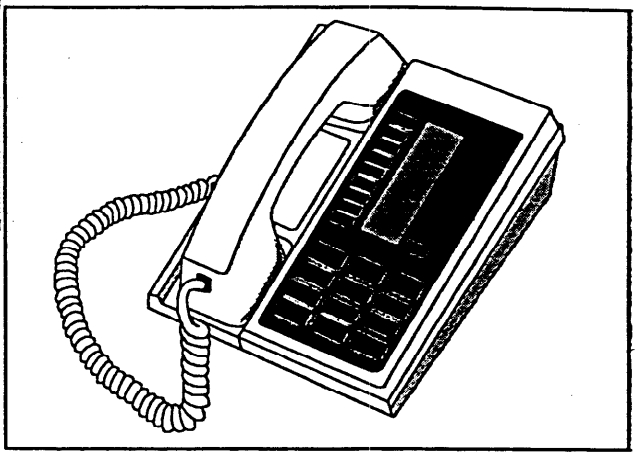
MEMORANDUM OF TELEPHONE CALL



DATE: 8-17-95
TIME:

NAME AND TITLE: Brock Landry
FIRM: Riva Sport
TELEPHONE:
SUBJECT: Fed Ex Labels ??
COMPLIANCE CONTACT: JEAN KENNEDY

DISCUSSION: Were to have been sent 2-3 wks ago. left messag:

Brock ret mess: Has faxed request again to Jacobs to send samples ASAP

NEXT ACTION: will send to as as soon as he receives

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) 295-8200
(708) 295-7810 FAX

July 14, 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 this morning regarding the type size on the Aqua Sling label. As noted in the Riva Sports sheet of July 11 which included the actual warning language, "Letter size will be enlarged to fit available space."

With this clarification, I understand that the changes proposed by Riva to its product and package warnings are acceptable to the Commission staff. We will proceed to order the new materials and include them with products as quickly as possible.

Very truly yours,

Brock

Brock R. Landry

cc: Robert Jacobs

171

4

LAW OFFICES

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

TELECOMMUNICATIONS TRANSMITTAL

DATE: July 14, 1995 TIME:

TO: Mr. Robert Jacobs

ADDRESS: Riva Sport, Inc.

FAX/VOICE: (619) 287-3533 (Fax); (619) 287-3003 (Tel.)

FROM: Brock R. Landry

CLIENT: Riva Sport, Inc.

CLIENT NO: 34683-10005 ATT.NO: 124152 SECY.EXT.: 6071

IMPORTANT: This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the United States Postal Service. Thank you.

MESSAGE:

CPSC has okayed proposal. Okay to order. I am assured that pressure is also being put on your competitors.

TOTAL NUMBER OF PAGES INCLUDING THIS COVER SHEET: 2

DATE SENT: July 14, 1995 TIME SENT:

TELECOMMUNICATOR: Ms. Sandy T. Streek

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL:
(202) 639-6071

5

LAW OFFICES

JENNER & BLOCK

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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SUITE 1200
WASHINGTON, D.C. 20005

(202) 639-6000
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202-639-6070

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

July 14, 1995

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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

LAW OFFICES

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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

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

-CONDITIONS OF SALE & USE-

-SAFE & PROPER USE OF *AQUA SLING* IS YOUR RESPONSIBILITY

RIVA SPORT INC IS NOT LIABLE FOR PRODUCT MISUSE, OR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES; RIVA SPORT INC disclaims any warranty, expressed or implied, including any warranty of merchantability or fitness for a particular purpose. Any controversy or claim arising out of or relating to this sale shall be settled by arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Judgment will be final & binding and may be entered in any court having jurisdiction thereof. Jurisdiction for the arbitration shall be exclusively in California, regardless of where the claim may arise. No claim shall be actionable unless commenced within one year from purchase. Purchaser/User agrees to accept all terms, conditions, and instructions prior to use, or accept full responsibility for any/all use of this product. Product may be returned to retailer or RIVA SPORT Inc prior to use for full refund.

