

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	CPSC DOCKET 12-1
)	CPSC DOCKET 12-2
)	CPSC DOCKET 13-2
MAXFIELD AND OBERTON HOLDINGS, LLC)	(Consolidated)
ZEN MAGNETS, LLC)	
STAR NETWORKS USA, LLC)	Hon. Dean C. Metry
)	Administrative Law Judge
Respondents.)	

**RESPONDENT CRAIG ZUCKER'S MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

Respondent Craig Zucker files this Memorandum of Law in support of his motion pursuant to 16 C.F.R. § 1025.31(d), seeking a protective order.

I. Introduction

This is an action under Section 15(d) of the Consumer Product Safety Act, 15 U.S.C. § 2064(d), which states in pertinent part:

(1) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f) of this section) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to provide the notice required by subsection (c) and to take any one or more of the following actions it determines to be in the public interest:

(A) To bring such product into conformity with the requirements of the applicable rule, regulation, standard, or ban or to repair the defect in such product.

(B) To replace such product with a like or equivalent product which complies with the applicable rule, regulation, standard, or ban or which does not contain the defect.

(C) To refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more

(i) at the time of public notice under subsection (c) of this section, or

(ii) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

In this matter, Complaint Counsel is “seeking an order determining that high-powered, small rare earth magnets, known as Buckyballs® and Buckycubes,™ present a substantial product hazard.” Subpoena to Non-Party Witness Julie Teicher. Complaint Counsel is also seeking an order holding Respondent Craig Zucker responsible for the recall under the doctrine holding corporate officers responsible for criminal acts of corporations upheld in United States v. Dotterweich, 320 U.S. 277 (1943) and United States v. Park, 421 U.S. 658 (1975).

In opposing Complaint Counsel’s attempt to add Mr. Zucker to this proceeding, Mr. Zucker argued that his inclusion would unnecessarily broaden the issues and cause undue delay in this proceeding. Complaint Counsel responded by reiterating its position that the addition of Mr. Zucker did not expand the limited issues in this case; to wit “whether the subject magnets present a substantial product hazard within the meaning of the Consumer Product Safety Act, and, if so what relief should be granted.” Order Granting Complaint Counsel’s Motion for Leave to File Second Amended Complaints in Docket Nos. 12-1 and 12-2 at 7. In its Order granting Complaint Counsel leave to amend its Complaint to include Mr. Zucker, this Presiding Officer recognized that “[t]he inclusion of Mr. Zucker as a respondent in the instant proceeding does not unduly broaden the ultimate issue;” Id.

Despite the limited nature of this proceeding (upon which it Complaint Counsel relied in seeking approval of its amendment to include Mr. Zucker), it is now apparent that Complaint

Counsel impermissibly seeks expansive discovery on matters totally unrelated to this proceeding's narrow scope. As will be demonstrated herein, Complaint Counsel seeks broad discovery concerning the financial records of Maxfield and Oberton Holdings, LLC ("M&O"), including its former managers, officers or employees, not limited to Respondent Craig Zucker. Complaint Counsel also seeks discovery on insurance policies of M&O. In addition, Complaint Counsel seeks discovery concerning the dissolution of M&O as a corporate entity under Delaware law and the formation of the MOH Liquidating Trust (the "Trust").

Quite simply, discovery into these areas is not relevant the issues in this proceeding. Conducting this discovery is unnecessary, will prolong the proceeding, and will constitute an undue burden on parties and non-parties alike. Consequently, Respondent Craig Zucker files this motion seeking a protective order excluding these issues from discovery, or, in the alternative, delaying discovery into those issues until such time as there is a determination on the substantial product hazard of the products, whether a recall is necessary, and whether Mr. Zucker is liable to conduct that recall.

II. Argument

In the Rules of Practice for Adjudicative Proceedings governing this case, 16 C.F.R. § 1025.31(c)(1) provides that "[p]arties may obtain discovery regarding any matter . . . which . . . is relevant to the subject matter involved in the proceedings" It is plainly evident that Complaint Counsel seeks extensive discovery of items well beyond topics that are relevant in this case.

Broad Discovery into Non-Relevant Financial Information

In written discovery directed to Mr. Zucker, Complaint Counsel goes beyond the boundaries of issues relevant to this proceeding. One of the most significant areas of non-

relevant information requested by Complaint Counsel is the financial information of M&O, including its employees and officers, including the personal financial information of Mr. Zucker.

For example, Request for Production of Documents No. 46 directed to Mr. Zucker requests:

46. Please provide the following Documents:
- a) Your federal and state tax returns filed for the past three years.
 - b) Any and all personal financial statements and/or net worth statements, for the last three years that have been submitted to any third party by you or by any business interest in which you are an owner, or have any interest to any degree in.
 - c) You [sic] bank account statements, including but not limited to, checking, savings, credit union, money market, brokerage, Certificate of Deposit, or savings bonds, for the last 24-months, along with canceled checks.
 - d) Your securities account statements, including but not limited to brokerage, annuities, life insurance, IRA, KEOGH, 401K, or thrift savings account, for the last 24 months.
 - e) Documentation sufficient to verify your future receipt of anticipated assets, including but not limited to claim or lawsuit filings, profit sharing plan statements, pension plan statements, inheritance documents, copies of all trusts and trust income tax returns.
 - f) Federal and state tax returns filed for the past three years for each business in which you had any ownership interest or affiliation.
 - g) M&O's federal and state tax returns filed for the past three years.
 - h) Audited consolidated financial statements for M&O for the past three fiscal years and interim audited statements for fiscal year 2011-2012, including income statements, balance sheets, cash flow statements, and related notes;
 - i) All agreements and arrangements relating to Borrowings of any nature by M&O or its subsidiaries or pursuant to which M&O or any subsidiary is or was between 2009-2012, a debtor party (including all amendments, and all consents and waivers issued in connection with such agreements or arrangements); and
 - j) All agreements or arrangements involving M&O and any Affiliate of M&O that has or may have the direct or indirect effect of providing capital support or contributions of any nature to M&O.

Complaint Counsel's First Set of Request for Production of Documents to Respondent Craig Zucker ("Complaint Counsel's Request for Production") No. 46.¹ Request for Production No. 51 seeks "[a]ll Documents relating to any compensation, benefits, or other assets you received or were eligible to receive from M&O" Complaint Counsel's Request for Production No. 51.

