



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

1998 FOIA Appeals

FOIA Req.No. Requesters Name/Firm Subject Exemption  
Dates: Appeal / Recvd OS / GC Due  
Disposition / Date / Person Responsible

- 1) S608008 Lynch/Cozen O'Connor Seeking Club Car and Lester Golf Carts  
Compliance Files  
FOIA Ex. 3, 4, 5, 7(E) and CPSA 6(a)(2), 6(b)(1), 6(b)(5), 25(c)  
10/31, 11/10, 11/14, DUE 12/15  
Affirmed 12/9/97 Affirmed GC Jeffrey S, Bromme
- 2) S710114D Cristy/Product Safety Letter Seeking Clearfire Candle Holders Compliance File  
FOIA Ex. 5 and 7(A)  
10/30 11/20 11/24 DUE 12/23  
Reconsidered in part, affirmed in part 1/26/98 GC Jeffrey S. Bromme
- 3) S703030 Farmer/Harper, Waldon Seeking Compliance/Section 15 file correspondence on  
Douglas Furniture Glass Top Tables RP960103  
FOIA Exs. 3,4,5,7(E), CPSA 6(a)(2), 6(b)(1) and 6(b)(5)  
11/14, 11/20, DUE 12/19  
Affirmed 1/8/98 GC Jeffrey S. Bromme
- 4) S710114D Cristy/Product Safety Letter Seeking City-Lites, Liberty-Lites Cigarette  
Lighters Compliance File CA950156  
FOIA Ex 3, 4, 5, 7(E), CPSA 6(a)(2), 25(c)  
11/20 11/24 DUE 12/23  
Affirmed 12/10/97 GC Jeffrey Bromme
- 5) S710112 Cristy/Product Safety Letter Seeking Bemis Humidifier Compliance File  
RP950195  
FOIA Ex 3, 4, 5, 7(E), CPSA 6(a)(2), 25(c)  
11/20 11/24 DUE 12/23  
Reconsidered in part and Affirmed 12/12/97 GC Jeffrey Bromme
- 6) S710115C Cristy/Product Safety Letter Seeking Lane Cedar Chests Compliance File  
CA960066  
FOIA Ex 5, 7(A)  
11/20 11/24 DUE 12/23  
Reconsidered in part and affirmed in part 1/15/98 GC Jeffrey Bromme

- 7) S710114C Cristy/Product Safety Letter Seeking Gerry Baby Monitors Compliance File  
RP930056 and investigation reports and reported incidents  
FOIA Ex 3, 4, and CPSA 6(a)(2), 6(b)(1) (accuracy and fairness) and 25(c)  
11/20 11/24 DUE 12/23  
Affirmed in part GC Jeffrey Bromme 12/19
- (8) S701083 McKeon seeking Sears radial arm saw complaints  
FOIA Ex. 3 and CPSA 6(b)(1)  
11/16 12/4 DUE January 5, 1998  
Affirmed 12/10/97 GC Jeffrey Bromme
- (9) S710113A Cristy/Product Safety Letter Seeking RockShox Bike Forks, File RP950153  
Compliance File  
FOIA Ex 3, 4, and CPSA 6(a)(2) and 6(b)(5)  
11/20 11/24 DUE 12/23  
12/15/97 Reconsidered in part and affirmed by GC Jeffrey Bromme
- (10) S710113C Cristy/Product Safety Letter Seeking Manco Go Carts Compliance File  
CA960046  
FOIA Ex 3, 4, 5, 7(E) and CPSA 6(a)(2) and 6(b)(1) fairness  
11/20 11/24 DUE 12/23  
12/22/97 Reconsidered in part and affirmed by GC Jeffrey Bromme
- (11) S703091 Sherron seeking records about himself, appealed delay  
Request was granted in full, before the appeal was written  
12/4/97 responded that appeal is moot, no withholdings
- (12) S706090 Phillips/Bailey seeking complaints and injured person identity info. about  
Kompan playground equipment  
FOIA Ex. 3 and CPSA 6(b)(1) and 25(c)  
10/6 11/10 11/20 DUE 12/22  
Affirmed 12/17/97 GC Jeffrey Broome
- (13) S707121 Slater/Nagel seeking records about Unarco shopping carts complaints  
FOIA Ex. 3 and CPSA 6(b)(1)  
11/25 12/9 12/12 DUE 1/14/98  
affirmed 12/24/97 GC Jeffrey Bromme
- (14) S710115A Cristy/PSL seeking Brinkman Corp charcoal water smoker Compliance File  
FOIA Exs. 3, 4 and CPSA 6(a)(2), 6(b)(1) (fairness) and 25(c)  
12/9 1/15 1/16 DUE FEB 18, 1997  
Reconsidered and Affirmed in part , GC Jeffrey Bromme 3/9/98
- (15) S710113B Cristy/Product Safety Letter Seeking Answer BMX Compliance File  
RP960031  
FOIA Ex 3, 4, 5, 7(E) and CPSA 6(a)(2)  
1/6 1/21 DUE Feb. 20  
Reconsidered in part and Affirmed in part 3/31/98 by GC Jeffrey Bromme

- (16) S710119B Cristy/Product Safety Letter Seeking Excelex ammonia Compliance File  
FOIA Ex 5 and 7(A)  
1/14 1/22 DUE Feb. 20  
Reconsidered in part and affirmed in part 2/25/98 Jeffrey S. Bromme
- (17) S710121C Cristy/Product Safety Letter Seeking Small World Toys Compliance File  
FOIA Ex 5 and 7(A)  
1/22 1/22 DUE Feb. 20  
Reconsidered and Affirmed 4/27/98 by GC Jeffrey S. Bromme
- (18) S512074 Cristy/Product Safety Letter Seeking McDonald's Playground Equipment  
Compliance File CA920080 and RP920011  
FOIA Ex 3, 4, 5, 7(E) and CPSA 6(a)(2), 6(b)(1) and 25(c)  
12/23 1/19 1/23 DUE Feb. 23  
Affirmed by GC Jeffrey Bromme, 7/14/98
- (19) S710113A Cristy/Product Safety Letter Seeking RockShox Bike Forks, Compliance  
File RP960024  
FOIA Ex 3, 4, 5, 7(E) and CPSA 6(a)(2) and 6(b)(5)  
1/21 1/23 DUE 2/23  
Affirmed 3/31/98 GC Jeffrey Bromme
- (20) S710115C Cristy/Product Safety Letter Seeking Lane Cedar Chests Compliance File  
CA960066  
FOIA Ex 5, 7(E)  
1/20, 1/23 DUE 2/23  
Affirmed April 3, 1998 by GC Jeffrey Bromme
- (21) S710111A Cristy/PSL Seeking Ryobi and Sears Table Saw Switch Compliance File  
RP960088  
FOIA Ex 3, and 4, and CPSA 6(a)(2) and 6(b)(1)  
1/22 1/22 1/26 DUE 2/25  
Affirmed by GC Jeffrey Bromme, 3/6/98
- (22) S710122A Cristy/PSL seeking Dan-Dee recall of Teddy Bear Compliance/Field File  
FOIA Exs. 3, 4 and CPSA 6(a)(2)  
2/3 2/5 DUE MARCH 6, 1997  
Affirmed by GC Jeffery Broome, 4/3/98
- (23) S707042 etal Armenti seeking records about Conair hair dryers unconfirmed complaints  
FOIA Ex. 3 and CPSA 6(b)(1)  
1/14 2/13 2/17 DUE 3/17/98  
Affirmed 2/25/98 GC Jeffrey S. Bromme

- (24) S712136 Motto/Baker seeking Sunbeam and Sears Gas Grills unconfirmed complaints  
FOIA EX. 3, CPSA 6(b)(1)  
2/20 3/10 3/16 DUE April 13  
Affirmed 3/27/98 GC Jeffrey S. Bromme
- (25) S802075 Reid/Kelly Drye Seeking City-Lites, Liberty-Lites Cigarette  
Lighters Compliance File CA950156  
FOIA Ex 3, 4, 5, 7(E), CPSA 6(a)(2), 25(c)  
2/24 3/4 4/3 4/6 DUE 5/4  
Affirmed by GC Jeffrey S. Bromme, 4/13/98
- (26) S803007 Bigi Seeking Sunbeam heating Blanket Compliance File  
FOIA Ex 5 and 7(A)  
4/2 4/7 4/15 DUE May 13, 1998  
Reconsidered and Affirmed by GC Jeffrey S. Bromme, 5/5/98
- (27) S801010 Sales/Sales & Weber seeking records about Scripto "Aim N Flame" lighters  
unconfirmed complaints, injured person identities and mfr 6(b)(1) comments  
FOIA Ex. 3 and CPSA 6(b)(1), 25(c)  
4/8 5/8 5/19 DUE 6/17/98  
Affirmed by GC Jeffrey S. Bomme, 5/28/98
- (28) S801047 Radnofsky (was Guthrie) / Vinson & Elkins S801010 seeking records about  
Scripto "Aim N Flame" lighters unconfirmed complaints, injured person identities and mfr  
6(b)(1) comments  
FOIA Ex. 3 and CPSA 6(b)(1), 25(c)  
4/8 5/6 5/19 DUE 6/17/98  
Affirmed by GC Jeffrey S. Bromme, 5/28/98
- (29) S801091 Takos seeking Baby Dream unconfirmed complaints  
FOIA EX. 3, CPSA 6(b)(1)  
3/31 5/18 5/21 DUE June 19  
Affirmed by GC Jeffrey Bromme, 6/12/98
- (30) S803132 Sagot /Sagot seeking Baby Dreams reported incidents and complaints  
FOIA Ex 3, 6b1  
5/27  
Moot Request was clarified and reprocessed
- (31) S707098 Berg Seeking Daisy Air Rifles Compliance File CA940002 and IDIs  
FOIA Ex 3, 4 and 5 and CPSA 6(a)(2), 6(b)(1), 6(b)(5) and 25(c)  
6/18 5/1 6/15 6/22 DUE July 21  
Affirmed by GC Jeffrey Bromme 7/14/98

