

ROBINSON
KRIGER &
MCCALLUM

ATTORNEYS AT LAW

9
TWELVE PORTLAND PIER
POST OFFICE BOX 568
PORTLAND, MAINE 04112-0568

TELEPHONE (207) 772-6565
FACSIMILE (207) 773-5001
E-MAIL: attorneys@rkmlegal.com

ROBERT C. ROBINSON
JOHN M. MCCALLUM
FREDERICK C. MOORE
THOMAS R. McNABOE
RICHARD F. VAN ANTWERP
LAWRENCE B. GOODGLASS
MARGARET PHAIR SACK
JAMES C. HUNT
THOMAS QUARTARARO
THOMAS R. KELLY
DOUGLAS J. ALOFS
DARBY C. UREY

OF COUNSEL

JAMES S. KRIGER

March 15, 2001

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

Re: FOIA Request S10200004: Emerson Tool Co. and Sears Craftsman Radial
Arm Saws/Corrective Action or Recall File: CA990090

Gentlepersons:

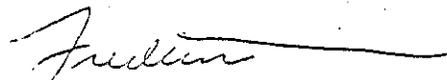
Please consider this to be an appeal from the denial of my Freedom of Information Act request. The denial was dated February 9, 2001 and received on February 20, 2001. I attach a copy of the denial letter for reference.

I do not seek the inter and intra-agency memoranda referenced in the denial letter.

However, I do believe that we are entitled to reports of injuries caused by the saw in question. Such reports are not generated by the agency's investigation, but rather are generated by reports made voluntarily by the public. If you can cite me to some provision of the Freedom of Information Act which exempts such materials from disclosure, I will be pleased to consider it. However, I believe the reports of incidents themselves would be public information.

Thank you for your consideration.

Very truly yours,



Frederick C. Moore

FCM/mh
Enc.



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

Frederick C. Moore, Esq.
Robinson Kriger & McCallum
12 Portland Pier
PO BOX 568
Portland, ME 04112-0568

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

Dear Mr. Moore:

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

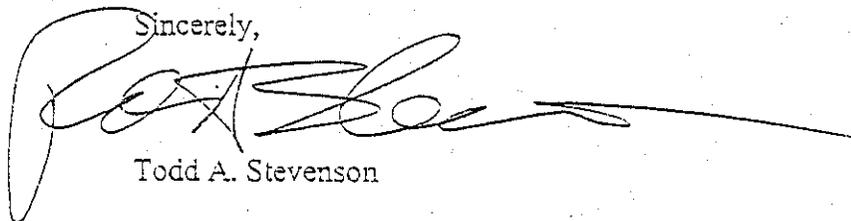
exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

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,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson", with a long horizontal flourish extending to the right.

Todd A. Stevenson



ACEN
S1020004

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

Frederick C. Moore, Esq.
Robinson Kriger & McCallum
12 Portland Pier
PO BOX 568
Portland, ME 04112-0568

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

Dear Mr. Moore:

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

ROBINSON
KRIGER &
MCCALLUM

ATTORNEYS AT LAW

Emerson (FOS)
C0125001

TWELVE PORTLAND PIER
POST OFFICE BOX 568
PORTLAND, MAINE 04112-0568

TELEPHONE (207) 773-6565
FACSIMILE (207) 773-5001
E-MAIL - attorneys@rkmccall.com

ROBERT C. ROBINSON
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JAMES C. HUNT
THOMAS QUARTARARO
THOMAS R. KELLY
DOUGLAS J. ALOFS
DARBY C. UREY

OF COUNSEL

JAMES S. KRIGER

January 23, 2001

Mr. Todd Stevenson
Director of Freedom of Information
Consumer Product Safety Commission
Washington, DC 20207

Re: Recall of Craftsman Radial Arm Saws Manufactured
By Emerson Tool Co. and sold by Sears Roebuck & Co.

0841

EA

Dear Mr. Stevenson:

Please consider this a Freedom of Information Act request for all of the Consumer Product Safety Commission's compliance files regarding the equipment listed above. I represent a small family business. The wife of the owner suffered a hand amputation on an Emerson radial arm saw sold by Sears Roebuck.

EXC13

D.Y

Thank you for your cooperation.

Very truly yours,



Frederick C. Moore

FCM/mh

S-1020004



10

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

April 23, 2001

Lawrence D. Levit, Esq.
Wolf Popper, LLP
845 Third Avenue
New York, N.Y. 10022-6689

only GE

Re: FOIA Appeal S1020111
General Electric Dishwasher Revised Recall

Dear Mr. Levit:

By letter dated March 30, 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).

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 test reports and production data.

Lawrence D. Levit, Esq.
April 23, 2001

Page 2

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 or the name of its product.

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. The information being withheld under this exemption consists of the test reports and production data (also being withheld pursuant to Exemptions 3 and 4), reports of injuries, pleadings from plaintiffs' attorneys, and correspondence between the manufacturer and the Commission.

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.

10

LAW OFFICES
WOLF POPPER LLP
645 THIRD AVENUE
NEW YORK, N.Y. 10022-6680

(212) 759-4800

FACSIMILE: (212) 486-2092
E-MAIL: WOLFPOPPER@AOL.COM

Direct Dial: 212.451.9621

March 30, 2001

By Fax and Regular Mail

FOIA Appeal
General Counsel
Attn: Office of the Secretary
U.S. Consumer Products Safety Commission
Washington, DC 20207

Re: FOIA S-1020111: General Electric Dishwasher Revised Recall

Dear Sir or Madam:

We are sending this letter to appeal the denial of access to the records we requested in connection with the above referenced revised recall. The dishwashers at issue were recalled because of a fire hazard. The documents we requested, inter alia, concern the repair of the dishwashers, consumer complaints and the safety of the dishwashers, including whether the fire hazard has been increasing. As such, disclosure of the information we request may help inform the public about the dangers of having a potentially hazardous appliance on their premises.

Your March 1, 2001 letter states that documents were being withheld because they constitute pre-decisional and deliberative discussions that fall within an exemption or contain factual materials that would expose the deliberative process. You state that you are withholding these materials because their disclosure would impair the frank exchange of views as to these matters and prematurely reveal information which would disclose the government's basis for pursuing the matter. The public, however, has the right to be protected from a hazardous product that is a threat to their health and safety. The requested information should be disclosed to help reveal the seriousness of the problem. In accordance with the purpose of the Consumer Product Safety Act in protecting consumers' interest, disclosure of these documents is appropriate to inform and protect the public. The courts have held that statutory exemptions must be narrowly construed in light of FOIA's "dominant objective" of disclosure. *Maricopa Aububon Society v. U.S. Forest Service*, 108 F. 3d 1082, 1085 (9th Cir. 1997).

WOLF POPPER LLP

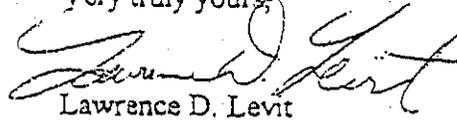
FOIA Appeal
General Counsel
Attn: Office of the Secretary

- 2 -

March 30, 2001

The safety of consumers should be the paramount concern. The defective dishwashers have caused fires that have resulted in significant property damage. If by release of the requested documents either the repair of the dishwashers or their replacement is accelerated, then plainly it is in the public interest to provide that information. Thank you for your consideration and assistance.

Very truly yours,



Lawrence D. Levit

LDL:ab

LAW OFFICES OF
WOLF POPPER LLP
845 Third Avenue
New York, New York 10022

TEL: (212) 451-9627

FAX: (212) 759-2093

FAX COVER SHEET

FROM: Lawrence D. Levit, Esq.

DATE: March 30, 2001

CASE: General Electric

TO: FOIA Appeal
General Counsel
Attn: Office of the Secretary

FAX (301) 504-0127

TOTAL NUMBER OF PAGES (including cover sheet): 3

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited.

MESSAGE:



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

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

Tel: 301-504-0785 or 301-504-0800
Fax: 301-504-0127
Email: t Stevenson@cpsc.gov

March 1, 2001

CERTIFIED MAIL

Mr. Lawrence D. Levit
Wolf Popper L.L.P.
845 Third Avenue
New York, New York 10022-6689

RE: FOIA S-1020111: General Electric Dishwasher Revised Recall

Dear Mr. Levit:

This responds to your recent Freedom of Information Act request to the U. S. Consumer Product Safety Commission (Commission) for documents concerning a revised recall for certain General Electric Dishwashers.