Interrogatories 49 and 50 are equally intrusive, and seek detailed information about "each and every each and every payment or disbursement made by M&O to you or any other employee, member, officer or director of M&O (whether past or present), between July 25, 2012 and December 27, 2012, Complaint Counsel's First Set of Interrogatories to Respondent Craig Zucker ("Complaint Counsel's Interrogatories")² No. 49, and the identify of each person "who participated in the decision-making process with regarding the amount, timing, or recipient each payment or disbursement identified in response to Interrogatory 49." *Id.*, No. 50.

It is also clear that Complaint Counsel is seeking this same, broad financial information from non-parties. Complaint Counsel has filed a Motion for Leave to Take Depositions, seeking to take the depositions, *inter alia*, of Julie Teicher, the trustee of MOH Liquidating Trust (the "Trust"). That motion was granted by the Presiding Officer's Order Granting Complaint Counsel's Motion for Leave to Take Depositions dated January 7, 2014. Subsequently, on January 9, 2014, Complaint Counsel filed an Application by Complaint Counsel for the Issuance of Subpoena on a Non-Party: Julie Teicher. Accompanying the Application is a Subpoena (the "Teicher Subpoena") that Complaint Counsel sought to be, and which was, issued by the Commission.

¹ For ease of reference, a copy of Complaint Counsel's First Set of Requests for Production of Documents to Respondent Craig Zucker is attached hereto as Exhibit A.

² For ease of reference, a copy of Complaint Counsel's First Set of Interrogatories to Respondent Craig Zucker is attached hereto as Exhibit B.

In the Subpoena, Complaint Counsel reiterates that the CPSC staff “seeking an order determining that high-powered, small rare earth magnets, known as Buckyballs® and Buckycubes,™ present a substantial product hazard.” Complaint Counsel further states that the CPSC staff believes that Teicher “possess[es] information or [has] knowledge that will assist” in the determination that Buckyballs® and Buckycubes,™ present a substantial product hazard. Notwithstanding the assertion that the discovery sought from the trustee relates to whether the products at issue present a substantial product hazard, the Subpoena goes on to request documents that go far beyond the issues identified by Complaint Counsel. Among other things, the Subpoena seeks “all accounts, entries, ledgers, budgets or other information found in Quickbook ledgers and entries” and “any files and/or documents . . . which contain the bookkeeping files of M&O, its former managers, officer [sic], or employees.” Moreover, Complaint Counsel’s Subpoena directed to non-party Jake Bronstein seeks to have Mr. Bronstein testify “regarding the matters referred to above,” which includes “all accounts, entries, ledgers, budgets or other information found in Quickbook ledgers and entries” Subpoena to Jake Bronstein, at 5-6.

Complaint Counsel’s broad attempts to obtain unfettered access to the financial records of M&O, Mr. Zucker, and any other employee of M&O, represent an unvarnished fishing expedition looking for information in no way relevant to this litigation.³ In this proceeding evaluating the safety of a product, no person should have to undergo the burden of having their personal financial records scrutinized by Complaint Counsel, and this forum should not countenance the delay and expense associated with responding to such a request.

³ The only financial information of M&O even arguably relevant to this proceeding are unit volume sales of the Subject Products and the customers to which they were sold. By his Motion, Mr. Zucker does not object to the production of this information.

The responsible corporate official doctrine, under which Complaint Counsel has asserted Mr. Zucker is liable to conduct a recall, does not depend upon the absence of a viable corporate entity from which to seek payment or culpability. To the contrary, both Buffalo Phamacal Company, Mr. Dotterweich's employer, see United States v. Dotterweich, 320 U.S. 277 (1943), and Acme Markets, Inc., Mr. Park's employer, see United States v. Park, 421 U.S. 658 (1975), were viable, on-going concerns. Despite these operating firms,⁴ both Mr Dotterweich and Mr. Park were convicted under the responsible corporate official doctrine.

It is obvious that Complaint Counsel is conflating the concepts of the responsible corporate official doctrine with an attempt to pierce the corporate veil of M&O and make Mr. Zucker its alter ego. However, Complaint Counsel has specifically forsaken proceeding on the latter theory: “. . . Complaint Counsel is not asserting alter ego liability as a basis for naming Mr. Zucker as a Respondent.” Reply in Support of Complaint Counsel's Motion for Leave to File Second Amended Complaints in Docket Nos. 12-1 and 12-2, at 15. In the absence of an attempt to use veil piercing theories of liability, there is no basis for sweeping discovery of the financial records of M&O, Mr. Zucker or anyone else.

Discovery into Insurance Information

Closely related to the concept of financial records are Complaint Counsel's requests for discovery into insurance policies. Complaint Counsel's Request for Production No. 45; Complaint Counsel's Interrogatories No. 36.⁵ Like the financial records requested, whether or not there are insurance policies, for recalls or otherwise, does not inform the Presiding Officer whether there is a substantial product hazard, or the components of any recall. This information

⁴ In Dotterweich, Buffalo Phamacal Company was acquitted of a violation. 320 U.S. at 278. In Park, Acme Markets, Inc. plead guilty to a violation. 421 U.S. at 661.

⁵ Presumably, the same documents are included in Complaint Counsel's broad requests contained in the Teicher Subpoena.

is not relevant, and identifying any such policies, producing them and otherwise including them as part of this proceeding contributes to delays and is an undue burden and expense on parties and non-parties alike.

Discovery into the Dissolution of M&O and the Formation of the Trust

Financial records and insurance policies are not the only category of discovery sought by Complaint Counsel that is not relevant to this proceeding. Another non-relevant category is the series of discovery requests by Complaint Counsel seeking information relating to the dissolution of M&O and the formation of the Trust. For example, Complaint Counsel's Request for Production 42, seeks all documents "related to any steps taken and efforts made by [Mr. Zucker] or any other officer or employee of M&O to wind down the company." Complaint Counsel's Request for Production No. 42. See also id., No. 43, Complaint Counsel's Interrogatories No. 45-48, 51-54.

Like the financial records sought, records relating to the dissolution of M&O and the formation of the Trust are a fishing expedition based on Complaint Counsel's apparent belief that it may take discovery on issues related to piercing the corporate veil—issues Complaint Counsel has steadfastly denied it is asserting. One can only imagine the time, effort and expense that will be consumed conducting discovery into these areas. Yet, that time, effort and expense will not shed a single ray of light on whether the magnets at issue are substantial product hazards or whether a recall is warranted.

