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

OFFICE OF COMPLIANCE
Division of
Division of
Corrective Actions

Jean Kennedy
Compliance Officer
Tel: 301-504-0608 Ext. 1360
Fax: 301-504-0359

DATE: 5-2-95 NO. PAGES 2

TO: Brock Landry

OFFICE:

FAX #: 202 639-6066

MESSAGE:

Addendum to April 28 letter.

46

LAW OFFICES

JENNER & BLOCK

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

601 THIRTEENTH STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20005

(202) 639-6000
(202) 639-6066 FAX

DIRECT DIAL NUMBER:

202-639-6070

BROCK R. LANDRY

CHICAGO OFFICE
ONE IBM PLAZA
CHICAGO, IL 60611
(312) 222-9350
(312) 527-0484 FAX

MIAMI OFFICE
ONE BISCAYNE TOWER
MIAMI, FL 33131
(305) 530-3838
(305) 530-0008 FAX

LAKE FOREST OFFICE
ONE WESTMINSTER PLACE
LAKE FOREST, IL 60045
(708) 295-9200
(708) 295-7810 FAX

May 2, 1995

Mr. Marc J. Schoem
Director
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Riva Sports, Inc.

Dear Mr. Schoem:

This is in response to your certified letter of April 21 regarding Riva Sports which I received yesterday and the faxed warning which alo arrived today. Although the Company does not agree with a number of the characterizations in your letter, as I noted in my earlier letter to Ms. Kennedy, Riva would be happy to discuss suggested improvements to the warnings that it now employs on its Aqua Sling.

I also noted that there are additional reports involving the Aqua Sling. I would appreciate receiving copies of the pertinent documents on the new incidents.

I will give Ms. Kennedy a call within the next few days to set up a meeting.

Very truly yours,

Brock R. Landry

Brock R. Landry

cc: Ms. Jean Kennedy

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

OFFICE OF COMPLIANCE
AND ENFORCEMENT
Division of
Corrective Actions

Jean Kennedy
Compliance Officer
Tel: 301-504-0608 Ext. 1360
Fax: 301-504-0359

May 1, 1995

Mr. Brock R. Landry, Esq.
Jenner & Block
601 Thirteenth Street, N.W. Suite 1200
Washington, D.C. 20005

Dear Mr. Landry:

This letter is to convey our technical staff's suggested label to be placed on the Riva Aqua Slings. It appears that our letter was sent without the label enclosed. We would like to set up a meeting to discuss the best label location to assure that young consumers will see it and the same with package warnings. Contact me at 301-504-0608, extension 1360 this week with a date(s) that we could agree to.

Sincerely,

Jean Kennedy
Compliance Officer

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LABEL FOR BALLOON SLING SHOTS
May 1, 1995
CPSC/Division of Corrective Actions

⚠ WARNING

Facial fractures and severe eye damage

Water balloons are shot at high speeds up to ~~65~~ 75 mph.

Never shoot at people.

1

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MIAMI, FL 33131
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(305) 530-0008 FAX

LAKE FOREST OFFICE
ONE WESTMINSTER PLACE
LAKE FOREST, IL 60045
(708) 295-9200
(708) 295-7810 FAX

July 6, 1995

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Riva Sport, Inc.

Dear Jean:

This will confirm our conversation of last week regarding the proposed warnings for Riva Sports Aqua Sling products.

Riva has indicated to the Commission that it will make the following changes in the warnings placed on the pouch in an effort to further stress the directions and cautions that are currently on its products:

1. Positioning. Riva will sew down the warning on both ends so that it is flat to the contour of the pouch. Although Riva believes that the movement of the label if sewn down on one side can draw more attention to the warnings, we recognize that opinions can vary on this point and will accede to your recommendation.

We also discussed the Commission's position that the warning label should be in a horizontal position rather than vertical. We feel strongly that a vertical label is more easily read by the user and propose to continue this positioning. Because there is no top or bottom of the product, a horizontal positioning would result in the warnings being upside down half of the time.

2. Size of Label. Riva has agreed to expand the size of the label by increasing its width by approximately 50% and extending the length down close to the edge of the pouch.

50

3. Color. Riva has been advised that the fluorescent yellow currently being used is a preferable color to the orange suggested by the Commission staff. We agreed that the yellow color provided striking contrast with the background and was conspicuous and eye-catching.