We must withhold the requested records because they are contained in an active investigatory file. The records are being withheld pursuant to the 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

Lawrence D. Levit

Page 2

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.

- This completes the processing of your request. You may want to re-submit your request in a few months. The cost to prepare this response was \$50.00. In this case, we have decided to waive the charges.

Sincerely,

Todd A. Stevenson

LAW OFFICES
WOLF POPPER LLP
845 THIRD AVENUE
NEW YORK, N.Y. 10022-8888

(212) 750-4600

FACSIMILE: (212) 486-2093
E-MAIL: WOLF@OPPER@AOL.COM

Direct Dial: 212.451.9621

February 8, 2001

BY FAX (301) 504-0127

Todd A. Stevenson,
Deputy Secretary and Freedom of Information Officer
U.S. Consumer Products Safety Commission
Washington, DC 20207

Re: General Electric Dishwasher Recall: Request S-0030118

11A

Dear Mr. Stevenson:

On or about March 10, 2000, we made a Freedom of Information Act (FOIA) request seeking information from the Commission concerning the General Electric ("GE") and Hot Point Dishwasher Recall, which was announced on or about October 19, 1999.

0214

On or about April 3, 2000, you produced certain documents and withheld other documents pursuant to FOIA exemptions. Since the time of our request and your response, the Commission and GE have revised the recall. During December, 2000, it was announced that in addition to the other options available to the public, a repair option was now being offered by GE. Given that the recall has been revised, we are writing to inquire whether any new and/or additional documents are now available for production. While we are requesting all documents concerning the recall, we are especially interested in documents regarding repair of the dishwashers, discussions and negotiations with GE concerning repair and the recall, and consumer complaints. We would appreciate any additional production of documents.

EX 4c

D-5

Please contact me if you have any questions about the types of documents we are requesting.

Very truly yours,

Lawrence D. Levit SB 2/8/01

Lawrence D. Levit

LDL:ab

S-1020111

described in the investigation reports, the Commission has not necessarily determined the cause of the incidents.

Other portions of the Commission's law enforcement investigatory file RP990036, are being withheld pursuant to the FOIA Exemptions 3, and 4, 5 U.S.C. §§ 552(b)(3), and (b)(4), and sections 6(a)(2), 6(b)(1), and 6(b)(5) of the Consumer Product Safety Act (CPSA), 15 U.S.C. §§ 2055(a)(2), 6(b)(1), and 6(b)(5). FOIA Exemption 3 provides for the withholding from disclosure of matters that are specifically exempted from disclosure by another statute. The files contain proprietary and confidential information that we must withhold pursuant to Exemptions 3 and 4 and section 6(a)(2) of the CPSA. 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. Specifically, we are withholding portions that if disclosed would reveal confidential financial and business relationships, sales figures, customers and proprietary testing data. The pages being withheld are: 15-27 - sales, engineering and consultant's documents; 63 - proprietary database information; 85 - sales numbers; 96-101 - claims and insurance; 223 - production numbers; 364-408 - customer lists; 420-422 - consultant data; 423-682 - consultant investigations; 683-687 - pricing information; 688-691 - engineering data; 698-705 - engineering data; 707-708 - sales and engineering; 709-713 - sales and engineering; 721-725 - sales and engineering; 732-854 - company testing and research engineering; 856-989 - company testing and research engineering; and 991-1,035 - engineering drawings and plans.

We are also relying in part to section 6(b)(1) of the CPSA. That section prohibits the Commission from disclosing information about a consumer product that identifies a manufacturer or private labeler unless the Commission has taken "reasonable steps" to assure that the information is accurate, that disclosure is fair in the circumstances, and that disclosure will be reasonably related to effectuating the purposes of the laws that the Commission administers. It would not be fair in the circumstances to disclose a firm's notes, drafts or minutes of meetings to discuss and negotiate settlements agreements, when the company has requested confidentiality and such records are protected from disclosure pursuant to 16 C.F.R. § 1101.33. We are withholding these documents specifically because it would not be fair in the circumstances to disclose a firm's notes, drafts or minutes of meetings to discuss and negotiate settlements agreements, when the company has requested confidentiality and such records are protected from disclosure pursuant to 16 C.F.R. § 1101.33. The pages being withheld pursuant to this section are 11-12, 15-27, 31, 33-38, 42-51, 55, parts of pages 56 and 57, 64-68, 71, 73-75, 78-84, 88-101, 103, 104-143, 155, 206, 230-264, 266-408, 4418, 419, 420-684, 692-697, 706, 708, 714, 715, 716, 717-720, and 856-984.

In applying Exemption 3, we are also relying on section 6(b)(5) of the CPSA. That section prohibits the disclosure of information submitted under section 15(b) of the CPSA and relating to such an inquiry, unless the Commission has issued a complaint.



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

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

Michael S. Solender
General Counsel

Office of the General Counsel

May 2, 2001

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

Dear Dr. Felcher:

Re: FOIA Appeal S1020025
Kolcraft Car Seat/Carriers and Strollers Compliance Files

By letter dated April 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. § 1015.7, I have reviewed your appeal and the responsive information. As explained below, I affirm the FOI Officer's decision to withhold certain information pursuant to FOIA Exemptions 3 and 4. 5 U.S.C. §§ 552(b)(3) and (b)(4). The FOI Officer has reconsidered his decision concerning one document. That document is a Consumer Product Safety Act (CPSA) section 15 submission from the manufacturer and has portions deleted. [See enclosure] In addition, as explained below, we believe that you have expanded the scope of your initial FOIA request on appeal, and we will now search for materials that are responsive to the expanded 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 addition, voluntarily-submitted information is confidential provided it is not customarily disclosed to the public by the submitter. Critical Mass Energy Project v. NRC, 975 F.2d 871, 879 (D.C. Cir. 1992). The information being withheld pursuant to FOIA Exemption 3, relying

Dr. E. Maria Felcher
May 2, 2001

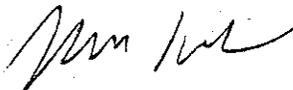
Page 2

on CPSA section 6(a)(2), and FOIA Exemption 4 consists of lists of retailers and customers and portions of a CPSA section 15 submission from the manufacturer.

In your appeal letter, you stated that you would like "have access to Kolcraft's consumer complaints regarding its recalled strollers" as well as "monthly progress reports." We recognize that you may have meant to ask in your initial request for these complaints and reports wherever they may be found at CPSC, but your request sought only the contents of the compliance file. Specifically, you asked for "all information held in the Compliance files regarding the . . . Kolcraft infant car seat/carrier, recalled December 20, 1999 [and] Kolcraft Ranger strollers, recalled December 20, 2000." [Emphasis added] Therefore, the Commission's FOI Officer searched only the contents of the Compliance files regarding these products. He found no consumer complaints or monthly progress reports in those files. However, since they may exist in other CPSC files, we have asked him to look for them as part of a new FOIA request. You will be advised of the results of his search.

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

Enclosure

CONFIDENTIAL

THE SUBMISSION OF THIS INFORMATION
DOES NOT CONSTITUTE AN ADMISSION
BY KOLCRAFT ENTERPRISES, INC. THAT EITHER
REPORTABLE INFORMATION OR A SUBSTANTIAL PRODUCT HAZARD
EXISTS.

1. Person Submitting This Information.

Eileen Lysaught, General Counsel, files this partial report on behalf of Kolcraft Enterprises, Inc., 3455 West 31st Place, Chicago, IL 60623.

2. Manufacturer and Importer.

The strollers, 46645, 46646, 46720, and 46721 are manufactured by Lerado (Zhong Shan) Industrial Co., Ltd., Lordship (Zhong Shan) Industrial Company, Ltd., Dong Sheng Road North, Dong Shen Town, Zhong Shan City, Guang Dong Providence, China.

3. Product.

The products are strollers. The products' model numbers are 46645, 46646, 46720, and 46721. The 46720 and 46721 are identical. The 46645 and the 46646 have a special mechanism that allows a consumer to fold the stroller for storage without touching the side-lock.

Bracketed Material
Confidential

A typical price within the range at which Kolcraft generally sells strollers to retailers is [REDACTED] Kolcraft's suggested retail price for its strollers is \$80.00.