- (32) S805081 Vecchietti Seeking Personnel records  
Appeal of delay  
6/23 6/24  
Moot Request Responded 6/29/98
- (33) S805090 Viola seeking State water heater unconfirmed complaints  
FOIA EX. 3, CPSA 6(b)(1)  
6/11 6/25 6/30 DUE July 29  
Affirmed by GC Jeffrey Bromme, 7/14/98
- (34) S804107 Florio seeking Living Air air filter complaints  
FOIA EX. 3, CPSA 6(b)(1)  
7/16 7/21 DUE August 18  
Affirmed by GC Jeffrey Bromme, 7/30/98
- (35) S806010 Lane / FDR Seeking Black and Decker Irons Active Compliance File  
FOIA Ex. 5 and 7(A)  
7/10 8/5 8/7 DUE 9/4  
Affirmed GC Jeffrey Bromme, 9/4/98
- (36) S802023 Carollo/Dayton Daily News / Voluntary Standards Tracking Report  
FOIA Ex. 5  
7/10 7/30 8/17 DUE September 15, 1998  
Reconsidered / Affirmed GC Jeffrey Bromme, 9/9/98
- (37) S807010 Groseclose/Graham seeking Answer Manitou Bicycles unconfirmed complaints  
FOIA EX. 3, CPSA 6(b)(1)  
8/19 8/27 DUE Sept 25  
Affirmed GC Jeffrey Bromme, 9/3/98
- (38) S803008 Bush/KCTV (Marcus) seeking materials withheld from Lennox Pulse Furnaces  
compliance file  
FOIA RX. 5, 7(E)  
6/5 6/25, extended to September 30  
Affirmed GC Jeffrey Bromme, 9/17/98
- (39) S806044 Stevens/Heller (for Stephens) seeking Black and Decker miter saws  
unconfirmed complaints  
FOIA EX. 3, CPSA 6(b)(1)  
8/4 9/2 9/9 DUE Oct 7  
Affirmed GC Jeffrey Bromme, 9/25/98
- (40) S807031 Marionneaux / Space heater sample examinations from active Compliance File  
FOIA Ex. 5 and 7(A)  
8/19 9/12 9/18 DUE 10/19

(41) S807035 Abramovici/Smith, Demahy (original requester Labrador) Seeking Compliance file RP960051 and unconfirmed complaints about Keller ladders  
FOIA Ex 3, 4, 5, 7(E), CPSA 6(a)(2), and 6(b)(1)  
8/19 9/22 DUE 10/21  
Affirmed 10/8/98 by Jeffrey Bromme

(42) S802039 Carollo/Dayton Daily News / List of Data Bases  
Delay of Response  
9/22 9/29 DUE October 28, 1998  
Moot / Responded 9/30/98

(43) S802004 Carollo/Dayton Daily News / Computer Database Info  
Delay of Response  
9/22 9/29 DUE October 28, 1998



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

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme  
General Counsel  
Tel: 301-504-0980 ext. 2299  
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December 9, 1997

Peter A. Lynch, Esq.  
Cozen & O'Connor  
Suite 1610  
501 West Broadway  
San Diego, CA 92101

Re: FOIA Appeal S-608008  
Yamaha Motor Corporation, U.S.A.;  
Club Car, Inc. - Electric Golf Carts; and  
Lester Battery Chargers

Dear Mr. Lynch:

By letter dated November 10, 1997, 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. As explained below, I affirm the FOI Officer's decision. The documents are being withheld pursuant to FOIA Exemptions 3, 4, 5, and 7(E). 5 U.S.C. §§ 552(b)(3), (b)(4), (b)(5), and (b)(7)(E).

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 to the withheld documents, we are relying on section 6(a)(2) of the Consumer Product Safety Act (CPSA). 15 U.S.C. § 2055(a)(2). Section 6(a)(2) expressly prohibits the disclosure of information reported to or otherwise obtained by the Commission which 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. The information being withheld pursuant to FOIA

Peter A. Lynch, Esq.  
December 9, 1997

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Exemption 3, relying on CPSA section 6(a)(2), and FOIA Exemption 4 consists of route slips, a billing slip, sample collection reports, a CPSC laboratory sample sheet, a request for field services memo, a list of exhibits, a financial report, and letters.

We are also withholding some of the responsive documents pursuant to FOIA Exemption 3 relying on CPSA section 6(b). 15 U.S.C. § 2055(b). Section 6(b) requires that, before disclosing information that would enable the public to identify the manufacturer or private labeler of a consumer product, the Commission must notify and provide a summary of the information to each manufacturer or private labeler to which the information pertains and provide a reasonable opportunity for comment. The Commission must also take reasonable steps to assure, prior to its disclosure, that such information is accurate, and that disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the CPSA. Since the Commission is unable to take the necessary reasonable steps to assure the accuracy and fairness of some of the responsive information, it is being withheld. The information being withheld pursuant to FOIA Exemption 3, relying on CPSA section 6(b)(1), consists of a section 15 investigation status sheet, storage location documents, a list of incidents, a telephone screening memo, an assignment memo, an In-depth Epidemiologic Investigation Report (IDI), attachments and exhibits to IDIs, letters, internal agency memos, consumer complaints, sample collection reports, photos, a list of exhibits, the statement of a former employee, and a summary of fires.

Finally, with respect to FOIA Exemption 3, we are relying on CPSA section 25(c). 15 U.S.C. § 2074(c). This section prohibits the identification of any injured person or any person treating him/her, without the consent of the person so identified. The information being withheld pursuant to FOIA Exemption 3, relying on CPSA section 25(c), consists of a deleted portion of one of the IDIs.

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 which 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 consists of intra-agency memoranda and internal notes including preliminary staff determinations,

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memos of phone conversations, product safety assessments, sample lists, route slips, fax coversheets, chronology files, meeting notes, handwritten notes, incident reports, engineering laboratory reports, and incident screening reports.

Some of the documents being withheld under FOIA Exemption 5, as discussed above, are also being withheld under FOIA Exemption 7(E). FOIA Exemption 7(E) provides for the withholding of investigatory records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. Some of the intra-agency memoranda and internal notes meet this criterion.

In your appeal letter, you contend that the "documents that are withheld must be disclosed under FOIA because no privilege log was produced to substantiate the claimed exemptions." You further state that "[a] privilege log is essential . . . [and] . . . should include: Identification of the document, author, addressee, and general subject matter, the identity of the specific privilege claimed for each separate document and all facts upon which the specific claim of privilege is based." [Emphasis in original]. Finally, you contend that "failure to provide a privilege log waives the claimed exemptions." Although you cite no support for your contentions, we believe that you may be referring to the requirements applicable to discovery in civil litigation. See, e.g., FRCP Rule 26(b)(5). Since this is an administrative procedure governed by the FOIA rather than the Federal Rules, there are no provisions in the FOIA that require federal agencies to produce a privilege log. If you ~~are~~ referring to the submission of a "Vaughn Index," as fashioned by the Court of Appeals for the District of Columbia Circuit in Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), your request is premature. "Agencies need not provide a Vaughn Index until ordered by a court after the plaintiff has exhausted the administrative process." Judicial Watch, Inc. v. Clinton, 880 F.Supp. 1, 11 (D.D.C. 1995) [Emphasis added]. Please note that we have previously withheld from disclosure all of the documents discussed in this letter, although we are now citing some additional grounds for withholding them. The legality of the Commission's withholding these documents is already at issue in the litigation now underway between Handlery Hotels and the Commission. Handlery Hotels, Inc. et al. v. CPSC, Civil Action No. 97CV1100B (S.D. Calif.). (The documents are listed on the Vaughn index submitted in that case.) Therefore, we believe it would be unnecessary for you to seek a separate judicial appeal

Peter A. Lynch, Esq.  
December 9, 1997

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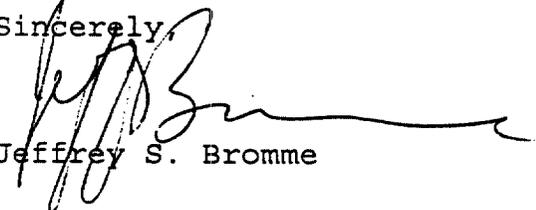
of our withholding of the documents discussed in this letter, under 5 U.S.C. § 552(a)(4)(B). Nevertheless, you have that right.

We agree with your claim that the exemptions upon which the Commission has relied should be "narrowly construed." We have narrowly construed the FOIA Exemptions. Nevertheless, the exemptions discussed above do apply to the documents withheld.

Pursuant to your request concerning the "readability" of two documents, enclosed please find copies of documents numbered 238 and 240. These are the most legible copies that we have.

If you have any questions, please call me or Daniel Jennings, the attorney assigned to this matter, at (301) 504-0980.

Sincerely,



Jeffrey S. Bromme

Enclosures

MEMO RECORD

AVOID ERRORS  
PUT IT IN WRITING

10-23-67

FROM: JAMES DE MARCO

OFFICE: CACA

TO: [Illegible]

DIVISION: ESEL

SUBJECT: [Illegible] of Grey Plugs / PSA #2952

SUMMARY:

Additional information which may assist you  
 in your testing/evaluation. However, it is of  
 interest to you. Contact with Keith Austin, ES  
 is being made on all of the engineering matters  
 relating to this case(s).

Grey Plugs Car Inc.

Address to me: 492-6608 as CO

238

DOCUMENT NUMBER



LAW OFFICES OF THE SECRETARY  
ASSOCIATION OF INFORMATION  
COZEN AND CONNOR  
A PROFESSIONAL CORPORATION

SUITE 1810  
501 WEST BROADWAY

SAN DIEGO, CA 92101

(619) 234-1700  
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COLUMBIA, SC

DALLAS, TX

LOS ANGELES, CA

NEW YORK, NY

NEWARK, NJ

SEATTLE, WA

WESTMONT, NJ

PETER A. LYNCH

PLYNCH@COZEN.COM

November 10, 1997

Via Certified Mail - Return Receipt Requested

Freedom of Information Act Appeal  
General Counsel  
ATTN: OFFICE OF THE SECRETARY  
U.S. Consumer Product Safety Commission  
Washington, D.C. 20207

Re: Appeal of Denial of FOIA Request  
Pursuant to 5 U.S.C. §552(a)(6) for Request  
No. S-608008/CPSC FE 860033 and CPSC RP910087  
concerning Yamaha Motor Corporation, U.S.A.;  
Club Car, Inc. - Electric Golf Carts; and  
Lester Battery Chargers  
Our File No. 58244

Dear General Counsel:

This is an appeal under the Freedom of Information Act. I requested documents under the Freedom of Information Act. My request was assigned the following identification number, S-608008. On November 7, 1997, I received another response to my previously denied request in a letter signed by Mr. Todd A. Stevenson, Deputy Secretary and FOIA Officer. Attached is a copy of that partial denial letter.

I appeal the denial of part of my FOIA request. Please note I want to thank Mr. Stevenson and his staff for their efforts. However, I respectfully disagree with the decision to withhold documents. Can you please provide more readable copies of documents numbered 238 and 240?

The documents that are withheld must be disclosed under FOIA because no privilege log was produced to substantiate the claimed exemptions. A privilege log is essential concerning that matter. It should include: Identification of the document, author,

General Counsel  
Consumer Product Safety Commission  
November 10, 1997  
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addressee, and general subject matter, the identity of the specific privilege claimed for each separate document and all facts upon which the specific claim of privilege is based. We contend failure to provide a privilege log waives the claimed exemptions.