4. Warning Language. The company has agreed to put the signal word "**WARNING**" with an exclamation point in triangle at the top of the label. We also agreed to include the three messages suggested by the Commission in our May 17 meeting, namely: reference to the potential for facial fractures and severe eye injury if misused, reference to the speed of the balloons (up to 75 mph), and continuation of our existing warning regarding never shooting at people.

Although I understand the Commission's concern regarding "cluttering," we also feel strongly that additional wording over and above that recommended by the Commission is advisable. We will continue to warn against use of the product by children. We also intend to strengthen the direction that the product be used by three people.

5. Type Face. We discussed that the type size on the label would be as large as possible within the confines of the label and the required verbiage. You again expressed the strong preference of the Commission that Initial caps be used rather than all caps as currently employed. Riva's position is that all caps provide larger type and therefore more prominence. We agreed to explore the possibility of using initial caps with the rest of the lettering being approximately 3/4 size of the capital letters.

I also indicated to you that modifications would be made to the warnings on the panel included with the product's packaging.

Riva is currently looking into the changes that are required with its suppliers and in its operations to accommodate these agreements and will inform you promptly of its anticipated timing for implementation.

Very truly yours,

Brock

Brock R. Landry

cc: Robert Jacobs
Jerry Jacobs

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CHICAGO, IL 60611
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MIAMI, FL 33131
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July 6, 1995

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Riva Sport, Inc.

Dear Jean:

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Riva has indicated to the Commission that it will make the following changes in the warnings placed on the pouch in an effort to further stress the directions and cautions that are currently on its products:

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I also indicated to you that modifications would be made to the warnings on the panel included with the product's packaging.

Riva is currently looking into the changes that are required with its suppliers and in its operations to accommodate these agreements and will inform you promptly of its anticipated timing for implementation.

Very truly yours,

Brock

Brock R. Landry

cc: Robert Jacobs
Jerry Jacobs

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202-639-6070

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ONE IBM PLAZA
CHICAGO, IL 60611
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(312) 527-0484 FAX

MIAMI OFFICE
ONE BISCAYNE TOWER
MIAMI, FL 33131
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(305) 530-0008 FAX

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LAKE FOREST, IL 60045
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July 6, 1995

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

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Very truly yours,

Brock

Brock R. Landry

cc: Robert Jacobs
Jerry Jacobs

SS

LAW OFFICES

JENNER & BLOCK

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

601 THIRTEENTH STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20005

(202) 639-6000
(202) 639-6066 FAX

DIRECT DIAL NUMBER:
202-639-6070

BROCK R. LANDRY

CHICAGO OFFICE
ONE IBM PLAZA
CHICAGO, IL 60611
(312) 222-9350
(312) 527-0484 FAX

MIAMI OFFICE
ONE BISCAYNE TOWER
MIAMI, FL 33131
(305) 530-3535
(305) 530-0006 FAX

LAKE FOREST OFFICE
ONE WESTMINSTER PLACE
LAKE FOREST, IL 60045
(708) 295-8200
(708) 295-7810 FAX

July 10, 1995

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Riva Sport, Inc.

Dear Jean:

This is a follow-up to my letter of July 6 regarding Riva Sports. Mr. Jacobs has agreed to the Commission's recommendation to use initial capitals with 3/4 size for the other letters in the label words. The signal word WARNING will be in all caps. He informs me that the package inserts and labels will be ordered today or tomorrow and that they should be available for inclusion with the product within two to three weeks.

I am pleased that this matter could be amicably resolved.

Very truly yours,

Brock R. Landry

cc: Robert Jacobs

2

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WASHINGTON, D.C. 20005

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(708) 295-9200
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BROCK R. LANDRY

July 10, 1995

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

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Brock R. Landry

cc: Robert Jacobs

57

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

OFFICE OF COMPLIANCE
AND ENFORCEMENT
Division of
Corrective Actions

Jean Kennedy
Compliance Officer
Tel: 301-504-0608 Ext. 1360
Fax: 301-504-0359

July 10, 1995

Mr. Brock Landry, Esq.
Jenner & Block
601 Thirteenth Street, NW
Washington, DC 20005

RE: Riva Sport, Inc.

