Firm: 1352 Riva Sport (water balloon sling shot), chron, Off(6ab release), Off(denial Ex. 5, 7(E), spec. 3285

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

January 13, 1997

Mr. Marcel M. Wiener
Weiner, Glass & Reed, L.L.P.
Attorneys and Counselors at Law
8300 Douglas Avenue, Suite 730
Dallas, TX 75225

RE: FOIA Request S-611146; Riva Sport Aqua Sling Water Balloon Sling Shot

Dear Mr. Weiner:

This responds to your Freedom of Information Act (FOIA request seeking information from the Consumer Product Safety Commission. The records from the Commission files responsive to your request have been processed and copies of the releasable records are enclosed.

The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are in file FW950004 and are identified as Establishment Inspection Reports, Laboratory Summaries, Hazard Assessment memoranda, 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 other portions of the law enforcement investigatory files pursuant to 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, opinion, 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 material 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 of the Commission administers.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial **OR** 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 your request. Thank you for your interest in consumer product safety. The cost to the Commission to perform the searches and prepare this information was $70.00. In this instance, we have decided to waive the charges.Should you have any questions, please contact Alberta Mills, Paralegal Specialist, by letter, facsimile (301) 504-0127 or telephone (301) 504-0785, ext. 1299

Sincerely,

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

enclosures

17 AUG 1990 SECT 0 1990 JUL 31 1990 EPDS

EPIDEMIOLOGIC INVESTIGATION REPORT

1. CASE NO.	2. INVESTIGATOR'S ID	3. OFFICE CODE
900606CCC2485 X063046	8052	830

4. DATE OF ACCIDENT (YR MO DAY)	5. DATE INVESTIGATION INITIATED (YR MO DAY)
87 03 19	90 07 16

6. SYNOPSIS OF ACCIDENT OR COMPLAINT: A 22 year old male received a permanent eye injury (right eye) when he was struck in the face by a water balloon that had been launched from a [redacted] water balloon slingshot at the university he was attending.

MFR/PRVLER NOTIFIED 4/22/91
No Comments made
Comments attached
Excisions/Revisions
Firm has not requested further notice

7. LOCATION (Home, school, etc.)	8. CITY	9. STATE
college dormitory 59	Auburn Hills	MI

10A. FIRST PRODUCT	11A. TRADE/BRAND NAME, MODEL NUMBER, MANUFACTURER & ADDRESS
Water balloon slingshot 1352	Winger made by Winger Sports Ltd., 1306 W. County Road F, Arden Hills, Minnesota 55112

10B. SECOND PRODUCT	11B. TRADE/BRAND NAME, MODEL NUMBER, MANUFACTURER & ADDRESS
~~none~~ Water Balloon 1347	n/a

12. AGE OF VICTIM	13. SEX (Use numerical code)	14. DISPOSITION	15. INJURY DIAGNOSIS
022	MALE - 1, FEMALE - 2, UNKNOWN - 3: 1	Treated & released with subsequent treatments 1	Permanent eye injury 71

16. BODY PART	17. RESPONDENT(S) (Mother, Friend)	18. TYPE INVESTIGATION	19. TIME SPENT
right eye 77	Victim's attorney & attorney's law clerk 3	ON SITE 1, TELEPHONE 2, OTHER 3: 3	10.0

20. ATTACHMENTS	21. CASE SOURCE	22. REVIEWED BY
Multiple 9	Letter from third party 13	VISITED ATTORNEY'S OFFICE Travel 2 — YR MO DAY: 8311 90 07 27

23. PERMISSION TO DISCLOSE NAMES (NON-NEISS CASES ONLY): CONTACT ATTORNEY FIRST
CPSC MAY DISCLOSE MY NAME: XX
CPSC MAY NOT DISCLOSE MY NAME:

24. NARRATIVE (See Instructions on Other Side)

25. REGIONAL OFFICE DIRECTOR REVIEW — DATE

PRE-ACCIDENT

I visited the law offices of the victim's attorney. I interviewed the attorney, and a law clerk who works for the attorney. The attorney's name & address were referenced in a letter sent to CPSC by a third party, and this is how CPSC became aware of the accident. I learned the following information from the attorney, and the law clerk.