III. Requested Relief

The Rules of Practice for Adjudicative Proceedings, 16 C.F.R. § 1025.31(d) authorizes the Presiding Officer, on motion by a party for good cause shown, to issue a protective order that, among other things, "discovery shall not be had," 16 C.F.R. § 1025.31(d)(a), or "certain

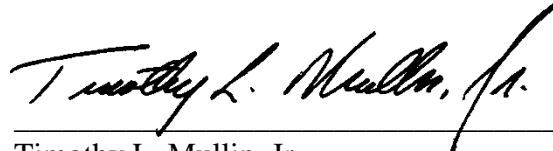
matters not be inquired into,” 16 C.F.R. § 1025.31(d)(4). As demonstrated above, Complaint Counsel seeks discovery into extensive areas that are not relevant to this proceeding. In addition to the time, effort and expense associated with conducting that discovery, which is unnecessary and will unduly prolong this proceeding, some of the areas delve into sensitive, private financial information. Consequently, Mr. Zucker requests that the Presiding Officer enter an order prohibiting Complaint Counsel from seeking discovery on any of the following topics:

1. The financial records of M&O, the Trust, or any other person or entity (except as they may relate to unit volume sales of the subject products and the customers to which they were sold);
2. Insurance information of M&O, the Trust, or any other person or entity;
3. The winding up, dissolution or cancellation of M&O; and
4. The formation and activities of the Trust.

Alternatively, while it is readily apparent that the issues identified above bear no relevance at all to this proceeding, if the Presiding Officer believes that the relevance may become apparent at a later point, Mr. Zucker requests the entry of an order precluding discovery into these matters until such time as the subject products are adjudicated a substantial product hazard, a remedy is ordered, and Mr. Zucker is determined to be responsible for implementing that remedy.

IV. Conclusion

Based on the discussion above, Respondent Craig Zucker respectfully requests that his Motion for Protective Order be granted.



Timothy L. Mullin, Jr.
MILES & STOCKBRIDGE P.C.
100 Light Street
Baltimore, MD 21202
410-385-3641 (direct dial)
410-385-3700 (fax)
tmullin@MilesStockbridge.com

Co-Counsel for Respondent, Craig Zucker

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2014, copies of **Respondent Craig Zucker's Memorandum of Law in Support of Motion for Protective Order** was sent by the service method indicated:

Original and three copies by U.S. mail, and one copy by electronic mail, to the Secretary of the U.S. Consumer Product Safety Commission:

Todd A. Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
tstevenson@cpsc.gov

One copy by U.S. mail and one copy by electronic mail to the Presiding Officer for *In the Matter of Maxfield and Oberton Holdings, LLC*, CPSC Docket No. 12-1; *In the Matter of Zen Magnets, LLC*, CPSC Docket No. 12-2, and *In the Matter Of Star Networks UA, LLC*, CPSC Docket No. 13-2:

The Honorable Dean C. Metry
U.S. Coast Guard
U.S. Courthouse
601 25th Street, Suite 508A
Galveston, TX 77550
Janice.M.Emig@uscg.mil

One copy by electronic mail (by agreement) to Complaint Counsel:

Mary B. Murphy
Complaint Counsel and Assistant General Counsel
Division of Compliance
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
mmurphy@cpsc.gov

Jennifer C. Argabright, Trial Attorney
jargabright@cpsc.gov
Mary Claire G. Claud, Trial Attorney
mcclaud@cpsc.gov
Daniel Vice, Trial Attorney
dvice@cpsc.gov

Complaint Counsel
Division of Compliance
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

One copy by electronic mail (by agreement) to counsel for Respondents Zen Magnets, LLC and Star Networks USA, LLC:

David C. Japha
The Law Offices of David C. Japha, P.C.
950 S. Cherry Street, Suite 912
Denver, CO 80246
davidjapha@japhalaw.com

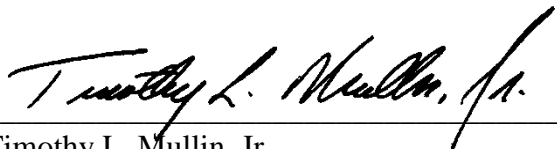
One copy by electronic mail (by agreement) to co-counsel for Craig Zucker:

Erika Z. Jones
Mayer Brown LLP
1999 K Street, N.W.
Washington, DC 20006
ejones@mayerbrown.com

John R. Fleder
Hyman, Phelps & McNamara, P.C.
700 Thirteenth Street, N.W.
Suite 1200
Washington, DC 20005
jfleder@hpm.com

One copy by electronic mail (by agreement) to counsel for MOH Liquidating Trust:

Paul M. Laurenza
PLaurenza@dykema.com
Joshua H. Joseph
JJoseph@dykema.com
Dykema Gossett PLLC
Franklin Square Building
1300 I Street, N.W., Suite 300 West
Washington, DC 20005



Timothy L. Mullin, Jr.

EXHIBIT A

commission, office, or other business or legal entity, whether private or governmental, and whether foreign or domestic.

3. “Documents” means the original and any nonidentical copy of any written, printed, reproduced, graphic, photographic, electronic, audio, visual, or computer records, however produced or reproduced, of any kind or description, whether prepared by you or by any other Person, that is in your possession, custody, or control, including, but not limited to, the following: electronic mail; electronically stored information; papers; notes; books; letters; telecopies; facsimiles; photographs; motion pictures; videotapes; video disks; audio recordings; drawings; schematics; manuals; blueprints; intra- and interoffice Communications; transcripts; minutes; reports; audio recordings; affidavits; statements; pleadings; summaries; indices; analyses; evaluations; agreements; calendars; appointment books; diaries; telephone logs; tabulations; charts; graphs; data sheets; computer tapes, disks, cards, printouts, and programs; microfilm; microfiche; social media Communications, including, but not limited to, information posted on or transmitted through social networking platforms (*e.g.*, MySpace, LinkedIn and Facebook), digital file-sharing services (*e.g.*, Flickr), blogs and microblogs (*e.g.*, Twitter); instant messages; customer reviews and/or comments posted on the your website(s) relating to the Subject Products; and all drafts, alterations, and/or amendments of or to any of the foregoing. The term includes all drafts of a Document and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original. The term also includes information stored in or accessible through computer or other information retrieval systems (including computer archives or backup systems),

together with instructions and all other materials necessary to use or interpret such data compilations.

4. “Relating to” or “related to” means consisting of, referring to, describing, discussing, constituting, evidencing, containing, mentioning, concerning, pertaining to, citing, summarizing, analyzing, or bearing any logical or factual connection with the matter discussed.