WARNING! WARNING! WARNING! WARNING!

FOLLOW INSTRUCTIONS-SERIOUS INJURY OR PROPERTY DAMAGE CAN RESULT FROM IMPROPER USE. *AQUA SLING* IS NOT FOR USE BY ANYONE UNDER AGE OF 21 WITHOUT ADULT SUPERVISION.

ONE PERSON OPERATION: WARNING: DO NOT ATTEMPT - SERIOUS INJURY MAY RESULT. *AQUA SLING* IS NOT DESIGNED FOR USE BY ONLY ONE PERSON.

THREE PERSON OPERATION: Recommended as Safest and Most Effective Technique. Two (2) holders stand two feet apart facing target, each firmly grasping one sponge grip and tubing connector with their inside hand, stretching toward target at shoulder level until arm is fully extended. Opposite hand can be used to steady wrist. Launcher will stand between and behind the holders, firmly grasping the pouch handle with one hand while supporting the balloon in the pouch with the other hand. The launcher will pull back, aim, and launch balloon at *Aqua Sling* target.

1. ***AQUA SLING* is an adult game made for the sole purpose of launching special *AQUA SLING* balloons at *AQUA SLING* targets supplied with the game.**
2. **Never use *AQUA SLING* if there are signs of wear - Check before each use.**
3. **Holders should not insert hands between tubing and sponge grip. (grasp sponge grip and tubing together in one hand)**
4. **Never stretch tubing more than six (6) feet when launching balloons.**
5. **Fill balloons to size of tennis ball for best results. (over-filled balloons can explode when launched)**
6. **Holders & launcher must be sure that tubing on each side is parallel and separated, not twisted and touching - SEE PHOTO ON REVERSE**

RIVA SPORT, P.O. BOX 600404, SAN DIEGO, CA 92160

Copyright 1993

176

Riva SPORT INC.

'THE FUN COMPANY'™

— FAXED —
November 2, 1995
(NO REPLY)

Jean Kennedy
Compliance Officer
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

Below please find revised artwork for new warning labels.

As I mentioned on the telephone last week, even though we had a previous agreement with the Commission for label size and copy content, we are willing to supercede this agreement and bear the rather considerable cost to re-do the labels.

While we and our advisors, however, still feel that the previously agreed upon labels would be more effective, we will go along with the Commission's wishes to show good faith.

Please note that we have maximized the size of the label itself, as well as that of the letters contained thereon.

We look for your comments before we print this label.

Sincerely,

Robert L. Jacobs
President

Label Size:

4 inches long
1 3/8 inches wide

Both ends sewn down

SEW

SEW

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

77

Riva SPORT INC.

'THE FUN COMPANY'™

November 2, 1995

Jean Kennedy
Compliance Officer
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

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We look for your comments before we print this label.

Sincerely,

Robert L. Jacobs
President

Label Size:

4 inches long
1 3/8 inches wide

Both ends sewn down

SEW

SEW

TEL: 619-287-3511 FAX: 619-287-3533
6064 CAMINITO DE LA TAZA, SAN DIEGO, CALIFORNIA USA 92120

78

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: 10-23-95 NO. PAGES 1

TO: Robert Jacobs

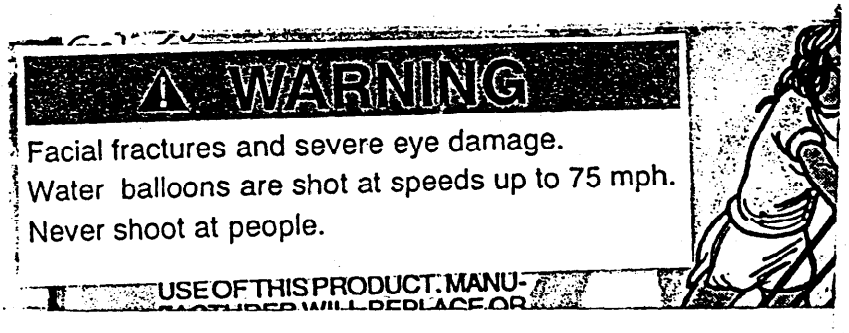
OFFICE: Rick Sport

FAX #: 619-287-3533

MESSAGE:

We can go with yellow on your black background instead of orange.

