

# ATTACHMENT A

**Attachment A**

Attachment A contains citations to confidential documents and is being filed separately,  
*in camera.*

# ATTACHMENT B

**ATTACHMENT B  
DOCUMENT PRODUCTION LOG**

<b>Bates Ranges</b>	<b>File Origination and Description</b>	<b>Responsive Document Requests</b>
ZUC000001-ZUC000945, ZUC00948-953, ZUC000961-963, ZUC001000-001010, ZUC001317-001318, ZUC1509-1514, ZUC001515-001527, ZUC001509-1537, ZUC005396-5499, ZUC0010462-10525, ZUC11021-11038, ZUC11266-11299, ZUC011557-11559	Incident data and investigative reports relating to Subject Products compiled from various internal CPSC servers	Nos. 1, 2, 14, 17, 34, 40, 54
ZUC000946-947, ZUC001319-1331, ZUC006283-6292, ZUC006295-6297, ZUC009926-10091, ZUC010093-10097, ZUCZUC010130-10437	Emails and other electronic documents gathered from custodial files of Office of Communications Staff, including Scott Wolfson, Kim Dulic, and Stacy Palosky regarding press releases and other communications relating to Subject Products	Nos. 1, 4, 6, 7, 8, 9, 14, 15, 17, 21, 28, 31, 32, 33, 63, 64, 66, 67
ZUC00954-ZUC960, ZUC000994-999, ZUC001011-1093, ZUC001538, ZUC003055-3079, ZUC010582-10623, ZUC010635-10636	Electronic documents relating to Subject Products compiled from various internal CPSC servers	Nos. 1, 2, 12, 13, 21, 28, 34, 61
ZUC001094-1131, ZUC001249-1316, ZUC001423-1436, ZUC001886-2009, ZUC0010624-10634	Electronic documents relating to voluntary standards compiled from various internal CPSC servers	No. 62
ZUC001332-1422, ZUC001539-1885	Electronic documents relating to guidelines for toy testing compiled from various internal CPSC servers	Nos. 2, 20, 35
ZUC001437-1508	Electronic documents relating to retailer stop sale requests compiled from various internal CPSC servers	Nos. 14, 31
ZUC002010-2908, ZUC005500-6128	Emails and other electronic documents gathered from custodial files of Carolyn Manley, Lead Compliance Officer, Compliance Division of Regulatory Enforcement	Nos. 1, 2, 4, 7, 8, 9, 14, 20, 21, 24, 28, 35, 40, 60, 61,

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ZUC002909-3054, ZUC006129-6137, ZUC6142-6174	Emails and other electronic documents gathered from the custodial files of Howard Tarnoff, Senior Counsel to the Director, Office of Compliance and Field Operations	Nos. 1, 2, 4, 7, 8, 9, 14, 20, 21, 24, 28, 35, 40, 60, 61,
ZUC003080-4050	CPSC File No. CA120094, including, but not limited to, Maxfield and Overton Holdings, LLC Full Report, Product Safety Assessments, and Preliminary Staff Determination of Hazard.	Nos. 1, 2, 4, 7, 8, 10, 12, 13, 14, 20, 23, 24, 25, 28, 29, 30, 35, 40, 58, 60, 61, 62
ZUC004051-4798	2010-2011 Compliance Division of Regulatory Enforcement files relating to Maxfield and Oberton, including, but not limited to, correspondence, Notice of Non-Compliance, and Response to Notice.	Nos. 1, 2, 4, 7, 8, 14, 20, 21, 24, 25, 28, 29, 30, 35, 40, 58, 60, 61, 62
ZUC004099-4843	CPSC File No. CA120119 regarding requests to Amazon.com relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC004844-4859	CPSC File No. CA120128 regarding requests to Toys R Us relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC004860-4922	CPSC File No. CA120127 regarding requests to Barnes & Noble relating to Subject Products.	No. 14, 17, 31, 32, 61, 66, 67
ZUC004923-4948	CPSC File No. 130053 regarding requests to Bed, Bath & Beyond relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC004949-4975	CPSC File No. 120129 regarding requests to Brookstone relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC004976-4993	CPSC File No. 120134 regarding requests to Drugstore.com relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC004994-5008	CPSC File No. CA120124 regardng requests to ebay.com relating to Subject Products.	No. 14, 17, 31, 32, 61

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<b>Bates Ranges</b>	<b>File Origination and Description</b>	<b>Responsive Document Requests</b>
ZUC005009-5019	CPSC File No. CA120133 regarding requests to FatBrain Toys relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005020-5035	CPSC File No. CA120142 regarding requests to Groupon relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005036-5037	CPSC File No. CA130052 regarding requests to Hallmark relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005038-5052	CPSC File No. CA120126 regarding requests to Newegg.com relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005053-5062	CPSC File No. CA120138 regarding requests to Office Playground, Inc. relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005063-5089	CPSC File No. CA120135 regarding requests to Overstock.com relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005090	CPSC File No. CA120112 regarding requests to Real Recreation USA relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005091	CPSC File No. CA120123 regarding requests to Sears Holding Mgmt. Corp. relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005092-5104	CPSC File No. CA120139 regarding requests to Skymall, Inc. relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005105-5154	CPSC File No. CA120131 regarding requests to Marbles, the Brain Store relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005155-5177	CPSC File No. CA120137 regarding requests to The Sportsmans Guide, Inc. relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005178-5181	CPSC File No. CA120132 regarding requests to Thinkgeek, Inc. relating to Subject Products.	No. 14, 17, 31, 32, 61

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<b>Bates Ranges</b>	<b>File Origination and Description</b>	<b>Responsive Document Requests</b>
ZUC005182-5215	CPSC File No. CA120128 regarding requests to Toys R Us relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005216-5232	CPSC File No. CA120130 regarding requests to Urban Outfitters relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC005233-5395, ZUC010092	Kenneth Hinson, former Executive Director of CPSC, working files	Nos. 2, 5, 7, 8, 11, 12, 13, 14, 15, 16, 20, 25, 30, 61
ZUC006138-6141	Emails to Retailers from C. Falvey, former General Counsel regarding stop sale of Subject Products	Nos. 14, 15, 17, 31
ZUC006175-6247	Emails and other electronic documents gathered from custodial files of Jonathan Midgett, Engineering Psychologist, Office of Hazard Identification & Reduction, and Mary Toro, Director, Compliance Division of Regulatory Enforcement.	Nos. 1, 2, 4, 7, 8, 9, 10, 12, 14, 17, 20, 20, 21, 24, 28, 35, 40, 55, 60, 61, 62
ZUC006248-6258	Emails and other electronic documents gathered from the custodial files of Marc Schoem, Deputy Director of the Office of Compliance and Field Operations.	Nos. 9, 14, 21
ZUC006259-6282	Emails and other electronic documents gathered from the custodial files of Commissioners, Commissioners's Staff, the Chairman, and the Chairman's staff.	Nos. 14, 21, 24, 26, 27, 30
ZUC006298-9926, ZUC010092,	Emails and other electronic documents gathered from the custodial files of various CPSC Staff relating to Subject Products and/or Craig Zucker.	Nos. 1, 2, 4, 7, 8, 9, 10, 12, 14, 17, 20, 20, 21, 24, 28, 35, 40, 55, 60, 61, 62
ZUC010098-10129	Product Safety Assessments relating to Star Networks compiled from various internal CPSC servers	Nos. 25, 61

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<b>Bates Ranges</b>	<b>File Origination and Description</b>	<b>Responsive Document Requests</b>
ZUC010438-10461	Product Safety Assessments relating to Zen Magnets compiled from various internal CPSC servers	Nos. 25, 61
ZUC010526-10580	Emails and other electronic documents gathered from the custodial files of various CPSC Staff relating to Zen products.	Nos. 25, 61
ZUC010635-10821	CPSC File No. CA120106 regarding Zen Magnets LLC	Nos. 25, 61
ZUC010822-10834	CPSC File No. CA120139 regarding requests to Skymall, Inc. relating to Subject Products.	No. 14, 17, 31, 32, 61
ZUC010835-11020	CPSC File No. CA120107 regarding Star Networks USA, LLC	Nos. 25, 61
ZUC011039-11117	Michelle Ziemer, executive assistant to Kenneth Hinson, former Executive Director of CPSC, working files	Nos. 2, 5, 7, 8, 11, 12, 13, 14, 15, 16, 20, 25, 30, 61
ZUC011118-11265	Emails and other electronic documents gathered from custodial files of Kathleen Stralka, Associate Executive Director, Epidemiology, and Sarah Garland, Mathematical Statistician, Epidemiology	Nos. 2, 12, 14, 35
ZUC11300-11411	Nathan Cardon, former Senior Counsel to former Commissioner Nancy Nord, working files	Nos. 2, 4, 5, 7, 8, 10, 12, 13, 15, 16, 20, 24, 25, 26, 27, 35, 61
ZUC011412-11559	Joseph Martyak, former Senior Counsel to former Commissioner Nancy Nord, working files	Nos. 2, 4, 5, 7, 8, 10, 12, 13, 15, 16, 20, 24, 25, 26, 27, 35, 61
ZUC011560-11580	Notice of Proposed Rulemaking, Safety Standard for Magnet Sets	Nos. 2, 34, 61