5. “Identify” or “identity,” when used with respect to an individual, means to provide the individual’s present or last known name, residential address, telephone number, occupation, job or position, job title(s), employer, employer department and/or subject area in which the individual works, business affiliation, and business or employment address, and the individual’s relationships or associations, if any, to the Respondent.

6. “Identify” or “identity,” when used with respect to a business, entity, building, or place, means the present or last known name, address, and telephone number, and all former names, of that business, entity, building, or place, its state of incorporation, registration, or organization, the identity and address of its registered agent in each state where it is present and doing business or has a place of business, its present officers, directors, and shareholders, and its relationship, if any, to the Respondent.

7. “Identify” or “identity,” when used with respect to a Document, means the name or title of the Document, a description of the Document or record, including its date of preparation and transmission, the author, sender, and recipient, a summary of the subject matter, and the identity of the Person who currently has custody of, possession of,

or control over the Document. You may also identify a Document by providing a complete and legible copy thereof, and by stating that you have done so.

8. “Identify” when used with respect to a Communication means to describe in detail the nature and content of the Communication, state the date of the Communication, identify all Persons to and from whom the Communication was made, and identify all Persons hearing, witnessing, and/or present during the Communication.

9. “Communications” means any disclosure, transfer, or exchange of information or opinion, however made, including, but not limited to, e-mails, voice mails, fax, memoranda, inquiries, reports, claims, and complaints.

10. “Subject Products” means Buckyballs® and Buckycubes.™

11. “Manufacture” means to “manufacture, produce, or assemble,” as defined in 15 U.S.C. § 2052(a)(10).

12. “Distribute” means to deliver, sell, give, allot, or otherwise provide in commerce, and shall include the giving away of free samples and promotional items.

13. “Complaint” means the Complaint, and any amendments to the Complaint, filed in this action, CPSC Docket 12-1.

14. “Answer” shall mean the Answer and Defenses, including any amendments to the Answer and Defenses, of Respondent Craig Zucker, filed in this action.

15. “Interrogatories” means Complaint Counsel’s First Set of Interrogatories to Respondent Craig Zucker served upon the Respondent.

16. “Requests for Production” means Complaint Counsel’s First Set of Requests for Production of Documents and Things to Respondent Craig Zucker, served upon the Respondent.

17. “Hearing” shall mean any hearing conducted in this matter pursuant to 16 C.F.R. § 1025.41 *et seq.*

18. “Test” shall mean any examination, inspection, analysis, results, or other assessment of the Subject Products, or any components of the Subject Products.

19. “M&O shall mean Respondent Maxfield and Oberton Holdings, LLC, (including if previously known under different names), including all past and present officers, directors, representatives, agents, and employees of the Respondent, all other past and present persons acting or purporting to act on M&O’s behalf (including, but not limited to, all past or present agents and employees exercising discretion, discharging duties, making policy, or making decisions with respect to M&O), and all past and present parents, subsidiaries, divisions, or branches of M&O.

20. “Retailer” shall mean any Person who sold the Subject Products to consumers in the United States.

21. “Responsible Seller Agreement” or “RSA” shall mean any iteration or version of the Buckyballs®/Buckycubes™ Responsible Seller Agreement (RSA), attached at Tab 19(c) to M&O’s May 25, 2012 submission to the CPSC.

22. “NASPHGAN” shall mean the North American Society for Pediatric Gastroenterology, Hepatology, and Nutrition, headquartered in Flourtown, PA, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on NASPHGAN’s behalf .

23. “ASTM” shall mean ASTM International, formerly known as the American Society for Testing and Materials, of West Conshohocken, PA, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on ASTM’s behalf.

24. “Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person.

25. “Borrowing” shall mean any agreement or arrangement creating, or any instrument evidencing, indebtedness for borrowed money by way of a direct loan, sale of debt securities, purchase money obligation, conditional sale, repurchase agreement, guarantee or otherwise, including intercompany agreements or arrangements involving M&O (or any subsidiary of M&O) and any affiliate of M&O.

26. “NAM” shall mean the National Association of Manufacturers headquartered in Washington, DC, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on NAM’s behalf.

27. “RILA” shall mean the Retail Industry Leaders of America headquartered in Arlington, VA, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on RILA’s behalf.

28. “NRF” shall mean the National Retail Federation headquartered in Washington, DC, including all past and present officers, directors, representatives,

agents, and employees, all other past and present persons acting or purporting to act on NRF's behalf.

INSTRUCTIONS

A. Each request shall be answered separately and fully in writing. Each response shall state, with respect to each Document, item, or category requested, that it has been produced, unless the request is objected to, in which event, the reasons for objection shall be stated. If objection is made only to part of a request, item, or category, that part shall be specified. A response should not be supplied solely by reference to the response to another request or subpart, unless the response is completely identical to the response to which reference is made.

B. The responses shall be signed by the Person giving them, and the objections, if any, shall be signed by the Person or attorney making them. When a complete response to a particular request is not possible after exercising the required diligence, the request shall be answered to the extent possible, and a statement shall be made indicating the reasons only a partial response is given, stating the information or knowledge you have concerning the unanswered portion or unproduced Documents, and describing your efforts to secure the unknown information or unproduced Documents.

C. Each request seeks production of all Documents described herein and any attachments thereto, in your possession, custody, or control, or in the possession, custody, or control of any of your attorneys, employees, agents, insurers, or representatives, and all Documents and any attachments that you or any of your attorneys, employees, agents, or representatives have the legal right to obtain or have the ability to obtain from sources under their control.

D. Each request for a Document contemplates production of the Document in its entirety, without abbreviation or expurgation, including any amendments thereto, whether referred to in the Document, or otherwise.

E. Identify each Person who assisted or participated in preparing and/or supplying any of the information, Documents, or things given in response to, or relied upon, in preparing a response to a request.

F. The words “and” and “or” shall be construed conjunctively or disjunctively, as necessary, to make the request inclusive rather than exclusive. The word “including” shall be construed to mean without limitation. The words “any” and “all” shall be construed to make the request inclusive rather than exclusive.

G. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense to make all definitions and discovery requests inclusive rather than exclusive.

H. The singular shall include the plural, and vice versa.

I. These requests shall be read, interpreted, and answered in accordance with these instructions and the definitions set forth here. If the meaning of any word or phrase used herein is unclear, the Respondents’ attorneys are requested to contact Complaint Counsel to resolve any ambiguity. If any request cannot be complied with in full after exercising the required diligence, it shall be complied with to the extent possible, with a full statement of all efforts to make full compliance, and all reasons full compliance cannot be made.