The 22 year old male victim (almost 23 years old as the accident occurred 3 days prior to his birthday) was a student at a university. The accident occurred in a dormitory of the university where the victim was a student & resident. The victim was healthy & normal prior to the accident, and had normal eyesight prior to the accident. Also, prior to the accident the victim had no previous experience with or ever used the water balloon slingshot.

On the night of the accident students on the dormitory floor were having a party. Though the students had been drinking alcoholic beverages, the party was apparently not

(USE OTHER SIDE AND ADDITIONAL SHEETS IF NECESSARY) SEE NEXT PAGE

WR

September 13,1988

Mr. Ralph Nader
Consumer Affairs
475 L'Enfant Plaza West, SW
Washington DC. 20260-2200

Dear Mr. Nader:

Our son was injured in a water balloon sling shot accident on Lake Havasu in Arizona on September 3 1988.

He is a 10 year old who was in the wrong place at the wrong time. A water balloon struck him below the left eye, knocking him unconscious for 20-30 seconds. He suffered three fractures in the facial bones that surround the eye, known as the orbit. He also sustained multiple external lacerations and contusions.

He now has severe double vision and the visual acuity of the injured eye is severely reduced. He will probably require surgery. We are hopeful that over a long period of time he will recover but we know that he is very fortunate not to have lost his vision in his left eye.

We have heard from various physicians and emergency room personnel that these balloon sling shots are in fact very dangerous weapons. We were told of three persons that lost vision in an eye and also of a person whose jaw was fractured from this type of accident and this was through the Lake Havasu Hospital alone.

It is our understanding that these sling shots have now been outlawed in Arizona. There are many reports of broken windows and balloons actually going through the aluminum siding on house boats.

What we are asking you to do is to investigate this product, which is currently being sold through sporting good stores throughout the state. The manufacturing of this product must be stopped and its use must be outlawed. The media should broadcast warnings as to the very dangerous, and possibly lethal nature of this product.

MFR/PRVLBR NOTIFIED AM 12/30/96
_____ No Comments made
_____ Comments attached
✓ Excisions/Revisions
_____ Firm has not requested further notice

We have attached a copy of the package top of one of the water balloon sling shot products, you will notice that the company in San Diego Ca. claims to have a patent on its product.

If you need additional information or would be willing to discuss this problem further, please contact:

Glenn R. Odell
Home 714-792-2729
Office 714-824-1234
C/O Endata, 630 E Brier DR. Suite 130, San Bernardino,CA. 92408.

Sincerely

Glenn R. Odell

Glenn and Teresa Odell

Attachments:
CC : See attached list

AFL Chron

AF — for consideration when we talk c̄ Alan. [illegible] 2/10/89

PRODUCT SAFETY, IT'S NO ACCIDENT.

CPSC, 4221 Wilshire Blvd., #220, Los Angeles, Ca. 90010
213-251-7464 (fax) 213-251-7462

AUTOMATIC TELEFACSIMILE TRANSMISSION FORM

1. FROM: D. Collier (Name)	LARP (Organization Code)	City
2. TO: Lee Boxter (Name)	FOWR (Organization Code)	
3. NUMBER OF PAGES TRANSMITTED: 4 + COVER		
4. SUBJECT: Water Balloons		
5. TRANSMITTED BY: D. Collier (Name)	2/7/89 (Date)	

Important! Before transmitting any documents to automatic telefacsimile equipment, please provide the requested information in #1-4. This information is required to properly route incoming documents. Thank you.

2/13/89

Lee

There is nothing new here. While I believe something should be done to reduce risk of injury I do not believe that this "something" lies in the realm of compliance. Further, I think we are focusing on the wrong item. The sling shots do not do the damage... the balloons do. Focusing on the sling would be the same as banning hands and arms, if not people, because lawn darts are dangerous, rather, lethal.

It is my opinion as Senior Compliance Officer that we have NO case against Aqua Sling... and any burden of proof is ours.