4. Nature and Extent of Possible Defect.

Kolcraft has discovered that the stroller can develop a potential pinch-point in the event that the side-lock mechanism on the stroller models listed above should break. Although the pull piece is designed to operate with a lateral (sideways) force, if the consumer nevertheless applies an upward force to the pull piece of the side-lock mechanism, the side-lock can break. If both side-locks break, the stroller will not be



8. Dates of Manufacture, Importation, Distribution and Retail Sale.

The approximate manufacturing dates are as follows:

46645: 1999-2000

46646: 2000

46720: 2000

46721: 2000

9. Number of Products by Category.

The majority of these strollers are in the hands of consumers or at retail. Kolcraft does not have an estimate of how many units are in retail.

10. Explanation of Changes to Correct Possible Defect.

Kolcraft has determined that lengthening a metal tab within the side-lock mechanism and making minor tooling changes to the side-lock will remedy the potential for breakage. All future production will contain these changes. We are trying to resolve how we will handle the products within the hands of the consumers. We should have more information on either a fix or a product remedy within one month.

11. Information Regarding Potential Defect.

See response to item #4, above.

12. Details and Schedule for Replacement or Repair Actions.

Kolcraft will contact its retailers.

13. Marketing and Distribution.

[REDACTED]

Bracketed Material
Confidential

Bracketed Material
Confidential

[REDACTED]

14. Distributors.

If the Commission requests, the names and addresses of the Kolcraft retailers will be made available.

Kolcraft appreciates this opportunity to cooperate with the CPSC.

g/k

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

4/12/01

April 2, 2001

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

DEN
S1020025
SR 1522

Dear General Counsel,

The purpose of this letter is to appeal the denial of my FOIA request, # S1020025. Specifically, it is my opinion that the FOIA permits me to have access to Kolcraft's consumer complaints regarding its recalled strollers. Also, I was disappointed that you did not send monthly progress reports. Most of my previous FOIA requests have included this important indicator of a company's efforts to rid the marketplace of dangerous products. I am appealing your denial of these reports.

As a child safety advocate, it is important that I keep up-to-date on product recalls. Understanding why products fail (i.e., are recalled) is an important part of my work. Given that the press release announcing this recall was negotiated between CPSC and Kolcraft's lawyers, it is impossible for the public to know the specific hazards associated with these strollers. Consumer complaints are the only true indication of what went wrong once the strollers were in use.

I have filed many FOIA requests with CPSC over the past few years, and most of my requests have been fulfilled. It is hard for me to understand why the records I have indicated in this letter are now being withheld from me.

I look forward to your response.

Sincerely,



E. Marla Felcher



1522 Kol
file copy

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

March 27, 2001

CERTIFIED MAIL

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

Re: FOIA Request S1020025: Kolcraft Enterprises, Inc., Ranger and Ranger Quattro Strollers
Recall / Corrective Action or Recall File RP0000217

Dear Dr. Felcher:

Thank you for your Freedom of Information Act (FOIA) request to the Commission. The records from the Commission files responsive to your request have been processed and copies are enclosed. The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are memoranda, correspondence, notes and documents. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems. The Commission believes that it has taken reasonable steps to assure the accuracy of the information.

We must withhold from certain portions of the file materials containing proprietary and confidential information submitted by the Kolcraft Enterprises, Inc., to the Commission's Office of Compliance. The records have been claimed as confidential by the submitting firm and we must withhold those portions 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). FOIA Exemption 3 provides for the withholding from disclosure of matters that are specifically exempted from disclosure by another statute. In applying FOIA Exemption 3 in this instance we are applying in part section 6(a)(2) of the CPSA. 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. Confidential commercial information is information directly related to a firm's business that the

Dr. E. Marla Felcher

Page 2

firm has not made public and whose disclosure could give a substantial commercial advantage to a competitor. Specifically, we withholding Braun's trade accounts and customers lists from pages 71-78, 83-86 and 110-114..

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a partial 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

Processing this request, performing the file searches and preparing the information, cost the Commission \$80.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

Enclosures

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

4/mf

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
Kolcraft infant car seat/carrier, recalled December 20, 1999 *1557*
Kolcraft Ranger strollers, recalled December 20, 2000 *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,

Maria Felcher

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

1) 102002-4
2) 1020025

12

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

April 25, 2001

Mr. Genaro Recupero
16 Newberry Street
Billerica, Massachusetts 01821

Re: FOIA Appeal 1010109 on Black & Decker comment letters

Dear Mr. Genaro:

On April 13, 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 two letters from Black & Decker's attorney that commented on public disclosure of an incident report.

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

Section 6(b)(1) 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 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

Mr. Genaro Recupero
April 25, 2001

Page 2

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.

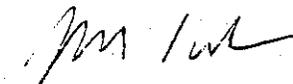
16 C.F.R. § 1101.33(a). See also C.F.R. §§ 1101.24(b) and (c), which specify how and when a manufacturer must claim confidentiality and object to disclosure of its comments.

The "unless" clause of the Commission's regulation (section 1101.33(a)(1)) applies directly to your FOIA request. Black & Decker has asked that its comments be withheld in their entirety. And we are therefore withholding the two letters.

Your appeal letter suggests that we are "protecting" Black & Decker by withholding its comments. We are complying with the regulation as we are required to do. When the laws and regulations dictate that materials should be disclosed, as was the case with the incident report that was provided to you, we release the information. That disclosure may be over the objection of the company, as was the case here.

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

5/10/01
0216 BUA
Annals 3/20/01

4-13-01

TO: FOIA APPEAL, General Counsel
ATTN: OFFICE OF THE SECRETARY, U.S.
CONSUMER PRODUCT SAFETY COMMISSION,
WASHINGTON, D.C. 20207

I Received The Letter DATED MARCH,
20, 2001 which I WAS DENIED THE RELEASE
OF CLAIMS AND COMMENTS BECAUSE THE
COMPANY, WHO BUILT AND SOLD THE TOASTER
OVEN THAT CAUGHT FIRE IN MY HOUSE AND
SINGED (BURNED) THE HAIRS ON MY ARMS AS
I WAS TRYING TO GET IT OUT MY HOUSE,
SO THAT MY HOUSE WOULD NOT BURN DOWN.

THE COMPANY WANTS AND IT'S BEING ALLOWED
TO KEEP THEIR CLAIMS AND COMMENTS CONFIDENTIAL.

I CAN NOT BELIEVE THAT THERE ARE LAWS
THAT WOULD ALLOW AND PROTECT THIS COMPANY
TO STOP ME OR ANY CONSUMER OF THEIR PRODUCT
FROM ACQUIRING THEIR CLAIM AND COMMENTS
ANSWERING TO MY CLAIM.

I WISH TO APPEAL THIS DECISION
AND RECEIVE THE COMPANIES RESPONSES TO
MY CLAIM AND THAT THE FOIA APPEAL,

GENERAL COUNSEL, DOES NOT ALLOW
THE MAKER AND SELLER OF THIS TOASTER
OVEN KEEP THEIR ^{CLAIM AND} RESPONSES CONFIDENTIAL
BECAUSE IF THERE IS A PROBLEM WITH
THIS TOASTER OVEN THE PUBLIC SHOULD
BE AWARE OF IT AND IT SHOULD BE
RECALLED FOR THE CONSUMER'S SAFETY.
PLEASE DO NOT PROTECT THE COMPANY
WHO BUILT & SOLD THIS TOASTER OVEN,
PLEASE PROTECT THE CONSUMER.

Genaro Recupero
1-978 667-4360

GENARO & CHERYL RECUPERO
16 NEWBURY STREET
BILLERICA, MA 01821



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

0216
BCA

A handwritten signature in black ink, appearing to be "T. Stevenson", written over a horizontal line.

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

March 20, 2001

CERTIFIED MAIL

Genaro Recupero
16 Newbury Street
Billerica, MA 01821

Re: FOIA Request S1010109: Comments from Manufacturer Regarding Consumer Product Incident Report H0090014A

Dear Mr. Recupero:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). We must withhold comment letters, dated November 14, 2000 and February 9, 2001, submitted by the private labeler identified in the incident report H0090014A, because the company has made confidentiality claims on those letters. (There are no comments from the company listed as the manufacturer in the report.) We are withholding the comment letters pursuant to Exemption-3 of the FOIA, 5 U.S.C. § 552(b)(3), and section 6(b)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(b)(1), and our regulations, 16 C.F.R. § 1101.24. FOIA Exemption 3 provides for the withholding from disclosure of matters that are specifically exempted from disclosure by another statute. In applying FOIA Exemption 3, we are relying on section 6(b)(1) of the CPSA, that prohibits the Commission from disclosing information about a consumer product that identifies a manufacturer or private labeler unless the Commission has taken "reasonable steps" to assure that the information is accurate, that disclosure is fair in the circumstances, and that disclosure will be reasonably related to effectuating the purposes of the laws that the Commission administers. It would not be fair in the circumstances to disclose a firm's confidentiality claims and comments, when the company has requested confidentiality and such records are protected from disclosure pursuant to 16 C.F.R. § 1101.24.