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# ATTACHMENT C

### Attachment C: List of Custodians

#### CPSC Servers Searched:

1. G: Drive (1.27 Terabytes of data)
2. V: Drive (488 Gigabytes of data)
3. P: Drive (754 Gigabytes of data)

#### List of Individuals Whose Files Were Searched for Records

#### CPSC Staff

NAME	TITLE	EMPLOYMENT STATUS
Vincent Amodeo	Mechanical Engineer, Division of Mechanical Engineering	Current
Ray Aragon	Assistance Executive Director, Office of Compliance and Field Operations	May 2013 – April 2014
Brian Baker	Mechanical Engineer, Division of Mechanical Engineering	Current
Pat Chisholm	Compliance Officer	Current
Risana Chowdury	Mathematical Statistician, Office of Hazard Identification and Reduction	Current
Christopher Day	Director, Office of Legislative Affairs	September 2009 – January 2014
Kim Dulic	Press & Public Affairs Officer, Office of Communications	Current
Sarah Garland	Mathematical Statistician, Office of Hazard Identification and Reduction	Current
Michelle Gillice	Trial Attorney, Compliance Division, Office of the General Counsel	October 2002 – February 2012
Henry Glogowski	Compliance Investigator	Current
Scott Heh	Special Assistant, Office of Hazard Identification and Reduction	Current
Kenneth Hinson	Executive Director	June 2010 – October 2013
Sandra Inkster	Pharmacologist, Division of Pharmacology and Physiology Assessment	Current
Andrew Kameros	Assistant Executive Director, Office of Compliance and Field Operations	June 2011 – May 2012
Celestine Kiss	Engineering Psychologist, Division of Human Factors	Current

Mark Kumagai	Director, Division of Mechanical Engineering	Current
T. Michael Lee	Compliance Officer	Current
Carolyn Manley	Lead Compliance Officer	Current
John Massale	Mechanical Engineer, Division of Mechanical Engineering	Current
Jonathan Midgett	Engineering Psychologist, Division of Human Factors	Current
John Gibson Mullan	Assistant Executive Director, Office of Compliance and Field Operations, Director, CPSC	December 2003- December 2010
Stacey Palosky	Public Affairs Specialist (Social Media), Office of Communications	Current
Marc Schoem	Deputy Director of the Office of Compliance and Field Operations	Current
Timothy Smith	Engineering Psychologist, Division of Human Factors	Current
Kathleen Stralka	Associate Executive Director, Epidemiology	Current
Howard Tarnoff	Senior Counselor to the Director of the CPSC, former Trial Attorney, Compliance Division, Office of General Counsel	Current
Mary Toro	Director, Regulatory Enforcement, Office of Compliance and Field Operations	Current
Sarah Wang	Trial Attorney, Compliance Division, Office of General Counsel	December 2010 – July 2012
Antoine White	Compliance Officer	
Sharon White	Engineering Psychologist, Division of Human Factors	Current
Joseph Williams	Compliance Officer	Current
Scott Wolfson	Director, Office of Communications	Current
Michelle Ziemer	Special Assistant to the Office of the Executive Director	Current

CPSC Chairman and Commissioners

Robert Adler	Acting Chairman and Former Commissioner	Current
Nancy Nord	Former Commissioner	May 2005 – October 2013
Anne Northrup	Former Commissioner	August 2009 – October 2012

Inez Tenenbaum	Former Chairman	June 2009 – November 2013
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CPSC Chairman and Commissioner Staff

Gregg Avitabile	Senior Counsel to Commissioner Anne Northrup	December 2010 – October 2012
Nathan Cardon	Senior Counsel to Commissioner Nancy Nord	August 2011 – October 2013
Anupama Connor	Senior Legal Counsel to Chairman Inez Tenenbaum	March 2012 – November 2013
Matthew Howsare	Chief of Staff and Chief Counsel to Chairman Inez Tenenbaum	June 2010 – May 2013
Elliot Kaye	Executive Director, formerly held various positions in Office of Chairman Inez Tenenbaum	Current
Jason Levine	Chief Counsel to Commissioner and Acting Chairman Robert Adler	Current
Joseph Martyak	Chief of Staff to Commissioner Nancy Nord	2008 – October 2013
Jana Fong-Swamidoss		Current

# ATTACHMENT D

**ATTACHMENT D: DOCUMENTS FOR WHICH COMPLAINT COUNSEL HAS  
ASSERTED ATTORNEY CLIENT PRIVILEGE OR WORK PRODUCT**

AUTHOR	RECIPIENT	DESCRIPTION	Privilege Claimed
Office of General Counsel Staff	Office of General Counsel Files	Personal internal documents, including memoranda, notes, email communications regarding <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i>	Attorney Work Product
Office of General Counsel Staff and Office of General Counsel Management	Office of General Counsel Files	Personal internal documents, including memoranda, notes, email communications regarding internal meetings concerning conferences, meetings or other discussions relating to <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i>	Attorney Work Product

**ATTACHMENT D: DOCUMENTS FOR WHICH COMPLAINT COUNSEL HAS  
ASSERTED ATTORNEY CLIENT PRIVILEGE OR WORK PRODUCT**

Office of General Counsel Staff and Office of General Counsel Management	Office of General Counsel Files	Drafts of Memoranda supporting amending complaint in <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i>	Attorney Work Product
Office of General Counsel Management	CPSC Management	Drafts of amended complaints	Attorney Work Product, Attorney-Client Communication
Office of General Counsel Management	CPSC Management, Chairman, Commissioners, Commissioners' Staff	Memoranda supporting amending complaints in <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i>	Attorney Work Product, Attorney Client Communication
Office of General Counsel Staff	Office of General Counsel Management	Drafts of amended complaints, discovery requests, motions, responses, status reports	Attorney Work Product

**ATTACHMENT D: DOCUMENTS FOR WHICH COMPLAINT COUNSEL HAS  
ASSERTED ATTORNEY CLIENT PRIVILEGE OR WORK PRODUCT**

Officer of General Counsel Staff	Officer of General Counsel Staff and /or other CPSC Staff	Notes, Correspondence, e-mail communications, summaries or other documents concerning conferences, meetings or other discussions relating to <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i>	Attorney Work Product
Office of General Counsel Staff	CPSC Staff	Requests for compilations of data reflecting attorney thoughts and impressions relating to <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i>	Attorney Work Product
CPSC Staff	Office of General Counsel Staff	Compilations of data and other material prepared at the request of counsel in preparation for litigation in <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i>	Attorney Work Product



**ATTACHMENT D: DOCUMENTS FOR WHICH COMPLAINT COUNSEL HAS  
ASSERTED ATTORNEY CLIENT PRIVILEGE OR WORK PRODUCT**

<p>Office of General Counsel Staff</p>	<p>CPSC Staff</p>	<p>Internal documents, including memoranda, notes, e-mail communications regarding <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i> and matters raised therein discussing mental impressions, conclusions, opinions or legal theories of Office of General Counsel Staff.</p>	<p>Attorney work product</p>
<p>CPSC Staff</p>	<p>Office of General Counsel Staff</p>	<p>Internal documents, including memoranda, notes, email communications requesting legal advice regarding <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i> and matters raised therein</p>	<p>Attorney client communication; attorney work product</p>

**ATTACHMENT D: DOCUMENTS FOR WHICH COMPLAINT COUNSEL HAS  
ASSERTED ATTORNEY CLIENT PRIVILEGE OR WORK PRODUCT**

Office of General Counsel Staff	CPSC Staff	Internal documents, including memoranda, notes, e-mail communications giving legal advice regarding <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i> and matters raised therein	Attorney-client communication, attorney work product
Office of General Counsel Staff	CPSC Management	Statements of Work for outside expert services relating to <i>In the Matter of MAXFIELD AND OBERTON HOLDINGS, LLC, CRAIG ZUCKER, individually and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC and ZEN MAGNETS, LLC and STAR NETWORKS USA, LLC</i> and matters raised therein.	Attorney work product
Office of General Counsel Staff	CPSC Staff	Internal documents, including memoranda, notes, e-mail communications giving legal advice regarding any proposed rules for aggregated magnets.	Attorney-client communication
CPSC Staff	Office of General Counsel Staff	Internal documents, including memoranda, notes, email communications requesting legal advice regarding any proposed rules for aggregated magnets	Attorney-client communication

# ATTACHMENT E

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of	)	
	)	
MAXFIELD AND OBERTON HOLDINGS, LLC	)	
	)	
and	)	
	)	
CRAIG ZUCKER, individually, and as an officer of MAXFIELD AND OBERTON HOLDINGS, LLC.	)	CPSC Docket NO. 12-1
	)	
	)	
Respondents.	)	
	)	

**COMPLAINT COUNSEL’S AMENDED RESPONSES TO  
RESPONDENT CRAIG ZUCKER’S FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to 16 C.F.R. § 1025.34, Complaint Counsel hereby provides its amended objections and responses to Respondent Craig Zucker’s First Set of Requests for Admission (Requests). This amended set of responses addresses the Requests for Admissions raised in Respondent’s pending Motion to Compel Responses To Respondent’s First Set of Requests for Admissions.