Thank you

[illegible]

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OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Lee D. Baxter, Regional Director FOWR DATE: 2/7/89

FROM : Dorothy L. Collier, Investigator, LARP

SUBJECT: Aqua Sling Water Balloon

To date I have received the attached letters regarding accidents involving water balloons. I expect more responses. I will forward copies of responses as they are received.

Attachment
2 Letters, University of Utah & Police Depart Lake Havasu

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

4

Department of Ophthalmology
School of Medicine

January 26, 1989

Dorothy Collier
Consumer Product Safety Commission
4221 Wilshire Blvd. #220
Los Angeles, CA 90010

Dear Ms. Collier:

In reference to our telephone conversation of January 23, 1989, in which you related concerns regarding the aqua balloon water sling, I have seen two patients with water balloon induced orbital injuries. The first of these patients was the case report described in the issue of the Journal of the American Medical Association to which you referred. This 24 year old male was struck in the right eye by a water balloon while attending a Montana State University football game on October 31, 1987. This was apparently a homemade water balloon launched from a homemade sling constructed from truck innertube rubber. This devise was located on the lawn of a fraternity located approximately 1000 yards from the football stadium. It is estimated that this water balloon travelled a distance of over 1000 yards before striking this patient in the face. He suffered ocular injuries, including a traumatic hyphema, as well as angle recession. He also suffered a right sided optic neuropathy and a hole in the macula of the retina. This has limited his vision to a best corrected 20/200 subsequently. This patient also suffered an orbital blowout fracture with loss of the floor and medial wall of the orbit, which required surgical repair in November 1987. The second patient was a 16 year old male who we saw on June 8, 1988. He had been struck in the right eye by a water balloon on May 27, 1988. At that time he was apparently riding on the hood of a car travelling on the highway at approximately 60 miles per hour. He was struck in the right face by a water balloon hurled from an oncoming car travelling approximately the same speed, striking him at a combined speed of approximately 120 miles per hour. He showed some anterior chamber angle recession, but no other ocular injury was apparent. This patient also suffered an orbital blowout fracture which required surgical repair on June 9, 1988. He has subsequently made an uneventful recovery, and has no apparent continuing ocular disability.

You maybe interested that both of these cases have resulted in litigation against the injuring parties. At this time I am aware of no other serious ocular injuries which have resulted from water balloon or water balloon products. I will direct any such cases to your attention.

Sincerely,

John B. Holds, MD.

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POLICE DEPARTMENT
LAKE HAVASU CITY
296 LONDON BRIDGE ROAD
LAKE HAVASU CITY, ARIZONA 86403

January 26, 1989

Ms. Dorothy Collier
US Consumer Safety Products Division
4221 Wilshire Blvd., Suite 220
Los Angeles, California 90010

RE: WATER BALLOON SLINGS INCIDENTS

Dear Dorothy,

I have reviewed our records relating to water ballon slingshots for this past summer (1988).

The Lake Havasu City Police Department jurisdiction and patrol is a narrow one mile channel that flows under the London Bridge and connects the lake proper to the north and south.

Our City Ordinance #8.16.190 prohibits any person from throwing or causing to be thrown any object from a watercraft. We issued seven citations in the Channel for 8.16.190 violations last summer, although there were numerous violations not cited.

I am unable to determine the make of the slings. Our property custodian advises all we had were destroyed, however he recalls labels that indicated some were made in Mexico and assembled in the United States.

If I can be of further assistance, please contact me.

Captain John S. Alexander
Field Services Commander

JSA/sp

attachment

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moored, parked or standing in violation of this section is responsible for such mooring, parking or standing. (Ord. 86-181 (part), 1986: prior code § 16-3-7)

8.16.140 Overloading.

No person shall operate a watercraft that is loaded with passengers and/or cargo beyond its safe carrying capacity or in excess of the limitations set forth on the manufacturer's load capacity plate. (Ord. 86-181 (part), 1986: prior code § 16-3-8)

8.16.150 Swimming in channel.

No person shall swim within Bridgewater Channel or, in any way, interfere with the free and proper use of Bridgewater Channel by watercraft. (Ord. 86-181 (part), 1986: prior code § 16-3-9)