J. If it is claimed that the attorney-client privilege or any other privilege is applicable to any Document sought by these discovery requests, specify the privilege

claimed and the factual basis you contend supports the assertion of the privilege, and identify the Document as follows:

- i) State the date, nature, and subject matter of the Document;
- ii) Identify each author of the Document;
- iii) Identify each preparer of the Document;
- iv) Identify each Person who is an addressee or an intended recipient of the Document;
- v) Identify each Person from whom the Document was received;
- vi) State the present location of the Document and all copies thereof;
- vii) Identify each Person who has or ever had possession, custody, or control of the Document or any copy thereof;
- viii) State the number of pages, attachments, appendices, and exhibits;
and
- ix) Provide all further information concerning the Document and the circumstances upon which the claim of privilege is asserted.

K. For any Communication with respect to which a privilege is asserted, identify the Persons or entities among whom the Communication took place, the date of the Communication, and the subject.

L. In the event that any Document sought by these discovery requests has been destroyed, discarded, or otherwise disposed of, that Document is to be identified as completely as possible, including, without limitation, the following information:

- i) Identify each author of the Document;
- ii) Identify each preparer of the Document;

- iii) Identify each addressee or intended recipient of the Document;
- iv) Identify each Person who received the Document;
- v) State the date of the Document;
- vi) State the subject matter of the Document;
- vii) State the reason for disposal of the Document;
- viii) Identify each Person who authorized disposal of the Document;

and

- ix) Identify each Person who disposed of the Document.

M. If any Document was, but is no longer, in your possession, custody, or control, provide the following information:

- i) State the disposition of the Document;
- ii) State the date such disposition was made;
- iii) Identify the present custodian of the Document, or, if the Document no longer exists, so state;
- iv) Identify the Person(s) who made the decision regarding the disposition of the Document; and
- v) State the reasons for the disposition, and describe the Document and the contents of the Document, including the title, author, position or title of the author, addressee, position or title of the addressee, whether indicated or blind copies were made, date, subject matter, number of pages, attachments or appendices, and all Persons to whom the Document was distributed, shown, or explained.

N. Pursuant to 16 C.F.R. § 1025.31, the Respondent is under a continuing duty to supplement its responses to these discovery requests without further request from Complaint Counsel. Where the Respondent has responded to a discovery request with a response that was complete when made, Respondents is under a duty to supplement that response to include information later obtained.

O. In producing the documents and things requested here, indicate, and segregate the Documents by the specific request (by paragraph and subparagraph numbers/letters) in response to which each Document, group of documents, or thing is produced.

P. Please provide all responsive Documents, including hardcopy, electronic and e-mail Documents in electronic format on CD or DVD. Document level searchable text, all fielded data, and meta-data should be delivered in Concordance® load file (DAT and OPT) accompanied by Bates-numbered single page Group IV TIFF images representing each page of production.

REQUESTS FOR PRODUCTION

1. All Documents in support of and upon which you base the Answer, including each of the Answer's admissions, denials, and affirmative or other defenses.

2. All Documents identified in answers to the Interrogatories and all Documents relating to your answers to the Interrogatories, in support of your answers, and used or relied upon in preparing your answers.

3. All Documents refuting or tending to refute the allegations of the Complaint.

4. All Documents supporting or tending to support the allegations of the Complaint.
5. All of your written document retention policies in effect at any time(s).
6. All of your written policies in effect at any time(s) relating to retention of your products or samples of your products.
7. All Documents and Communications, whether in Person, by telephone, or by some other means, whether in a discussion, meeting, or other setting, relating to the subject matter of this litigation, the Complaint, the Answer, the Documents requested here, and/or the Subject Products, between, among, by, or with any Persons, including, but not limited to: M&O; M&O's employees, former employees, agents, and/or representatives; and customers or users.
8. All witness statements relating to the subject matter of this litigation, the Complaint, and the Answer.
9. All Documents created at any time including prior to 2009, related to the design and development of the Subject Products, including, but not limited to, Documents related to creating the look, feel, and appearance of the Subject Products.
10. All Documents describing and/or evidencing the operations, purposes, and uses of the Subject Products.
11. All Documents relating to age grading, age labeling, and/or age determination of the Subject Products.
12. All Documents related to the ages, or approximate ages, of any Persons under 14 years of age, who mouthed, swallowed, ingested, handled, or used in any manner the Subject Products.

13. Provide one example of each iteration or version of every age label and/or age-related warning or instruction, and every label, warning, or instruction that included information on the possible risks associated with ingestion of the Subject Products, which appeared on the packaging, labeling, warnings, and instructions of the Subject Products, and/or was included in advertising and marketing materials for the Subject Products. This request includes labels, warnings, and instructions that appeared, at any time, on www.getbuckyballs.com, www.magnetsafety.com, and www.saveourballs.net.

14. All Documents, including publications, studies, reports, or any other written materials of any kind, which discuss or refer to the effectiveness of any warnings placed on the Subject Products.

15. All Documents relating to the design, development, and manufacturing of the packaging, labeling, warnings, and instructions of the Subject Products, including any changes made to the packaging, labeling, warnings, and instructions of the Subject Products.

16. Provide one example of each iteration or version of the packaging, labeling, warnings, and instructions provided with and/or accompanying the Subject Products.

17. All Documents relating to the advertising, marketing, promotion, or sale of the Subject Products, including all changes thereto. This request includes, but is not limited to, Documents related to:

- a) Any research and analysis of competitive products;

- b) Any research and analysis to determine the types and ages of consumers to whom the Subject Products should or would be advertised, marketed, and promoted to;
- c) Any strategy to reach a group of targeted consumers;
- d) All product catalogues;
- e) Any analysis of the pricing of the Subject Products;
- f) Any advertising, marketing, and promotion of the Subject Products, including, but not limited to, what appeared online, on the radio, in newspapers and magazines, or on television. Included in this request are any advertising, marketing, and promotion appearing on Facebook, Twitter, PinInterest, Tumblr, You Tube, Flickr, and any other social media or Internet sites. Also included in this request are signs, brochures, direct mailings, e-mail messages, and advertising, marketing, and promotion in retail stores and directed to retail customers;
- g) Any special offers of or related to the Subject Products, including any discounts, sales, coupons, free products, or other incentives to retail customers or other consumers to purchase the Subject Products; and
- h) Any public relations campaigns designed to promote, or related to the sale of, the Subject Products.
- i) Provide all Documents relating to the marketing strategy and advertising campaigns implemented subsequent to the filing of

Complaint, including but not limited to, Documents relating to the sales of the Subject Products at discounted prices to Retailers.