The following objections and responses are made solely for the purposes of this action and are based upon information and documents presently within the custody or control of the staff of the Commission, and no incidental or implied admissions are intended. Complaint Counsel’s responses are made with the express reservation of all rights pursuant to the U.S. Consumer Product Safety Commission’s (CPSC or Commission) Rules of Practice for Adjudicative Proceedings (Rules) to supplement and/or amend these responses or to otherwise

present evidence later discovered or the significance of which is learned subsequent to April 18, 2014.

The fact that Complaint Counsel has not answered or objected to any Request, or part of a Request, does not constitute an admission of any facts or documents set forth in or assumed by that Request. All statements or inferences not explicitly admitted are denied. Complaint Counsel is not waiving any objection as to the relevance of the information provided or the admissibility of that information at any trial, hearing, or otherwise.

The fact that Complaint Counsel has responded to any Request for Admission is not intended and shall not be construed as a waiver by Complaint Counsel of all or any part of any objection raised herein or in prior Responses to any Request for Admission.

### **GENERAL OBJECTIONS**

The following General Objections apply to each of Respondent's Requests and are incorporated into each subsequent response. The assertion of the same, similar, or additional objections or the provisions of partial answers in response to one part of a Request does not waive any of Complaint Counsel's general objections as to the other parts of the Request.

1. Complaint Counsel objects to each of Respondent's Requests, Definitions and Instructions to the extent that the Request, Definition, or Instruction purports to impose any requirement or discovery obligation that exceeds or is different from the scope of discovery permitted by the Rules or other applicable rules or laws. Complaint Counsel will respond to each Request consistent with its obligations under the Rules.

2. Complaint Counsel objects to each of Respondent's Requests, Definitions, and Instructions to the extent that the Request, Definition, or Instruction seeks the disclosure of information that is privileged and/or protected from disclosure by the attorney-client privilege,

the attorney-work product doctrine, the deliberative process privilege, and/or the privilege afforded information given to the staff of the Commission on a pledge of confidentiality and/or by other law or rule of procedure, including, but not limited to, the Privacy Act, 5 U.S.C. § 552a, and 15 U.S.C. § 2074(c). Nothing contained in these responses is intended to be, or in any way shall be deemed, a waiver of such applicable privileges or doctrines. Complaint Counsel will only provide non-privileged, non-protected information.

3. Complaint Counsel objects to each of Respondent's Requests, Definitions and Instructions to the extent that the Request, Definition, or Instruction seeks disclosure of information that was produced to staff by other entities and that may contain confidential, proprietary, or trade secret information.

4. Complaint Counsel objects to each of Respondent's Requests, Definitions, and Instructions to the extent that the Request, Definition, or Instruction is overly broad, unduly burdensome, compound, duplicative, and/or vague or seeks the production of information that is not relevant to the pending proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

5. Complaint Counsel objects to each of Respondent's Requests, Definitions, and Instructions as overly broad and unduly burdensome to the extent that the Request, Definition, or Instruction seeks disclosure of information that is readily or more accessible to Mr. Zucker such as: (i) information from Mr. Zucker's own files or from the files of the MOH Liquidating Trust (Trust); (ii) information that Mr. Zucker has knowledge of due to his prior role as an officer of Maxfield & Oberton Holdings LLC (M&O); and (iii) information that is publicly accessible. Responding to such requests would be oppressive, unduly burdensome, and unnecessarily

expensive, and the burden of responding to such requests is substantially the same or less for Respondent as for Complaint Counsel.

6. Complaint Counsel objects to each of Respondent's Requests, Definitions, and Instructions to the extent that the Request, Definition, or Instruction seeks to compel the production of the work product of expert consultants assigned to or reviewing matters relating to a determination that the Subject Products create a substantial product hazard but not designated as trial witnesses on the grounds that such documents and information are beyond the scope of admissible evidence.

7. In each answer below, and to the extent applicable, Complaint Counsel incorporates the legal arguments supporting the bases for objections contained in Section 1 of this Response.

8. Complaint Counsel reserves the right to amend these responses should new or additional information become available.

### **SPECIFIC OBJECTIONS AND RESPONSES**

Subject to and without waiver of the foregoing general objections, and any other objections or claims of privilege, Complaint Counsel presents its specific objections and responses to Respondent Craig Zucker's First Set of Requests for Admissions.

**Request No. 7.** *Admit that on or about July 27, 2012, the General Counsel of the CPSC sent correspondence to one or more retailers advising that retailers were not required by law to stop sale of the Subject Products.*

**Answer:** Admitted that on July 27, 2012, Cheryl Falvey, the former General Counsel of CPSC, sent letters to certain retailers stating in part that:

Your firm is not required to stop sale of Buckyballs and

Buckycubes unless it is notified that it must do so pursuant to a Commission Order after the completion of the adjudicative proceeding.

Otherwise denied.

**Request No. 9.** *Admit that some retailers continue to sell Magnets other than the Subject Products and the subject products in CPSC Docket 12-2 and 12-3.*

**Answer:** Objection. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to the Request as vague and ambiguous as to the term “Magnets.” Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege. Subject to these objections, Complaint Counsel admits that various small rare earth magnets are still being sold by some retailers.

**Request No. 10.** *Admit that CPSC has not requested all retailers to stop selling Magnets other than the Subject Products and the subject products in CPSC Docket 12-2 and 12-3.*

**Answer:** Objection. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to the Request as vague and ambiguous as to the term “Magnets.” Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege. Subject to these objections, Complaint Counsel admits that various small rare earth magnets are still being sold by some retailers.



**Request No. 11.** *Admit that CPSC is unaware of any incidents involving ingestion of Buckycubes®.*

**Answer.** Denied.

**Request No. 12.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small parts.*

**Answer:** Objection. This Request seeks information about warnings that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought in this Request is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a blanket safety assessment about the efficacy of warnings for hazards for a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 13.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small parts.*

**Answer:** Objection. This Request seeks information about warnings that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a determination of defect by Complaint Counsel with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 14.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of latex balloons.*

**Answer:** Objection. This Request seeks information about distinct products (latex balloons) and risks (choking) that are completely unrelated to those posed by the Subject Products which are at issue in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to

the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a blanket safety assessment by Complaint Counsel about the efficacy of warnings with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 15.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of latex balloons.*

**Answer:** Objection. This Request seeks information about distinct products (latex balloons) and risks (choking) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a determination of defect by Complaint Counsel with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 16.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small balls.*

**Answer:** Objection. This Request seeks information about distinct products (small balls) and risks (choking) that are completely unrelated to those posed by the Subject Products with are at issue in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a blanket safety assessment about the efficacy of warnings with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 17.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small balls.*

**Answer:** Objection. This Request seeks information about distinct products (small balls) and risks (choking) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or

ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a determination of defect by Complaint Counsel about a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 18.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of marbles.*

**Answer:** Objection. This Request seeks information about distinct products (marbles) and risks (choking) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a blanket safety assessment by Complaint Counsel about the efficacy of warnings with regard to a class of products distinct from and unrelated to the Subject

Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 19.** *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of marbles.*

**Answer:** Objection. This Request seeks information about distinct products (marbles) and risks (choking) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a determination of defect by Complaint Counsel with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 20.** *Admit that the warnings contained in ANSI/SVIA 1-2010 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with child use of adult ATVs.*

**Answer:** Objection. This Request seeks information about products (adult all-terrain vehicles) and risks (motor vehicle accidents) that are completely unrelated to the issues in the

instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a blanket safety assessment by Complaint Counsel about the efficacy of warnings with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 21.** *Admit that the warnings contained in ANSI/SVIA 1-2010 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with child use of adult ATVs.*

**Answer:** Objection. This Request seeks information about distinct products (adult all-terrain vehicles) and risks (motor vehicle accidents) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad

and unduly burdensome because it calls for a determination of defect by Complaint Counsel with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 22.** *Admit that the warnings contained on labels accessible at <http://www.babymonitorsafety.org/request-warning-label> are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with cords on baby audio and video monitors.*

**Answer:** Objection. This Request seeks information about distinct products (child monitor power cords) and risks (strangulation) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a determination of defect by Complaint Counsel with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 23.** *Admit that the warnings contained on labels accessible at <http://www.babymonitorsafety.org/request-warning-label> are adequate to communicate*



*effectively to consumers, including parents and caregivers, the hazard associated with cords on baby audio and video monitors.*

**Answer:** This Request seeks information about distinct products (child monitor cords) and risks (strangulation) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a blanket safety assessment by Complaint Counsel with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

**Request No. 24.** *Admit that the warnings contained in the CPSC's Safety Alert found at <http://www.cpsc.gov/Global/Safety%20Education/Safety-Guides/Containers-and-Packaging/390%20Laundry%20Packets.pdf> is expected to communicate effectively to consumers, including parents and caregivers, the hazards associated with ingesting single load liquid laundry packets.*

**Answer:** This Request seeks information about distinct products (single load liquid laundry packets) and risks (choking and poisoning) that are completely unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other

through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as overly broad and unduly burdensome because it calls for a blanket safety assessment by Complaint Counsel with regard to a class of products distinct from and unrelated to the Subject Products. Counsel further objects to this Request to the extent that it seeks information protected from disclosure by the deliberative process privilege.