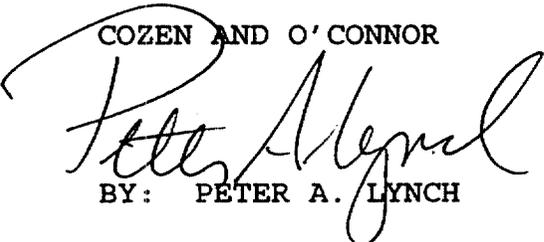
We respectfully submit that the claimed exemptions do not apply to these requests. The exemptions are narrowly construed in light of FOIA's dominant objective of disclosure and not secrecy. Those exemptions do not apply here. Department of the Air Force v. Rose, 425 U.S. 352, 361 (1976). Pursuant to the Act's requirements on administrative appeals, I request a response to the appeal within twenty (20) working days.

We do not agree that Exemptions 3, 4, 5, 6 and 7(e) apply to the withheld records. Non-confidential source statements must be produced, and segregable non-exempt portions of documents must also be produced.

I remain,

Very truly yours,

COZEN AND O'CONNOR



BY: PETER A. LYNCH

PAL:am  
Enclosure  
cc: Todd A. Stevenson  
400\58244\letters\consumer.104



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

October 31, 1997

**CERTIFIED MAIL**

Mr. Peter A. Lynch  
Cozen & O'Connor  
501 West Broadway, Suite 1610  
San Diego, CA 92101-3536

TERESA O'CONNOR

NOV - 7 1997

REC'D

Re: FOIA Request S608008: Club Car, Inc., Electric Powered Golf Carts & Lester Battery Chargers

Dear Mr. Lynch:

This responds to your Freedom of Information Act (FOIA) request seeking information from the Consumer Product Safety Commission (Commission). We have processed records from a previously withheld investigatory file responsive to your request. The Commission has decided to disclose a portion of those records. Those records consist of various internal agency documents including epidemiologic investigation reports (IDIs), storage location documents, meeting notes, compliance investigation sheets, telefacsimiles, a document summary, route slips, accident investigation request form, a section 15 investigation status sheet, a Consumer Product Safety Commission laboratory sample sheet, sample collection reports, intra-agency memos, a telephone memo, and an envelope. These documents are enclosed. In addition, we have withheld a number of documents which are identified later in this letter, on the basis of FOIA Exemptions 3, 4, 5, and 7(E).

Under section 6(b) of the Consumer Product Safety Act (CPSA), the Commission must take reasonable steps to assure that any disclosed information is accurate and that its disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the CPSA. 15 U.S.C. § 2055(b). Section 1101 of Title 16 of the Code of Federal Regulations (C.F.R.) sets out the reasonable steps that the Commission must take to comply with CPSA section 6(b).

With respect to the IDIs, the commission staff conducted an investigation that corroborates the disclosed information. This type of investigation is a reasonable step to assure accuracy. 16 C.F.R. § 1101.32(a)(2). The Commission has not decided the cause of these incidents.

Concerning the remainder of the documents disclosed, the Commission has reviewed the information in those documents in light of the manufacturers' comments in accordance with 16 C.F.R. § 1101.32(a). As a result of this review, the Commission has found nothing on the face of this information that calls its accuracy into question.

We developed this information during Commission activity designed to foster the purposes of the CPSA. Therefore, the Commission considers that disclosure is reasonably related to effectuating the purposes of the CPSA.

Exemption 3 of the FOIA provides for withholding information that is specifically exempted from disclosure by another statute. 5 U.S.C. § 552(b)(3). In applying FOIA Exemption 3 to some of the documents that we are withholding or to the portions of the documents that are deleted, we are relying on section 6(b) of the CPSA. Therefore, because we are unable to take the necessary steps to assure the accuracy of the information in those documents and/or because it would be unfair in the circumstances to release the information or we are deleting the names of manufacturers other than the ones named in your FOIA request, we are withholding the following documents: a section 15 investigation status sheet, storage locations documents, a list of incidents, a telephone screening memo, an assignment memo, attachments and exhibits to IDIs, an IDI, letters, internal agency memos, consumer complaints, sample collection reports, photos, a list of exhibits, statement of a former employee, and a summary of fires.

In applying FOIA Exemption 3 we are relying also on section 6(a)(2) of the CPSA. 15 U.S.C. § 2055(a)(2). Section 6(a)(2) expressly prohibits the disclosure of information reported to or otherwise obtained by the Commission which contains or relates to trade secrets or other confidential commercial information. Such 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, CPSA section 6(a)(2) incorporates FOIA Exemption 4 which protects trade secrets and confidential commercial information obtained from a person. Therefore, we are withholding a memo record (also withheld under FOIA Exemption 3 relying on CPSA section 6(b)(1)), route slips, a billing slip, sample collection reports, a CPSC laboratory sample sheet, a request for field services memo, a list of exhibits, a financial report, and letters.

In applying FOIA Exemption 3, we are relying also on section 25(c) of the CPSA. 15 U.S.C. § 2074(c). This section prohibits the identification of any injured person or any person treating him/her, without the consent of the person so identified. Accordingly, we have deleted a portion of one of the IDIs.

Mr. Peter A. Lynch

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In our final application of FOIA Exemption 3, we are relying on section 6(b)(5) of the CPSA. 15 U.S.C. § 2055(b)(5). This section prohibits the disclosure of information about a consumer product submitted pursuant to section 15(b) unless (1) the Commission has issued a complaint under section 15(c) or (d) of the CPSA alleging that such product presents a substantial product hazard, (2) the Commission has accepted in writing a remedial settlement agreement, or (3) the person submitting the information agrees to its public disclosure. Since none of the above three exceptions applies, section 6(b)(5) dictates that we withhold the information in this file that was submitted by Club Car and Lester pursuant to CPSA section 15(b).

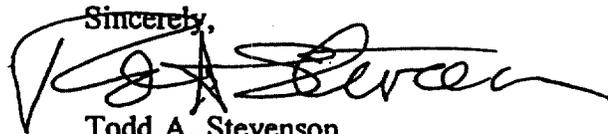
FOIA Exemption 5 provides for the withholding of certain inter-agency and intra-agency documents and incorporates the deliberative process privilege. This privilege protects advice, recommendations, and opinions which are part of the deliberative, consultative, and decision-making processes of the agency. 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 consists of intra-agency memoranda and internal notes including preliminary staff determinations, telememos, product safety assessments, sample lists, route slips, telefacsimiles, chronology files, meeting notes, handwritten notes, incident reports, engineering laboratory reports, and incident screening reports.

Some of the documents being withheld under FOIA Exemption 5, as discussed above, are also being withheld under FOIA Exemption 7(E). FOIA Exemption 7(E) provides for the withholding of investigatory records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigation or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. Some of the intra-agency memoranda and internal notes meet this criterion.

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

If you have any questions, please contact me by letter or call (301) 504-0800, Ext. 1239.

Sincerely,



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

Enclosures



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

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme  
General Counsel  
Tel: 301-504-0980 ext. 2299  
Fax: 301-504-0403  
E-Mail: cpsc-gc@cpsc.gov

January 26, 1998

Mr. Sean Oberle, Editorial Director  
Washington Business Information, Inc.  
1117 North 19th Street, Suite 200  
Arlington, VA 22209-1798

Re: FOIA Appeal 710114D  
Clearfire Candle Holders Compliance File

Dear Mr. Oberle:

By letter dated November 20, 1997, 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 pertinent materials.

The FOI Officer has tentatively reconsidered his decision as to some responsive documents. However, he cannot finally decide whether to withhold or disclose them until after the Commission complies with sections 6(a) and (b) of the Consumer Product Safety Act (CPSA). 15 U.S.C. §§ 2055(a) and (b). Under these provisions, the Commission must provide the manufacturer the opportunity to mark information as confidential and to comment upon the disclosure of information that identifies a manufacturer. If the Commission decides to disclose information over the objection of the identified manufacturer, it must notify the manufacturer of the proposed disclosure at least 10 days in advance.

The FOI Officer has initiated the process of manufacturer comment, and he will notify you of his determination when it has been completed. If he decides to withhold any responsive information at that time, you may appeal his decision to me. While the manufacturer comment process is underway, you may either await his decision or treat this letter as a denial of your FOIA appeal for that responsive information. We are currently withholding it under FOIA Exemption 3, in reliance on

Mr. Sean Oberle, Editorial Director  
January 26, 1998

Page 2

CPSA sections 6(a) and (b). Exemption 3 provides for withholding information that is specifically exempted from disclosure by another statute.

As to the remaining responsive documents, I affirm the FOI Officer's decision to withhold them. We are withholding information that the manufacturer has specifically claimed is confidential business information. This information is exempt from disclosure under FOIA Exemption 4 and section 6(a) of the CPSA. 5 U.S.C. § 552(b)(4) and 15 U.S.C. § 2055(a); see also 16 C.F.R. § 1015.18(c). Such information consists of certain pages in a CPSC inspection report of the firm:

Pages 12-14:	Quality Control and Testing Program
Pages 14-15:	Components/Raw Materials
Pages 23-47:	Exhibit A - Product complaints and claims
Pages 111-122:	Exhibit J - Test Results for Second Generation (new formula) formulation
Pages 131-178 and 325-363:	Exhibit M - Change Orders from August 1995 to January 1996 (old formula)
Pages 194-200 and 380-386:	Exhibit O - Bill of Material Formula Change
Pages 202-211 and 388-392:	Exhibit P - Formula for new formula candles
Pages 213 and 394:	Exhibit Q - Burn Information for new formula candles

This information is confidential business information, and it was voluntarily submitted by the manufacturing company during an inspection by CPSC investigators. See Critical Mass Energy Project v. N.R.C., 975 F.2d 871 (D.C. Cir. 1992). CPSC investigators routinely seek such information during inspections. The Commission exercises compulsory process (e.g., a subpoena or administrative search warrant) only if the company refuses to provide the information voluntarily. Under Critical Mass, once information is determined to be voluntarily provided, it is protected as "confidential" information "if it is of a kind that would customarily not be released to the public by the person from whom it was obtained." Critical Mass, 975 F.2d at 879. In

Mr. Sean Oberle, Editorial Director  
January 26, 1998

Page 3

this case, the manufacturer has stated that the information it submitted during the inspection has never been released, except under court order, to anyone who is not an employee or in a confidential relationship with the company.

We are also withholding certain information from the CPSC recall file consisting of drafts relating to the recall in this case. Under FOIA Exemption 3, relying on section 6(b) of the CPSCA, it would not be fair in the circumstances to disclose this information, which was prepared during settlement negotiations. 5 U.S.C. § 552(b)(3) and 16 C.F.R. § 1101.33(b)(2). The withheld information is at pages 17-23, 26, 30-32, 126-131, and 134-135. For the same reasons, we are also withholding 13 documents that are not numbered consisting of draft recall press releases and draft letters.