18. Provide one copy or sample of every iteration or version of each advertisement and promotion of or for the Subject Products, including, but not limited to, those that are or were in audio, video, digital or written format. This request includes advertisements and promotions by M&O, or by others at M&O's direction or request, which appeared, among other places, online, on the radio, in newspapers and magazines, on television, and on Facebook, Twitter, Pinterest, Tumblr, You Tube, Flickr, and any other social media or Internet sites. Your response should also include billboards, posters, signs, brochures, direct mailings, e-mail messages and advertising, marketing, and promotion in retail stores and directed to retail customers.

19. Provide an original or a copy of every iteration or version of M&O's product catalogues, whether in print media or electronic.

20. All Documents related to any marketing, advertising, promotion, or public relations campaign related to the Subject Products, or to any Communications to the public, or to the Chairman, other individual Commissioners, or staff members of the U. S. Consumer Product Safety Commission related to the Subject Products and initiated and created in response to or following the filing of the Complaint. This request includes, but is not limited to, all Documents that were created by Andrew Frank or any other Person associated with Strategy XXI Partners. This request also includes, but is not limited to, all Documents related to marketing, advertising, promotion, or public relations campaigns referencing the U.S. Consumer Product Safety Commission, which at any

time, could be seen on: www.getbuckyballs.com; www.magnetsafety.com; and www.saveourballs.net; or accompanied, at any time or in any way, the Subject Products.

21. All Documents relating to the manufacture, packaging, and engineering of the Subject Products, including, but not limited to, the following:

- a) The identification and procurement of raw materials;
- b) The identification and procurement of component parts;
- c) The identification and retention of a facility or facilities to manufacture the Subject Products, including the component parts of the Subject Products;
- d) The creation and procurement of necessary tools and equipment;
- e) Any differences in the manufacturing processes regarding different models, versions or colors of the Subject Products;
- f) All Documents relating to changes at any time in the design, specifications, manufacture, and procedures for the manufacture of the Subject Products, including changes to its materials, component parts, composition and construction; and
- g) All complete engineering drawing packages, engineering drawings, requests for changes, and change notices.

22. All Documents relating to the importation of the Subject Products, including, but not limited to, all Documents required to be produced and delivered upon importation to any government agency.

23. All Documents relating to your use of independent sales representatives for the Subject Products, including, but not limited to, the following:

- a) Documents sufficient to identify all of your past and present independent sales representatives associated with the Subject Products;
- b) Documents sufficient to identify when each independent sales representative sold the Subject Products;
- c) Documents sufficient to identify the terms of their work with you related to the Subject Products; and
- d) All iterations of any training, advertising, marketing, and promotional materials related to the Subject Products given to independent sales representatives.

24. All Documents related to distribution and sale of the Subject Products to Retailers from 2009 to the present, including, but not limited to, the following:

- a) Documents related to your agreements with Retailers;
- b) Documents related to how you advised Retailers on effective ways to sell the product;
- c) Documents related to providing Retailers with marketing or advertising material;
- d) Documents related to providing Retailers with special offers regarding the Subject Products, including free products or discounts;
- e) Documents related to the development of the Responsible Seller Agreement; and

f) Documents related to the development of the “Responsible Seller Notices.”

25. A copy of each Responsible Seller Agreement executed by any Retailer of the Subject Products.

26. All Documents relating to M&O’s refusal to sell the Subject Products to certain Retailers, your withdrawal of the Subject Products from certain Retailers, and/or the cessation of sales of the Subject Products to certain Retailers pursuant to a Responsible Seller Agreement or any other agreement.

27. All Documents relating to any steps taken by M&O to ensure compliance with M&O’s Responsible Seller Agreements.

28. All Documents relating to consumer reviews of the Subject Products on any website, including your responses to any consumer reviews.

29. All Documents relating to M&O’s sale of the Subject Products, including replacement magnets, to any Person. Your response should include, with respect to each Person who requested replacement magnets, the Person’s name, the reason for requesting replacement magnets, and any available contact information, such as an address, a phone number, and an e-mail address.

30. All Documents relating to Retailer or consumer requests to provide replacement magnets for any of the Subject Products. Your response should include, with respect to each Person who requested replacement magnets, the Person’s name, the reason for requesting replacement magnets, and any available contact information, such as an address, a phone number, and an e-mail address.

31. All Documents relating to any Tests conducted on the Subject Products, including all Test results, reports, or any other Document containing analysis and conclusions. This request includes, but is not limited to, Documents related to:

- a) Testing or certification to determine if the Subject Products meet or fail to meet any mandatory or voluntary standard;
- b) Testing to evaluate the safety of the Subject Products;
- c) Testing to assess how a consumer will interact with and operate the Subject Products, including any human behavior analysis, whether by a Human Factors expert, or by any other expert or Person;
- d) Testing to assess the effectiveness of the Subject Products' warnings, labels, and instructions;
- e) Testing and analysis related to age grading the Subject Products;
- f) Testing to measure the size, composition, and flux index of the Subject Products; and
- g) All Documents related to any changes made in the design, manufacture, importation, distribution, sale, marketing, promotion, or advertising of the Subject Products, following any Tests of the Subject Products.

32. All Documents and Communications involving any physician or other medical professional, including medical professional organizations, such as NASPGHAN, or its individual members, regarding the Subject Products.

33. All Documents and Communications involving any physicians or other medical professionals related to www.magnetsafety.com, including any Documents

related to Communications with Dr. Carl Baum, Dr. Michele M. Burns, Dr. Michael Werdmann, and Dr. Lawrence T. Siew.

34. All Documents related to any claim, complaint, or reports of incidents, injuries, or fatalities involving the Subject Products, or any other similar product, received from any source, including from consumers; through Retailers; through hospitals and physicians; through any foreign, domestic, state or local government official or entity. This request includes:

- a) All Documents associated with the claim, complaint, or reports of incidents, injuries, or fatalities, including Documents given to you, as well as Documents you requested from the Person making the report. The request also includes Documents you received from a third party, such as medical reports or insurance claims; and
- b) All Documents generated by you, or generated by a third party at your request, such as witness statements or evaluations and assessments of the claim, complaint, or report.

35. All Documents and Communications relating to negotiations, lawsuits, and alternative dispute resolution proceedings related to the Subject Products.

36. All Documents and Communications relating to negotiations, lawsuits, and alternative dispute resolution proceedings to which Amazon.com, Inc. is a party, related to the Subject Products.