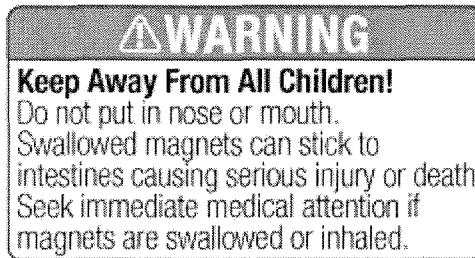
**Request No. 25.** *Admit that CPSC agreed to a product recall and corrective action by M&O announced on May 27, 2010.*

**Answer:** Admitted that CPSC staff and M&O jointly announced a recall of Buckyballs by M&O on May 27, 2010. Otherwise denied.

**Request No. 26.** *Admit that under the corrective action plan with which CPSC agreed, M&O in March 2010 changed its packaging, warnings, instructions and labeling to reflect that Buckyballs® are not intended for persons under 14 years of age.*

**Answer:** Admitted in part. Complaint Counsel admits CPSC staff accepted corrective action proposed by M&O in 2010 in which M&O undertook to change its packaging, warnings, instructions and labeling to add additional warnings. After reasonable inquiry Complaint Counsel lacks the information necessary fully to address M&O's implementation of these changes, and otherwise denies the Request on that basis.

**Request No. 27.** *Admit that CPSC approved the following warning label for use on Buckyballs® packaging, instructions and carrying case:*



**Answer:** Complaint Counsel admits CPSC staff accepted corrective action proposed by M&O in 2010 in which M&O provided the warning label depicted in Request No. 27 for use on Buckyballs packaging, instructions and carrying case. Otherwise denied.

**Request No. 30.** *Admit that CPSC staff urged M&O to establish an adult magnet manufacturer's coalition to promote the safe use and labeling of magnets.*

**Answer:** Denied.

**Request No. 31.** *Admit that M&O was the co-founder of the Coalition for Magnet Safety.*

**Answer:** On information and belief, admitted that M&O was a co-founder of the Coalition for Magnet Safety, along with other parties. Otherwise denied.

**Request No. 32.** *Admit that the document attached as Exhibit A hereto is a true and correct copy of the Amended and Restated Limited Liability Company Agreement of Maxfield and Oberton Holdings, LLC effective as of June 1, 2011 ("Operating Agreement").*

**Answer:** Denied. Complaint Counsel lacks sufficient knowledge or information to assess the authenticity of Exhibit A, a document prepared by and in the custody of Respondents. Thus, after reasonable inquiry Complaint Counsel lacks the information necessary fully to address this question, and denies the Request on that basis.

**Request No. 33.** *Admit that as of July 25, 2012, pursuant to the provisions of the Operating Agreement, Mr. Zucker did not have the individual authority to initiate a corrective action with respect to the Subject Products, except to the extent that the costs of the corrective action did not incur any individual expenditure or series of related expenditures in excess of \$25,000.*

**Answer:** Denied. Complaint Counsel lacks sufficient knowledge or information to assess the scope of Mr. Zucker's legal authority based solely on a document prepared by and in the custody of Respondents. Thus, after reasonable inquiry Complaint Counsel lacks the information necessary fully to address this question, and denies the Request on that basis.

**Request No. 34.** *Admit that at all times relevant to the Complaint, Mr. Zucker was acting in his capacity as an officer and/or employee of M&O.*

**Answer:** Objection. This request seeks detailed information on the actions of Respondent over a period of years which is known only to Respondent, and Complaint Counsel states that after reasonable inquiry it lacks information to admit or deny this Request.

**Request No. 35.** *Admit that Jake Bronstein owned a fifty percent interest in M&O.*

**Answer:** Objection. This Request is vague as to time. Subject to this objection, Complaint Counsel states that after reasonable inquiry it lacks information to admit or deny this Request.

**Request No. 36.** *Admit that on May 27, 2010, CPSC issued a press release in cooperation with M&O announcing a recall of Buckyballs® magnet sets labeled "Ages 13+."*

**Answer:** Admitted.

**Request No. 37.** *Admit that CPSC's May 27, 2012 press release announcing a recall of Buckyballs® labeled "Ages 13+" specifically stated that Buckyballs® sets labeled "Keep Away From All Children" were not recalled.*

**Answer:** Admitted as to CPSC's May 27, 2010 press release. Otherwise denied as to a May 27, 2012 Press Release.

**Request No. 38.** *Admit that as part of the corrective action conducted by M&O in 2010 with respect to Buckyballs®, CPSC authorized M&O to send new packaging labeled "Keep Away From All Children" to retailers to be used to replace packaging labeled "Ages 13+."*

**Answer:** Complaint Counsel admits CPSC staff accepted corrective action proposed by M&O in 2010 in which M&O undertook to add new packaging containing the labeling "Keep Away From All Children." Otherwise denied.

**Request No. 39.** *Admit that if Buckyballs® sets labeled "Keep Away From All Children" violated the applicable provision of ASTM F963, CPSC would not have allowed sets so labeled to continue to be sold when it announced a recall of Buckyballs® labeled "Ages 13+."*

**Answer:** Objection. Complaint Counsel objects to this Request because it calls for speculation. Complaint Counsel further objects to this Request to the extent that it calls for a legal conclusion. Counsel further objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to specify the "applicable provision of ASTM F963" or the version of ASTM F963 to which it refers. Complaint Counsel further objects to this Request for vagueness as to time.

**Request No. 40.** *Admit that CPSC's Office of Compliance is delegated authority to accept corrective action plans except for Class A hazards.*

**Answer:** Admitted.

**Request No. 41.** *Admit that when the staff of the CPSC's Office of Compliance accepts a corrective action plan under authority delegated to it, it is acting for the Commission.*

**Answer:** Admitted that when the staff of CPSC's Office of Compliance accepts a Corrective Action Plan, it is acting under authority delegated by the Commission. Otherwise denied.

**Request No. 42.** *Admit that Bureau Veritas evaluated Buckyballs® and advised M&O in a test report dated January 28, 2010, that Buckyballs® meets the labeling requirements of ASTM F963-08.*

**Answer:** Denied. This Request asks Complaint Counsel to authenticate information from a document prepared at the direction of Respondent which reflects communications and arrangements about which Complaint Counsel has incomplete information. Thus, after reasonable inquiry Complaint Counsel lacks the information necessary fully to address this question, and denies the Request on that basis.

**Request No. 43.** *Admit that M&O through its legal representative informed CPSC (specifically Carolyn Manley) of competitors of M&O, including Nanodots, marketing and selling aggregated masses of high powered, small rare earth magnet sets.*

**Answer:** Admitted that M&O's former counsel Alan Schoem e-mailed CPSC employee Carolyn Manley on March 12, 2010 a list of four companies he claimed were "competitors of Maxfield and Oberton that sell magnets." Otherwise denied.

**Request No. 44.** *Admit that Nano Magnetics Inc. is the maker of Nanodots.*

**Answer:** Admitted based on publicly available information that Nano Magnetics Ltd. (not Nano Magnetics, Inc.) is the manufacturer and/or importer of Nanodots. See <http://nanodots.com/press/company/>.

**Request No. 45.** *Admit that Nanodots are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted, based on publicly available information, that Nanodots are small, spherical rare earth magnets. Otherwise denied.

**Request No. 46.** *Admit that Nanodots promotional material includes the Toy Industry Association logo.*

**Answer:** Objection. Complaint Counsel objects that Request is vague and ambiguous as to time and as to the meaning of “promotional material.” Complaint Counsel further objects that this Request seeks information not in the custody and control of Complaint Counsel, as publicly available information suggests that Nanodots are not being distributed in the United States. See <http://nanodots.com/plated.html>. After reasonable inquiry Complaint Counsel lacks the information necessary fully to admit or deny this Request.

**Request No. 47.** *Admit that Nanodots continue to be sold at stores that carry children’s products and on the Internet.*

**Answer:** Denied. On information and belief, the web site of Nano Magnetics Ltd. states that Nanodots are not available for sale in the United States.

**Request No. 48.** *Admit that as of the date of these requests, Nanodots were sold at Barstons Child’s Play located at 5536 Connecticut Avenue, Washington, DC 20015.*

**Answer:** Admitted that Nanodots were sold at Bartons Child's Play as of the date these Requests were propounded; denied that Nanodots are being sold at Bartons Child's Play as of the date of this Response.

**Request No. 49.** *Admit that Nanodots were sold at Barnes & Noble.*

**Answer:** On information and belief, and based on publicly available information, admitted that Barnes and Noble had advertised Nanodots on its website.

**Request No. 52.** *Admit that CPSC did not request Barnes & Noble to recall Nanodots.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege. Subject to this objection, admitted that CPSC staff has not publicly announced a Barnes & Noble recall of Nanodots. Otherwise denied.