We are withholding under FOIA Exemption 5 other documents from the recall file that are internal drafts of letters and deliberative internal memos, including pages 33 and 219-223. 5 U.S.C. § 552(b)(5). The memos being withheld consist of staff recommendations containing both pre-decisional and deliberative discussions. The deliberative process privilege protects advice, recommendations, and opinions that are part of the agency's deliberative, consultative, and decision-making processes. 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. Release of this information would impair the Commission's decisionmaking ability with respect to section 15 investigations by discouraging open and frank communication within the agency. We are also withholding under FOIA Exemption 5 two copies of an internal Commission form regarding Candle-lites's corrective action plan which contains the staff's preliminary determination.

FOIA Exemption 7(E) provides for the withholding of investigatory records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. 5 U.S.C. § 552(b)(7)(E). We are withholding under FOIA Exemption 7(E) (and Exemption 5, discussed above) two copies of an internal Commission form regarding Candle-lites's corrective action plan which contains the staff's preliminary determination.

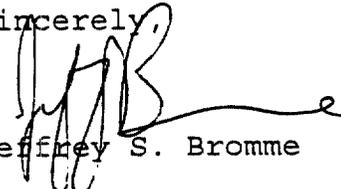
Mr. Sean Oberle, Editorial Director  
January 26, 1998

Page 4

We have also deleted information from the documents disclosed that could identify injured parties and person treating them, applying FOIA Exemption 3 and section 25(c) of the CPSA, 15 U.S.C. § 2074(c)(1), which prohibits such disclosure without the consent of those individuals. The parties have denied consent or consent has not otherwise been obtained. The pages with deletions are 37-38, 41, 62, 234-235, 241, 272-273, 556-557 and 570-583.

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

Sincerely,



Jeffrey S. Bromme



WASHINGTON BUSINESS INFORMATION, INC. • 1117 NORTH 19TH STREET, SUITE 200, ARLINGTON, VA 22209-1798 • (703)247-3434, FAX 247-3421

FOIA APPEAL (CPSC ID: S-710114D)

p. 1 of 2

Nov. 20, 1997

Jeffrey Bromme, Esq.  
General Counsel, ATTN: Office of the Secretary  
Consumer Product Safety Commission  
Washington, DC 20207

Fax to: 301/504-0127

Dear Mr. Bromme,

This is an appeal under the Freedom of Information Act, 5 U.S.C. Section 552(a)(6).

On Oct. 30, 1997, CPSC responded to a *Product Safety Letter* FOIA request filed Nov. 8, 1996, by then editor Maureen Cislo (CPSC ID: S-710114D) concerning the recall of candle holders by Clearfire. CPSC denied our request based on exemptions 5 and 7(A).

Please reconsider the denial based on these points, addressing each in your reply:

- A. The White House changed government's policy on the Freedom of Information Act in 1993. On Oct. 4, President Clinton told federal departments and agencies the FOIA "is a vital part of the participatory system of government" and that the "existence of unnecessary bureaucratic hurdles has no place in its implementation." He insisted that agency practices with respect to FOIA requests conform to new guidelines issued by Attorney General Janet Reno favoring a presumption of disclosure.
- B. Attorney General Reno's new guidelines, also announced Oct. 4, 1993, provide that an agency should use an exemption only where "the agency reasonably foresees that disclosure would be harmful to an interest protected by that exemption." She added, "Where an item of information might technically or arguably fall within an exemption, it ought not to be withheld from a FOIA requester unless it need be." In light of the policy in favor of disclosure, the material withheld from the FOIA request does not appear to be justified. For any material for which withholding is upheld in this appeal, identify specifically the foreseeable harm that would result from disclosure.
- C. Pursuant to the government's 1993 FOIA policy, agencies should not invoke Exemption 5 unless they determine that agency personnel would have changed their expression of views if they had contemplated public disclosure. Accordingly, denial of access based on conclusory references to Exemption 5 cannot be justified.
- D. Exemption 5 does not cover *factual* portions of pre-decisional material. As a result, factual material must be disclosed even when contained in documents properly withheld under Exemption 5. The letter denying access to material based upon Exemption 5 baldly states that factual information is "inextricably intertwined with exempt materials or deliberative process." Such blanket use of this exemption cannot be justified when any information properly exempted by Exemption 5 can be redacted.
- E. Exemption 7(A) applies only when enforcement proceedings have begun or when there is concrete prospect of such proceedings. Because CPSC has not made clear that any such enforcement proceedings exist, any withholding of records, based on Exemption 7(A) would not appear to be justified.
- G. Also, conclusion of enforcement proceedings makes documents otherwise exempt under 7(A) subject to disclosure. If this represents a closed case, please release the material.

FOIA APPEAL (CPSC ID: S-710114D)

p. 2 of 2

Nov. 20, 1997

I trust that upon reconsideration, you will reverse the decision denying us access to this material and grant the original request. However, if you deny this appeal, I intend to initiate a lawsuit to compel disclosure. In any case, I will expect to receive your decision within 20 working days, as required by the statute.

Thank you for your assistance.

Sincerely,



Sean Oberle, Editorial Director

cc: Jane Kirtley, Executive Director,  
Reporters Committee for Freedom of the Press  
Thomas Howlett, Esq.

2303M100 6YY



WASHINGTON BUSINESS INFORMATION, INC. • 1117 NORTH 19TH STREET, SUITE 200, ARLINGTON, VA 22209-1798 • (703)247-3434, FAX 247-3421

Nov. 20, 1997

Jeffrey Bromme, Esq.  
General Counsel, ATTN: Office of the Secretary  
Consumer Product Safety Commission  
Washington, DC 20207

Fax to: 301/504-0127

Dear Mr. Bromme,

Attached are seven separate appeals to whole or partial denials of Freedom of Information requests Product Safety Letter submitted to CPSC. Each appeal is two pages. This entire fax is 15 pages. The appealed records concern:

- 1 -- Clearfire candle holder recall (CPSC FOIA ID: S-710114D)
- 2 -- Bemis humidifier recall (CPSC FOIA ID: S-710112)
- 3 -- Lane cedar chest recall (CPSC FOIA ID: S-710115C)
- 4 -- New York Lighter cigarette lighter recall (CPSC FOIA ID: S-710114)
- 5 -- Rockshox mountain bike fork recall (CPSC FOIA ID: S-710113A)
- 6 -- Manco go-kart recall (CPSC FOIA ID: S-710113C)
- 7 -- Gerry baby monitor recall (CPSC FOIA ID: S-710114C)

Thank you for your assistance.

Sincerely,

Sean Oberle, Editorial Director

Firm: 0463 Clearfire (candles)  
Off(denial) Ex. 5, 7(A), chron,  
spec. 3285



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

October 30, 1997

Mr. Sam Cristy  
Product Safety Letter  
Washington Business Information Inc.  
1117 North 19th Street, Suite 200  
Arlington, VA 22209-1798

A handwritten signature in black ink, appearing to be "S. Cristy", written over a large, light-colored scribble.

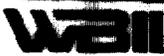
**RE: FOIA Request S-710114D: CPSC file on recall of glass candle holders  
manufactured by Clearfire**

Dear Mr. Cristy:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the Commission.

The records from the Commission files responsive to your request are contained in the Commission's active law enforcement investigatory files. We must withhold the records pursuant to the Exemption 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 notes, correspondence and memoranda containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and 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 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.



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November 8, 1996

PSL CODE -- Recall -- 151

Consumer Product Safety Commission  
Freedom of Information Office  
4330 East-West Highway  
Bethesda, Md. 20207  
Fax: 301/504-0127

Dear FOI Officer,

Pursuant to the federal Freedom of Information Act, 5 U.S.C. Section 552, I request access to and copies of all information to and from CPSC and Clearfire of Cincinnati, Ohio on the recall of glass candle holders. I would also like copies of all inter-agency memos staff may have written to each other regarding this recall.

As a member of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Please waive any additional fees. Release of the information is in public interest because it will contribute significantly to public understanding of government operations and activities.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the Act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as an editor and this information is of timely value, I would appreciate your communicating with me by phone (direct line 703/247-3423) or fax (247-3421), rather than by mail, if you have questions regarding this request. I look forward to your reply within 10 business days, as the statute requires.

Thank you for your assistance.

Sincerely,

Maureen Cislo, Editor  
PRODUCT SAFETY LETTER

Receipt of this letter is acknowledged:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print or type)

4  
67101157

CC: 100/320-11, DIR  
PRODUCTION SAFETY LETTER®  
WASHINGTON DRUG LETTER®  
REGULATORY WATCHDOG SERVICE®  
HAZARDOUS MATERIALS TRANSPORTATION®

EUROPE DRUG & DEVICE REPORT®  
DEVICES & DIAGNOSTICS LETTER®  
THE FOOD & DRUG LETTER®

MDR WATCH®  
THE GMP LETTER®  
DRUG GMP REPORT™  
DIOGENES™ DATABASE

39

Row#	Sec15 #	Opened	PD	CAP	Closed	Priority	Total Involved	Accession #	Box #
1	CA960063	03/08/96			04/12/96	c			
Comp Off: Judith Hayes Company: Candle Lite Company 22 C Eastern Avenue Leesburg, OH 45242 Type: Retailer ProdCode: 0463 Product: Candles in glass containers Brand: Model: Hazard: Fire and burn hazard.									
2	FC960017	04/23/96	08/07/96	11/05/96		B			
Comp Off: Robert B. Johnston Company: Candle Lite Company 22 C Eastern Avenue Leesburg, OH 45242 Type: Retailer ProdCode: 0463 Product: Candles in Glass Containers Brand: Lancaster Colony Model: Various Hazard: Fire and Burns									
3	RP940059	12/23/93	02/25/94	03/14/94	03/14/94	D	-23,072	424950001	12
Comp Off: Judith Hayes Company: Candle Corporation of America 141 West 62nd Street Chicago, IL 60621 Type: Manufacturer ProdCode: 0463 Product: Colonial Candle of Cape Cod, Carolina Designs Ltd. Nutcracker Candles Brand: COLONIAL CANDLE OF CAPE COD; CAROLINA DESIGNS LTD. Model: N1100; 8986 Hazard: EXCESSIVE FLAME HEIGHT AND DRIPPING CANDLE COMPANY									
4	RP950047	11/25/94	12/21/94	12/22/94	11/27/95	C		424970019	16
Comp Off: Judith Hayes Company: Illuminating Candle Company 123 NORTH MAIN STREET FAIR FIELD, IA 52556 Type: Manufacturer ProdCode: 0463 Product: Potpourri Candle Brand: MARKED WITH COMPANY'S NAME Model: Hazard: FIRE HAZARD									
5	RP950181	05/26/95	09/13/95	09/13/95	09/13/95	D		424970019	17
Comp Off: Judith Hayes Company: Candle Corporation of America 141 West 62nd Street Chicago, IL 60621 Type: Manufacturer ProdCode: 0463 Product: Terra Cota Candle Brand: E DIFFERENT FRAGRANCES Model: 3 MODELS - 9043, 9044, 9-45 Hazard: TERRA COTTA IGNITION/BURNS, FIRE HAZARD									



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

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme  
General Counsel  
Tel: 301-504-0980 ext. 2299  
Fax: 301-504-0403  
E-Mail: cpsc-gc@cpsc.gov

January 8, 1997

Chris Farmer, Esq.  
Harper, Waldon & Craig  
900 Circle 75 Parkway  
Suite 1040  
Atlanta, GA 30339

Re: FOIA Appeal #S-703030  
Douglas Furniture--Glass Top Tables

Dear Mr. Farmer:

By letter dated November 4, 1997 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 documents.