8.16.160 Flotation devices.

Each operator of a watercraft shall provide at least one personal flotation device for each passenger on board his watercraft. (Ord. 86-181 (part), 1986: prior code § 16-3-10)

8.16.170 Violation—Penalty.

The doing of any act prohibited by this article or the failure to perform any act required by this article is a civil violation of this code, subject to a civil sanction not to exceed five hundred dollars for each such violation. (Ord. 86-181 (part), 1986: prior code § 16-3-11)

Article III. Criminal Violations

8.16.180 Reckless operation.

Any person who operates a watercraft in reckless disregard for the safety of persons or property is guilty of reckless operation of a watercraft. (Ord. 86-181 (part), 1986: prior code § 16-4-1)

8.16.190 Throwing at, spraying or splashing watercraft.

A. No person shall throw or cause to be thrown any object or substance at any watercraft or person while such watercraft is in operation or while such person is operating or riding in such watercraft.

B. No person operating a motor-driven watercraft shall spray or splash water or cause water to be sprayed or splashed at any watercraft or person. (Ord. 86-181 (part), 1986: prior code § 16-4-2)

8.16.200 Violation—Penalty.

The doing of any act prohibited by this article is a criminal violation of this code, punishable as set forth at Section 1.08.010. (Ord. 86-181 (part), 1986: prior code § 16-4-3)

Article IV. Special Events

8.16.210 Permit required.

A. No regatta, parade or other special event will be held on the water without first securing a permit therefor from the police department and the United States Coast Guard.

B. Persons requesting and/or responsible for a regatta, parade or other special event shall satisfy all requirements stipulated by the police department and/or Coast Guard for the safety of persons or

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JIM BATES
[illegible] DISTRICT, CALIFORNIA

COMMITTEE ON ENERGY AND COMMERCE

COMMITTEE ON GOVERNMENT OPERATIONS

COMMITTEE ON HOUSE ADMINISTRATION

CHAIRMAN
SUBCOMMITTEE ON PROCUREMENT AND PRINTING

Congress of the United States
House of Representatives

PLEASE REPLY TO
224 CANNON BUILDING
WASHINGTON, D.C. 20515
(202) 225-5452

MARKETPLACE AT THE GROVE
3450 COLLEGE AVENUE #220
SAN DIEGO, CA 92115
(619) 287-8851

430 DAVIDSON STREET, SUITE A
CHULA VISTA, CA 92010
(619) 691-1166

September 19, 1989

We have not seen any injury from this device so far
[illegible]

Dr. Carl Toygstad, Director
Emergency Services
Green Hospital of Scripps Clinic
10666 North Torrey Pines Road
La Jolla, CA 92037

Dear Dr. Toygstad:

I recently met with my District Advisory Subcommittee on Consumer Affairs, Transportation Safety regarding the safety of the Water Balloon Sling Shot.

Apparently, this device has become very popular among boaters and children throughout the west and possibly the nation. I have read numerous reports regarding injuries this product may have caused.

I would appreciate it if you would provide me with the following statistical data that has been reported to your emergency room on this product:

a. Number of injuries reported at your emergency room involving "Aqua Sling".
b. Age groups of those injured
c. Cause of injury
d. Extent of injury

I would appreciate your providing me with this information so that I might properly respond to my subcommittee. If you have any questions, please do not hesitate to contact my Staff Assistant, Peggy Cooper at (619)287-8851. Please send your response to 3450 College Avenue, Suite 220, San Diego, CA 92115.

Thank you for your attention to this important issue.

Sincerely,

JIM BATES
Member of Congress

JB:plc

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Scripps Memorial Hospital

354 Santa Fe Drive
Post Office Box 817
Encinitas, California 92024-0817

(619) 753-6501

7/22/87

Dear Congressman Bates:

With regard to your attached letter regarding "Aqua Sling" injuries, our emergency department has not noted a problem. I don't believe we have seen a single injury in spite of the fact we are a beach community. That's not to say injuries are not likely to occur. Perhaps there would be noted with more frequency were boating is involved, such as mission bay. There the combined speeds of boats added to the propulsion of the sling would create a much more dangerous impact.