**Request No. 53.** *Admit that Nanodots can be purchased online and shipped to the United States by subscribing to the site as a business or educational institute.*

**Answer:** Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome in that it seeks information not in its custody or control and equally available to Respondent. Complaint Counsel further objects to this Request as vague as to time. Subject to these objections, after reasonable inquiry Complaint Counsel lacks the information necessary fully to address this question, and denies the Request on that basis.

**Request No. 54.** *Admit that many sets of Nanodots are age graded 3+.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects that this Request is vague as to time, and vague



and ambiguous as to the meaning of “many sets” of Nanodots. On information and belief, Complaint Counsel states that the most recent labeling of Nanodot magnet sets as it appears on its website states that the product is intended for ages 14+, and on that basis denies the Request. See <http://nanodots.com/plated.html>.

**Request No. 55.** *Admit that as of August 5, 2013, CPSC has taken no action to stop the sale of Nanodots.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 56.** *Admit that as of the date of your response, CPSC has taken no action to stop the sale of Nanodots.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 57.** *Admit that CPSC has not asked retailers of Nanodots to stop selling Nanodots.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 58.** *Admit that Nanodots have not been the subject of a CPSC corrective action.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 59.** *Admit that M&O developed a safety program to minimize the potential for the Subject Products being purchased by or for persons under 14 years of age.*

**Answer:** Admitted that M&O announced a safety program with the stated intention of limiting or minimizing the sale of Buckyballs to persons under the age of 14. Otherwise denied.

**Request No. 60.** *Admit that as part of its corrective action in 2010, by letter dated June 7, 2010 from Alan Schoem to Carolyn Manley, M&O provided CPSC with details of its safety program for Buckyballs®.*

**Answer:** Admitted that the referenced letter provided CPSC staff with elements of a magnet safety program. Otherwise denied.

**Request No. 61.** *Admit that CPSC did not object to any aspect of the M&O safety program set forth in the letter dated June 7, 2010 from Alan Schoem to Carolyn Manley.*

**Answer:** Objection. This Request is vague as to time. Subject to this objection, Complaint Counsel admits the cited letter sets forth certain corrective actions accepted by CPSC staff as of the time it was written. Otherwise denied.

**Request No. 63.** *Admit that CPSC did not comment upon or object to any information on the website, "magnetsafety.com."*

**Answer:** Admitted on information and belief that CPSC staff did not object to information on the cited website. Otherwise denied.

**Request No. 64.** *Admit that as part of its safety program, M&O required retailers who sold children's products primarily, to sign a Responsible Seller Agreement that among other*

*things required retailers to segregate Subject Products from children's products and not to sell those products to persons under 14 years of age.*

**Answer:** Admitted in part. Complaint Counsel admits that M&O asked certain retailers to sign a Responsible Seller Agreement. However, after reasonable inquiry Complaint Counsel lacks information on how Respondent operated its safety program, and on that basis otherwise denies the Request.

**Request No. 65.** *Admit that as part of its safety program, M&O provided retailers who did not sell children's products primarily, e.g., Brookstone, a Responsible Seller Notice that provided guidance on selling Subject Products to minimize the potential for sales to persons under 14 years of age.*

**Answer:** Admitted in part. Complaint Counsel admits that M&O advised staff that it asked certain retailers to sign a Responsible Seller Agreement. However, after reasonable inquiry Complaint Counsel lacks information on how Respondent operated its safety program, and on that basis otherwise denies the Request.

**Request No. 66.** *Admit that M&O did not sell Subject Products to retailers who primarily sold children's products if they failed to sign the Responsible Sellers Agreement.*

**Answer:** Denied. After reasonable inquiry Complaint Counsel lacks information on how Respondent operated its safety program, and on that basis denies the Request.

**Request No. 67.** *Admit that M&O declined to sell Subject Products to numerous retailers because they refused to sign the Responsible Sellers Agreement or otherwise did not meet M&O's criteria for selling Subject Products.*

**Answer:** Denied. After reasonable inquiry Defense Counsel lacks information on how Respondent operated its safety program, and on that basis denies the Request.

**Request No. 68.** *Admit that ASTM F963 applies only to toys intended for children under 14 years of age.*

**Answer:** Admitted that ASTM F963 sets forth requirements and contains test methods for “any object that is designed, manufactured or marketed as a plaything for children under 14 years of age.” Otherwise denied.

**Request No. 69.** *Admit that it is unlawful to sell a children’s toy that violates the provisions of the applicable version of ASTM F963.*

**Answer:** Objection. This Request is vague as to time. Subject to that objection, Complaint Counsel admits that Section 19(a) of the Consumer Product Safety Act states that it is unlawful for any person “sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, that is not in conformity with an applicable consumer product safety rule under this Act, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission.” Complaint Counsel further admits that ASTM F963 is an applicable rule, regulation, standard, or ban. Otherwise denied.

**Request No. 70.** *Admit that by letter dated July 20, 2012, the CPSC General Counsel, Cheryl Falvey, confirmed to Alan Schoem “that it is not a violation of any law administered by the CPSC for any retailer to continue to sell Buckyballs® and Buckycubes®.”*

**Answer:** Admitted that on July 20, 2012, former CPSC General Counsel Cheryl Falvey sent M&O’s former counsel Alan Schoem a letter stating in part that “it is not a violation of any law administered by the CPSC for any retailer to continue to sell Buckyballs and Buckycubes.” Otherwise denied.

**Request No. 71.** *Admit that by letter dated July 27, 2012, CPSC General Counsel Cheryl Falvey informed certain retailers that it “is not required to stop sale of Buckyballs® and Buckycubes® pending resolution of this case. Your firm is not required to stop sale of Buckyballs® and Buckycubes® unless it is notified that it must do so pursuant to a Commission Order after the completion of the adjudicative proceeding.”*

**Answer:** Admitted that on July 27, 2012, former CPSC General Counsel Cheryl Falvey sent a letter stating in part that “is not required to stop sale of Buckyballs® and Buckycubes® pending resolution of this case. Your firm is not required to stop sale of Buckyballs® and Buckycubes® unless it is notified that it must do so pursuant to a Commission Order after the completion of the adjudicative proceeding.” Otherwise denied.

**Request No. 72.** *Admit that in a report dated January 28, 2010, Bureau Veritas advised M&O that Buckyballs® met the labeling requirements of ASTM F963-08.*

**Answer:** Denied. This Request asks Complaint Counsel to authenticate information from a document prepared at the request of Respondent which reflects communications and arrangements about which Complaint Counsel has incomplete information, and which is based on information not in Complaint Counsel’s custody and control. Thus, after reasonable inquiry Complaint Counsel lacks the information necessary fully to address this question, and denies the Request on that basis.

**Request No. 73.** *Admit that although M&O recalled Buckyballs® in 2010 in cooperation with CPSC, M&O has always maintained in communications with CPSC (as reflected in its letter to Carolyn Manley dated April 5, 2010, and otherwise) that the Subject Products are not toys subject to the provision of the applicable version of ASTM F963.*

**Answer:** Admitted in part. Although M&O has made public statements referring to Buckyballs as a “toy” and a “desktoy,” admitted that in the cited April 5, 2010 letter M&O argues that the Subject Products are not toys subject to ASTM F963. Otherwise denied.

**Request No. 74.** *Admit that despite the request on behalf of M&O that CPSC provide suggestions or thoughts on two websites with magnet safety information, www.magnetsafety.com and www.getbuckyballs.com/safety, CPSC offered no suggestions or thoughts.*

**Answer:** Admitted that CPSC staff did not offer comments for the two web sites. Otherwise denied.

**Request No. 78.** *Admit that The Rules of Practice provide at section 1025.11 that any adjudicative proceeding under 16 CFR Part 1025 “shall be commenced by issuance of a complaint, authorized by the Commission, and signed by the Associate Executive Director for Compliance and Enforcement.”*

**Answer:** Admitted.

**Request No. 78 (numbered as in the original requests).** *Admit that the CPSC Commissioners voted to authorize the issuance of a complaint against M&O which was issued on July 25, 2012.*

**Answer:** Admitted.

**Request No. 79.** Admit that the Complaint issued on July 25, 2012 against M&O was not signed by the Associate Executive Director for Compliance and Enforcement.

**Answer:** Admitted that the Complaint was signed by Kenneth Hinson, Executive Director of CPSC, supervisor of the Associate Executive Director for Compliance. Otherwise denied.

**Request No. 80.** *Admit that the Amended Complaint against M&O dated September 18, 2012, specifies that it was "ISSUED BY ORDER OF THE COMMISSION."*

**Answer:** Admitted.

**Request No. 81.** *Admit that the Amended Complaint against M&O dated September 18, 2012 was not signed by the Associate Executive Director for Compliance and Enforcement.*

**Answer:** Admitted that the Amended Complaint was signed by Kenneth Hinson, Executive Director of CPSC, supervisor of the Associate Executive Director for Compliance. Otherwise denied.