Dear Mr. Landry:

In response to your July 6, 1995 letter, the staff requests the following regarding the agreed-to improved warnings about potential serious eye injuries on Riva Aqua Slings, as discussed with the Commission staff:

. Please provide the warning text as it will appear on the product and on the panel in the packaging. Fax this text (as it will appear on both) to Jean Kennedy, Division of Corrective Actions, 301-504-0359 on Tuesday, July 11, 1995.

. Also provide a sample of the product and the panel with the new warnings, as soon as they are completed.

This confirms my telephone call on July 10, 1995 requesting the above. The firm's prompt action to include revised labels on its water balloon slings as quickly as possible in the next two weeks of July for the benefit of this summer's users is appreciated.

Sincerely,

Jean Kennedy
Division of Corrective Actions

58

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

OFFICE OF COMPLIANCE
Division of
Corrective Actions

Jean Kennedy
Compliance Officer
Tel: 301-504-0608 Ext. 1360
Fax: 301-504-0359

DATE: 7-10-95 NO. PAGES 1

TO: Brock Landry

OFFICE: Jenner & Block

FAX #: 202-639-6066

MESSAGE: This confirms your letter and my phone message today.

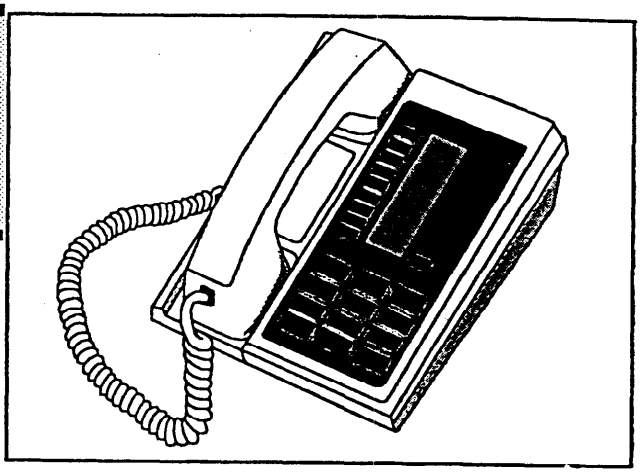
59

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	2647
CONNECTION TEL	92026396066
CONNECTION ID	
START TIME	07/10 17:05
USAGE TIME	00'55
PAGES	2
RESULT	OK

MEMORANDUM OF TELEPHONE CALL



JEAN · KENNEDY

DATE: 7-10-95 TIME: 4:30

NAME: Brock Landy
FIRM:
TELEPHONE: left voice message
SUBJECT: Label

DISCUSSION:

Please fax text to me today or tomorrow.
We do not have a final text wording.
We agreed on substance, letters size, etc.

NEXT ACTIONS: Confirming letter - faxed today.

(3)

LAW OFFICES

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A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

601 THIRTEENTH STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20005

(202) 639-6000
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DIRECT DIAL NUMBER:
202-639-6070

BROCK R. LANDRY

CHICAGO OFFICE
ONE IBM PLAZA
CHICAGO, IL 60611
(312) 222-9350
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LAKE FOREST OFFICE
ONE WESTMINSTER PLACE
LAKE FOREST, IL 60045
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July 11, 1995

BY FAX

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Riva Sport, Inc.

Dear Jean:

Enclosed is a communication from Riva Sports including the copy for the revised warnings that they intend to use. The actual size of the label is 3-1/2" x 1-3/8" -- the size on the sheet was reduced in transmission.

In light of your fax of yesterday, the company has put a hold on the order until we hear back from you.

Very truly yours,

Brock

Brock R. Landry

cc: Robert Jacobs

Riva SPORT INC.

'THE FUN COMPANY'™

July 11, 1995

Brock R. Landry
Jenner & Block
601 Thirteenth Street NW
Washington, D.C. 20005

Labels depicted as actual size. Letter size will be enlarged to fit available space. With your approval, labels can be made in 2 weeks, insert card in 1 week. Installation will be immediate.