Sincerely,

[illegible]

[illegible]

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Medical Cente

3350 La Jolla Village Drive
San Diego CA 92161

Veterans Administration

In Reply Refer To:
Dr. Patricia Alavin
Director, Emergency Service
Sept. 25, 1989

Dear Congressman Bates,

In response to your letter of Sept. 19, 1989, regarding Aqua Slings we have had no patients reporting injuries at our emergency room as of Sept. 25, 1989.

Sincerely,
Patricia S. Alavin
Patricia Alavin
Director, Emergency Service

SHARP
MEMORIAL HOSPITAL

September 25, 1989

Mr. Jim Bates
3450 College Avenue, Suite 220
San Diego, CA. 92115

Dear Mr. Bates:

In response to your inquiry regarding injuries related to "Aqua Sling", I am fortunate to report that we have not had any reported injuries. Our Emergency Department currently sees over 3000 patients per month and has Level II Trauma Designation. Hopefully, this information will assist you in your investigation.

Sincerely,

Daniel L. Gross, R.N., M.S.
Emergency Department Manager

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VillaView
Community Hospital
P.O. Box 5587
5550 University Avenue
San Diego, California 92105-0127

(619) 582-3516

September 25, 1989

Jim Bates
Congressional Representative
Marketplace at the Grove
3450 College Avenue, #220
San Diego, CA 92115

Dear Mr. Bates,

In reply to your letter of September 19, I am not aware of any "Aqua Sling" injuries which have been seen at our Emergency Department. Should this change in the future, I will be happy to supply you with statistics.

Please contact me if I can be of further service.

Sincerely,

Bill Shapiro

Bill Shapiro, MD
Director of Emergency
Department

/wms

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Mercy
Hospital
and
Medical
Center

Department of
Emergency Care
Serving the Community since 1890
619/260-7000
4077 Fifth Avenue
San Diego, California
92103-2180

October 9, 1989

Mr. Jim Bates
3450 College Avenue
Suite 220
San Diego, CA 92115

Dear Jim:

Thank you for your letter of September 19, 1989 in connection with the safety of the "Water Balloon Sling Shot."

I have had an opportunity of reviewing this matter with the Emergency Department physician and nursing staff at this institution.

We have had an opportunity of reviewing the Emergency Department records over the past year, and although this device is popular among boaters we have not had an injury related to the device at this hospital. It is possible that a small number of patients with injuries relating to this device might be provided care at smaller medical institutions near San Diego Bay, but it is our estimate that the total number is exceedingly small.

Sincerely,

Thomas C. Kravis, M.D.
Chairman, Department of Emergency Care

DEPARTMENT OF THE NAVY
NAVAL HOSPITAL
SAN DIEGO, CALIFORNIA 92134-5000

IN REPLY REFER TO
5800
Ser 44:MTM:cad/1
01 DEC 1989

The Honorable Jim Bates
Member, United States House of
Representatives
3450 College Ave., Suite 220
San Diego, CA 92115

Dear Mr. Bates:

Thank you for your inquiry of 19 September 1989 regarding the safety of the Water Balloon Slingshot.

A review of our emergency room logs covering the period June 1989 to the present reveals no evidence of cases treated at this facility as a result of injury from the Aqua Sling.

The Emergency Medicine staff having been apprised of your interest in this matter, and alerted to the dangers of this device, will report cases as they occur.

Sincerely,

M. S. DAVIS
Captain, Medical Corps
United States Navy
Commanding Officer
Acting

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AQUA SLIN

WATER BALLOON SLING SHOTS

September 16, 1988

Mr. Ralph Nader:

In response to the letter you received from Glenn & Teresa Odell (copy enclosed), we think you should be informed o the following.

The water balloon sling shot has been in existance for many years. In fact, many of you probably had home-made models when you were younger. But, like most fun things, it can easily be mis-used by the irresponsible few among us.

We can understand and sympathize with the Odell's anger and frustration, but on balance our game is no more dangerous than a golf club, tennis racket, or water ski when properly used.

It is only when these products are irresponsibly used do problems arise. We are just as concerned about this growing problem of general irresponsibility in our society as you are.

Our game is made of the finest materials and construction, and is very easy to use and master. We include a large red target in our package, as well as complete instructions and extensive cautions (copy enclosed).