**Request No. 82.** *Admit that the Second Amended Complaint filed against Mr. Zucker dated February 11, 2013, specifies that it was "ISSUED BY ORDER OF THE COMMISSION."*

**Answer:** Admitted.

**Request No. 83.** *Admit that the Second Amended Complaint filed against Mr. Zucker dated February 11, 2013 was not signed by the Associate Executive Director for Compliance and Enforcement.*

**Answer:** Admitted that the Second Amended Complaint was signed by Kenneth Hinson, Executive Director of CPSC, supervisor of the Associate Executive Director for Compliance. Otherwise denied.

**Request No. 84.** *Admit that the CPSC Commissioners did not vote to authorize the Amended Complaint dated September 18, 2012 issued against M&O.*

**Answer:** Admitted that the CPSC Commissioners voted to authorize the commencement of administrative proceedings but did not vote separately to authorize issuance of the Amended Complaint. Admitted that pursuant to the Rules governing this proceeding the presiding Administrative Law Judge authorized amendment of the Complaint.

**Request No. 85.** *Admit that the CPSC Commissioners did not vote to authorize the Second Amended Complaint filed against Craig Zucker dated February 11, 2013.*

**Answer:** Admitted that the CPSC Commissioners voted to authorize the commencement of administrative proceedings but did not vote separately to authorize issuance of the Second Amended Complaint. Admitted that pursuant to the Rules governing this proceeding the presiding Administrative Law Judge authorized the second amendment of the Complaint.

**Request No. 86.** *Admit that the CPSC Commissioners did not hold a vote after July 25, 2012 to authorize the Second Amended Complaint filed against Craig Zucker dated February 11, 2013.*

**Answer:** Admitted.

**Request No. 87.** *Admit that under the Consumer Product Safety Act, a “distributor” cannot be a “manufacturer” of a consumer product.*

**Answer:** Admitted that under Section 3(a)(7) of the Consumer Product Safety Act, “the term ‘distributor’ means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.” Otherwise denied.

**Request No. 88.** *Admit that subsequent to the Buckyballs® recall dated May 27, 2010, CPSC did not ask M&O to stop selling any of the Subject Products until July 10, 2012.*

**Answer:** Admitted that CPSC staff did not ask M&O to stop selling any of the Subject Products until July 10, 2012. Otherwise denied.

**Request No. 89.** *Admit that M&O participated in a November 10, 2011, press release with CPSC warning that high powered magnets were intended for adults.*



**Answer:** Admitted that CPSC issued a press release on November 10, 2011 that included statements by Mr. Zucker on behalf of M&O. The press release is accessible at <http://www.cpsc.gov/Newsroom/News-Releases/2012/CPSC-Warns-High-Powered-Magnets-and-Children-Make-a-Deadly-Mix/>. Otherwise denied.

**Request No. 90.** *Admit that M&O participated with CPSC in a video news release warning that high powered magnets were for adults.*

**Answer:** Admitted that CPSC issued a video news release on November 11, 2011 that included statements by Mr. Zucker on behalf of M&O. The release is accessible at <http://www.newsinfusion.com/events/cpscmagnetsandchildren>. Otherwise denied.

**Request No. 91.** *Admit that M&O requested CPSC to take action against Amazon.com to prevent Amazon from marketing and promoting Buckyballs® as children's products.*

**Answer:** Admitted that M&O requested through its attorney that CPSC staff take action to address Amazon's promotion of the Subject Products. Otherwise denied.

**Request No. 92.** *Admit that the CPSC is aware of approximately 500 poisonings from single-load liquid laundry detergent packets during 2012.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) that are completely unrelated to those posed by the Subject Products which are at issue in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible

evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 90 (numbered as in the original requests).** *Admit that of those exposures, 454 -- 98% of all single-load liquid laundry detergent packet poisoning -- involved patients 5 years old or younger, and have resulted in adverse events including vomiting, mental status changes, and respiratory distress.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) that are completely unrelated to those posed by the Subject Products which are at issue in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 93.** *Admit that some small children are mistaking single-load liquid laundry detergent packets for candy and are swallowing them.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Subject to these objections, CPSC has publicly announced that single load liquid laundry pods “can easily be mistaken for candy, toys or a teething product.” See <https://www.cpsc.gov/en/Newsroom/News-Releases/2013/CPSC-and-ACCC-Warn-of-Poison-Dangers-with-Liquid-Laundry-Packets/>.

**Request No. 94.** *Admit that there have been reports of patients 10 to 20 months old, developing some combination of symptoms of intense vomiting, somnolence, lack of response, seizure-like symptoms, and respiratory distress after biting into a single-load liquid laundry detergent packets.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents

into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 95.** *Admit that some children have required intubation after biting into a single-load liquid laundry detergent packet.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 96.** *Admit that the Centers for Disease Control and Prevention has stated that the risk of injury from single-load liquid laundry detergent packets is “an emerging public health hazard in the United States.”*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Subject to these objections, admitted that on May 17, 2013, the Centers for Disease Control stated that “Exposure to laundry detergent in pods, especially among children aged  $\leq 5$  years, is an emerging public health hazard in the United States.” *See*

<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6141a1.htm>.

**Request No. 97.** *Admit that on August 15, 2013, CPSC posted a post on Twitter referencing a report that a baby reportedly ingested a single-load liquid laundry detergent packet and died.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents

into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Subject to these objections, admitted that on August 15, 2013, CPSC staff posted a tweet stating “@orlandosentinel reports baby reportedly ingests laundry packet, dies. <http://bit.ly/17tn242> Share safety info: <http://1.usa.gov/14Q5ujP>.” See <https://twitter.com/search?q=CPSC%20pod%20death%20&src=typd>.

**Request No. 98.** *Admit that the CPSC has not issued an administrative complaint to seek a recall of single-load liquid laundry detergent packets.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 99.** *Admit that the CPSC is not seeking a recall of single-load liquid laundry detergent packets.*

**Answer:** Objection. This Request seeks information about products (single load liquid laundry packets) and risks (choking and poisoning) unrelated to the issues in the instant case. As alleged in the Complaint, Subject Products that become affixed to each other through gastrointestinal walls may result in intestinal perforations which can lead to necrosis, the formation of fistulas, or ultimately perforation of the bowel and leakage of toxic bowel contents into the abdominal cavity. These conditions can lead to serious injury and possibly even death. The information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

**Request No. 100.** *Admit that CPSC announced that 13 manufacturers of Magnets were asked to stop sale and recall their products in or about July, 2012.*

**Answer:** Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to the Request as vague and ambiguous as to the term “Magnets.” Subject to these objections, admitted that on August 7, 2012, CPSC released a press release, available at <http://www.cpsc.gov/Newsroom/News-Releases/2012/CPSC-Sues-Zen-Magnets-Over-Hazardous-High-Powered-Magnetic-Balls-Action-prompted-by-ongoing-harm-to-children-from-ingested-magnets/>, stating that 11 manufacturers and/or importers had voluntarily agreed to cease sales of magnets, and that two others had yet to agree. Otherwise denied.

**Request No. 101.** *Admit that the manufacturers of Magnets who were asked to stop sale and recall their products in or about July, 2012 were Strong Force, Inc., Global Sources, Inc., Nano Magnetics Inc., Maxfield and Oberton Holdings LLC, Star Networks USA LLC, Keshet Magnets, LLC, Neodox, LLC, Around the World Sales LLC, Reiss Innovations, LLC, Kringles Toys and Gifts, Zen Magnets, Collector's Paradise, and SCS Collectibles Inc.*

**Answer:** Objection. This Request seeks information that is not relevant to the pending proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Complaint Counsel further objects to the Request as vague and ambiguous as to the term "Magnets." Counsel further objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege.

**Request No. 102.** *Admit that CPSC announced that 11 out of the 13 manufacturers of Magnets agreed to cease sales on or about August 7, 2012.*

**Answer:** Objection. Complaint Counsel objects to the Request as vague and ambiguous as to the term "Magnets." Subject to this objection, admitted that on August 7, 2012, CPSC released a press release, available at <http://www.cpsc.gov/Newsroom/News-Releases/2012/CPSC-Sues-Zen-Magnets-Over-Hazardous-High-Powered-Magnetic-Balls-Action-prompted-by-ongoing-harm-to-children-from-ingested-magnets/>, stating that 11 manufacturers and/or importers had voluntarily agreed to cease sales of magnets. Otherwise denied.

**Request No. 103.** *Admit that the following manufacturers have not agreed to conduct a recall of their Magnets: Global Sources, Inc., Nano Magnetics Inc., Keshet Magnets, LLC, Neodox, LLC, and Around the World Sales LLC.*

**Answer:** Objection. This Request seeks information protected by the deliberative process privilege. Complaint Counsel further objects to the Request as vague and ambiguous as



to the term “Magnets.” Subject to that objection, admitted that the Commission has not announced publicly announced a recall with any of the named parties above.

**Request No. 104.** *Admit that Strong Force, Inc. (“Strong Force”) is the manufacturer and/or distributor of Magnets sold under the name of “NeoCube.”*

**Answer:** Complaint Counsel objects to the Request as vague and ambiguous as to the term “Magnets.” Subject to that objection, admitted based on publicly available information that Strong Force, Inc. sold NeoCube magnet sets. *See <http://www.theneocube.com/>.* Otherwise denied.