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.

Processing this request, performing the file searches and preparing the information, cost the Commission \$60.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

249101128 ✓
JAN 18 2001

FC OF THE
RECORD OF INFO

2001 JAN 12 10 52

01-09-2001

Mr. Todd STEVENSON
FREEDOM OF INFORMATION OFFICER
C.P.S.C Room 502
WASHINGTON, DC. 20207

SLC

DEAR SIR,

I AM WRITTING TO YOU
FOR A REQUEST FOR A REPLY
FROM MANUFACTURER ON DOCUMENT
H0090014A.

Truster
Over
0214

Dy

THANK YOU
Genaro Recupero

GENARO & CHERYL RECUPERO
16 NEWBURY STREET
BILLERICA, MA 01821

S-1010109



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

Michael S. Solender
General Counsel

Office of the General Counsel

Tel: (301) 504-0560
Fax: (301) 504-0466
Email: cpsc-gc@cpsc.gov

June 1, 2001

Alan H. Kaplan, Esq.
Kleinfeld, Kaplan and Becker
1140 19th Street, N.W.
Washington, D.C. 20036-6601

Re: FOIA Appeal S0110040
Project File: "Drugs dispensed for household use in clinical trials"

Dear Mr. Kaplan:

By letter dated April 23, 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 the FOI Officer's decision to withhold a portion of the information pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5). As to the remainder of the information, the FOI Officer has reconsidered his decision and that information is enclosed.

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 drafts of various documents, intra-agency memoranda, and internal staff notes relating to these compliance matters.

Alan H. Kaplan, Esq.
June 1, 2001

Page 2

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 "MS Solender", written in a cursive style.

Michael S. Solender

Enclosure

17

LAW OFFICES

KLEINFELD, KAPLAN AND BECKER

1140 NINETEENTH STREET, N.W.
WASHINGTON, D. C. 20036-6601

TELEPHONE (202) 223-5120

FACSIMILE (202) 223-5619

E-MAIL: kkb@kkblaw.com

WEST COAST OFFICE:
ONE MARKET STREET
STEUART TOWER, SUITE 1450
SAN FRANCISCO, CA 94105-1313
TELEPHONE (415) 538-0014
FACSIMILE (415) 538-0016

VINCENT A. KLEINFELD
1907-1093

ALAN H. KAPLAN
THOMAS G. HENTELEFF
RICHARD S. MOKLY
PETER O. SAFIR
KINSEY S. REAGAN
PETER R. MATHERS
BONNIE A. BEAVERS
DANIEL R. DWYER
GLENN E. DAVIS
PRESCOTT M. LASSMAN
STACY L. EHRlich
JENNIFER A. DAVIDSON
STACEY L. VALERIO

April 23, 2001

VIA FAX - 301-504-0359

FOIA Appeal, General Counsel
ATTN: Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

3/22/01
9999
DWB

RE: FOIA Request S 0110040: "Drugs Dispensed for Household Use in Clinical Trials" Project File

Dear Ms. Solender:

On October 31, 2000 I submitted an FOIA request which was assigned the designation set forth above. By letter dated March 22, 2001 from Todd A. Stevenson certain documents were provided to me that were apparently considered responsive to my request. In his cover letter Mr. Stevenson stated that "other Commission staff memoranda, drafts and notes regarding the subject" were being withheld pursuant to FOIA Exemption 5.

This letter constitutes my appeal from the "partial denial of access to records" which I personally received on April 2.

As you may know, between November 2000 and March 19, 2001 I exchanged a series of letters with Stephen Lemberg dealing with the subject matter underlying my FOIA request - i.e., whether investigational new drugs have, by appropriate legal procedures, been subjected to child-resistant packaging requirements. As a consequence of our exchange of views, I have concluded that the only investigational drugs that can properly be considered subject to those requirements are those that contain controlled substances.

My objective at this time is to make certain that I am provided by CPSC with copies of all documents, including Federal Register proposals and final regulations, that bear upon the status of investigational drugs under the laws administered by the CPSC.

Sincerely,


Alan H. Kaplan

ATK:sdj

cc: Stephen Lemberg



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

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

March 22, 2001

CERTIFIED MAIL

Alan H. Kaplan
Kleinfeld, Kaplan and Becker
1140 19th Street, N.W.
Washington, D.C. 20036-6601

Re: FOIA Request S0110040: "Drugs dispensed for household use in clinical trials"
Project File

Dear Mr. Kaplan:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U. S. Consumer Product Safety Commission (Commission). Enclosed are copies of most of the records responsive to your request. The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are memoranda, correspondence, notes and documents. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems.

We must withhold other Commission staff memoranda, drafts and notes regarding the subject pursuant to the FOIA Exemption 5, 5 U.S.C. § 552(b)(5). 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. The records being withheld consist of internal staff memoranda 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 impair the frank exchange of views necessary with respect to such matters.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a partial 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.

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

Enclosures

LAW OFFICES
KLEINFELD, KAPLAN AND BECKER

1140 NINETEENTH STREET, N.W.

WASHINGTON, D. C. 20036-6601

TELEPHONE (202) 223-5120

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WEST COAST OFFICE:
ONE MARKET STREET
STEUART TOWER, SUITE 1450
SAN FRANCISCO, CA 94105-1313
TELEPHONE (415) 538-0014
FACSIMILE (415) 538-0016

VINCENT A. KLEINFELD
1007-1093

ALAN H. KAPLAN
THOMAS O. MCNTELEFF
RICHARD S. MOREY
PETER O. SAFIR
KINGRY S. REACAN
PETER R. MATHERS
BONNIE A. BRAVERS
DANIEL R. DWYER
GLENN E. DAVIS
PRESCOTT M. LASSMAN
STACY L. EHRlich
JENNIFER A. DAVIDSON
STACEY L. VALERIO

October 31, 2000

VIA FAX -- (301) 504-0127

11A

FOIA Request
Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

Dear Sir/Madam:

Pursuant to the provisions of the Freedom of Information Act and CPSC regulations, I am requesting a copy of the full file on "Drugs dispensed for household use in clinical trials." I will arrange to pick up the materials if you will call my office when they are available. 9999

EXHIBIT C
EXC/C

Your assistance is appreciated.

Sincerely,

Alan H. Kaplan

D.Y

Alan H. Kaplan

AHK:sdj

S-0110040



Los Angeles Times

14
MOST BY
TREATMENT
7/2/07 DEN

RUSSELL CAROLLO
REPORTER

MAY 16, 2001

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

This is an appeal under the Freedom of Information Act, 5 U.S.C. 552. On April 26, I filed the attached FOIA, and on May 15, I received the attached response.

The denial was improper for the following reasons:

1) House Report 101-193, page 13, states that the b-5 exemption does not cover "purely factual information related to policy process." The same page of the report also states, "Protection of the decision making process is appropriate only for the period while decisions are being made."

It would be very difficult to believe that an agency overseeing the protection of the public cannot release a single record about investigations into deaths. Even the FBI routinely releases from its files concerning investigations into deaths, even those involving active investigations. To say not a single record is available to the very public you are supposed to be protecting is contrary to the very foundation of the FOI Act.

2) You mentioned "law enforcement" records, but you cited only b-5. The law enforcement exemption is b-7. In any case, b-7 protects only information involved in an "active" investigation involving "law enforcement" agencies.

3) Your denial letter used a shotgun approach: "pre-decisional... internal staff notes... deliberative discussion... inextricably intertwined (material)... law enforcement (records)... attorney-client and attorney work product..."

Clearly, no one of federal records enjoys so many protections. This response clearly was intended to counter any argument for the release of records, regardless of whether there is any foundation to the response.

4) The public has every right to know about a federal agency entrusted with protecting Americans from death and injury from consumer products. And in this case, the public's interest in knowing how well this agency is protecting the safety of every American clearly outweighs any competing interests.

In any case, I expect to receive your decision no later than by 20 business days, as required by law. Thank you for your assistance.