WARNING LABEL ON PRODUCT

WARNING: FOLLOW DIRECTIONS
- NEVER SHOOT AT PEOPLE -
Facial Fractures & Severe Eye Damage Can Result - Flying Water Balloons Can Approach 75 MPH
An Adult Game - Not For Children
Must Be Used By 3 Persons Only

INSERT CARD IN PACKAGE

TEL: 619-287-3511 FAX: 619-287-3533
6054 CAMINITO DE LA TAZA, SAN DIEGO, CALIFORNIA USA 92120

SENT BY:JENNER & BLOCK ; 7-11-95 ; 16:17 ; 2026396066→ 301 504 0359;# 3

TO : PHONE : 12026396066 .11.1995 12:21PM P 1

FROM : Riva Sport Inc. San Die; CA USA PHONE ... : 619 287 3533

Riva SPORT INC.

'THE FUN COMPANY'™

July 11, 1995

Brock R. Landry
Jenner & Block
601 Thirteenth Street NW
Washington, D.C. 20005

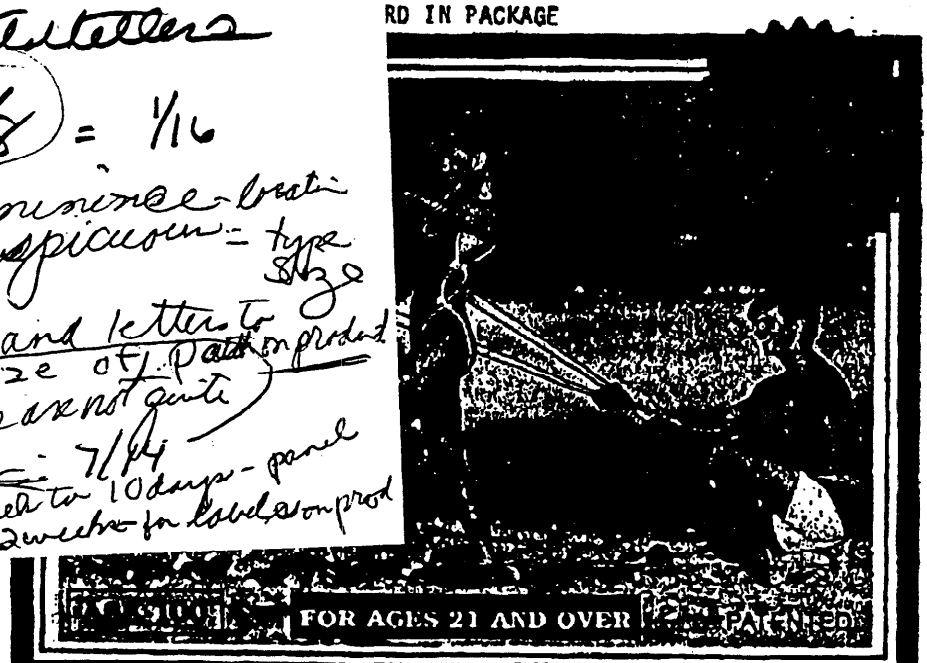
Labels depicted as actual size. Letter size will be enlarged to fit available space. With your approval, labels can be made in 2 weeks, insert card in 1 week. Installation will be immediate.

WARNING LABEL ON PRODUCT

⚠ WARNING: FOLLOW DIRECTIONS
- NEVER SHOOT AT PEOPLE -
Facial Fractures & Severe Eye Damage Can Result - Flying Water Balloons Can Approach 75 MPH
An Adult Game - Not For Children
Must Be Used By 3 Persons Only

RD IN PACKAGE

Capital letters
1/8 = 1/16
① prominence - location
② conspicuous - type size
Will expand letters to size of path on product
yours are not quite
Telecon: 7/14
③ 1 week to 10 days - panel
2 weeks for labels on prod



RECREATION MODEL 100 YD RANGE

- WARNING -

FOLLOW DIRECTIONS: NEVER SHOOT AT PEOPLE - Severe Eye Damage & Facial Fractures Can Result - Flying Water Balloons Can Approach 75 MPH. Not For Use By Children This Is An Adult Game For Use By 3 Persons Only.- Not To Be Used By One Person.
- Use Only Aqua Sling Supplied Water Balloons & Target -

TEL: 619-287-3511 FAX: 619-287-3533
6054 CAMINITO DE LA TAZA, SAN DIEGO, CALIFORNIA USA 92120

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MIAMI, FL 33131
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July 11, 1995

BY FAX

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Riva Sport, Inc.