**Request No. 105.** *Admit that NeoCubes are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that NeoCube magnet sets were small, spherical rare earth magnets. Otherwise denied.

**Request No. 106.** *Admit that NeoCubes were sold in retail stores and online.*

**Answer:** Admitted based on publicly available information that NeoCube magnet sets were sold by NeoCube, but otherwise denied based on lack of public information after reasonable inquiry. *See <http://www.theneocube.com/>.* Otherwise denied.

**Request No. 107.** *Admit that the remedy offered to consumers by the manufacturer and/or distributor of NeoCubes was to discard NeoCube magnet sets.*

**Answer:** Admitted that in a press release issued by Strong Force it advises customers to “stop using the product and immediately discard the magnet set. . . .” *See <http://www.theneocube.com/>.* Otherwise denied.

**Request No. 108.** *Admit that CPSC agreed to the remedy offered to consumers by the manufacturer and/or distributor of NeoCubes to discard NeoCube magnet sets.*

**Answer:** Admitted based on publicly available information that “In cooperation with the U.S. Consumer [P]roduct Safety Commission (CPSC), Strong Force, Inc. urges purchasers of NeoCube magnet sets to immediately discard the sets, including all of the component magnets.” See <http://www.theneocube.com>. Otherwise denied.

**Request No. 109.** *Admit that Strong Force, in cooperation with CPSC, urged consumers of NeoCube magnet sets to immediately discard the sets, including all of the component magnets.*

**Answer:** Admitted based on publicly available information that “In cooperation with the U.S. Consumer [P]roduct Safety Commission (CPSC), Strong Force, Inc. urges purchasers of NeoCube magnet sets to immediately discard the sets, including all of the component magnets.” See <http://www.theneocube.com>. Otherwise denied.

**Request No. 110.** *Admit that CPSC did not require Strong Force to offer a refund, repair or replacement of Neocube magnet sets as part of its corrective action plan.*

**Answer:** Admitted based on publicly available information that “In cooperation with the U.S. Consumer [P]roduct Safety Commission (CPSC), Strong Force, Inc. urges purchasers of NeoCube magnet sets to immediately discard the sets, including all of the component magnets.” See <http://www.theneocube.com>. Otherwise denied.

**Request No. 111.** *Admit that Strong Force, in cooperation with CPSC, posted a notice on or about June 8, 2013 at [www.theneocube.com](http://www.theneocube.com) urging consumers to discard their Neocubes magnet sets.*

**Answer:** Admitted.

**Request No. 113.** *Admit that as of the date of this Request CPSC has not issued a press release or recall announcing the NeoCube corrective action.*

**Answer:** Counsel objects that the information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege. Subject to these objections, admitted as of the date of the Request CPSC staff has not issued a separate press release announcing the NeoCube corrective action. Otherwise denied.

**Request No. 114.** *Admit that CPSC has taken no enforcement action against any responsible corporate office of Strong Force, Inc.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege. Counsel further objects that the information sought is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent.

**Request No. 116.** *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at [http://www.amazon.com/216-Neodymium-5mm-Sphere-Magnets/dp/B00EI846PK/ref=pd\\_sim\\_indust\\_2](http://www.amazon.com/216-Neodymium-5mm-Sphere-Magnets/dp/B00EI846PK/ref=pd_sim_indust_2).*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as the Request does not appear to identify an

actual seller on Amazon.com. As such, the Request does not provide sufficient information to allow Complaint Counsel to formulate an answer.

**Request No. 120.** *Admit that the products offered for sale at [http://www.tealco.net/super\\_magnet\\_balls.html](http://www.tealco.net/super_magnet_balls.html) are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that the products identified in Request 120 are advertised to be small, spherical rare earth magnets. Otherwise denied.

**Request No. 121.** *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at [http://www.tealco.net/super\\_magnet\\_balls.html](http://www.tealco.net/super_magnet_balls.html).*

**Answer:** Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege.

**Request No. 122.** *Admit that the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=S2> are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that the products identified in Request 122 are advertised to be small, spherical rare earth magnets. Otherwise denied.

**Request No. 123.** *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=S2>.*

**Answer:** Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege.

**Request No. 124.** *Admit that the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=B222> are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that the products identified in Request 124 are advertised to be small, rare earth magnets with a cube shape. Otherwise denied.

**Request No. 125.** *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=B222>.*

**Answer:** Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege.

**Request No. 126.** *Admit that the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that the products

identified in Request 126 are advertised to be small, spherical rare earth magnets. Otherwise denied.

**Request No. 127.** *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium>.*

**Answer:** Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege.

**Request No. 128.** *Admit that the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> contain the following advertising: “These miniature beads make fun, ever changing jewelry . . .”*

**Answer:** Objection. The language quoted in Request 128 is both incomplete and misleading. Subject to that objection, Complaint Counsel admits that the quoted sentence reads “These miniature beads make fun, ever changing jewelry and are great for small physics experiments.”

**Request No. 129.** *Admit that the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> contain the following warning: WARNING: CHOKING HAZARD—Small parts. Not for children under 3 years.*

**Answer:** Admitted.

**Request No. 130.** *Admit that the products offered for sale at <http://www.amazingmagnets.com/show-decimal-s250b.aspx> are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that the products identified in Request 130 are advertised to be small, spherical rare earth magnets. Otherwise denied.

**Request No. 131.** *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.amazingmagnets.com/show-decimal-s250b.aspx>.*

**Answer:** Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege.

**Request No. 132.** *Admit that the products offered for sale <http://www.amazingmagnets.com/show-decimal-s250b.aspx> contain advertising that “Kids love to play with these things.”*

**Answer:** Objection. The language quoted in Request 132 is cited in a way that is both incomplete and misleading. Subject to that objection, Complaint Counsel admits that the quoted advertising reads: “These 1/4" Rare Earth magnet spheres are one of our favorite magnets. If you[']ve never experienced a Neodymium magnet shaped like a sphere, you could be in for a treat. They can be combined with other magnets to form sculptures or magnetic jewelry. Kids love to play with these things. The spheres behave in strange ways around other magnets. They are some of the best fun you can have with neodymium magnets.”

**Request No. 133.** *Admit that the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx> are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that the products identified in Request 133 are advertised to be small, rare earth magnets with a cube shape. Otherwise denied.

**Request No. 134.** *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx>.*

**Answer:** Complaint Counsel objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege.

**Request No. 135.** *Admit that the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx> are advertised as “a great size for adults and children alike.”*

**Answer:** Objection. The language quoted in Request 135 is cited in a way that is both incomplete and misleading. Subject to that objection, Complaint Counsel admits that the quoted advertising reads: “These 3/16" C188A2 rare earth magnet cubes are a great size for adults and children alike. These neodymium magnets will not pinch and are easily handled by anyone.”

**Request No. 136.** *Admit that on June 14, 2013, CPSC announced a recall of Nap Nanny and Chill infant recliners manufactured and/or distributed by Baby Matters LLC.*

**Answer:** Admitted.

**Request No. 137.** *Admit that from 2009 to the date of the June 14, 2013 press release announcing a recall of Nap Nanny and Chill infant recliners, the CPSC received reports of at least 92 incident reports involving Nap Nanny and Chill products, including 5 infant deaths.*

**Answer:** Admitted.



**Request No. 138.** *Admit that CPSC commenced an administrative complaint against Baby Matters, LLC (CPSC Docket 13-1), seeking, among other things, a recall of Nap Nanny and Chill infant recliners.*

**Answer:** Admitted.

**Request No. 139.** *Admit the administrative complaint against Baby Matters LLC was settled by a Consent Agreement.*

**Answer:** Admitted.

**Request No. 140.** *Admit that in the Baby Matters LLC Consent Agreement, the CPSC agreed that the recall of the affected products would advise consumers to dispose of the products, and did not offer any consumers a repair, replacement or refund of the products.*

**Answer:** Denied that the cited Consent Agreement addresses product disposal, refund or repair of the products at issue, but admitted that CPSC addressed the issues of stopping use of the product and refunds in its June 14, 2013 press release regarding this recall. *See Nap Nanny and Chill Infant Recliners Recalled by Baby Matters LLC After Five Infant Deaths; CPSC, Firm Settle Administrative Litigation*, available at <http://www.cpsc.gov/en/Newsroom/News-Releases/2013/Nap-Nanny-and-Chill-Infant-Recliners-Recalled-by-Baby-Matters-LLC-After-Five-Infant-Deaths-CPSC-Firm-Settle-Administrative-Litigation-/>.

**Request No. 141.** *Admit that Kringles Toys and Gifts, LLC is the manufacturer and/or distributor of Nanospheres.*

**Answer:** Admitted based on a press release issued on January 31, 2013, Kringles Toys and Gifts, LLC was the manufacturer of Nanospheres until it recalled the product in or about January 2013.

**Request No. 142.** *Admit that Nanospheres are substantially similar in function to the Subject Products.*

**Answer:** Objection. This request is vague and ambiguous as to the undefined phrase “substantially similar in function.” Subject to this objection, admitted that Nanospheres are small, spherical rare earth magnets. Otherwise denied.