Yours very truly,

Russell Carollo



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

May 7, 2001

CERTIFIED MAIL

Russell Carollo
Los Angeles Times
202 West 1st Street
Los Angeles, CA 90012

Re: FOIA Request S1040166: IDI Tracking for Recalls and Compliance Division

Dear Mr. Carollo:

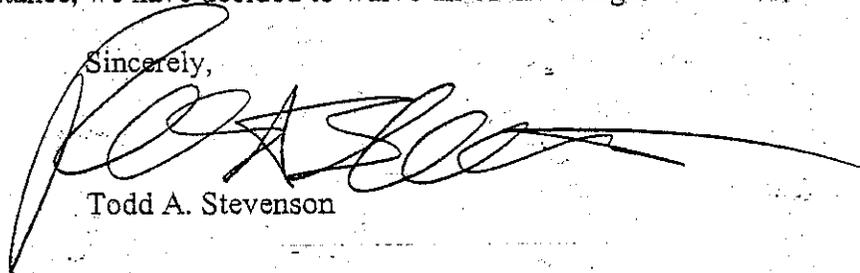
Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). We must withhold the data and listings of the IDI Tracking for Recalls and Compliance Division database pursuant to the FOIA Exemption 5, 5 U.S.C. § 552(b)(5). 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. The records being withheld consist of internal staff notes, memoranda 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 impair the frank exchange of views necessary with respect to such matters.

Russell Carollo, Los Angeles Times
Page 2

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a partial 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.

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,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson", written over a horizontal line.

Todd A. Stevenson



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

April 27, 2001

Russell Carollo
Los Angeles Times
202 West First Street
Los Angeles, CA 90012

RE: FOIA Request No. S-2001040166 (Idi Tracking For Recall And Compliance)

Dear Mr. Carollo:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request seeking records from the Consumer Product Safety Commission.

Due to the heavy volume of FOIA requests we have received, and because of certain procedural steps we are required to take under our statute, there may be substantial delays in responding to many requests. Please be assured that every effort is being made to process each request as equitably as possible and that the records you requested which can be released will be made available to you at the earliest possible date.

If you have any questions concerning your request, feel free to contact this office at (301) 504-0785.

Sincerely,

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



Los Angeles Times

RUSSELL CAROLLO
REPORTER

APRIL 26, 2001

Tod Stevenson
U.S. Consumer Product Safety Commission

Dear Mr. Stevenson,

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. 552, I request access to and copies of all computer data related in any way to tracking of agency response to in-depth investigations (IDI) involving deaths. This request includes, but is not limited to, the system described on page 6 of the list of "CSPC Applications" (revised March 15 2000) and described as "IDI Tracking for Recalls and Compliance Division (CRC)."

Please justify all deletions by reference to specific exemptions of the Act and release all reasonable segregable portions of otherwise exempt material. For each database field withheld, please name and describe the field and cite the exemption used.

I, of course, reserve the right to appeal.

If you conclude that any of the documents are exempt under the Act, please exercise your discretion to disclose these records nonetheless. Include information attached to these materials that might otherwise be considered non-responsive, and let me know if any similar requests have been filed.

Notify me prior to incurring more than \$100 in expenses. The FOIA Act provides for a waiver or reduction of fees if disclosure is "likely to contribute significantly to public understanding of the operations or activities of the government." I am a reporter for the Los Angeles Times, and my request is part of research for a possible newspaper series reporting information never before released to the public. I ask that you waive all fees.

This information is of timely value, so please communicate questions by telephone rather than by mail. I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Very truly

Russell Carollo

FAX 00



DEN 1040166

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

May 7, 2001

CERTIFIED MAIL

Russell Carollo
Los Angeles Times
202 West 1st Street
Los Angeles, CA 90012

Re: FOIA Request S1040166: IDI Tracking for Recalls and Compliance Division

Dear Mr. Carollo:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). We must withhold the data and listings of the IDI Tracking for Recalls and Compliance Division database pursuant to the FOIA Exemption 5, 5 U.S.C. § 552(b)(5). 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. The records being withheld consist of internal staff notes, memoranda 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 impair the frank exchange of views necessary with respect to such matters.



Los Angeles Times

RUSSELL CAROLLO
REPORTER

APRIL 26, 2001

Tod Stevenson
U.S. Consumer Product Safety Commission

Dear Mr. Stevenson,

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. 552, I request access to and copies of all computer data related in any way to tracking of agency response to in-depth investigations (IDI) involving deaths. This requests includes, but is not limited to, the system described on page 6 of the list of "CSPC Applications" (revised March 15 2000) and described as "IDI Tracking for Recalls and Compliance Division (CRC)" 9999

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Please justify all deletions by reference to specific exemptions of the Act and release all reasonable segregable portions of otherwise exempt material. For each database field withheld, please name and describe the field and cite the exemption used.

I, of course, reserve the right to appeal.

If you conclude that any of the documents are exempt under the Act, please exercise your discretion to disclose these records nonetheless. Include information attached to these materials that might otherwise be considered non-responsive, and let me know if any similar requests have been filed.

Notify me prior to incurring more than \$100 in expenses. The FOIA Act provides for a waiver or reduction of fees if disclosure is "likely to contribute significantly to public understanding of the operations or activities of the government." I am a reporter for the Los Angeles Times, and my request is part of research for a possible newspaper series reporting information never before released to the public. I ask that you waive all fees.

This information is of timely value, so please communicate questions by telephone rather than by mail. I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Very truly

Russell Carollo

51040166



15
Mooted
Agreement
7/1/01

Los Angeles Times

RUSSELL CAROLLO
REPORTER

MAY 16, 2001

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

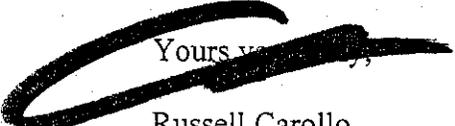
This is an appeal under the Freedom of Information Act, 5 U.S.C. 552. On April 30, I filed the attached FOIA, and on May 15, I received the attached response.

The response was improper for the following reasons:

- 1) The response ignored large portions of my request, including, but not limited to, my request for "or any other record documenting tort claims and/or any other type of litigation related in any way.."
- 2) There is no appeal authority or right to appeal in the response.
- 3) Though I specifically asked not to be directed to a website, I was directed to a website for a second time. Websites allow me no appeal authority. Websites are not required by law to respond to FOIA. Websites do not relieve a federal agency of its responsibility of making a proper response to FOIA requests.

In any case, I expect to receive your decision no later than by 20 business days, as required by law. Thank you for your assistance.

Yours very truly,


Russell Carollo



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

May 7, 2001

Russell Carollo
Los Angeles Times
202 West 1st Street
Los Angeles, CA 90012

Re: FOIA Request S1050022: Database of Tort Claims and Lawsuits

Dear Mr. Carollo:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). Our search of the Commission files and indices failed to reveal any database of tort claims or lawsuits. However, our Annual Reports to Congress list the litigation and settlements in which the Commission is involved during each year. You can view the annual reports online at our website, www.cpsc.gov under LIBRARY/FOIA, then Publications.

Processing this request, performing the file searches and preparing the information, cost the Commission \$30.00. In this instance, we have decided to waive all of the charges.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson", is written over a horizontal line.

Todd A. Stevenson

~~Enclosures~~



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

May 02, 2001

Russell Carollo
Los Angeles Times
202 West First Street
Los Angeles, CA 90012-

RE: FOIA Request No. S-2001050022 (Tort Claims)

Dear Mr. Carollo:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request seeking records from the Consumer Product Safety Commission.

Due to the heavy volume of FOIA requests we have received, and because of certain procedural steps we are required to take under our statute, there may be substantial delays in responding to many requests. Please be assured that every effort is being made to process each request as equitably as possible and that the records you requested which can be released will be made available to you at the earliest possible date.

If you have any questions concerning your request, feel free to contact this office at (301) 504-0785.

Sincerely,

A handwritten signature in black ink that reads "Todd A. Stevenson". The signature is written in a cursive style.

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



Los Angeles Times

RUSSELL CAROLLO
REPORTER

APRIL 30, 2001

Tod Stevenson
U.S. Consumer Product Safety Commission

Dear Mr. Stevenson,

Pursuant to the federal Freedom of Information Act, 5 U.S.C. 552, I request access to and copies of any database or any other record documenting tort claims and/or any other type of litigation related in any way to CPSC during the past five years. This would include, but not be limited to, actions filed under the Federal Tort Claims Act.

Please do not answer this request or any other request filed by me with directions to a website.

Please include some type of field delimiter and a record layout (data dictionary). I need raw computer data, not a text dump.