I affirm the FOI Officer's decision to withhold the information responsive to your request. My decision is based on Exemptions 3, 4, and 5 of the FOIA. 5 U.S.C. §§ 552(b)(3), (b)(4), and (b)(5).

1. Exemptions 3 and 4. Exemption 3 of the FOIA provides for the withholding of documents which are specifically exempted from disclosure by another statute. In applying FOIA Exemption 3 to these documents, we are relying on various subsections of section 6 of the Consumer Product Safety Act (CPSA). 15 U.S.C. § 2055.

a. Section 6(a)(2) of the CPSA

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

Chris Farmer, Esq.  
January 8, 1997

Page 2

confidential commercial information. 15 U.S.C. § 2055(a)(2). Section 6(a)(2) incorporates Exemption 4 of the FOIA, which also protects trade secrets and confidential commercial information.

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. The information that has been withheld pursuant to Exemption 3, relying on section 6(a)(2), and Exemption 4 includes the names of suppliers, the number of units sold, and the number of units in inventory.

b. Section 6(b)(1) of the CPSA

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 [the] information . . . is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the [CPSA]." 15 U.S.C. § 2055(b)(1).

The information that is being withheld pursuant to Exemption 3, relying on section 6(b)(1), consists of two 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).

Upon receiving a consumer complaint, the Commission sends the submitter forms requesting that he or she confirm the information as accurate to the best of his or her knowledge and belief. Each submitter also receives a franked return envelope in which to mail 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. Because the submitters of these two complaints did not respond to the Commission's request for confirmation, the Commission may not disclose them under the FOIA.

c. Section 6(b)(5) of the CPSA

Under Exemption 3 we are withholding documents submitted to the Commission pursuant to section 15(b) of the CPSA. 15 U.S.C. § 2064(b). Section 15(b) of the CPSA requires every manufacturer, distributor and retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that such product fails to comply with an applicable consumer product safety rule, contains a defect which

Chris Farmer, Esq.  
January 8, 1997

Page 3

could create a substantial product hazard, or creates an unreasonable risk of serious injury or death to notify the Commission. Section 6(b)(5) prohibits the disclosure of information about a consumer product submitted pursuant to section 15(b) unless: 1) the Commission has issued a complaint alleging that such product presents a substantial product hazard, 2) the Commission has accepted in writing a remedial settlement agreement, or 3) the person submitting the information agrees to its public disclosure. 15 U.S.C. § 2055(b)(5). Because none of these exceptions applies, section 6(b)(5) requires that we withhold the information submitted under section 15(b).

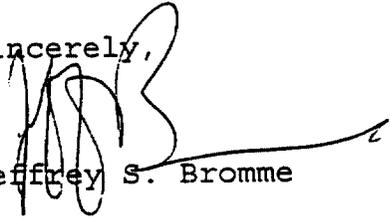
2. Exemption 5. Exemption 5 provides for the withholding of certain inter-agency and intra-agency documents and incorporates the deliberative process privilege. This privilege protects advice, recommendations, and opinions which are part of the deliberative, consultative, and decision-making processes of the agency. In this case the privileged information includes recommendations made by our engineering staff to our compliance staff. 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.

\* \* \*

In your appeal letter you ask what action, if any, the Commission plans to take regarding the table that is the subject of this FOIA request. After receiving Douglas Furniture's section 15(b) report and thoroughly investigating the matter, the staff concluded that no Commission action is necessary.

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

Sincerely,



Jeffrey S. Bromme

**HARPER, WALDON & CRAIG**  
CPSC/OFC OF THE SECRETARY  
FREEDOM OF INFORMATION  
LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
900 CIRCLE 75 PARKWAY  
SUITE 1040  
ATLANTA, GEORGIA 30339  
1977 NOV 20 A 11: 52

THOMAS D. HARPER  
RUSSELL D. WALDON  
J. BLAIR CRAIG, II  
CHRISTOPHER M. FARMER  
HILLIARD V. CASTILLA  
DANIEL C. PROUT, JR.  
JONATHAN M. ADELMAN  
TREVOR GRANT HIESTAND

(770) 953-1710

November 14, 1997

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

Re: FOIA S-703030  
Glass top tables

Dear Sir/Madam:

This letter will serve as my written request of the appeal of a partial denial of access to records pursuant to 16CFR §1015.7. On November 12, 1997, I received written notification from Todd Stevenson of my response to a request for information from the commission. Although I sincerely appreciate all of the documentation provided, I do not know what remedial action has been or will be taken to address this problem. I represent the family of a two year old who died when he came into contact with the table that is the subject of your investigation. I need to simply know what will be done, ie. whether there will be a recall, additional warnings for such tables, etc.

Please contact me on an immediate basis about the above.

Sincerely,



Chris Farmer  
HARPER, WALDON & CRAIG

CF/kf

Officer (6a6b rel), Officer (wh), chron, 2618  
U.S. CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, D.C. 20207  
November 7, 1997

✓ 4057 DOUGLAS

**CERTIFIED MAIL**

Mr. Chris Farmer  
HARPER, WALDON & CRAIG  
900 Circle 75 Parkway, Suite 1040  
Atlanta, Georgia 30339

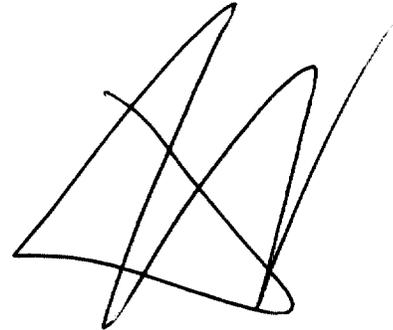
**RE: FOIA S-703030: Glass Top Tables**

Dear Mr. Farmer:

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

Commission records in the file designated as RP960103 Douglas Furniture Corporation, Dinette Glass Top Tables, Models Alta, Melrose, Redondo and #CAL4156 are being withheld. Those records are contained in the Commission's law enforcement investigatory files. We must withhold the records pursuant to the Exemptions 3 and 4, 5 U.S.C. §§ 552(b)(3) and (b)(4), and sections 6(a)(2) and 6(b)(5) of the Consumer Product Safety Act (CPSA), 15 U.S.C. §§ 2055(a)(2) and (b)(5). 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 to these records, we are 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, accepted in writing a remedial settlement agreement, or the manufacturer agrees to the disclosure. CPSA section 15(b) requires manufacturers to report to the Commission and provide information regarding their products and potential substantial product hazards. The withheld information from the file includes information submitted by the manufacturer pursuant to section 15(b) of the CPSA or records derived from and based on that information. The Commission has not issued a complaint or accepted a remedial settlement agreement and the firm has not consented to disclosure.

The files also 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.



We are also using for withholding purposes Exemptions 5 and 7(E) of the FOIA, 5 U.S.C. §§ 552(b)(5) and (b)(7)(E). 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 in litigation with the agency. FOIA Exemption 7(E) 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 would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

Finally, we are withholding records from the files according to the Commission regulations at 16 C.F.R. § 1101.33. We must withhold these records pursuant to Exemption 3 of the FOIA and section 6(b)(1) of the CPSA, 15 U.S.C. § 2055(b)(1). In applying FOIA Exemption 3 to this material, 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. 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 enclosed records constitute three (3) Epidemiologic (In-Depth) Investigation Reports with the underlying and supporting documentation and related product complaints or reported incidents. 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. Where possible, Commission staff have 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.

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.

Thank you for your interest in consumer safety. This completes the processing of your request. The cost to the Commission to perform the searches and prepare this information was \$100.00. In this instance, we have decided to waive the charges. Thank you for your interest in consumer product safety. Should you have any questions, contact Sandra Bradshaw by letter, facsimile (301) 504-0127 or telephone (301) 504-0785 (ext.1224).

Sincerely,

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

Enclosures

HARPER, WALDON & CRAIG

A LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW  
900 CIRCLE 75 PARKWAY  
SUITE 1040  
ATLANTA, GEORGIA 30339

SPSC/OFC OF FREEDOM

1997 MAR -4

ATLANTA, GEORGIA 30339

(770) 953-1710

February 21, 1997

THOMAS D. HARPER  
RUSSELL D. WALDON  
J. BLAIR CRAIG, II  
CHRISTOPHER M. FARMER  
HILLIARD V. CASTILLA  
DANIEL C. PROUT, JR.  
JONATHAN M. ADELMAN  
RACHEL COX BLOOM

Todd Stevenson  
Freedom of Information Officer  
United States Consumer Product Safety Commission  
Washington, GA 20207

9/1

RE: Case No.: RT960103  
Douglas Furniture Corporation

Dear Mr. Stevenson:

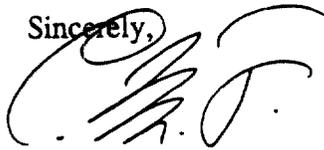
This will confirm my recent conversation with Judith Hayes. This letter will serve as my request, pursuant to the Freedom of Information Act, for release of each and every pertinent document responsive to these requests. Please forward to my office any and all written documents regarding the status of this file, a statement regarding whether glass topped tables addressed in your investigation constitute a substantial hazard, as well as documentation concerning any corrective action in the event that a finding of a substantial hazard was made. Please forward this information to my office as soon as possible.

DIF. 4  
EX 40

4051

I appreciate your assistance.