37. All Documents and Communications relating to negotiations, lawsuits, and alternative dispute resolution proceedings to which any Person who manufactures,

imports, distributes, or sells products similar to the Subject Products is a party, including the following:

- a) Zen Magnets, LLC;
- b) Star Networks, USA, LLC;
- c) Neodox, LLC;
- d) Strong Force Inc.; and
- e) SCS Collectibles, Inc.

38. All Documents and Communications involving ASTM regarding the Subject Products.

39. All Documents related to any trademark, patent, or intellectual property regarding the Subject Products.

40. All founding and organizing Documents, past and present, for M&O and any amendments thereto, including, but limited to, the certificate of formation, limited liability company agreement, corporate bylaws and articles of organization.

41. All Documents that M&O filed with the Delaware Department of State, Division of Corporations.

42. All Documents related to any steps taken and efforts made by you or any other officer or employee of M&O to wind down the company.

43. All Documents related to any steps taken and efforts made by you or any other officer or employee of M&O to prior to filing a certificate of cancellation, (if any) to identify, quantify, and make reasonable provision for: (i) claims and obligations known to M&O; (ii) claims against M&O that were the subject of a pending action, suit, or

proceeding to which M&O was a party; and (iii) claims against M&O that were likely to arise or become known to M&O within 10 years after the date of dissolution.

44. Documents sufficient to identify each of M&O's past and present members, directors, officers, employees, and board members, the dates during which each such individual was employed by or otherwise affiliated with M&O, and a description of the responsibilities for each position held by each such person during the duration of his or her employment at or affiliation with M&O.

45. All of M&O's insurance policies, including general liability and product liability policies, as well as all policies evidencing or describing insurance coverage that may be applicable or related to recalls, repairs, refunds, and any other corrective action relating to the Subject Products.

46. Please provide the following Documents:

- a) Your federal and state tax returns filed for the past three years.
- b) Any and all personal financial statements and/or net worth statements, for the last three years that have been submitted to any third party by you or by any business interest in which you are an owner, or have any interest to any degree in.
- c) You bank account statements, including but not limited to, checking, savings, credit union, money market, brokerage, Certificate of Deposit, or savings bonds, for the last 24-months, along with canceled checks.

- d) Your securities account statements, including but not limited to brokerage, annuities, life insurance, IRA, KEOGH, 401K, or thrift savings account, for the last 24 months.
- e) Documentation sufficient to verify your future receipt of anticipated assets, including but not limited to claim or lawsuit filings, profit sharing plan statements, pension plan statements, inheritance documents, copies of all trusts and trust income tax returns.
- f) Federal and state tax returns filed for the past three years for each business in which you had any ownership interest or affiliation.
- g) M&O's federal and state tax returns filed for the past three years.
- h) Audited consolidated financial statements for M&O for the past three fiscal years and interim audited statements for fiscal year 2011-2012, including income statements, balance sheets, cash flow statements, and related notes;
- i) All agreements and arrangements relating to Borrowings of any nature by M&O or its subsidiaries or pursuant to which M&O or any subsidiary is or was between 2009-2012, a debtor party (including all amendments, and all consents and waivers issued in connection with such agreements or arrangements); and
- j) All agreements or arrangements involving M&O and any Affiliate of M&O that has or may have the direct or indirect effect of providing capital support or contributions of any nature to M&O.

47. Two samples of each version, edition, and model of each of the Subject Products (including, but not limited to, the magnets themselves, the containers, the packaging, and the warnings/instructions) covering the period from the first dates on which they were imported and distributed, to the present. This request includes, but is not limited to, versions, editions, or models among which the quantity of magnets may be the only difference from one version, edition, or model to the next.

48. All Documents relating to your role, responsibilities, and decision-making authority at M&O.

49. All Documents relating to the efforts undertaken by M &O to comply with the requirements of the Consumer Product Safety Act and any other statute or regulation enforced by the Consumer Product Safety Commission.

50. All Documents relating to your role, responsibilities, decision-making authority, and each and every step you took regarding M&O's efforts to comply with the requirements of the Consumer Product Safety Act and any other statute or regulation enforced by the Consumer Product Safety Commission.

51. All Documents relating to any compensation, benefits, or other assets you received or were eligible to receive from M&O, including, but not limited to the following:

- a) Your salary, including benefits of any kind, for each year from 2009 to the present;
- b) Any distributions made by M&O to you from 2009 to the present;
- c) Any stock options provided by M&O to you from 2009 to the present; and

d) Any severance package or other money, assets or benefits provided by M&O to you upon your separation from M&O.

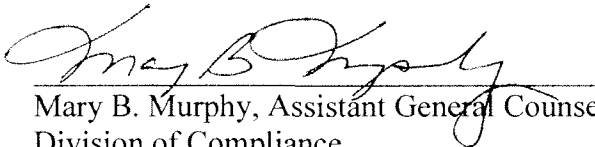
52. All Documents and Communications involving any industry group such as NAM, RILA, or NRF, regarding the Subject Products.

53. All Documents and Communications involving the Coalition for Magnet Safety.

54. All internal M&O Communications and Documents and external Communications and Documents between M&O and any M&O employee, director, officer, agent, Retailer, distribution center, distributor, or any other customer, Affiliate or representative of M&O regarding ingestion or possible ingestion of the Subject Products.

55. All internal M&O Communications and Documents and external Communications and Documents between M&O and any other Person regarding ingestion or possible ingestion of the Subject Products.

56. All Documents and Communications involving any third party that provided record management services, information technology or networking services, data storage services, server space, or internet hosting services to M&O.


Mary B. Murphy, Assistant General Counsel
Division of Compliance
Office of the General Counsel
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
Tel: (301) 504-7809

Jennifer Argabright, Trial Attorney
Richa Shyam Dasgupta, Trial Attorney

Complaint Counsel for
U.S. Consumer Product Safety Commission
Bethesda, MD 20814

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2013, I served Complaint Counsel's First Set of Requests for Production of Documents and Things to Respondent Craig Zucker, as follows:

Original and three copies by hand delivery and one copy by electronic mail, to the Secretary of the U.S. Consumer Product Safety Commission: Todd A. Stevenson.