We also distribute and demand use of special, thin-wall balloons which are designed to disintegrate on impact. These balloons will dissipate the energy on contact, and help to minimize problems if our game is mis-used.

We are also highly selective of those who retail our game, in an attempt to keep it from those who might wish to deliberately mis-use it.

Unlike many others, our corporate philosophy is based on integrity, ethics, and high moral values. We are not pirates but farmers, and if we thought for one minute that our game was unreasonably dangerous, we would certainly discontinue its distribution.

We do, however, strongly object to the implications and allegations that our product was at fault in this case, and to the obvious un-truths that the game is out-lawed in Arizona or that the balloon will penetrate the wall of a houseboat.

We are also not told whether the Odell child was injured during family involvement in water balloon 'combat', during retaliation for something the Odell's initiated, or whether the un-supervised child wandered into other's field of play.

We wish that the Odells would display some of the responsibility they claim is so lacking in others, and properly channel their apparent vindictiveness and arbitrary aggression. Those directly responsible should properly be held to account.

We do, however, sincerely sympathize and wish their child well.

We welcome your evaluation of our very popular game, and solicit your input. We ask only that you view it rationally and objectively.

Thank you for your consideration.

Sincerely,

Robert L. Jacobs
President

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6054 CAMINITO DE LA TAZA, SAN DIEGO, CA 92120 / (619) 287-3511

UNITED STATES
MEMORANDUM
Government

CONSUMER PRODUCT SAFETY
COMMISSION
Western Region

November 14, 1994

TO: FOWR File

FROM: Lee D. Baxter, Regional Director-FOWR

SUBJECT: Telephone conversation - Robert Jacobs, Riva Sports, San Diego, CA

I telephoned Riva Sports at (619) 287-3511 on November 10, 1994. The person answering the phone gave the name "Riva Sports." I identified myself as Lee Baxter, Regional Director for the U.S. Consumer Product Safety Commission and asked to speak to the owner or person in charge. The individual answering the phone stated that he was the owner and sole proprietor. He stated that his name was Bob and that he was a one person operation. Later in the conversation I asked for his last name and he stated that he was Robert Jacobs.

I told Mr. Jacobs that we had received report of a very serious facial and eye injury to a nine year old girl in Illinois involving his Aqua Sling Product. I identified the model as the AS-200. Mr. Jacobs seemed to indicate that this was the model he produced. He stated that he had produced this product for about 6 to 7 years. During that time he said there had been 7 or 8 instances where people claimed to have been injured by his products. He said that most queries were from attorney's who quickly found out that he did not have any money or any insurance and therefore dropped the entire matter. He said that most of the reports involved children using the Aqua Sling to fire rocks, golf balls, or potatoes. He stated that he clearly labeled the product as an adult target game that required the use of the special balloons and to shoot at the target not at people or other things.

He recalled that 3 or 4 years ago he had received a letter from CPSC about an incident involving the Aqua Sling product but that matter had been closed out because of the labeling making it an adult game. He recalled that his brother, a labor attorney in Washington, D.C. knew Ann Brown the Chairman of CPSC and that a few years ago she felt this product was a great delight and enjoyed playing with it at a party at his brother's house. Mr. Jacobs said that he found this amusing since she was such a proponent for safe toys.

Mr. Jacobs stated that his product was made in Mexico and he had these made as orders where received. He stated that this was more a hobby than a bussiness and he probably did not produce or sell more than 1 per week. He said the product was really more trouble than it was worth and that he often thought about just abandoning the product. I asked Mr. Jacobs where his product could be purchased. He stated that he sold them primarily at toy stores or sporting

good outlets. I stated that I was in San Francisco and he recalled that a kite store at Pier 39 used to carry his product and had ordered some last summer. He said that there was also a tourist shop near Fisherman's Wharf across from the Wax Museum that carried his product. He also stated that the Palo Alto Sports Shop carried his product. He said that some 200 small stores around the country ordered his product as individual accounts.