This size letter-type is better if you can do that also.



79

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.

Riva SPORT INC.

'THE FUN COMPANY'™

October 4, 1995

Jean Kennedy
Compliance Officer
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

Thank you for taking time with me on the telephone yesterday.

We regret, and apologize for the delay in implementation of up-graded warning labels on our Aqua Sling water balloon sling shot game.

Riva Sport is a sheltered workshop employing the handicapped. I am the only formal employee of Riva Sport, but I have 300 handicapped workers under contract.

We apparently misunderstood the communications between ourselves, the Jenner & Block law firm, and your Commission, and thus caused some unnecessary delay in the process. We did, however, do our best under the circumstances.

I have enclosed communications depicting the sequence of events in this matter. It is our understanding from these letters that our company and the Commission concluded an agreement concerning the up-graded labels, and with which we have complied to the best of our ability.

Based on this agreement, and assurances by Jenner & Block, we have spent over $8,000 printing and installing new labels and package insert cards, as well as additional warnings inside the balloon bag in the package.

We agree on the potential benefit to all from these up-grades, but we have already spent over $20,000 on this matter. As our company mission is to employ and train the handicapped, and not to get rich (we have not had a net profit in over 7 years, nor have I drawn a salary in this time), you can see what a burden this has been, considering that we had very explicit, legible, and redundant warnings to start with.

We received your FAX depicting a copy of our competitor's warning label. Compared to the labels and warnings we have installed, according to our prior agreement with the Commission, we are concerned that this competitor's label will be ineffective. Bad grammer aside, its text is confusing and inconclusive, and its colors are not current safety industry standard for eye-catching and impact.

In addition, the questions of availability to viewer, durability, and redundancy of exposure all arise. Our product and its packaging, however, is literally covered with cautions, warnings, and directions, and it has been since day one.

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

80

We are grateful to the Commission for its input and assistance in improving our product, and helping to minimize potential problems.

We do, however, feel that we had an agreement with the Commission, which we fulfilled to the best of our ability, and at great expense.

We have no reservations about further improving our product labeling, as long as it is an actual improvement. We do think some consideration should be given to us for the substantial sums we have readily spent in compliance with our agreement, and for our obvious good faith and efforts toward safety, both recently and in our past product history.

At your convenience, please let us know the thoughts of the Commission. We are more than agreeable to any effective labeling improvements.

Thank you again for your help.

Sincerely,

Robert L. Jacobs
President

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

6054 Caminito de la Taza
San Diego, CA 92120

DATE: 10-3-95 NO. PAGES _____

TO: Robert Jacobs

OFFICE: Pria Sport

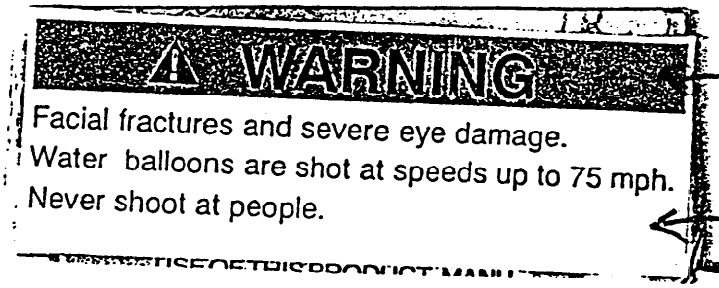
FAX #: 619-287-3533 f 619-287-3511 t

MESSAGE: 1. Use Text below on pouch. Sew down label.
2. Use same Text on packages - same size.

Please send a confirming memo of labeling:
what, where, when, how - within the next two days.