Sincerely,



Chris Farmer  
HARPER, WALDON & CRAIG

CF/pt

cc: Frank and Kathy Moore

5-703030



February 19, 1996

Consumer Product Safety Commission  
Freedom of Information Office  
4330 East-West Highway  
Bethesda, Md., 20207

Dear FOI Officer,

Pursuant to the federal Freedom of Information Act, 5 U.S.C. Section 552, I request access to and copies of all information to and from CPSC and Bemis Manufacturing on the recall of 4000,000 Waterwicks. *RPAS 0195*

*J. Hayes*

As a member of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Please waive any additional fees. Release of the information is in public interest because it will contribute significantly to public understanding of government operations and activities.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the Act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as an editor and this information is of timely value, I would appreciate your communicating with me by phone (direct line 703/247-3423) or fax (247-3421), rather than by mail, if you have questions regarding this request. I look forward to your reply within 10 business days, as the statute requires.

Thank you for your assistance.

Sincerely,

*Maureen R. Cisto*

Maureen Cisto, Editor  
PRODUCT SAFETY LETTER

*SAM CRISTY*

Receipt of this letter is acknowledged:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*SAP*

\_\_\_\_\_  
Name (please print or type)

cc: PUB/SEC-rf, DIR  
(1227K074.1YY)

*5710112*  
*[Handwritten initials]*

You will note that information in the documents disclosed that could identify injured parties and persons treating them has been deleted pursuant to Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3), and section 25(c) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2074(c)(1). 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 CPSA section 25(c), which prohibits the disclosure of such identities without the consent from the individuals.

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.

Thank you for your interest in consumer product safety. Should you have any questions, contact **Sheila Pugliese, Paralegal Specialist** by letter, facsimile (301) 504-0127 or telephone (301) 504-0785 ext. 1238.

Sincerely,

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

Enclosures

6-20



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

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme  
General Counsel  
Tel: 301-504-0980 ext. 2299  
Fax: 301-504-0403  
E-Mail: cpsc-gc@cpsc.gov

January 21, 1998

Mr. Sean Oberle, Editorial Director  
Washington Business Information, Inc.  
1117 North 19th Street, Suite 200  
Arlington, VA 22209-1798

Re: FOIA Appeal S-710115C  
Cedar Chest Recall; Lane Company of Altavista, VA

Dear Mr. Oberle:

By letter dated November 20, 1997, 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 documents.

Since the FOI Officer's November 3, 1997 response to your request, a number of responsive documents that he had previously withheld under FOIA Exemptions 5 and 7(A) may now be disclosed. Copies of them, including pertinent manufacturer's comments on them, are enclosed.

In addition, the FOI Officer has tentatively reconsidered his decision as to all but one of the remaining responsive documents. However, he cannot finally decide whether to withhold or disclose them until after the Commission complies with sections 6(a) and (b) of the Consumer Product Safety Act (CPSA). 15 U.S.C. §§ 2055(a) and (b). Under these provisions, the Commission must provide the manufacturer the opportunity to mark information as confidential and to comment upon the disclosure of information that identifies a manufacturer. If the Commission decides to disclose information over the objection of the identified manufacturer, it must notify the manufacturer of the proposed disclosure at least 10 days in advance.

The FOI Officer has initiated the process of manufacturer comment, and he will notify you of his determination when it has

Mr. Sean Oberle, Editorial Director  
January 21, 1998

Page 2

been completed. If he decides to withhold any responsive information at that time, you may appeal his decision to me. While the manufacturer comment process is underway, you may either await his decision or treat this letter as a denial of your FOIA appeal for that responsive information. We are currently withholding it under FOIA Exemption 3, in reliance on CPSA sections 6(a) and (b). Exemption 3 provides for withholding information that is specifically exempted from disclosure by another statute.

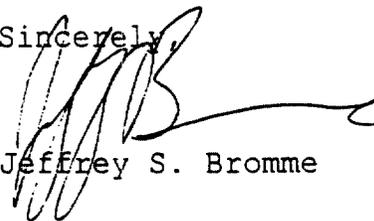
As to the one remaining document, I affirm the FOI Officer's decision to withhold it. This document is exempted from disclosure under FOIA Exemptions 5 and 7(E). 5 U.S.C. §§ 552(b)(5) and (7)(E).

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 which 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 document being withheld contains opinions and recommendations of the CPSC technical and legal staffs.

FOIA Exemption 7(E) provides for the withholding of investigatory records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The document meets this criterion.

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

Sincerely,



Jeffrey S. Bromme

Enclosures

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

December 22, 1997

Mr. Sam Cristy  
PRODUCT SAFETY LETTER  
Washington Business Information, Inc.  
1117 North 19th Street, Suite 200  
Arlington, VA 22209-1788



**RE: FOIA S-710115C: Cedar Chest Recall; Lane Company of Altavista, VA**

Dear Mr. Cristy:

This concerns your request of September 6, 1996, for the back-up materials involving the Commission's press release number 96-186, Lane Furniture Company, Cedar Chests. Your request was denied by letter dated November 3, 1997. Since that time, the file has been closed and cleared for release.

The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are in file CA960066 and are identified as, Hazard Assessment memoranda, Preliminary Determination Sheet and other 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. Please note that the Commission's staff, not the Commissioners themselves, made the preliminary determination that this product presented a substantial risk of injury to the public as defined by the Consumer Product Safety Act.

We must withhold portions of this law enforcement investigatory file (designated CA960066 The Lane Company, Inc.) pursuant to the Exemptions 5 and 7(E) of the FOIA, 5 U.S.C. §§ 552(b)(5) and (b)(7)(E). 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 in litigation with the agency. FOIA Exemption 7(E) 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 would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

The records being withheld consist of internal notes and memoranda 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) reveal the techniques, guidelines and strategies utilized by the investigative and legal staff in developing the information regarding this investigation and other on-going investigations, which if disclosed would significantly risk circumvention of the statutes and regulations that the Commission administers.

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.

This completes the processing of this request. The cost to the Commission to perform the file searches and prepare this response was \$50.00. In this case we have decided to waive the cost. If you have questions regarding this response, contact Sandra Bradshaw by telephone at (301) 504-0785, ext. 1224.

Sincerely,

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

Enclosure

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

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme  
General Counsel  
Tel: 301-504-0980 ext. 2299  
Fax: 301-504-0403  
E-Mail: [cpSC-gc@cpSC.gov](mailto:cpSC-gc@cpSC.gov)

January 15, 1998

Mr. Sean Oberle, Editorial Director  
Washington Business Information, Inc.  
1117 North 19th Street, Suite 200  
Arlington, VA 22209-1798

Re: FOIA Appeal S-710115C  
Cedar Chest Recall; Lane Company of Altavista, VA

Dear Mr. Oberle:

By letter dated November 20, 1997, 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 documents.

Since the FOI Officer's November 3, 1997 response to your request, a number of responsive documents that he had previously withheld under FOIA Exemptions 5 and 7(A) may now be disclosed. Copies of them are enclosed.

In addition, the FOI Officer has tentatively reconsidered his decision as to all but one of the remaining responsive documents. However, he cannot finally decide whether to withhold or disclose them until after the Commission complies with sections 6(a) and (b) of the Consumer Product Safety Act (CPSA). 15 U.S.C. §§ 2055(a) and (b). Under these provisions, the Commission must provide the manufacturer the opportunity to mark information as confidential and to comment upon the disclosure of information that identifies a manufacturer. If the Commission decides to disclose information over the objection of the identified manufacturer, it must notify the manufacturer of the proposed disclosure at least 10 days in advance.

The FOI Officer has initiated the process of manufacturer

Mr. Sean Oberle, Editorial Director  
January 15, 1998

Page 2

comment, and he will notify you of his determination when it has been completed. If he decides to withhold any responsive information at that time, you may appeal his decision to me. While the manufacturer comment process is underway, you may either await his decision or treat this letter as a denial of your FOIA appeal for that responsive information. We are currently withholding it under FOIA Exemption 3, in reliance on CPSC sections 6(a) and (b). Exemption 3 provides for withholding information that is specifically exempted from disclosure by another statute.

As to the one remaining document, I affirm the FOI Officer's decision to withhold it. This document is exempted from disclosure under FOIA Exemptions 5 and 7(E). 5 U.S.C. §§ 552(b)(5) and (7)(E).

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 which 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 document being withheld contains opinions and recommendations of the CPSC technical and legal staffs.

FOIA Exemption 7(E) provides for the withholding of investigatory records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The document meets this criterion.

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

Sincerely,

Jeffrey S. Bromme

Enclosures



FOIA APPEAL (CPSC ID: S-710115C)

p. 1 of 2

January 20, 1998

Jeffrey Bromme, Esq.  
General Counsel, ATTN: Office of the Secretary  
Consumer Product Safety Commission  
Washington, DC 20207

Fax to: 301/504-0127

Dear Mr. Bromme,

This is an appeal under the Freedom of Information Act, 5 U.S.C. § 522(a)(6).

On Dec. 22, 1997, CPSC responded to a *Product Safety Letter* FOIA request (CPSC ID: S-710115C) filed Sept. 6, 1996, by then-editor Maureen Cislo concerning the recall of cedar chests by Lane. CPSC denied part of the request based on exemptions 5 and 7(E).

Please reconsider the denial based on these points, addressing each in your reply.

- A. The White House changed government's policy on the Freedom of Information Act in 1993. On Oct. 4, President Clinton told federal departments and agencies the FOIA "is a vital part of the participatory system of government" and that the "existence of unnecessary bureaucratic hurdles has no place in its implementation." He insisted that agency practices with respect to FOIA requests conform to new guidelines issued by Attorney General Janet Reno favoring a presumption of disclosure. We note that you have ignored this issue in our past FOIA appeals; please respond.
- B. Attorney General Reno's new guideline, also announced Oct. 4, 1993, provide that an agency should use an exemption only where "the agency reasonably foresees that disclosure would be harmful to an interest protected by that exemption." She added, "Where an item of information might technically or arguably fall within an exemption, it ought not to be withheld from a FOIA requester unless it need be." In light of the policy in favor of disclosure, the material withheld from the FOIA request does not appear to be justified. For any material for which withholding is upheld in the appeal, identify specifically the foreseeable harm that would result from disclosure. We note that you have ignored this issue in our past FOIA appeals; please respond.
- C. Pursuant to the government's 1993 FOIA policy, agencies should not invoke Exemption 5 unless they determine that agency personnel would have changed their expression of views if they had contemplated public disclosure. Accordingly, denial of access based on conclusory references to Exemption 5 cannot be justified.
- D. Exemption 5 does not cover *factual* portions of pre-decisional material. As a result, factual material must be disclosed even when contained in documents properly withheld under Exemption 5. The letter denying access to material based upon Exemption 5 baldly states that factual information is "inextricably intertwined with exempt materials or deliberative process." Such blanket use of this exemption cannot be justified when any information properly exempted by Exemption 5 can be redacted.
- E. Exemption 7(E) generally covers only techniques and procedures that are secret or generally not known to the public. It also does not cover routine techniques and procedures. CPSC has provided no indication that this exemption is justified here.