Mr. Jacob stated that he was not the only producer of "water balloon sling shots". He stated that there was a product called blaster that was produced by somebody named Eric Magnuson in the Tampa, Florida area. He said that this was a very inexpensively made product with shoddy materials and probably could hurt somebody. He said that Magnuson sold his products primarily through swap meets in Florida.

I began to press Mr. Jacobs for more details about the injury incidents that had come to his attention. He began to become more and more agitated and stated that those queries had almost always come from attorneys looking for money. He stated that he thought I probably was one of those attorney's and he had no way of knowing who I was. He said that if I was the government I should "earn my money" and find and test the product for myself. He then abruptly hung up.

From Robert Jacobs of Aqua-Eng —

DOES THE END JUSTIFY THE MEANS ... CHARACTER, PRINCIPAL, ETHICS SADLY LACKING

Ann Brown, another media gadfly and publicity leach in the mold of Jane Fonda and Gloria Allred apparently thinks so.

Her 'press conference' Monday, November 12, 1990 under the flag of Americans for Democratic Action (whatever that is) exhibited the height of irresponsibility and self-rightiousness ... Macarthyism and witch-hunting at its best.

The well-orchestrated hype was very obviously designed to be purely self-serving and strictly for media mileage.

She relyed purely on sensationalism, provocation, and 'hot buttons' to make news, rather than just report it. The lies, distortion, and innuendo were designed only for sensational impact and media mileage.

She blatantly portrayed allegations as fact, not letting the truth or facts get in the way of a good story.

She relyed on emotionalism, distortion, and exageration of facts for impact.

The media never once questioned her authority, credentials, or motivations. The manufacturers of the 'dirty dozen' toys and games were never consulted or warned, leading one to think there was a higher objective than merely getting dangerous toys out of the market place.

The reporters we consulted, reflecting on Bush's dirtiest of all presedential campaigns, questioned whether this event had been used merely to distract the public from the unpopular congressional pay raise, or Bush's ineptitude in Panama and El Salvador, all of which occured just days before this 'press conference'.*

Brown and the media minions both chose to totally ignor the basic requirement of parental responsibility and child supervision, as well as the prevalent and deliberate mis-use of products due to the adsence of leadership and effective discipline in our culture.

The problem is irresponsibility and deliberate product mis-use, not un-safe toys.

If these 'American for Democratic Action' were truly well-intentioned and motivated, we would have been shown more substance and reality rather than the traditional political expediency of smoke, mirrors, and flag waving.

* American For Democratic Action is headed by a member of the U.S. Congress ....

IRRESPONSIBILITY IS DESTROYIN ERICA

America is rapidly becoming a country where ethics, integrity, and productivity are fast being replaced by expediency, immorality, corruption, and irresponsibility.

... Where the government appears out of control, relying on crisis management and political expediency to get itself to the next election,

... Where an increasingly adversarial media, the most influential facet of our culture, relies on sensationalism and provocation to make the news rather than just report it, portraying unproven allegations as fact and not wishing to let the facts get in the way of a good story, or higher ratings,

... Where the growing horde of avaricious and opportunistic lawyers, bankers, and insurance companies dominate our business activities, create paranoia, smother enterprise, and mortally restrict growth,

... Where parents force the school system to raise their children for them, and then unconscionably criticize the teachers when the children fail in life,

... Where manufacturers must produce only products which are totally risk-free, lacking in any potential for mis-use, no matter how outrageous.

Our leaders, from president to parents, have abandoned responsibility, creating a permissive society of pirates, when we need to be farmers.

Irresponsible America is destroying itself from the inside. Freedom requires responsibility and discipline, or chaos and decline inevitably result.

THINGS DO NOT CAUSE PROBLEMS ... IRRESPONSIBLE BEHAVIOR DOES

Life was not designed to be totally risk-free. Accidents will happen and must be accommodated, for our society to grow and function effectively. Those, however, who deliberately ignor responsible behavior must not be accommodated, and should be effectively disciplined.

Manufacturers do have a responsibility to make their products as safe as possible, but consumers have an equal responsibility to properly use these products, and not deliberately mis-use them.

It is virtually suicidal to produce intrinsically cheap or un-safe products today, but what are manufacturers to do when practically anything that can be deliberately mis-used ... is!

