



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Nancy A. Nord
 Commissioner Thomas H. Moore

ITEM:

Interim Delegation of Authority in the Absence of a Quorum
(Briefing Package dated January 30, 2008, OS No. 4153)

DECISION:

The Commission voted unanimously (2-0) to approve the Interim Delegation of Authority as drafted. The six month statutory quorum pursuant to section 4(d) of the Consumer Product Safety Act ("CPSA") expired on January 14, 2007. On August 3, 2007, Public Law 110-53 titled "Implementing Recommendations of the 9/11 Commission Act of 2007" was enacted which contained section 2204 authorizing a quorum extension for the Commission "for the six month period beginning on the date of enactment of the Act." Under this provision, the Commission does not have a quorum to transact business after February 2, 2008. The Interim Delegation of Authority delegates specified powers and functions, beginning on February 3, 2008, to particular staff. The delegation would automatically expire upon the Commission having a quorum.

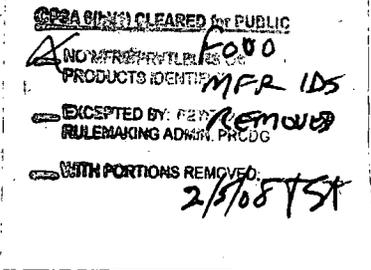
For the Commission:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson".

Todd A. Stevenson
Secretary

* Ballot vote due February 1, 2008

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INTERIM DELEGATION OF AUTHORITY

1. PURPOSE.

The purpose of this order is to delegate various powers and functions of the Consumer Product Safety Commission (“Commission”) during the interim period commencing on February 3, 2008 should the Commission be without a quorum beginning on that date.

2. AUTHORITY.

- a. Under the Consumer Product Safety Act (“CPSA”), “two members of [the Commission] shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two.” 15 U.S.C. § 2053(d). Commission Chairman Hal Stratton resigned effective close of business on July 14, 2006, creating a vacancy commencing on July 15, 2006. The six month statutory quorum expired on January 14, 2007. On August 3, 2007, Public Law 110-53 was enacted¹ which contained § 2204 authorizing a quorum extension for the Commission “for the six month period beginning on the date of enactment of the Act.” This provision will expire on February 2, 2008, thus, commencing on February 3, 2008 the Commission will be without a quorum until such time as a third Commissioner is appointed or new legislation is enacted to provide the Commission with a quorum.

¹ Public Law 110-53 is titled “Implementing Recommendations of the 9/11 Commission Act of 2007.”

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- b. Under 15 U.S.C. § 2076(b)(9), the Commission is empowered “to delegate any of its functions or powers, other than the power to issue subpoenas under paragraph (3) [15 U.S.C. § 2076(b)(3)] to any officer or employee of the Commission.”

3. EFFECTIVE DATE/DURATION.

This order becomes effective February 3, 2008, and expires immediately upon the Commission having a quorum to transact business under 15 U.S.C. § 2053(d) or as otherwise authorized by statute.

4. NOTIFICATION.

Unless a shorter period is agreed to by each Commissioner, both Commissioners shall be notified at least five business days before any action to be taken under this order. The notification shall be in writing and shall describe the action proposed and the approximate date it will be taken.

5. CONTINUING DELEGATIONS.

This order does not diminish or supersede any delegation previously made by the Commission.

6. DELEGATION OF AUTHORITY.

Pursuant to 15 U.S.C. § 2076(b)(9), and subject to paragraph 4 of this order and the specific limitations set forth below, the Commission hereby makes the following delegations:

- a. The General Counsel is delegated authority to: 1) issue Federal Register notices constituting advance notice of proposed rulemaking, notice of proposed rulemaking, and/or final rules or other implementing Federal Register notices,

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provided that any such notice shall be in strict accordance with a vote of the Commission to approve the content of such Federal Register notice having occurred prior to the loss of quorum; 2) to issue Federal Register notices of meetings to be held by Commission staff and other routine Federal Register notices; 3) to issue the Federal Register notice for systematic review of Commission regulations; 4) to issue Federal Register notices of requests for collection of information pursuant to the Paperwork Reduction Act; 4) to find, pursuant to section 6(b)(1) of the CPSA and 16 C.F.R. § 1101.23(b), that the public health and safety requires less than thirty (30) days notice of proposed disclosure of information and to prepare and issue a Federal Register notice so specifying unless there is objection to any such finding by either Commissioner within five business days after receiving notice pursuant to paragraph 4 of this order; 5) to prepare and issue the Commission's semi-annual regulatory agenda and regulatory plan; 6) to rule upon any motions to limit or quash any subpoenas filed by any person or firm pursuant to 16 CFR § 1118.9(b),(c) and (d); 7) to refer civil penalty actions and actions to enforce subpoenas to the Department of Justice, unless either Commissioner objects to such referral within five business days after notice pursuant to paragraph 4 of this order.

- b. The Assistant Executive Director for Compliance and Field Operations ("AEDEXC") is delegated authority to act for the Commission under 16 C.F.R. § 1118.20 with respect to staff allegations that [REDACTED] and affiliated entities violated 15 U.S.C. § 1263 and are therefore subject to penalties under 15 U.S.C. §

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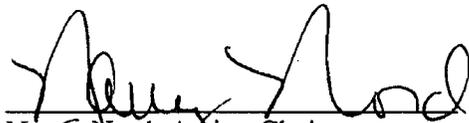
1264. Before exercising the authority set forth in 16 C.F.R. § 1118.20 the AEDEXC shall obtain the concurrence of the General Counsel.

- c. The Assistant Executive Director for Compliance and Field Operations (“AEDEXC”) is delegated authority to act for the Commission under 16 C.F.R. § 1118.20 with respect to staff allegations that [REDACTED] and affiliated entities failed to comply with the reporting requirements of 15 U.S.C. § 2064(b), and thereby violated 15 U.S.C. § 2068(a)(4). Before exercising the authority set forth in 16 C.F.R. § 1118.20 the AEDEXC shall obtain the concurrence of the General Counsel.
- d. The Assistant Executive Director for Compliance and Field Operations (“AEDEXC”) is delegated authority to act for the Commission under 16 C.F.R. § 1118.20 with respect to staff allegations that any person or firm violated 15 U.S.C. § 2068 or 15 U.S.C. § 1263, where the total amount of the settlement reached involves no more than \$100,000. The authority set forth in 16 C.F.R. § 1118.20 with respect to such settlements shall be exercised unless either Commissioner objects within five business days after notice pursuant to paragraph 4 of this order. Before exercising the authority the AEDEXC shall obtain the concurrence of the General Counsel.

7. DELEGATION OF AUTHORITY.

These powers and functions may be redelegated.

So ordered this 1st day of February, 2008.



Nancy Nord, Acting Chairman



Thomas Moore, Commissioner