

Secretary

117

24 MAY 1974

MER/PRV/LBR NOTIFIED 10/30/02
COMMENTS: YES NO
OVERRULED: ATTACHED
EXCISIONS/FOIA Ex
Revisions
DO NOT RE-NOTIFY RE-NOTIFY

Donald F. Foley, Esq.
Yaeger, Foley, Hafsten & McLin
620 Union Federal Building
45 North Pennsylvania Street
Indianapolis, Indiana 46204

Dear Mr. Foley:

This is in response to your March 27, 1974, notification under section 24 of the Consumer Product Safety Act (15 U.S.C. 2073) of your intention to file suit against the manufacturers, distributors, and retailers of "Industrial Drain Openers" to enjoin them from manufacturing, distributing, and selling such product.

It is the opinion of this office that section 24 of the Act does not require Commission notification in this instance because such notifications are required only when an interested person is bringing an action to enforce a "consumer product safety rule." A "consumer product safety rule" is defined in section 3(a)(2) of the Act (15 U.S.C. 2052(a)(2)) as a "consumer product safety standard described in section 7(a) [15 U.S.C. 2056(a)], or a rule under this Act declaring a consumer product a banned hazardous product [as this term is used in section 8 of the Act (15 U.S.C. 2057)]. Since the violations alleged in your notification arise under the Federal Hazardous Substances Act and the Poison Prevention Packaging Act of 1970, a "consumer product safety rule" is not involved.

For your information the Commission has not instituted a civil or criminal action involving the violations alleged in your letter.

Sincerely,

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COM

Michael A. Brown
General Counsel

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ADVISORY OPINION

DSLemberg:mli:5/24/74

cc: Executive Director
Secretary

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LAW OFFICES
YAEGER, FOLEY, HAFSTEN & MCLIN

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WILLIAM C. MCLIN
GEORGE L. DIVEN
OF COUNSEL

March 27, 1974

TELEPHONE
317-639-5633

Certified Mail
Return Receipt Requested

Consumer Products Safety Commissioner
Director of Bureau of Compliance
Washington, D. C. 20207

Gentlemen:

This letter is to serve as notice under Title 15 U.S.C. Section 2073 of violation of the Consumer Product Safety Act P.L. 92-573, the Poison Prevention Poisoning Act U.S.C. 1471-75, the Federal Hazardous Substances Labeling Act, 15 U.S.C. 1261 F.

On or about May 25, 1973 my client, William C. Hatcher was seriously burned by an explosion or splash back of the contents of a container of "Industrial Drain Opener" manufactured or distributed by Holloway House Industrial Products Company Division of Chemical Corporation of America, manufactured or distributed by Venus Laboratories, Inc. and sold to the consuming public by Seven-Eleven Supermarkets, Inc.

The contents of said container were and are in violation of said statutory provisions because said liquid drain opener contained more than 10% by weight of sodium hydroxide (sulphuric acid); said drain opener does not have a restricted flow in that more than 2 millimeter of the contents will flow from the container by opening same and shaking or squeezing it. (Violation of 15 U.S.C. 1263) which prohibits the introduction and interstate commerce of a banned hazardous substance.

Suit will be filed within thirty days in the United States District Court, Southern District of Indiana, Indianapolis Division requesting that the above manufacturers, distributors and

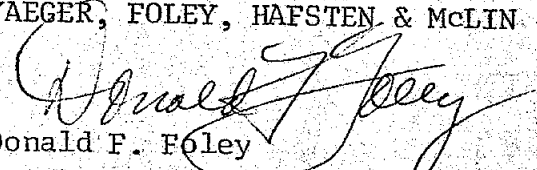
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and retailers of the said "Industrial Drain Openers" be enjoined from manufacture, distribution and sale of said product.

Sincerely yours,

YAEGER, FOLEY, HAFSTEN & McLIN


Donald F. Foley

DFP/ms

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