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John C. Grosz, Esq.
Solinger & Gordon
250 Park Avenue
New York, N.Y. 10017

Dear Mr. Grosz:

I am in receipt of your letter dated March 15, 1974, which concerns the "Repurchase of Banned Hazardous Substances" regulations published in the Federal Register of February 4, 1974 (39 F.R. 4469). You explain that Gimbel's has four autonomous divisions each of which operates several stores in a single metropolitan area - New York, Philadelphia, Pittsburgh and Milwaukee. You further explain that you are concerned with a situation in which a banned product has been sold only by one division and request an opinion whether signs posted in accordance with section 1500.202(i) of the regulation must be posted in all of Gimbel's divisions or only in those divisions in which the product was sold.

It is the view of this office that the selling of a banned hazardous product exclusively in one division, for e.g. New York, does not require the posting of signs in other metropolitan areas where the product has never been sold. Signs should be posted in all stores of the division involved, however.

Please let me know if I can be of further assistance.

Sincerely,

Michael A. Brown
General Counsel

AHSchoem:clb:4/2/74

cc: Executive Director
BCM
OSCA
OFC (for distribution to Area Directors)
A. Schoem
GC Files
GC Chron
GC Reading

ADVISORY OPINION

SOLINGER & GORDON
250 PARK AVENUE
NEW YORK 10017

DAVID M. SOLINGER
EUGENE H. GORDON
KENNETH S. OLTARSH
JOHN C. GROSZ

MURRAY HILL 7-1140
CABLE: SOLGORLAWS

March 15, 1974

Michael Brown, Esq., General Counsel
Consumer Products Safety Commission
1753 K Street
Washington, D.C. 20207

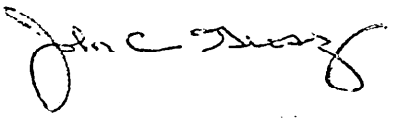
Attention: Alan Schoem, Esq.

Dear Mr. Brown:

On behalf of our client, Gimbel Brothers, Inc., we are writing to you at the suggestion of Alan Schoem of your office for clarification of the recently issued regulation implementing Section 15 of the Federal Hazardous Substances Act. This regulation, requiring the posting of signs upon receiving notification that a company has sold a banned hazardous article or substance, was published in the Federal Register of February 4, 1974.

Gimbels has four autonomous divisions, each of which operates several stores in a single metropolitan area (New York, Philadelphia, Pittsburgh and Milwaukee). We are concerned with a situation in which a banned product has been sold by the New York division and no other. In such a circumstance, no purpose would be served in posting a sign in the stores of the Philadelphia, Pittsburgh and Milwaukee divisions, whose customers have had no opportunity to purchase the products. Moreover, a sign posted, for example, in a Milwaukee store would then be inaccurate in its reference to a list of products "sold by this store".

Accordingly, we consider that in the situation described above, Gimbels would be in compliance with the Commission's regulation if it posted signs in all of the Gimbel stores in the New York division. Your Mr. Schoem, one of the drafters of the regulation, has agreed with this view in our telephone conversations with him.

We would greatly appreciate your confirming to us in writing that in the opinion of the Commission's legal staff, a hazardous product sold only in a particular metropolitan area does not require the posting of signs in other metropolitan areas where the Company's customers have had no opportunity to purchase the products. Please call me if you have any questions regarding our request. Thank you for your cooperation.

Very truly yours,