Actual size.

all black letters and WARNING SIGNAL ⚠



orange band

white background

82

Riva SPORT INC.

'THE FUN COMPANY'™

September 14, 1995

Ms. Jean Kennedy
Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20812

Dear Ms. Kennedy:

Enclosed please find product samples of our water balloon sling shot game incorporating your suggested improvements in warning labels.

Even though it might sound ingenuous, we are grateful for your help in improving our product. You will find new warnings on the lower-front on the insert card, on the back of the insert card, in the 'balloon bag' inside the package, and on the label securely sewn to the black pouch of the product itself.

Please do not hesitate to call if you have any further suggestions.

I apologize for the delay in making these improvements, but in addition to all of us here being physically impaired, both our printer and our label-maker were asked to re-do their originally-submitted work as we felt it was not of high quality. Cumulatively these added up to unforseen and regretable delays, but we delayed shipments until we were satisfied with the final, improved product which you will find in this package.

We have not received any more notices of injury or dissatisfaction with this product since Brock Landry brough you current with those we had received in the past. We will continue to inform your commission of any complaints or inquiries we receive in the future.

Thank you again for your help.

Sincerely,

Robert L. Jacobs
President

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

83

10

Riva SPORT INC.

'THE FUN COMPANY'™

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Division of Corrective Actions
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20812

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Sincerely,

Robert L. Jacobs
President

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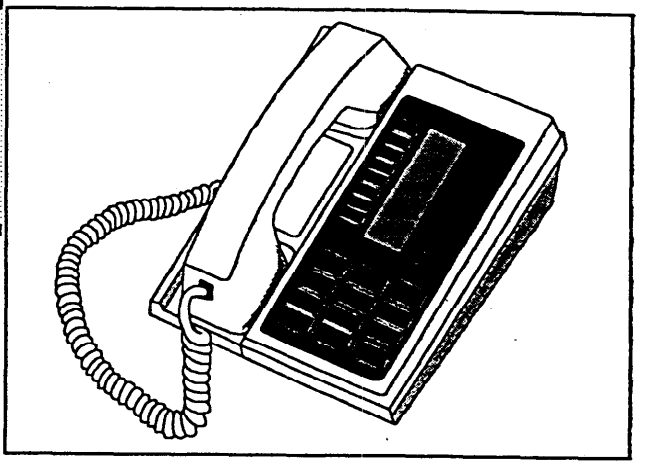
6054 CAMINITO DE LA TAZA, SAN DIEGO, CALIFORNIA USA 92120

84

MEMORANDUM OF TELEPHONE CALL



JEAN KENNEDY

DATE: 9-26-95 left mes TIME: _____
10-3-95 returned call

NAME: Robert Jacobs
FIRM: Rita
TELEPHONE: 619-287-3511 619-287-3533
SUBJECT: label on pouch -

DISCUSSION: This label is the only info to help stop serious injuries.

(1) ~~can~~ will be enlarged to fit space from strap to seam.

(2) Sewn down

(3) Order of words. Reason for our order. Didn't pass the laugh test!

① What can happen to you ② cause ③ What to do to prevent.

2 things in capital letters first is all they read. Half

YOU WANT THEM TO READ THE INFO THAT WILL CHANGE BEHAVIOR

NEXT ACTIONS: Please change to our order

Other firms are cooperating: & we ask you to do same

You have most of the (24) = 15 inj

85

Author: Catherine E. Downs at ..SC-HQ2
Date: 8/23/95 3:54 PM
Priority: Normal
Receipt Requested
TO: Jean Kennedy
TO: Marc J. Schoem
Subject: Reva Sports

619-287-3511

---------- Message Contents ----------

The president of Reva Sports called on 8/23 to say that he was cooperating but that he had a problem with the sew on labels that came from the printer and had to send them back. He should have the replacement labels by early next week. They are NOT shipping any product and will not ship until the new labeling is completed. He didn't want to go thru his attorney because he doesn't trust attorneys. He will send the labels to you as soon as he gets them.