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Very truly yours,

Brock

Brock R. Landry

cc: Robert Jacobs

65

9

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August 23, 1995

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Riva Sport, Inc.

Dear Jean:

This is in response to your recent communication regarding the implementation of the agreement regarding Riva Sports. Enclosed with the hard copy of this letter is the revised panel that is now being used with the Aqua-Sling packaging. I am also advised by Mr. Jacobs that the labels for the pouch have been ordered and will be sewn into the products within the next ten days.

Please also be advised that we are no longer representing Riva.

Very truly yours,

Brock

Brock R. Landry

cc: Robert Jacobs

8

LAW OFFICES

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A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

601 THIRTEENTH STREET, N. W.
TWELFTH FLOOR
WASHINGTON, D. C. 20005

(202) 639-6000
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DIRECT DIAL NUMBER:

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ONE IBM PLAZA
CHICAGO, IL 60611
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MIAMI, FL 33131
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(708) 295-8200
(708) 295-7810 FAX

August 21, 1995

BY FAX

Mr. Robert Jacobs
President
Riva Sports
6054 Caminito de la Taza
San Diego, California 92120

Re: CPSC

Dear Bob:

Further to your fax of yesterday afternoon, the final approval from CPSC came on July 14 at which time we promised to process orders for the product labels as quickly as possible. (See my letter of July 14 to Jean Kennedy on which you were copied.)

The Commission staff is extremely unhappy that our agreement has not been implemented in the time frame promised. I understand that you will be forwarding the product as relabeled as soon as it is available.

Very truly yours,

Brock

Brock R. Landry

cc: Jerry Jacobs

67

7

Riva SPORT INC.

'THE FUN COMPANY'™

August 18, 1995

Brock R. Landry
Jenner & Block
601 Thirteenth Street NW
Washington, D.C. 20005

Dear Brock:

I haven't sent samples of the up-graded warnings, as I was of the impression (apparently mistaken) that I was to wait for final approval of the copy from CPSC before printing the actual labels.

We went ahead and printed / installed the insert card in the packaging, as we were out of these cards and had to print them anyway. They have been used in all packaging shipped since July 15, 1995.

The tag labels to be sewn on the back of the balloon pouch have been ordered, and we expect to begin sewing them onto the pouches beginning in 10 days.

All products have balloon choke warnings on front of package and inside of package since required by law earlier this year.

As our Summer selling season virtually ends July 5 of each year, we have shipped very little product since then, and present-day orders are just one or two very small orders per day.

We will try to limit shipping any orders until we can install the new sew-on labels next week.

We are grateful for your assistance in this matter, and we look forward to putting it to rest soon.

I am Fed Exing a sample of the product with the up-graded insert card and balloon choke warnings, as well as extra new insert cards.

Sincerely,

Robert L. Jacobs
President

TEL: 619-287-3511 FAX: 619-287-3533
6054 CAMINITO DE LA TAZA, SAN DIEGO, CALIFORNIA USA 92120

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601 THIRTEENTH STREET, N. W.
TWELFTH FLOOR
WASHINGTON, D. C. 20005

(202) 639-6000
(202) 639-6066 FAX

DIRECT DIAL NUMBER:

BROCK R. LANDRY

202-639-6070

CHICAGO OFFICE
ONE IBM PLAZA
CHICAGO, IL 60611
(312) 222-9350
(312) 527-0484 FAX

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ONE BISCAYNE TOWER
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(305) 530-5836
(305) 530-8009 FAX

LAKE FOREST OFFICE
ONE WESTMINSTER PLACE
LAKE FOREST, IL 60045
(708) 295-8200
(708) 295-7810 FAX

August 17, 1995

BY FAX

Mr. Robert Jacobs
President
Riva Sports
6054 Caminito de la Taza
San Diego, California 92120

Re: CPSC

Dear Bob:

Jean Kennedy from the CPSC left a voice mail for me this afternoon asking where we stood on the label and panel changes that were agreed upon. Please send me ASAP the actual product, as modified, so that I can forward it to her.

Very truly yours,

Brock

Brock R. Landry

cc: Jerry Jacobs