-product doctrine, which protects documents prepared by an attorney, or someone supervised by an attorney, in anticipation of litigation. The information being withheld pursuant to FOIA Exemption 5 consists of intra-agency memoranda and internal staff notes relating to these compliance matters.

FOIA Exemption 7(A) provides for the withholding of investigatory information compiled for law enforcement purposes to the extent that the production of such information could reasonably be expected to interfere with enforcement proceedings. I have determined that disclosure of some of the information, which is also being withheld under FOIA Exemption 5, could reasonably be expected to interfere with ongoing law enforcement proceedings.

As mentioned at the beginning of this letter, some of the information being withheld pursuant to FOIA Exemption 3, relying on CPSA section 6(b) and Exemption 7(A), may be subject to disclosure once the case is closed and the clearance process is complete. Todd Stevenson, the Commission's FOI Officer, can provide you with more information about re-submitting your request.

I hope this letter gives you a bit more insight into the rationale for our actions. We welcome your interest in consumer safety and are grateful for your efforts to draw attention to consumer issues. You have the right to seek judicial review of this decision as provided by 5 U.S.C. § 552(a)(4)(B).

Sincerely,



Michael S. Solender



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

February 9, 2001

CERTIFIED MAIL

Dr. E. Maria Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Request S1020026: Safety 1st Baby Walkers
/ Corrective Action or Recall File CA970033

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the U.S. Consumer Product Safety Commission (Commission). We must withhold the records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory files referenced above, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both pre-decisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

The file also contains proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 of the FOIA, 5 U.S.C. §§ 552(b)(3) and (b)(4), and section 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(a)(2). Section 6(a)(2) prohibits the Commission from disclosing information that is exempt from disclosure under Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information directly related to a firm's business that the firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$35.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

①

E-Maria Felcher, Ph.D.
325 Harvard St.
Cambridge, MA 02139
(617)441-9714

January 24, 2001

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
4340 East-West Highway, Suite 502
Bethesda, MD 20814-4408

YANE

Dear CPSC,

I would like to file a Freedom of Information request for all information held in the Compliance files regarding the following products:

- 1 Safety 1st Baby Walkers, recalled August 8, 2000 *1508*
- 2 Safety 1st Bouncing Buggy toys, recalled June 11, 1998 *5004*

EXCISE

D.5

I will use this information as material for a book on baby safety, specifically, to alert parents and caregivers about the hidden hazards of baby equipment.

Sincerely,



Maria Felcher, Ph.D.
325 Harvard Street
Cambridge, MA 02139
(617)441-9714
mfelcher@hbs.edu

S - 1) 1020026
2) 1020027



DEN 1020024

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

P

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: t Stevenson@cpsc.gov

February 9, 2001

CERTIFIED MAIL

Dr. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Request S1020024: Kolcraft Car Seat / Infant Carrier
/ Corrective Action or Recall File CA980049

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the U.S. Consumer Product Safety Commission (Commission). We must withhold the records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory file referenced above, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both pre-decisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

The file also contains proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 of the FOIA, 5 U.S.C. §§ 552(b)(3) and (b)(4), and section 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(a)(2). Section 6(a)(2) prohibits the Commission from disclosing information that is exempt from disclosure under Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information directly related to a firm's business that the firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$35.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

E. Maria Felcher, Ph.D.
325 Harvard St.
Cambridge, MA 02139
(617)441-9714

January 24, 2001

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
4340 East-West Highway, Suite 502
Bethesda, MD 20814-4408

Y/ne

Dear CPSC,

I would like to file a Freedom of Information request for all information held in the Compliance files regarding the following products:

1
2

- Kolcraft infant car seat/carrier, recalled December 20, 1999
- Kolcraft Ranger strollers, recalled December 20, 2000

1557
1522

ERIC

I will use this information as material for a book on baby safety, specifically, to alert parents and caregivers about the hidden hazards of baby equipment.

D-5

Sincerely,

Marla Felcher

Marla Felcher, Ph.D.
325 Harvard Street
Cambridge, MA 02139
(617)441-9714
mfelcher@hbs.edu

S-
1) 1020024
2) 1020025



DEN 1020022

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

 Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: t Stevenson@cpsc.gov

February 9, 2001

CERTIFIED MAIL

Dr. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Request S1020022: Century Car Seat / Infant Carrier
/ Corrective Action or Recall File CA000039

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the U.S. Consumer Product Safety Commission (Commission). We must withhold the records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory file referenced above, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both pre-decisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

The file also contains proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 of the FOIA, 5 U.S.C. §§ 552(b)(3) and (b)(4), and section 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(a)(2). Section 6(a)(2) prohibits the Commission from disclosing information that is exempt from disclosure under Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information directly related to a firm's business that the firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$35.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

ASSISTANT SECRETARY
SECRETARY
COMMISSION

E. Marla Felcher, Ph.D.
325 Harvard St.
Cambridge, MA 02139
(617)441-9714

January 24, 2001

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
4340 East-West Highway, Suite 502
Bethesda, MD 20814-4408

u/mc

Dear CPSC,

I would like to file a Freedom of Information request for all information held in the Compliance files regarding the following products:

- 1 Century Infant Car seat/carrier; recalled October 13, 2000. *1519*
- 2 Century Fold-N-Go Care Center, recalled September 3, 1998. *1537*

ERCS

I will use this information as material for a book on baby safety, specifically, to alert parents and caregivers about the hidden hazards of baby equipment.

