



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

Record of Commission Action
Commissioners Voting by Ballot

1111 18th Street, N.W.
Washington, D.C.

Voting: Chairman King
Commissioner Franklin
Commissioner Pittle
Commissioner Sloan
Commissioner Zagoria

ITEM

Administrative Claim of Oneita Knitting Mills for Damage Arising from
the TRIS Ban Filed under Section 4(h) of the CPSA

(Briefing material transmitted by the Office of the Secretary on
January 4, 1979)

DECISION

Based upon the information presented in the above-referenced material,
the Commission denied the claim on the grounds that (a) the Commission's
action on TRIS was "agency action" and therefore section 4(h) does not
allow the claim and (b) the claimant has failed to establish gross
negligence. The Commission approved the attached denial letter to the
claimant.

VOTE

Concurring: Chairman King (1/15/79)

Susan B. King

Commissioner Franklin (1/10/79)

Barbara H. Franklin

Commissioner Pittle (1/12/79)

R. David Pittle

Commissioner Sloan (1/12/79)

Edith B. Keadale Sloan

Commissioner Zagoria (1/12/79)

Sam Zagoria

Submitted by the Office of the Secretary



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

January 16, 1979

(CERTIFIED MAIL--RETURN RECEIPT
REQUESTED)

Mr. Anthony Q. Devereux, Esq.
P.O. Drawer 24
Andrews, South Carolina 29510

Dear Mr. Devereux:

This is to notify you of the Commission's decision on your administrative claim filed under Section 4(h) of the Consumer Product Safety Act, 15 U.S.C. 2053(h), for damages arising from the Commission's April 8, 1977, interpretation that certain TRIS treated children's clothing was banned by the Federal Hazardous Substances Act (42 FR 18850).

The Commission denied your claim under Section 4(h) of the CPSA on the grounds that the Commission's ban constituted agency action and therefore the claim is not allowed by Section 4(h), and because there has been no showing of gross negligence on the part of the Commission in issuing this interpretation. Enclosed, for your information, is a copy of the staff's briefing package to the Commission on your claim. A portion of the briefing package has been deleted under Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5), as an intra-agency memorandum containing legal advice to the Commission.

If you are dissatisfied with this denial of your claim, you may file suit in an appropriate United States District Court not later than six (6) months after the date of this notice of denial.

Sincerely,

ORIGINAL SIGNED BY
SADYE DUNN

Sadye E. Dunn
Secretary

Enclosure