**Request No. 143.** *Admit that Nanospheres were sold in retail stores and online.*

**Answer:** Based on publicly available information, admitted that Nanospheres were sold online. Otherwise denied.

**Request No. 144.** *Admit that CPSC issued a press release announcing a recall of Nanospheres [sic] on January 31, 2013.*

**Answer:** Admitted that CPSC and Kringle Toys and Gifts jointly announced a recall of Nanospheres magnet sets on January 31, 2013.

**Request No. 145.** *Admit that in the press release announcing the recall of Nanospheres, the CPSC stated: “The products were sold for use as an adult novelty item or desk toy with appropriate hazard warnings and stating the intended age level as 14 years and older.”*

**Answer:** Admitted only that the cited press release contained the quoted language.

**Request No. 146.** *Admit that on or about July 27, 2009, Scott Wolfson was appointed as Director of the Office of Information and Public Affairs.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving its objections, Complaint Counsel admits that the Commission voted on July 27, 2009 to approve the appointment of Scott Wolfson as the Director of the Office of Information and Public Affairs.

**Request No. 147.** *Admit that in or about August, 2011, the Office of Information and Public Affairs was renamed the Office of Communications.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving its objections, the Request is admitted.

**Request No. 148.** *Admit that in or about August, 2011, the Commission approved a change to the Office of Communications' reporting structure so that its director reports directly to the Chairman of the CPSC, rather than the Executive Director.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving its objections, the Request is admitted.

**Request No. 149.** *Admit that in an August 11, 2011 statement, CPSC Chairman Tenenbaum stated that the Chairman, as head of the Commission, serves as the public face and voice of the agency, and the Office of Communications needs direct access to the Chairman in order to successfully implement the Chairman's strategic communications plan and consumer information agenda, and that the Office of Communications will continue to serve the Commission as a whole, represent policy decisions made by the Commissioners to the news media and public, and work in close coordination with all offices and divisions.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint

or to the defenses of the Respondents. Subject to and without waiving its objections, the Request is admitted.

**Request No. 150.** *Admit that Scott Wolfson became the Director of the Office of Communications when the name of the Office of Information and Public Affairs was changed to the Office of Communications.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving its objections, the Request is admitted.

**Request No. 152.** *Admit that the Office of Information and Public Affairs and its successor offices, including without limitation the Office of Communications, serves as the CPSC's spokesperson to the national print and broadcast media, develops and disseminates the CPSC's news releases, and organizes CPSC news conferences.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving its objections, the Request is admitted.

**Request No. 153.** *Admit that Scott Wolfson serves as a spokesperson for the Chairman of CPSC to the national the national print and broadcast media.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving its objections, the Request is admitted.

**Request No. 154.** *Admit that on and after July 25, 2012, Scott Wolfson was speaking on behalf of the Chairman of the CPSC when discussing Buckyballs® and Buckycubes®.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel also objects that this Request is vague and ambiguous with regard to the meaning of “speaking on behalf” of the CPSC Chairman and vague as to time (on and after July 25, 2012). Subject to and without waiving its objections, the Request is admitted in part. Complaint Counsel admits that Mr. Wolfson was acting in his capacity as a CPSC spokesperson in discussing in discussing staff action related to Buckyballs and Buckycubes. Complaint Counsel denies that Mr. Wolfson was a legal agent with power to bind the Commission, and otherwise denies this Request.

**Request No. 155.** *Admit that on and after July 25, 2012, Scott Wolfson was speaking on behalf of the Commission when discussing Buckyballs® and Buckycubes®.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel also objects that this Request is vague and ambiguous with regard to the meaning of “speaking on behalf” of the CPSC Commissioners and vague as to time (on and after July 25, 2012). Subject to and without waiving its objections, the Request is admitted in part. Complaint Counsel admits that Mr. Wolfson was acting in his capacity as a CPSC spokesperson in discussing staff action related to Buckyballs and Buckycubes. Complaint Counsel denies that Mr. Wolfson was a legal agent with power to bind the Commission, and otherwise denies this Request.

**Request No. 156.** *Admit that Scott Wolfson subscribed to receive updates and promotions from M&O.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving this objection, the Request is admitted.

**Request No. 157.** *Admit that Scott Wolfson provided his CPSC email address to M&O either on the M&O website or the Buckyballs® Facebook page in order to receive updates and promotions from M&O.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving this objection, the Request is admitted.

**Request No. 158.** *Admit that CPSC Chairman Tenenbaum reviewed and approved the press release dated April 12, 2013 (Recall 13-168) announcing a recall of the Subject Products by certain retailers.*

**Answer:** Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to this objection, admitted that the April 12, 2013 press release was reviewed and approved by former Chairman Tenenbaum's office. Otherwise denied.

**Request No. 159.** *Admit that CPSC Commissioner Adler reviewed and approved the press release dated April 12, 2013 (Recall 13-168) announcing a recall of the Subject Products by certain retailers.*

**Answer:** Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to this objection, the Request is denied.

**Request No. 160.** *Admit that CPSC Commissioner Nord reviewed and approved the press release dated April 12, 2013 (Recall 13-168) announcing a recall of the Subject Products by certain retailers.*

**Answer:** Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to this objection, the Request is denied.

**Request No. 161.** *Admit that under the CPSC's Meetings Policy "Any Agency employee holding a telephone conversation in which substantial interest matters are discussed with an outside party must prepare a telephone call summary of the conversation."*

**Answer:** Admitted.

**Request No. 162.** *Admit that under the CPSC's Meetings Policy, telephone call summaries should include the essence of all substantive matters relevant to the agency.*

**Answer:** Admitted.

**Request No. 163.** *Admit that the Subject Products are a substantial interest matter as substantial interest matter is defined at 16 CFR § 1012.2(d).*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not relevant to the pending proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Counsel further objects to this Request as vague and ambiguous: The cited the regulation, titled “Meetings Policy–Meetings Between Agency Personnel and Outside Parties,” governs the conduct of agency meetings at which substantial interest matters (as defined in the regulation) are addressed. 16 CFR § 1012.3(d) sets forth exceptions to these public meeting rules, including meetings with outside parties to address various compliance matters. Because Respondent does not designate a time period or identify meeting or meetings in his question, Complaint Counsel lacks information to admit or deny the Request.

**Request No. 164.** *Admit that under the CPSC’s Meetings Policy meeting summaries must be submitted to the Office of the Secretary within 20 calendar days after the meeting or telephone conversation for which the summary is required.*

**Answer:** Admitted.

**Request No. 166.** *Admit that CPSC has not commenced an administrative complaint or taken any other enforcement action against any person, other than Mr. Zucker, alleged to be a responsible corporate officer of any manufacturer or distributor of Magnets.*

**Answer:** Objection. Complaint Counsel objects to this Request as seeking information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to this Request as violating the deliberative process privilege. Complaint Counsel further objects to this Request to the extent it seeks disclosure of confidential information from ongoing investigations.



Complaint Counsel further objects to this Request as vague and ambiguous as to the term “Magnets.” Subject to and without waiving these objections, Complaint Counsel admits that the Commission has not publicly announced the commencement of an administrative proceeding or enforcement action against any person, other than Mr. Zucker, alleged to be a responsible corporate officer of any manufacturer or distributor of small rare earth magnets.

**Request No. 168.** *Admit that CPSC did not give M&O advance notice that staff was making a preliminary determination that the Subject Products constituted a substantial product hazard.*

**Answer:** Objection. Complaint Counsel objects to this Request as vague and ambiguous, in that it misleadingly implies that advance notice of the outcome an ongoing deliberative decision is possible, or that Respondent was entitled to pre-determination notice of CPSC staff deliberations. Complaint Counsel further objects that this Request seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that Respondent was notified of CPSC staff’s investigation into the Subject Products, and that Respondent received prompt notice of CPSC staff’s determination of a substantial product hazard. Otherwise denied.

**Request No. 171.** *Admit that M&O has dissolved.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks a legal determination based on facts that are not within the control or custody of Complaint Counsel. Subject to and without waiving its objections, Complaint Counsel admits that M&O filed a Certificate of Dissolution with the Delaware Secretary of State on December 27, 2012.

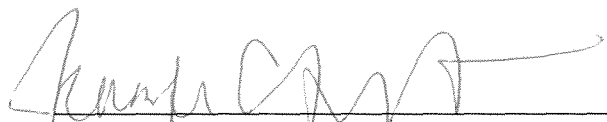
Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information at this time to admit or deny this request.

**Request No. 172.** *Admit that M&O dissolved in accordance with the provisions of the Delaware Limited Liability Company Act.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks a legal determination based on facts that are not within the control or custody of Complaint Counsel. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information at this time to admit or deny this request.

**Request No. 173.** *Admit that M&O established a liquidating trust known as the MOH Liquidating Trust in accordance with the provisions of the Delaware Limited Liability Company Act.*

**Answer:** Objection. Complaint Counsel objects to this Request to the extent that it seeks a legal determination based on facts that are not within the control or custody of Complaint Counsel. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information at this time to admit or deny this request.



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