Sincerely,

D-S

Marla Felcher

Marla Felcher, Ph.D.
325 Harvard Street
Cambridge, MA 02139
(617)441-9714
mfelcher@hbs.edu

S
1) 1020022
2) 1020023



DEN 1020019

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

February 9, 2001

CERTIFIED MAIL

Dr. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Request S1020019: Evenflo On My Way Infant Carrier / Car Seat
/ Corrective Action or Recall File CA970094

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the U.S. Consumer Product Safety Commission (Commission). We must withhold the records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory file referenced above, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both pre-decisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

The file also contains proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 of the FOIA, 5 U.S.C. §§ 552(b)(3) and (b)(4), and section 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(a)(2). Section 6(a)(2) prohibits the Commission from disclosing information that is exempt from disclosure under Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information directly related to a firm's business that the firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$35.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

CA 970094
Examples can and cannot
EX 7

FOIA MEMO RECORD	DATE February 7, 2001
TO: Todd Stevenson, OSFOI	Thru:
FROM: Michael J. Gidding	Office of Compliance

FOIA#: 51020019

Please note the following grounds for withholding information.

Compliance has marked and separated information from which an exemption is claimed except for information the firm claims is trade secret or confidential or otherwise. Use Sticky notes to indicate portions to be withheld and why. If you have not included information, please indicate what and why below.)

Please feel free to contact requestor if further clarification is needed. If contact was made, please make a note of the date and time.

Firm made confidentiality request.

Investigation underway (or enforcement matters, or not attached) (exemption 7(A) - active investigations regarding specific firms.) File

Withhold PD form (exemption 5 - analysis and attorney-work product, the Commission relating to the administration, and policy matters or staff attorney opinions and advice to the Commission relating to agency action.)

Withhold memoranda or records disclosing information (exemption 5 - see above)

Withhold documents reflecting work done at the Commission in anticipation of litigation (exemption 5 - see above)

Withhold information about sources/informants or investigative techniques (exemption 7(d) and (e) - sources of trade complaints and confidential statements made during investigations and materials from investigatory files, the disclosure of which would reveal investigative techniques and procedures, as well as enforcement strategies and guidelines, or interference with on-going enforcement proceedings.)

Handwritten notes:
CA 970094
Examples can and cannot
EX 7

Notes:

Handwritten notes:
EX 7
7A

SECRETARY
E. Marla Felcher, Ph.D.
325 Harvard St.
Cambridge, MA 02139
(617)441-9714

January 24, 2001

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
4340 East-West Highway, Suite 502
Bethesda, MD 20814-4408

Y/ME

Dear CPSC,

I would like to file a Freedom of Information request for all information held in the Compliance files regarding the following products:

- 1 Evenflo On My Way Infant Car seat/carrier; recalled March 5, 1998, CPSC press release #98-076
- 2 Evenflo Child carrier; recalled September 8, 1998; CPSC press release #98-165
- 3 Evenflo soft infant carrier; recalled June 24, 1999; CPSC press release #99-128

1519 1549
1527
1527

EXC

I will use this information as material for a book on baby safety, specifically, to alert parents and caregivers about the hidden hazards of baby equipment.

b-5

Sincerely,



Marla Felcher, Ph.D.
325 Harvard Street
Cambridge, MA 02139
(617)441-9714
mfelcher@hbs.edu

S -
1) 1020019
2) 10200120
3) 1020021



DEW 1020018

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: t Stevenson@cpsc.gov

February 9, 2001

CERTIFIED MAIL

Dr. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Request S1020018: Cosco High Chair Model Options 5
/ Corrective Action or Recall File CA000019

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the U.S. Consumer Product Safety Commission (Commission). We must withhold the records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory file referenced above, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both pre-decisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

The file also contains proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 of the FOIA, 5 U.S.C. §§ 552(b)(3) and (b)(4), and section 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(a)(2). Section 6(a)(2) prohibits the Commission from disclosing information that is exempt from disclosure under Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information directly related to a firm's business that the firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$35.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

E. Maria Felcher, Ph.D.
325 Harvard St.
Cambridge, MA 02139
(617)441-9714

January 24, 2001

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
4340 East-West Highway, Suite 502
Bethesda, MD 20814-4408

YIME

Dear CPSC,

I would like to file a Freedom of Information request for all information held in the Compliance files regarding the following products:

1
2

- Cosco infant car seat/carrier, recalled July 8, 1999 *1515 1527*
- Cosco Options 5 High Chair, recalled November 27, 2000 *1515*

ER 29

I will use this information as material for a book on baby safety, specifically, to alert parents and caregivers about the hidden hazards of baby equipment.