FOIA APPEAL (CPSC ID: S-710115C)

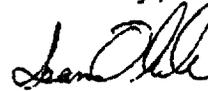
p. 2 of 2

January 20, 1998

I trust that upon reconsideration, you will reverse the decision denying us access to this material and grant the original request. However, if you deny this appeal, I intend to initiate a lawsuit to compel disclosure. In any case, I will expect to receive your decision within 20 working days, as required by the statute.

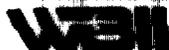
Thank you for your assistance.

Sincerely,



Sean Oberle, Editorial Director

cc: Thomas Howlett, Esq.



WASHINGTON BUSINESS INFORMATION, INC. • 1117 NORTH 19TH STREET, SUITE 200, ARLINGTON, VA 22209-1798 • (703)247-3434, FAX 247-3421

FOIA APPEAL (CPSC ID: S-710115C)

p. 1 of 2

Nov. 20, 1997

Jeffrey Bromme, Esq.  
General Counsel, ATTN: Office of the Secretary  
Consumer Product Safety Commission  
Washington, DC 20207

Fax to: 301/504-0127

Dear Mr. Bromme,

This is an appeal under the Freedom of Information Act, 5 U.S.C. Section 552(a)(6).

On Nov. 3, 1997, CPSC responded to a *Product Safety Letter* FOIA request filed Nov. 9, 1996, by then editor Maureen Cisko (CPSC ID: S-710115C) concerning the recall of cedar chests by Lane Company. CPSC denied the request based on exemptions 5 and 7(A).

Please reconsider the denial based on these points, addressing each in your reply:

- A. The White House changed government's policy on the Freedom of Information Act in 1993. On Oct. 4, President Clinton told federal departments and agencies the FOIA "is a vital part of the participatory system of government" and that the "existence of unnecessary bureaucratic hurdles has no place in its implementation." He insisted that agency practices with respect to FOIA requests conform to new guidelines issued by Attorney General Janet Reno favoring a presumption of disclosure.
- B. Attorney General Reno's new guidelines, also announced Oct. 4, 1993, provide that an agency should use an exemption only where "the agency reasonably foresees that disclosure would be harmful to an interest protected by that exemption." She added, "Where an item of information might technically or arguably fall within an exemption, it ought not to be withheld from a FOIA requester unless it need be." In light of the policy in favor of disclosure, the material withheld from the FOIA request does not appear to be justified. For any material for which withholding is upheld in this appeal, identify specifically the foreseeable harm that would result from disclosure.
- C. Pursuant to the government's 1993 FOIA policy, agencies should not invoke Exemption 5 unless they determine that agency personnel would have changed their expression of views if they had contemplated public disclosure. Accordingly, denial of access based on conclusory references to Exemption 5 cannot be justified.
- D. Exemption 5 does not cover *factual* portions of pre-decisional material. As a result, factual material must be disclosed even when contained in documents properly withheld under Exemption 5. The letter denying access to material based upon Exemption 5 baldly states that factual information is "inextricably intertwined with exempt materials or deliberative process." Such blanket use of this exemption cannot be justified when any information properly exempted by Exemption 5 can be redacted.
- E. Exemption 7(A) applies only when enforcement proceedings have begun or when there is concrete prospect of such proceedings. Because CPSC has not made clear that any such enforcement proceedings exist, any withholding of records, based on Exemption 7(A) would not appear to be justified.
- G. Also, conclusion of enforcement proceedings makes documents otherwise exempt under 7(A) subject to disclosure. If this represents a closed case, please release the material

FOIA APPEAL (CPSC ID: S-710115C)

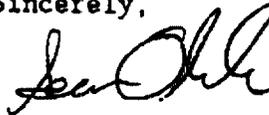
p. 2 of 2

Nov. 20, 1997

I trust that upon reconsideration, you will reverse the decision denying us access to this material and grant the original request. However, if you deny this appeal, I intend to initiate a lawsuit to compel disclosure. In any case, I will expect to receive your decision within 20 working days, as required by the statute.

Thank you for your assistance.

Sincerely,



Sean Oberle, Editorial Director

cc: Jane Kirtley, Executive Director,  
Reporters Committee for Freedom of the Press  
Thomas Howlett, Esq.

2303M100.6YY

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

November 3, 1997

Mr. Sam Cristy  
PRODUCT SAFETY LETTER  
Washington Business Information, Inc.  
1117 North 19th Street, Suite 200  
Arlington, VA 22209-1788

**RE: FOIA S-710115C: Cedar Chest Recall; Lane Company of Altavista, VA**

Dear Mr. Cristy:

This responds to your company's request of September 6, 1996, for the back-up materials involving the Commission's press release number 96-186, Lane Furniture Company, Cedar Chests.

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

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

This completes the processing of this request. The cost to the Commission to perform the file searches and prepare this response was \$50.00. In this case we have decided to waive the cost. If you have questions regarding this response, contact Sandra Bradshaw by telephone at (301) 504-0785, ext. 1224.

Sincerely,

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



September 6, 1996

MEZ

PSL CODE -- Recall -- 141

Consumer Product Safety Commission  
Freedom of Information Office  
4330 East-West Highway  
Bethesda, Md. 20207  
Fax: 301/504-0127

RECALLS *HR*

Dear FOI Officer,

Pursuant to the federal Freedom of Information Act, 5 U.S.C. Section 552, I request access to and copies of all information to and from CPSC and the Lane Company of Altavista, Va., on the recall of cedar chests. I would also like copies of all inter-agency memos staff may have written to each other regarding this recall.

As a member of the news media I am only required to pay for the direct cost of duplication after the first 100 pages. Please waive any additional fees. Release of the information is in public interest because it will contribute significantly to public understanding of government operations and activities.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the Act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as an editor and this information is of timely value, I would appreciate your communicating with me by phone (direct line 703/247-3423) or fax (247-3421), rather than by mail, if you have questions regarding this request. I look forward to your reply within 10 business days, as the statute requires.

Thank you for your assistance.

Sincerely,

*Maureen Cislo*

Maureen Cislo, Editor  
PRODUCT SAFETY LETTER

Receipt of this letter is acknowledged:

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Name (please print or type)

5-60904 # 1015C  
137

cc: PUB/SEC-rf, DIR  
(1227X074.117)

PRODUCT SAFETY LETTER®  
WASHINGTON DRUG LETTER®  
REGULATORY WATCHDOG SERVICE®  
HAZARDOUS MATERIALS TRANSPORTATION®

EUROPE DRUG & DEVICE REPORT®  
DEVICES & DIAGNOSTICS LETTER®  
THE FOOD & DRUG LETTER®

MDR WATCH®  
THE GMP LETTER®  
DRUG GMP REPORT™  
DIOGENES™ DATABASE

# News from

## U.S. Consumer Product Safety Commission

Office of Information and Public Affairs

Washington, D.C. 20207

**For Immediate Release**  
**September 4, 1996**  
**Release # 96-186**

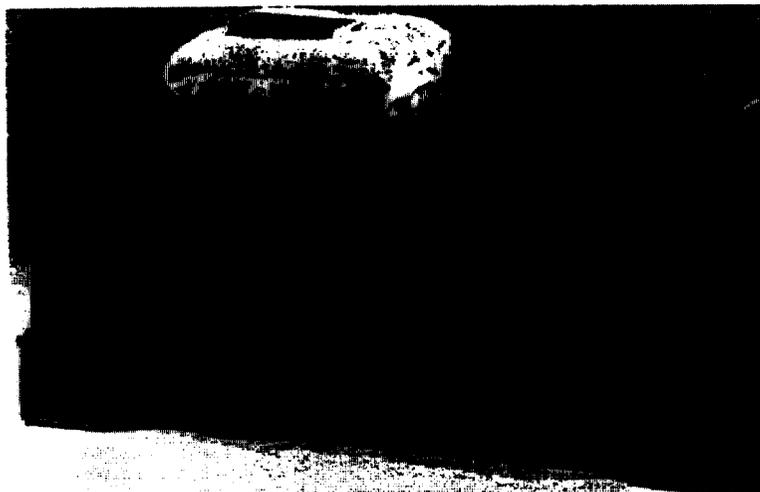
**Contact: Robin Diamond**  
**(301) 504-0580 Ext. 1219**

### **CPSC, The Lane Furniture Company Announce Recall for In-Home Replacement of Locks on Cedar Chests**

WASHINGTON, D.C. - In cooperation with the U.S. Consumer Product Safety Commission (CPSC), The Lane Company of Altavista, Va., is announcing a voluntary program to replace the locks on cedar chests manufactured prior to 1987. The Lane Company manufactured approximately 12 million cedar chests from 1912 to 1987 that latch automatically when the lid is closed. Young children playing in the chest can become trapped inside and suffocate.

Between 1977 and 1994, six children suffocated inside Lane cedar chests manufactured with an old design lock. The victims ranged in age from 21 months to ten years old.

Consumers can determine whether their chest has an old lock by closing the chest lid without depressing the locking button and then attempting to open the lid without touching the button. If the lid opens, the chest has the new lock and does not need to be replaced. If the lid does not open, it has the old lock. Additionally, old locks click loudly when the lid is shut, locking the chest automatically.



**-MORE-**

Furniture stores sold the chests nationwide in a variety of styles, sizes, and colors between 1912 and 1987. Some of the chests may have been handed down through families. By 1987, The Lane Company began manufacturing all of its cedar chests with redesigned locks, which do not need to be replaced.

Consumers who own Lane cedar chests with old locks should call The Lane Company toll-free at (888) 856-8758 for free, redesigned, easy to install safety locks. Lane will make special arrangements for consumers who need additional help installing the locks.

The U.S. Consumer Product Safety Commission protects the public from the unreasonable risk of injury or death from 15,000 types of consumer products under the agency's jurisdiction. To report a dangerous product or a product-related injury and for information on CPSC's fax-on-demand service, call CPSC's hotline at (800) 638-2772 or CPSC's teletypewriter at (800) 638-8270. To order a press release through fax-on-demand, call (301) 504-0051 from the handset of your fax machine and enter the release number. Consumers can obtain this release and recall information via Internet gopher services at [cpsc.gov](http://cpsc.gov) or report product hazards to [info@cpsc.gov](mailto:info@cpsc.gov).

####

8

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

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme  
General Counsel  
Tel: 301-504-0980 ext. 2299  
Fax: 301-504-0403

December 10, 1997

Mr. Warwick F. McKeon  
P.O. Box 866  
Margaretville, New York 12455

Re: FOIA Appeal 701083 on Sears radial arm saws

Dear Mr. McKeon:

On November 16, 1997, 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 twelve unconfirmed consumer complaints, based on FOIA Exemption 3. 5 U.S.C. § 552(b)(3).