Please justify all deletions by reference to specific exemptions of the Act and release all reasonably segregable portions of otherwise exempt material. For each computer field withheld, please describe the type of information in the field and the specific FOIA exemption(s) used to justify withholding the information. I, of course, reserve the right to appeal any decisions. I would like to be informed of any similar requests.

Include information contained in the material you release that otherwise would be considered non-responsive to the specific request.

Notify me prior to incurring more than \$50 of expenses. The FOIA Act provides for a waiver or reduction of fees if disclosure is "likely to contribute significantly to public understanding of the operations or activities of the government." I am a reporter for the Los Angeles Times, and the information I seek is for a newspaper series reporting information never before disclosed to the public concerning CPSC.

This information is of timely value, so please communicate questions by telephone rather than by mail. I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Yours very truly,

Russell Carollo

PAID



Los Angeles Times

RUSSELL CAROLLO
REPORTER

MAY 16, 2001

Todd Stevenson
U.S. Consumer Product Safety Commission

16
MOOT BY
Agreement
7/2/01

Dear Mr. Stevenson,

This is an appeal under the Freedom of Information Act, 5 U.S.C. 552. On April 26, I filed the attached FOIA, and on May 15, I received the attached response.

The denial of information is improper for the following reasons:

- 1) There is no right to appeal or appeal authority addressed in your response letter.
- 2) Large portions of my request were ignored, including, but not limited to, my request for "any system or records... paper or in computer form" and information on "reductions of fines."
- 3) Directing me to the Federal Register is not a proper response by a FOIA officer in a federal agency in the United States. I have no right to appeal if the Federal Register does not release all CPSC documents. The Federal Register has no obligation to maintain all your documents. - The Federal Register has no obligation to release all documents to me. The Federal Register cannot be sued for refusing to release CPSC documents. The Federal Register is not responsible for answering FOIA requests from CPSC.
- 4) There are no exemptions cited in you refusal to release the documents to me.

In any case, I expect to receive your decision no later than by 20 business days, as required by law. Thank you for your assistance.

Yours very truly,

Russell Carollo



Los Angeles Times

RUSSELL CAROLLO
REPORTER

APRIL 26, 2001

Tod Stevenson
U.S. Consumer Product Safety Commission

Dear Mr. Stevenson,

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. 552, I request access to and copies of all records related in any way to fines during the past 10 years. This request includes, but is not limited to, any system of records or individual records (paper or in computer form) tracking fines, including, but not limited to, tracking amounts of fines, reductions of fines, names of companies fined and reasons for fines.

Please justify all deletions by reference to specific exemptions of the Act and release all reasonable segregable portions of otherwise exempt material. For each computer field withheld, please provide the name of the field, a description of the material in the field and the specific exemption used to justify withholding the information in the field.

I, of course, reserve the right to appeal.

If you conclude that any of the documents are exempt under the Act, please exercise your discretion to disclose these records nonetheless. Include information attached to these materials that might otherwise be considered non-responsive, and let me know if any similar requests have been filed.

Notify me prior to incurring more than \$100 in expenses. The FOIA Act provides for a waiver or reduction of fees if disclosure is "likely to contribute significantly to public understanding of the operations or activities of the government." I am a reporter for the Los Angeles Times, and my request is part of research for a possible newspaper series reporting information never before released to the public. I ask that you waive all fees.

This information is of timely value, so please communicate questions by telephone rather than by mail. I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Yours very truly,

Russell Carollo

EMR PC



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

May 7, 2001

Russell Carollo
Los Angeles Times
202 West 1st Street
Los Angeles, CA 90012

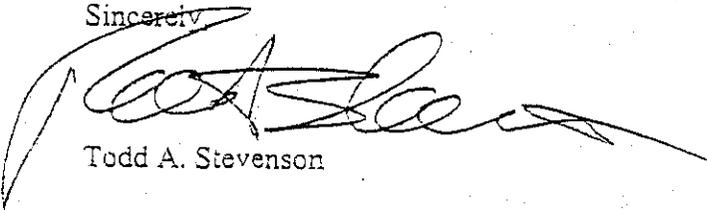
Re: FOIA Request S1040164: Fines for the Past 10 Years

Dear Mr. Carollo:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). Enclosed are copies of a listing of the fines or penalties assessed by the Commission from 1988 to the present. The details of each case is published in the Federal Register available from the U.S. Government Printing Office at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Processing this request, performing the file searches and preparing the information, cost the Commission \$30.00. In this instance, we have decided to waive all of the charges.

Sincerely,



Todd A. Stevenson

Enclosures



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

April 27, 2001

Russell Carollo
Los Angeles Times
202 West First Street
Los Angeles, CA 90012

RE: FOIA Request No. S-2001040164 (Fines Tracking)

Dear Mr. Carollo:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request seeking records from the Consumer Product Safety Commission.

Due to the heavy volume of FOIA requests we have received, and because of certain procedural steps we are required to take under our statute, there may be substantial delays in responding to many requests. Please be assured that every effort is being made to process each request as equitably as possible and that the records you requested which can be released will be made available to you at the earliest possible date.

If you have any questions concerning your request, feel free to contact this office at (301) 504-0785.

Sincerely,

A handwritten signature in black ink that reads "Todd A. Stevenson". The signature is written in a cursive style.

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



61040164

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

May 7, 2001

Russell Carollo
Los Angeles Times
202 West 1st Street
Los Angeles, CA 90012

Re: FOIA Request S1040164: Fines for the Past 10 Years

Dear Mr. Carollo:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). Enclosed are copies of a listing of the fines or penalties assessed by the Commission from 1988 to the present. The details of each case is published in the Federal Register available from the U.S. Government Printing Office at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Processing this request, performing the file searches and preparing the information, cost the Commission \$30.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

Enclosures

FY20001 Penalties

Final Orders

Crawfor Textile Corp.		\$150,000
HANRO USA		150,000
Tensor Corp.		125,000
Tripitone Furniture Co.		750,000
West Bend Company		225,000

FY 2000 Penalties

Final Orders

Red Rock Trading Co. & Blackjack Fireworks, Inc.	FHSA	\$ 90,000
Black & Decker (U.S)	CPSA	575,000
Baby's Dream Furniture	CPSA	200,000
Lancaster Colony Corp.	CPSA	150,000
Hasbro, Inc.	CPSA	400,000
Standard Mattress Company	FFA	60,000
Royal Sovereign		20,000
LL Bean Inc.		750,000
Galoob Toys		400,000
AZ3, Inc.		75,000
Riello Corp of America		125,000

FY Total

\$2,845,000

FY 99 Penalties

Final Orders

McDonald's Corporation		\$4,000,000
Shimano American Corp.	CPSA	150,000
Nordstrom, Inc.	FFA	150,000
Carter Brothers Mfg. Co.	CPSA	125,000
Central Sprinkler	CPSA	1,300,000 (trust)
Neiman Marcus	FFA	112,500
Schneitter Fireworks	FHSA	60,000
Small World	FHSA	<u>225,000</u>

FY Total

\$6,122,500

Court Ordered Penalties

Shelton Wholesale, Inc.	FHSA	\$100,000 (pending appeal)
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Civil Penalty Activities from FY 88-FY 01 (YTD)

Page 2

FY 98

Final Orders

Binky Griptight	FHSA	\$150,000
Century Products Co.	FHSA/CPSA	225,000
COA	FHSA/CPSA	300,000
The Limited	FFA	200,000
Monarch Towel Company, Inc.	FFA	10,000
Ross	FFA	200,000
Safety 1st	CPSA	175,000
TJX	FFA	150,000
Yongxin International, Inc.	CPSA	<u>50,000</u>

FY Total

\$1,460,000

FY 1997

Final Orders

Atlas Importers Inc.	FHSA	\$ 54,000
Brinkmann	CPSA, \$15	\$175,000
CSA, Inc.	CPSA	\$100,000
Dots, Inc.	FFA	\$ 50,000
Four Seasons Gen. Merchandise	FHSA	\$110,000
Hartman	CPSA, \$15	\$ 60,000
Nutone	CPSA, \$15	\$110,000
One Price Clothing Stores	FFA	\$ 50,000
STK	FHSA	\$ 80,000
The Toro Company	CPSA	<u>\$250,000</u>

FY Total

\$1,039,000

FY 1996

Final Orders

Burlington Coat Factory	FFA	\$250,000
JBI, Inc.	\$15(b), CPSA	\$225,000
National Media Corporation	CPSA	\$150,000
Premier Promotions	CPSC	\$ 75,000
Singer Sewing Co.	CPSA	\$120,000