D.Y

Sincerely,

Marla Felcher

Marla Felcher, Ph.D.
325 Harvard Street
Cambridge, MA 02139
(617)441-9714
mfelcher@hbs.edu

1) 1020017

S - 2) 1020018



DEW
1020017
[Signature]

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

February 9, 2001

CERTIFIED MAIL

Dr. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Request S1020017: Cosco Infant Carrier
/ Corrective Action or Recall File CA980048

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the U.S. Consumer Product Safety Commission (Commission). We must withhold the records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory file referenced above, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both pre-decisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

The file also contains proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 of the FOIA, 5 U.S.C. §§ 552(b)(3) and (b)(4), and section 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(a)(2). Section 6(a)(2) prohibits the Commission from disclosing information that is exempt from disclosure under Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information directly related to a firm's business that the firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$35.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

40
SECRET

E. Marla Felcher, Ph.D.
325 Harvard St.
Cambridge, MA 02139
(617)441-9714

January 24, 2001

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
4340 East-West Highway, Suite 502
Bethesda, MD 20814-4408

YIME

Dear CPSC,

I would like to file a Freedom of Information request for all information held in the Compliance files regarding the following products:

✓
1
2

- Cosco infant car seat/carrier, recalled July 8, 1999 *1515 1527*
- Cosco Options 5 High Chair, recalled November 27, 2000 *1535*

ER 29

I will use this information as material for a book on baby safety, specifically, to alert parents and caregivers about the hidden hazards of baby equipment.

D.Y

Sincerely,

Marla Felcher

Marla Felcher, Ph.D.
325 Harvard Street
Cambridge, MA 02139
(617)441-9714
mfelcher@hbs.edu

1) 1020017

S - ~~2) 1020018~~



DEN 1020014

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

A handwritten signature in black ink, appearing to be "T. Stevenson".

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

February 9, 2001

CERTIFIED MAIL

Dr. E. Marla Felcher
325 Harvard Street
Cambridge, MA 02139

Re: FOIA Request S1020014: Graco Infant Swings
/ Corrective Action or Recall File CA000033

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the U.S. Consumer Product Safety Commission (Commission). We must withhold the records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory file referenced above, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both pre-decisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

The file also contains proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 of the FOIA, 5 U.S.C. §§ 552(b)(3) and (b)(4), and section 6(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(a)(2). Section 6(a)(2) prohibits the Commission from disclosing information that is exempt from disclosure under Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information directly related to a firm's business that the firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

You may want to resubmit your request in a few months upon completion of the case. Processing this request, performing the file searches and reviewing the information, cost the Commission \$35.00. In this instance, we have decided to waive all of the charges. ~

Sincerely,

Todd A. Stevenson

E. Marla Felcher, Ph.D.
325 Harvard St.
Cambridge, MA 02139
(617)441-9714

January 24, 2001

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
4340 East-West Highway, Suite 502
Bethesda, MD 20814-4408

4/ME

Dear CPSC,

I would like to file a Freedom of Information request for all information held in the Compliance files regarding the following products:

- ~~Graco Tot Wheels Infant Walker, recalled June 14, 2000~~ 1508
- ~~Graco Infant swings, recalled April 13, 2000~~ 3246
- ~~Graco activity trays and bath sets, recalled August 27, 1999~~ 1557

Erds
D.S

I will use this information as material for a book on baby safety, specifically, to alert parents and caregivers about the hidden hazards of baby equipment.

Sincerely,

Marla Felcher

Marla Felcher, Ph.D.
325 Harvard Street
Cambridge, MA 02139
(617)441-9714
mfelcher@hbs.edu

X

S
1) 1020013
2) 1020014
3) 1020015



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Michael S. Solender
General Counsel

Office of the General Counsel

Tel: (301) 504-0380
Fax: (301) 504-0403
Email: cpsc-gc@cpsc.gov

April 16, 2001

Frederick C. Moore, Esq.
Robinson, Kriger & McCallum
Twelve Portland Pier
Post Office Box 568
Portland, Maine 04112-0568

Re: FOIA Appeal S1020004
Emerson Tool Co. and Sears Craftsman Radial Arm Saws
Corrective Action or Recall File: CA990090

Dear Mr. Moore:

By letter dated March 15, 2001, you appealed the decision of the Commission's Freedom of Information (FOI) Officer to withhold information responsive to your Freedom of Information Act (FOIA) request. Under authority delegated to me by the Commission, 16 C.F.R. § 1015.7, I have reviewed your appeal and the responsive information. As explained below, I affirm, for now, the FOI Officer's decision to withhold the information pursuant to FOIA Exemptions 3, 4, and 7(A). 5 U.S.C. §§ 552(b)(3), (b)(4), and (b)(7)(A).

