



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: Commissioner Franklin
Commissioner Pittle
Commissioner Sloan
Commissioner Zagoria

ITEM

Freedom of Information Request on Appeal for Merit Promotion Files
Compiled in Conjunction with Vacancy Announcements: (1) DPM-0282-74,
(2) DPM-0556-77, (3) DPM-0559-77, and (4) DPM-0624-77

(Briefing material transmitted by the Office of the
Secretary on December 14, 1978).

DECISION

Based upon the information presented in the above-referenced material,
the Commission granted the request for files DPM-0556-77 and DPM-0559-77,
but denied access to the names of applicants in files DPM-0282-74 and
DPM-0624-77 unless the applicants agree to release. Attached is the
appeal letter of decision approved by the Commission.

VOTE

Voting on Appeal for Merit Promotion Files to partially grant and
partially deny request and on decision letter:

Concurring: Commissioner Franklin (12-26-78 and 1-4-79) *Barbara H. Franklin*
Commissioner Pittle (12-20-78 and 12-28-78) *R. David Pittle*
Commissioner Sloan (12-21-78 and 1-4-79) *Edith B. Sloan*
Commissioner Zagoria (12-21-78 and 12-28-78) *Sam Zagoria*

Note: Chairman King did not participate in this decision.

Submitted by the Office of the Secretary.



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

January 9, 1979

Mr. Bernard Scharf
17912 Archwood Way
Olney, Maryland 20832

Dear Mr. Scharf:

This is to officially notify you of the Commission's decision on your Freedom of Information Act appeal for the names of applicants and their respective point scores in Merit Promotion Files DPM-0282-74, DPM-0556-77, DPM-0559-77, and DPM-0624-77.

With the Chair not participating, the Commission voted 4-0 to grant your appeal for release of the names in Merit Promotion Files DPM-0556-77 and DPM-0559-77. The Commission agreed to the release of the applicants' names in these files because your stated need for the information was determined to outweigh the invasion of privacy that would result from release of the applicants' names, particularly in view of the lack of any point scores in these files.

You will find enclosed a copy of DPM-0556-77 and DPM-0559-77 pursuant to the Commission's vote.

With respect to Files DPM-0624-77 and DPM-0282-74, the Commission determined that the information already released to you in these files, i.e., the point scores awarded without identifying the applicants and their respective scores, appears to be sufficient for your stated need for the data, and, thus, there was not a sufficient showing of need under exemption (b)(6) of the Freedom of Information Act (5 U.S.C. 552(b)(6)) to overcome the invasion of privacy that would result from release. This is particularly so in File DPM-0624-77 because there is no record of your having applied for this position. The Commission would therefore deny your appeal for release of the names associated with point scores in these files unless the applicants agree to the release. The Commission has directed the Division of Personnel to ascertain from each applicant

in these two files whether he/she is opposed to release of his/her name and respective point scores on privacy grounds. The Division of Personnel will make available to you the names of applicants who do not object to release of their names provided that such disclosure can be made without compromising the privacy claim of any other applicant who does object to release.

To the extent that names are withheld in Files DPM-0624-77 and DPM-0282-74, you may, pursuant to the provisions of Section 552(a)(6)(A) of the Freedom of Information Act (5 U.S.C. et seq.), seek judicial review of this final agency determination in the U. S. District Court for the District of Columbia or in a district court for the district in which you reside.

Even though I did not participate in the vote on this appeal, as Chairman, I am communicating the Commission's decision pursuant to 16 CFR 1015.7(d) of the Commission's Freedom of Information Act regulations.

Sincerely,

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Susan B. King
Chairman

Enclosures

RCB'mpg

cc: Chair
Sadye Dunn
Bob Bledsoe *[Signature]*
OS READING
OS FOI
OGC--Ed Cull