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 complaints, 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 [the] information . . . is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the [CPSA]." The information that is being withheld pursuant to Exemption 3, relying on section 6(b)(1), consists of twelve 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).

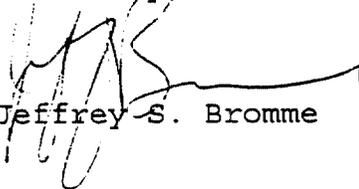
Mr. Warwick F. McKeon  
December 10, 1997

Page 2

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 twelve 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.

You have the right to seek judicial review of this decision, as provided by 5 U.S.C. § 552(a)(4)(B). If you have any questions, please call Alan Shakin, the attorney assigned to this matter, at 301-504-0980, ext. 2211.

Sincerely,



Jeffrey S. Bromme

0843  
Sears

Warwick F McKeon  
POBox 866  
Margaretville NY 12455

November 16 , 1997

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

Re :FOIA Request S701083 : Sears Radial Arm Saws 10" Models #1977 , 1992 and 198 series , Mfrd. by Emerson Electric / Incident Investigation Reports and Reported Incidents / File Search 1977 through 1995

Dear Sir ,

I refer to the above request and the Commission's letter of October 17 from the Freedom of Information Officer received by me on October 25 .

I now submit for your consideration , my appeal regarding the denial of records from the Commission files relating to the twelve product complaints and reported incidents .

Whilst I note the exemptions providing for withholding from disclosure ,I also note that that the Commission did not take any of the steps with regard to these certain consumer complaints and reported incidents

Please consider this failure in view of 16 C. F. R Part 1101. 31 and .32 , which charges the Commission to take reasonable steps to assure information it discloses etc. etc. The twelve product complaints / reported incidents , together with my own complaint #C825035 also not investigated despite a full response & detailed report from my attorney , quite obviously comprise the large majority of complaints / reported incidents relating to the above mentioned products . I also refer you to 16 C.F.R part 1101 . 34 (a) (3) --- in the event of a close question on this issue , the Commission will defer to the purposes of the FOIA .

The denial of access to these records would appear to be contrary to the Commission's stated objectives ; to reduce the risk of injuries and deaths from consumer products , by amongst other functions ;

- conducting research on potential product hazards
- informing the media , state and local government , private organizations and by responding to consumer inquires  
( from [http : www cpsc.gov/about/who](http://www.cpsc.gov/about/who) )

In considering this appeal I urge that you take into account all of the above , together with the fact that I suffered a serious injury with one of the above mentioned products and have a very strong personal interest in assessing the unreasonable lack of safety of these specific products .

I await your favorable response .

Sincerely ,

A handwritten signature in black ink, appearing to read "Warwick F McKeon". The signature is written in a cursive style with a large initial "W".

Warwick F McKeon

W.F. MCKEAN  
POB 806  
MARGARETVILLE  
N.Y. 12455

CERTIFIED

P 264 886 848

MAIL



RECEIPT  
REQUESTED

FOIA APPEAL, GENERAL COUNSEL  
OFFICE OF THE SECRETARY  
U.S. CONSUMER PRODUCT SAFETY  
COMMISSION  
WASHINGTON D.C. 20207

Chron, Officer 6b Release, Offpart withhold EX3,6b1, 25c OSFOI Firm: 0843 SEARS  
bcc: Requester // Fee(SheilaP), ADPS R ~~124-97~~ \$137.60 Spec TS

RS-98



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, D.C. 20207  
October 17, 1997

**CERTIFIED MAIL**

Mr. Warwick F. McKeon  
P.O. Box 866  
Margaretville, NY 12455

**Re: FOIA Request S701083: Sears Radial Arm Saws, 10" Models #1977, 1992 and 198 series, Mfrd. by Emerson Electric / Incident Investigation Reports and Reported Incidents / File Search 1977 through 1995**

Dear Mr. McKeon:

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

The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records include the memoranda prepared for the Commissioners regarding the Black and Decker file ND 75-46 in 1975. 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.

The enclosed records include five Epidemiologic (In-Depth) 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. Where possible, Commission staff have 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 two 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 one of the complaints and reported incidents we have removed the identities of the complainants at their request.

We also have enclosed the report of your incident made by your attorney, Mr. Marangas (C825035).

The Commission's FOIA regulations at 16 C.F.R. § 1015.9, provide for the charging of fees resulting from the processing of FOIA requests. The processing of your request involved: (1) the duplication of 200 pages X \$0.10/page = \$20.00; (2) file searching by professional personnel, 3 hours X \$19.60/hour = \$58.80; and (3) review time to determine whether records were permitted to be withheld, 3 hours X \$19.60/hour = \$58.80. Forward the total amount due, \$137.60, by check or money order made payable to the **TREASURY OF THE UNITED STATES** with the enclosed copy of this letter to: **Division of Financial Services, ADFS Room 522, U.S. CONSUMER PRODUCT SAFETY COMMISSION, Washington, D. C. 20207.**

Note that after thirty days interest will be charged on amounts billed. Furthermore, if billing is not paid in a timely manner the Commission will require advance payment for your future requests and any pending requests.

The Commission's Freedom of Information Officer, Office of the Secretary, will consider written request for a waiver of the assessed fees when the requester can show that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and disclosure of the requested information is not primarily in the commercial interest of the requester. Other factors to be considered are listed in the regulations at 16 C.F.R. § 1015.9(f)(5).

The other records from the Commission files responsive to your request relate to twelve 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

Mr. Warwick F. McKeon

Page 3

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.

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.

Sincerely,

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

Enclosures

*Rec'd  
1/21/97*

Warwick F. McKeon  
P.O. Box 866  
Margaretville NY. 12455

January 21, 1997

U.S. Consumer Product Safety  
Commission  
Washington, D.C. 20207

*c/s*

Re: FOIA Request S80242

*0843*

Radial Arm Saws

In connection with the request, originally submitted by Tomao and Marangas in January 1988, please search your files for the following;

*see changes on fee for response*

- Accident reports and Investigations from 1975 through 1995.
- Records relating to decision rendered on March 28, 1975 regarding Radial Saws
- Any reports or investigations relating to saws sold by Sears Roebuck & Co. and manufactured by Emerson Electric Co. from ~~1975~~ *1977* through 1995.
- Any product recalls or advisories relating to Radial Saws.
- Any information or investigations regarding Complaint no. C825035

*Def. 4  
14c  
EX 45*

Thank you for your cooperation in this search and I look forward to your early response

Sincerely

*Warwick F. McKeon*

Warwick F. McKeon

*consumer*

*4701083*



*Vickrey*

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

February 6, 1997

*file  
2/18*

Mr. Warwick F. McKeon  
P.O. Box 866  
Margaretville, NY 12455

Re: Sears Roebuck and Emerson Electric radial saws

Dear Mr. McKeon:

This letter concerns your January 21, 1997 request for information on Sears Roebuck and Emerson Electric radial saws for 1975 through 1995 and other information listed in your letter pertaining to radial saws.

The Consumer Product Safety Commission has increased its Freedom of Information Act (FOIA) fees as of September 4, 1987. The fees charged and any fees to be waived are now based on the type of requestor, that is, whether the requestor or need for the information is commercial, educational, scientific, for the news media, or other reasons. A list of the fees is enclosed.

The Clearinghouse estimates the fees for this request will be approximately \$100.00.

In light of the estimated charges for your request, please inform us whether you would like to have your request processed. The fees for your request could be minimized if you would limit the scope of your request, by limiting the search to (1) particular models, (2) specific hazard or scenario and/or (3) specific time periods or dates of incidents. The more specific your descriptions, the quicker the request can be processed. If the amount of the estimate exceeds what you are willing to pay, you may wish to limit the scope of your request. If so, please return the revisions with this letter.

Please contact us within fifteen days of the date of this letter, otherwise we will discontinue processing your request. Should you have any questions, contact us by letter or call (301)504-0424. A self-addressed, stamped envelope is enclosed for your convenience.

Sincerely,

*Vicky B. Leonard*

Vicky B. Leonard  
Technical Information Specialist  
National Injury Information  
Clearinghouse

Requester Signature:

*J. Mucke*

Date:

*2/12/97*

Please indicate the purpose of your organization and/or your need for the information:

*CONSUMER & COMPLAINANT C# 825035*

Willing to pay estimated fees incurred: Yes

*JM*

No

LIMIT SEARCH TO - ACCIDENT REPORTS ETC. 1977 - 1995

- 20*
- RECORDS RELATING TO MARCH 28, 1975 DECISION REGARDING RADIAL SAWS
  - REPORTS/INVESTIGATIONS RELATING TO RADIAL ARM SAWS, SEARS ROEBUCK & CO / EMERSON ELECTRIC CO., 1977 - 1995, 10" MODELS # 1977, 1992 AND 198 SERIES.
  - ANY PRODUCT RECALLS OR ADVISORIES RELATING TO RADIAL SAWS
  - INFORMATION & INVESTIGATIONS REGARDING COMPLAINT # C825035

*J. Mucke*

US CPSC National Injury Information Clearinghouse Request Record

Log Number: 702026

Login date: 97-02-03

FOI Control No.: S-

Name: McKeeon

State: NY

Product code 1: 0843

Product code 2:

Brand: Sears

How received:  Written.  P-honed.  I-n person.

External / Internal:  E.  I.

Type Request:

Tech: T-echanical.  6-B.  M-iscellaneous

Difficulty: 1. 2.  3. 4. 5.

TIS--Who assigned:

Date out: 97-02-20

- A attorney.
- C consumer.
- F foreign.
- G government.
- I insurance.
- M mfgr, company.
- ME media, advertising.
- NA association
- PH physician, hospital.
- R research, consultant, student, engineer.

~~CONFIDENTIAL~~

10-inch made U

Sears  
Emerson  
75-95  
77

77+  
77+

UNCS

	77-79		80-95	
	80	90	80	90
Deaths	—	0	—	2
Indp	15	9	12	43
Ipii	9	12	17	62
Comments	(12 uncons)			
Estimates	<i>[Handwritten scribbles]</i>			

Phoned response  
 To FOI  
 To EXPA

Form Letter No. \_\_\_\_\_  
 E-mailed  
 Faxed

\_\_\_\_\_ Mailed  
 \_\_\_\_\_ Expressed  
 \_\_\_\_\_ Picked Up

There were 4 '87 ID's but the folder is missing.

February 5, 1997

WARWICK F. MCKEON  
PO BOX 866  
MARGARETVILLE, NY 12455

RE: FOIA Request No. S-701083: Radial Arm Saws

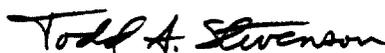
Dear Mr. McKeon:

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

*a*