According to your appeal letter, you are not seeking "the inter and intra-agency memoranda referenced in the denial letter." Therefore, such information, previously withheld pursuant to FOIA Exemption 5, will not be considered as responsive to your FOIA request.

FOIA Exemption 3 provides for withholding information that is specifically exempted from disclosure by another statute. In applying FOIA Exemption 3 to the withheld information, I am relying on sections 6(a)(2) and (b)(1) of the CPSA. 15 U.S.C. §§ 2055(a)(2) and (b)(1).

Section 6(a)(2) of the CPSA expressly prohibits the disclosure of information reported to or otherwise obtained by the Commission that contains or relates to trade secrets or other confidential commercial information. Section 6(a)(2) incorporates Exemption 4 of the FOIA. That exemption protects trade secrets and confidential commercial information obtained from a person. Commercial information is confidential if disclosure is likely (1) to impair the government's ability to obtain the necessary information in the future or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. In

Frederick C. Moore, Esq.
April 16, 2001

Page 2

addition, voluntarily-submitted information is confidential provided it is not customarily disclosed to the public by the submitter. The information being withheld pursuant to FOIA Exemption 3, relying on CPSA section 6(a)(2), and FOIA Exemption 4 consists of test reports and sales data.

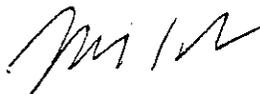
Section 6(b)(1) of the CPSA requires the Commission to take reasonable steps to assure that product-specific information is accurate and that its release would be fair in the circumstances and reasonably related to effectuating the purposes of the CPSA. This provision also requires the Commission to give manufacturers an opportunity to comment on disclosure of the information. This has not occurred yet because the responsive information is a part of an open compliance file that is not subject to disclosure at this time. After the Commission announces a product recall, a case often remains open because the staff continues to work on the case by, for example, monitoring the recall or evaluating reporting violations for possible civil penalty actions. After the compliance staff has closed a case involving a recalled product, we provide the manufacturer with an opportunity to comment on disclosure of the case file. We do this to comply with section 6(b)(1) of the CPSA and Exemption 3 of the FOIA. After this clearance process, often much -- but usually not all -- of the information is disclosed to the public. We complete this process as quickly as we can. The information being withheld under this exemption consists of everything in the files that mentions or refers to the manufacturer, the private labeler, or the names of their products.

FOIA Exemption 7(A) provides for the withholding of investigatory information compiled for law enforcement purposes to the extent that the production of such information could reasonably be expected to interfere with enforcement proceedings. The information being withheld under this exemption consists of the test reports and sales data (also being withheld pursuant to Exemptions 3 and 4), reports of injuries, pleadings from plaintiffs' attorneys, and correspondence between the manufacturer and the private labeler, as well as correspondence between the Commission and the manufacturer and private labeler.

Some of the information being withheld pursuant to FOIA Exemption 3, relying on CPSA section 6(b), and Exemption 7(A), may be subject to disclosure once the case is closed and the clearance process is complete. Todd Stevenson, the Commission's FOI Officer, can provide you with more information about resubmitting your request.

You have the right to seek judicial review of this decision as provided by 5 U.S.C § 552(a)(4)(B).

Sincerely,



Michael S. Solender

DAN

U.S. Consumer Product Safety Commission

Memorandum

To: Michael S. Solender, General Counsel
Through: Alan Shakin, Assistant General Counsel
From: Todd A. Stevenson, FOI Officer, Office of the Secretary
Date: March 22, 2001



Re: FOIA APPEAL S1020004 Moore/Robinson Kriger Seeking Active Compliance File on Emerson/Sears Craftsman Radial Arm Saws

The FOIA Appeal dated March 15, 2001, of our denials dated February 9, was received in the Office of the Secretary on March 20, 2001. Mr. Moore is appealing the withholding of active Compliance files on the Sears Radial Arm Saws pursuant to FOIA Exemptions 5 and 7(A). Attached are the correspondence, and our processing notes. Contact Mike Gidding X1344 to review or discuss the active files. Should you need to discuss the materials or our processing, please see or call me X1239.

Date of Appeal: 3/15/2001
Received in OS: 3/20/2001

Time Limit on

Appeal Decision: Tuesday April 17, 2001