It is blatantly unfair, and an insult to our American heritage, to hold manufacturers strictly accountable for the deliberate irresponsibility and mis-use of their products, especially when they try so hard to perfect them, and make them safe.

The AQUA SLING WATER BALLOON SLING SHOT GAME could easily become another FRISBEE because of its novelty, ease of use, and very high 'fun factor'. But major retailers are paranoid, and not just with this product, due to prevalent irresponsibility and compulsion for mis-use in our society. This has virtually condemned the AQUA SLING GAME to history, as it has with so many other intrinsically fun and well-designed products which have been so deliberately mis-used in the past.

Small business has been the backbone of this country's economic success, but it is being destroyed by an unscrupulous media, unconscionable attorneys, and pervasive intimidating government scrutiny, which is usually indifferent and hostile as well as often poorly based and mis-directed.

We little guys only ask for a 'flat floor'. It is a travesty to arbitrarily punish conscientious producers, while ignoring abd absolving blatant irresponsibles and mis-users.

Let's not shoot ourselves in our commercial foot, while trying to kill flys with a shotgun.

1988

INJURIES & FATALITIES IN AMERICA

Bicycles:	525,000	injured
Tennis:	21,000	injured
Golf:	19,000	injured
Jet Skiis:	80,000	injured
B-B Guns:	19,000	injured

- THESE WERE ALL SERIOUS ENOUGH TO REQUIRE EMERGENCY HOSPITAL CARE
- These are government statistics (typically under-stated)
- No national record is kept of fatalities from these activities

Baseball: 300,000 injured ... 50+ KILLED (5-14 year olds)

Cigarettes: KILL 1000+ PER DAY
(Congress just recently required caution labels)

Autos: 1,800,000 injured ... 49,000 KILLED
(Seat belts have only recently been mandated)

WHY ARE THEY JUST NOW PICKING ON THE SLING SHOT GAME ...

- It's been around since 'David & Goliath'
- Most adults made & used them when they were kids
- Will never injure as many as the above activities
- Will never be widely distributed or used
- All of the few known injuries involving the AQUA SLING game have been caused by mis-use and abuse, not by faulty product design nor product material failure
- The AQUA SLING Game has one of the very highest 'fun factors' of any game in the market place

U. S. CONSUMER PRODUCT SAFETY COMMISSION
WESTERN REGIONAL OFFICE
600 HARRISON STREET, ROOM 245, SAN FRANCISCO, CA 94107-1370
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December 1, 1994

<Certified Mail>

Mr. Robert Jacobs, President
Riva Sport, Inc.
P.O. Box 600604
San Diego, CA 92160

RE: FW95-0004
Aqua Sling Water Balloon Sling Shot

Dear Mr. Jacobs:

The Western Regional Office of the U. S. Consumer Product Safety Commission is continuing its investigation of injuries related to your product, the Aqua Sling Water Balloon Sling Shot, (Aqua Sling).

Enclosed for your information are the Consumer Product Safety Act and the Commission's regulation entitled, "Substantial Product Hazard Reports," 16 Code of Federal Regulations (C.F.R.) Part 1115. These documents explain the Commission's authority and policy with regard to products which may present substantial product hazards and also explain a firm's rights and obligations under the Act to furnish information to the U.S. Consumer Product Safety Commission.

The Division of Corrective Actions has the responsibility to determine preliminarily whether a defect is present in a product and, if so, whether that defect rises to the level of a substantial product hazard as defined by section 15(a) of the Consumer Product Safety Act, (CPSA), 15 U.S.C. § 2064(a).

After careful consideration and in accordance with 16 C.F.R. 1115.12(a), the Compliance staff has made a preliminary determination regarding the Aqua Sling. the staff has determined that the Aqua Sling presents an unreasonable risk of injury users due to the inability for users to adequately assess the level of hazard involved in using the product contrary to instructions and warnings. Users do not perceive a water-filled balloon as a potentially hazardous projectile and will follow behavior patterns which lead them to fire the balloons at human targets. The design of the product allows for the balloons to be fired at a high rate of velocity(in excess of 200 feet/second at a range exceeding 100 yards). If

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