Civil Penalty Activities from FY 88-FY 01 (YTD)

Page 3

SKR Resources, Inc.	CPSA	\$ 40,000
Shrdlu, d.b.a. Sandy Starkman	FFA	\$ 5,000
Taito America Corp.	CPSA	<u>\$ 50,000</u>

FY Total \$915,000

Court Ordered Penalties

McDonalds, Inc.	§15(b),CPSA	\$5,000,000 (program)
Big Save, Inc.	§15(b),CPSA	\$200,000
Cosco, Inc.	CPSA	\$725,000

FY 95

Final Orders

ABC School Supply	FHSA,CPSA	\$ 45,000
Bee International	FHSA	\$ 65,000
Bethany Sales Co.	FHSA	\$ 10,000
Boley Corporation	FHSA	\$ 60,000
Concord Enterprise	FHSA	\$ 60,000
Cotton Cloud	FFA	\$ 10,000
General Nitewear	FFA	\$ 110,000
Giant Bicycle	FHSA	\$ 85,000
Golden Gate Fireworks	FHSA	\$ 10,000
Gund	§15(b)CPSA	\$ 150,000
High Star Toys	FHSA	\$ 45,000
Howland Caribbean	FHSA	\$ 75,000
Neptune Fireworks	FHSA	\$ 45,000
Outboard Marine Corporation	§15(b)CPSA	\$ 75,000
Toy Power (court ordered)	FHSA	\$ 115,000
Toy Wonders	FHSA	<u>\$ 75,000</u>

FY Total \$1,035,000

FY 94

Final Orders

S & D Importing Co	FHSA	\$175,000
Youngland	FHSA	\$ 15,000
Great Lakes	FHSA	\$ 10,000
PCA Apparel, Inc.	FFA	\$ 75,000

Civil Penalty Activities from FY 88-FY 01 (YTD)

Page 4

Neeley Sales	FHSA	\$ 10,000
Reichenbach	FHSA	\$ 15,000
Dial Manufacturing	CPSA	\$ 25,000
Walgreen	FHSA	\$ 50,000
Pansy Ellen/Kids II	CPSA	\$ 85,000
Toro	CPSA	\$170,000
Yuchius Morality	FHSA	\$ 20,000
Regency Merch.	FHSA	\$ 40,000
Winston Toys	FHSA	\$ 25,000

FY Total \$715,000

FY 93

Final Orders

Unique Industries	FHSA-Exp	\$ 15,000
Polly Gaz	FHSA	\$ 30,000
Newco Inc.	CPSA	\$115,000
Ektelon	CPSA	\$ 25,000
Caribe	FHSA	\$ 15,000
Franco-American	Export	\$ 40,000
Berman Mattress	FHSA	\$ 7,500
Ramco	FHSA	\$ 15,000

FY Total \$262,500

FY 92

Final Orders

E. Davis	CPSA	\$225,000
Figgie (Badger-Powhatan)	CPSA	\$175,000
Hamilton Beach	CPSA	\$ 50,000
General Electric	CPSA	\$400,000
Pary	FFA	\$ 12,500
Justen Products	CPSA	\$ 35,000

FY Total \$897,500

FY 91

Final Orders

Civil Penalty Activities from FY 88-FY 01 (YTD)

Page 5

Black & Decker	CPSA	\$125,000
Russ Berrie	CPSA	30,000
Amerex	CPSA	30,000
Century Products	CPSA	50,000
Graco	CPSA	100,000
Wagner Spray Tech	CPSA	120,000
Turri Disposal	CPSA	<u>4,000</u>

FY Total \$459,000

FY 90

Final Orders

Toys R US	CPSA	\$ 60,000
K Mart	CPSA	60,000
Etna Products	CPSA	5,000
Ames	CPSA	12,000
Caldor	CPSA	50,000
Consumer Direct	CPSA	130,000
Hedstrom	CPSA	165,000
Guthrie/Ecodyne	CPSA	<u>\$300,000</u>

FY Total \$782,000

FY 89

Final Orders

MAPI (Mapco)	CPSA	\$175,000
Toro	CPSA	75,000
Club Car	CPSA	225,000
Game Time	CPSA	<u>40,000</u>

FY Total \$515,000

FY 88

Final Orders

Patton	CPSA	\$ 90,000
Miracle Recreation Equip.	CPSA	<u>\$100,000</u>

Civil Penalty Activities from FY 88-FY 01 (YTD)

Page 6

FY Total

\$190,000

Civil Penalty Matters Under the CPSA, FHSA, & FFA
Amount of Penalties Assessed by Fiscal Year

<u>Fiscal year</u>	<u>Amount Assessed</u>	
FY 99 (YTD)	\$6,122,500	(8 firms)
FY 98	1,460,000	(9 firms)
FY 97	1,039,000	(10 firms)
FY 96	415,000	(4 firms)
FY 95	1,120,000	(17 firms)
FY 94	715,000	(13 firms)
FY 93	262,000	(8 firms)
FY 92	897,500	(7 firms)
FY 91	459,000	(7 firms)
FY 90	782,000	(8 firms)
FY 89	515,000	(5 firms)
FY 88	190,000	(3 firms)
TOTAL	\$13,977,000	



Los Angeles Times

RUSSELL CAROLLO
REPORTER

APRIL 26, 2001

Tod Stevenson
U.S. Consumer Product Safety Commission

H/ME

Dear Mr. Stevenson,

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. 552, I request access to and copies of all records related in any way to finances during the past 10 years. This request includes, but is not limited to, any system of records or individual records (paper or in computer form) tracking fines, including, but not limited to, tracking amounts of fines, reductions of fines, names of companies fined and reasons for fines.

EXC/C

OS?

Annual reports?

D.Y

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Please justify all deletions by reference to specific exemptions of the Act and release all reasonable segregable portions of otherwise exempt material. For each computer field withheld, please provide the name of the field, a description of the material in the field and the specific exemption used to justify withholding the information in the field.

I, of course, reserve the right to appeal.

If you conclude that any of the documents are exempt under the Act, please exercise your discretion to disclose these records nonetheless. Include information attached to these materials that might otherwise be considered non-responsive, and let me know if any similar requests have been filed.

Notify me prior to incurring more than \$100 in expenses. The FOIA Act provides for a waiver or reduction of fees if disclosure is "likely to contribute significantly to public understanding of the operations or activities of the government." I am a reporter for the Los Angeles Times, and my request is part of research for a possible newspaper series reporting information never before released to the public. I ask that you waive all fees.

This information is of timely value, so please communicate questions by telephone rather than by mail. I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Yours very truly,

Russell Carollo

51040164



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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

June 8, 2001

Richard F. Andracki, Esq.
1801 Lawyers Building
428 Forbes Avenue
Pittsburgh, Pennsylvania 15219-1603

Re: FOIA Appeal S1040004: Sears/Craftsman and Ryobi Cordless Drills
And Battery Packs: Compliance File PI010097

Dear Mr. Andracki:

By letter dated May 8, 2001, you appealed the decision of the Commission's Freedom of Information (FOI) 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 the FOI Officer's decision to withhold a portion of the information. As to the remainder of the information, the FOI Officer has reconsidered his decision. Some of that information is enclosed and, as explained below, the remainder may be released in the future.

Compliance file PI010097 that contains the information responsive to your FOIA request has been closed. Therefore, some of the information is being released forthwith and is enclosed. One document is being withheld pursuant to FOIA Exemption 5. That exemption 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. The information being withheld pursuant to FOIA Exemption 5 is a document in draft, rather than its final, form.

A part of the responsive documents consisted of unconfirmed consumer product complaints. They are being withheld pursuant to FOIA Exemption 3. That exemption provides for the withholding from disclosure of matters that are specifically exempted from disclosure by another statute. Section 6(b)(1) of the Consumer Product Safety Act (CPSA) prohibits the Commission from disclosing information about a consumer product that identifies a manufacturer or private labeler unless the Commission has taken reasonable steps to assure that

Richard F. Andracki, Esq.
June 8, 2001

Page 2

the information is accurate, that disclosure is fair in the circumstances, and that disclosure will be reasonably related to effectuating the purposes of the laws that the Commission administers. The information that is being withheld pursuant to Exemption 3, relying on section 6(b)(1), consists of three unconfirmed consumer complaints. The Commission's regulations require that this information be confirmed as a reasonable step to assure the accuracy of the information. 16 C.F.R. § 1101.32(a)(3).