FOR OFFICIAL USE ONLY

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

November 21, 1995

Mr. Robert L. Jacobs
President
Riva Sport Inc.
6054 Caminito De La Taza
San Diego, CA 92120

Re: Riva Sports Aqua Sling

Dear Mr. Jacobs:

This responds to your November 2, 1995 letter regarding the label your firm intends to attach to each Riva Aqua Sling water balloon slingshot.

As we discussed by telephone, you accepted the CPSC staff's recommended text to revise your label. The label that you faxed to me on November 2, 1995 is as we agreed to in regards to the warning sign, the letter size and the text. Also we agreed that the label would be 4" by 1 3/8" and sewn down on both ends so as to be clearly visible to users at all times.

The Commission staff appreciates your cooperation in addressing the issue of serious injuries occurring with water balloon slingshots. The staff has accepted your firm's voluntary corrective action plan as adequate. As a corrective action, the labeling on the slingshot pouches and on the product packaging is intended to prevent further eye, face or other serious injuries in the future. Should future evidence show that these actions are inadequate, the Commission will revisit this issue with your firm.

The firm has a continuing obligation to inform the Commission of any and all defects associated with this product which could create a substantial product hazard and of information which reasonably supports the conclusion that the product creates an unreasonable risk of serious injury or death. If the firm receives any information that affects the scope, prevalence, or seriousness of the defect or hazard we are addressing, you must immediately report that information to the Division of Corrective Actions pursuant to section 15(b) of the CPSA.

The Commission publishes a list of product recalls and other corrective actions initiated by firms in an Annual Report to

87

Congress. This information is also occasionally used in lists for specific product categories. A summary of the firm's corrective action is enclosed. Because the corrective action is being taken voluntarily and in the absence of a preliminary staff determination that this product presents a substantial hazard, the firm's agreement to include its corrective action in Commission publications is purely voluntary on the firm's part. Unless the firm notifies the staff by telephone or letter within thirty (30) days of the date of this letter, the staff will assume the information in the enclosed summary is accurate and the firm does not object to its publication.

Thank you for your cooperation in this matter. We hope that future dealings between the company and the Division of Corrective Actions, should they become necessary, will be conducted in the same spirit.

Sincerely,

Jean Kennedy
Compliance Officer
Division of Corrective Actions

Enclosure:
Annual Report Summary

88

Voluntary Corrective Action Plans Under Section 15 of the Consumer Product Safety Act and Section 15 of the Federal Hazardous Substances Act

DATE	FIRM AND PRODUCT	ALLEGED HAZARD	REMEDY
11/95	RIVA SPORTS SANDIEGO, CA 92160 Riva Aqua Sling water balloon sling shots	EYE AND FACIAL INJURIES	Firm has attached warning labels on all packages and on the sling pouches warning of "severe eye damage and facial fractures, as balloons reach speeds of 75mph."

Riva SPORT INC.

'THE FUN COMPANY'™

January 8, 1996

Jean Kennedy
Compliance Officer
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

Enclosed please find the newly labeled pouch for our water balloon sling shot game.

We hope this new label will help our customers to more responsibly have fun with this game.

Please call if there are any questions.

We will keep you up to date on any complaints if we receive any.

Thank you for your help in this matter.

Regards,

Robert L. Jacobs
President

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

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: 11-29-95 NO. PAGES 3

TO: Robert Jacobs

OFFICE: Riva Sports

FAX #: 619-287-3533

MESSAGE: Our case load - and our furlough - have delayed this response!

Please send 2 samples of the Aqua Sling Pouch with your revised WARNING LABEL. Call me at the above tel no with an approximate date for submitting those samples.

Thank you,
Jean Kennedy

12-1-95 RJacobs called: will send labels [illegible]

91

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

November 21, 1995

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Riva Sport Inc.
6054 Caminito De La Taza
San Diego, CA 92120

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Jean Kennedy
Compliance Officer
Division of Corrective Actions

Enclosure:
Annual Report Summary