The Commission was unable to take the reasonable steps to assure the accuracy of the responsive complaints because we were unable to complete the confirmation process. When consumers submit complaints to the Commission, the Commission sends them forms requesting that they confirm the information as accurate to the best of their knowledge and belief. We also send each submitter a franked return envelope for mailing back the confirmation. This process, which is voluntary on the part of the submitter, has been in place since 1983. The complaints being withheld were subjected to this process. However, because the submitters of these complaints did not respond to the Commission's request for confirmation, the Commission may not disclose the complaints under the FOIA.

Section 6(b)(1) of the CPSA also requires the Commission to give manufacturers an opportunity to comment on disclosure of product-specific information. This has not occurred yet because the remaining responsive information was a part of an open compliance file that was not subject to disclosure at that time. Since the case has been closed, the FOI Officer will send the product-specific documents to the manufacturer for comment. After this clearance process, the FOI Officer will decide whether the information will be disclosed. You need not renew or re-file your FOIA request for this to occur. The FOI Officer will contact you.

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

Enclosures

ANDRACKI LAW OFFICES

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Admitted in Pennsylvania, West Virginia and Ohio

1801 Lawyers Building
428 Forbes Avenue
Pittsburgh, Pennsylvania 15219-1603

Telephone: (412) 281-3330
Facsimile: (412) 281-2922

Email: Info@Andrackilaw.com
Web: www.Andrackilaw.com

May 8, 2001

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

05/08/01
21/00

Re: FOIA Request S1040004; Sears/Craftsman and Ryobi
Cordless Drills and Battery Packs and Failures or
Fires/Complaints, Reported Incident and Investigations
of Incidents/File Search 1991 to Present

Dear Sir or Madam:

This letter hereby constitutes my formal appeal from the CPSC's partial denial of access to records of the above request, S1040004.

The clients which I represent are currently in suit against Ryobi involving allegations that a Ryobi cordless drill and battery pack initiated a fire that substantially damaged and destroyed their home. As such, there is a strong public and private interest in obtaining information which would disclose evidence resulting in a fair and just adjudication of my clients' rights in this suit.

In filing this appeal, please note that we do not wish to violate the privacy of any individual. Also, we grant that an internal legal memorandum, authored by an attorney representing the CPSC, and not published to a third party, thereby waiving the privilege, is privileged and exempt.

However, as to all other matters, we do not believe that the original decision electing which documents to give and not give to us adequately balances the

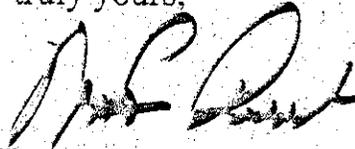
FOIA
May 8, 2001
Page 2

interest of the public and any private parties having a material interest in this information, such as our client.

As such, we kindly ask that you re-consider the CPSC's partial denial of information communicated to me via Todd Stevenson's letter of April 30, 2001.

Your consideration is appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. F. Andracki', written in a cursive style.

RICHARD F. ANDRACKI

RFA/dmw



0855 RYO

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

April 30, 2001

CERTIFIED MAIL

Richard F. Andracki
801 Lawyers Building
Pittsburgh, PA 15219-1603

Re: FOIA Request S1040004: Sears/Craftsman and Ryobi Cordless Drills and Battery Packs and Failures or Fires / Complaints, Reported Incident and Investigations of Incidents / File Search 1991 to Present

Dear Mr. Andracki:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (Commission). The records from the Commission files responsive to your request have been processed and copies are enclosed.

The enclosed records constitute two Epidemiologic Investigation Reports with the underlying and supporting documentation. The Commission has received this information from its formal investigation systems. Through these systems the Commission hopes to learn when specific products are associated with illness, injury or death. The Commission believes that it has taken reasonable steps to assure the accuracy of this information. While conducting the interviews for the investigation reports, Commission staff or contractors have spoken with the individuals involved or with others who witnessed or are familiar with the incidents. Commission staff has examined the products reportedly involved in the incidents. Although the Commission has investigated the incidents described in the investigation reports, the Commission has not necessarily determined the cause of the incidents.

Also enclosed are records pertaining to three product complaints and reported incidents that were submitted to the Commission by consumers and others. The consumers or submitters have confirmed the accuracy of the information in the complaints and reported incidents. The Commission has neither investigated the incidents nor conducted or obtained any evaluations of the products that corroborate the substance of the information contained in the complaints and reported incidents. In some of the complaints and reported incidents we have removed the identities of the complainants at their request.

Other records from the Commission files responsive to your request relate to three product complaints and reported incidents that the Commission has obtained from consumers, attorneys for consumers and others. The Commission has not received confirmation of the accuracy of the information in the complaints and reported incidents. Pursuant to Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3) and section 6(b)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(b)(1), and our regulations, 16 C.F.R. § 1101.32, we must withhold the unconfirmed product complaints and reported incidents.

FOIA Exemption 3 provides for the withholding from disclosure of matters that are specifically exempted from disclosure by another statute. In applying FOIA Exemption 3, we are relying on section 6(b)(1) of the CPSA. That section prohibits the Commission from disclosing information about a consumer product that identifies a manufacturer or private labeler unless the Commission has taken "reasonable steps" to assure that the information is accurate, that disclosure is fair in the circumstances, and that disclosure will be reasonably related to effectuating the purposes of the laws that the Commission administers. See Commission regulation, 16 C.F.R. § 1101.32. The Commission's policy is to withhold each consumer complaint and reported incident unless: (1) the Commission has conducted an investigation of the complaint and reported incident, and the investigation corroborates the substance of the complaint and reported incident; (2) the Commission has conducted or obtained a technical, scientific, or other evaluation of the product that is the subject of the complaint and reported incident, and evaluation corroborates the substance of the information contained in the complaint and reported incident; or (3) the consumer or person reporting or submitting the incident confirms the accuracy of the information. The Commission did not take any of these steps with regard to these certain consumer complaints and reported incidents responsive to your request. While it has been Commission practice since June 1983 to seek confirmation of incoming consumer complaints and incidents, the Commission does not have the resources to seek confirmation of the complaints and incidents where a consumer has not responded to our request for confirmation of the information.

You will note that in the documents disclosed information that could identify injured parties and persons treating them has been deleted, because section 25(c) of the CPSA, 15 U.S.C. § 2074(c)(1), prohibits such disclosures without the consent of those individuals. In some cases the parties have denied consent or consent has not otherwise been obtained.

Finally, we must withhold other records responsive to your request, specifically, the records from the Commission's Office of Compliance's active litigation and law enforcement investigatory file designated PI010097, Ryobi Technologies, Inc., battery charger, model HP1201, 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 submitted by the company, manufacturer monthly progress reports, 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 partial 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.

The file information may be subject to disclosure once the case is closed. You may want to resubmit your request in a few months. Processing this request, performing the file searches and reviewing the information, cost the Commission \$80.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

Enclosures

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ANDRACKI LAW OFFICES

MAR 23 2001

Admitted in Pennsylvania, West Virginia and Ohio

1801 Lawyers Building
428 Forbes Avenue
Pittsburgh, Pennsylvania 15219-1603

Telephone: (+12) 281-3330

Facsimile: (+12) 281-2922

Email: Info@Andrackilaw.com

Web: www.Andrackilaw.com

March 22, 2001

Via Facsimile to 301-504-0127

Attn: Todd Stevenson
US Consumer Products Safety Commission
Freedom of Information Department
Washington, D.C. 20207

Re: Adamchik v. Ryobi North America, Inc., et al.
File No.: 99S105

Dear Mr. Stevenson:

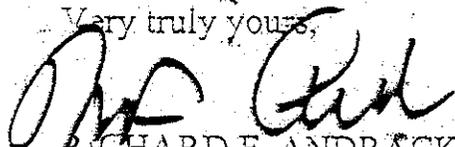
Please accept this letter as a formal request under the Freedom of Information Act, for any and all records relative to battery pack failures and/or fires used in conjunction with cordless rechargeable drills. 0855

Specifically, I am looking for any information with respect to a Sears/Craftsman (Ryobi manufactured) cordless drill and battery charger Model 11172, or simply any information regarding battery pack failures/fires involving any cordless Ryobi or Sears/Craftsman drill. D.Y.

In addition, I am also in search of any information in general involving any cordless drill with battery pack with a history of failures and/or fires.

Your consideration is appreciated.

Very truly yours,


RICHARD F. ANDRACKI

RFA/bns

5-3-00

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