One copy by certified mail and one copy of electronic mail to counsel of record:

David C. Japha
The Law Offices of David C. Japha, P.C.
950 S. Cherry Street, Suite 912
Denver, CO 80246
davidjapha@japhalaw.com
*Counsel for Respondents Zen Magnets,
LLC and Star Networks USA, LLC*

Erika Z. Jones
Mayer Brown LLP
1999 K Street N.W.
Washington, D.C. 20006
ejones@mayerbrown.com
Counsel for Respondent Craig Zucker

John R. Fleder
Hyman, Phelps & McNamara, P.C.
700 Thirteenth Street, N.W.
Suite 1200
Washington D.C. 20005
jfleder@hpm.com
Counsel for Respondent Craig Zucker

Timothy L. Mullin, Jr.
Miles & Stockbridge P.C.
100 Light Street
Baltimore, MD 21202
tmullin@milesstockbridge.com
Counsel for Respondent Craig Zucker

One copy by electronic mail to the Trustee for MOH Liquidating Trust:

Julie Beth Teicher, Trustee
MOH Liquidating Trust
Erman, Teicher, Miller, Zucker & Freedman, P.C.
400 Galleria Officentre, Suite 444
Southfield, MI 48034

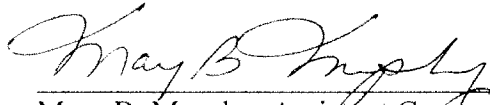

Mary B. Murphy, Assistant General Counsel
Complaint Counsel for
U.S. Consumer Product Safety Commission

EXHIBIT B

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

**COMPLAINT COUNSEL'S
FIRST SET OF INTERROGATORIES TO RESPONDENT CRAIG ZUCKER**

Pursuant to 16 C.F.R. § 1025.32, Complaint Counsel hereby requests that Respondent Craig Zucker serve upon Complaint Counsel, within thirty (30) days, written answers, under oath, to each of the interrogatories set forth below.

DEFINITIONS

1. "You," "your," "Respondent" and "Zucker" mean the Respondent to whom these discovery requests is directed.
2. "Person" means any natural person, entity, group, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental and whether foreign or domestic.

3. “Documents” means the original and any nonidentical copy of any written, printed, reproduced, graphic, photographic, electronic, audio, visual, or computer records, however produced or reproduced, of any kind or description, whether prepared by you or by any other Person, that is in your possession, custody, or control, including, but not limited to, the following: electronic mail; electronically stored information; papers; notes; books; letters; telecopies; facsimiles; photographs; motion pictures; videotapes; video disks; audio recordings; drawings; schematics; manuals; blueprints; intra- and interoffice Communications; transcripts; minutes; reports; audio recordings; affidavits; statements; pleadings; summaries; indices; analyses; evaluations; agreements; calendars; appointment books; diaries; telephone logs; tabulations; charts; graphs; data sheets; computer tapes, disks, cards, printouts, and programs; microfilm; microfiche; social media Communications, including, but not limited to, information posted on or transmitted through social networking platforms (*e.g.*, MySpace, LinkedIn and Facebook), digital file-sharing services (*e.g.*, Flickr), blogs and microblogs (*e.g.*, Twitter); instant messages, customer reviews and/or comments posted on the your website(s) relating to the Subject Products; and all drafts, alterations, and/or amendments of or to any of the foregoing. The term includes all drafts of a Document and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original. The term also includes information stored in or accessible through computer or other information retrieval systems (including computer archives or backup systems), together with instructions and all other materials necessary to use or interpret such data compilations.

4. “Relating to” or “related to” means consisting of, referring to, describing, discussing, constituting, evidencing, containing, mentioning, concerning, pertaining to, citing, summarizing, analyzing, or bearing any logical or factual connection with the matter discussed.

5. “Identify” or “identity” when used with respect to an individual means to provide the individual’s present or last known name, residential address, telephone number, occupation, job or position, job title(s), employer, employer department and/or subject area in which the individual works, business affiliation, and business or employment address, and the individual’s relationships or associations, if any, to the Respondents.

6. “Identify” or “identity” when used with respect to a business, entity, building, or place means the present or last known name, address, and telephone number, and all former names, of that business, entity, building, or place, its state of incorporation, registration, or organization, the identity and address of its registered agent in each state where it is present and doing business or has a place of business, its present officers, directors, and shareholders, and its relationship, if any, to the Respondents.

7. “Identify” or “identity” when used with respect to a Document means the name or title of the document, a description of the Document or record including its date of preparation and transmission, the author, sender, and recipient, a summary of the subject matter, and the identity of the Person who currently has custody of, possession of, or control over the Document. You may also identify a Document by providing a complete and legible copy thereof, and by stating that you have done so.

8. “Identify” when used with respect to a communication means to describe in detail the nature and content of the communication, state the date of the communication, identify all Persons to and from whom the communication was made, and identify all Persons hearing, witnessing, and/or present during the communication.

9. “Communications” means any disclosure, transfer, or exchange of information or opinion, however made, including but not limited to, e-mails, voice mails, fax, memoranda, inquiries, reports, claims, and complaints.

10. “Subject Products” means Buckyballs® and Buckycubes.™

11. “Manufacture” means to “manufacture, produce, or assemble,” as defined in 15 U.S.C. § 2052(a)(10).

12. “Distribute” means to deliver, sell, give, allot, or otherwise provide in commerce, and shall include giving away free samples and promotional items.

13. “Complaint” shall mean the Complaint, and any amendments to the Complaint, filed in this action, CPSC Docket 12-1.

14. “Answer” shall mean the Answer and Defenses, and any amendments to the Answer and Defenses, of Respondent Craig Zucker filed in this action.

15. “Interrogatories” shall mean Complaint Counsel’s First Set of Interrogatories to Respondent Craig Zucker served upon the Respondent.

16. “Requests for Production” shall mean Complaint Counsel’s First Set of Requests for Production of Documents and Things to Respondent Craig Zucker served upon the Respondent.

17. “Hearing” shall mean any hearing conducted in this matter pursuant to 16 C.F.R. § 1025.41 *et seq.*

18. “Test” shall mean any examination, inspection, analysis, results, or other assessment of the Subject Products, or any components of the Subject Products.

19. “M&O” shall mean Respondent Maxfield & Oberton Holdings, LLC (including if previously known under different names), including all past and present officers, directors, representatives, agents, and employees of the Respondent, all other past and present Persons acting or purporting to act on the Respondent’s behalf (including, but not limited to, all past or present agents and employees exercising discretion, discharging duties, making policy, or making decisions with respect to the Respondent), and all past and present parents, subsidiaries, divisions, or branches of the Respondent.

20. “Retailer” shall mean any Person who sold the Subject Products to consumers in the United States.

21. “Responsible Seller Agreement” or “RSA” shall mean any iteration or version of the Buckyballs®/Buckycubes™ Responsible Seller Agreement (RSA), attached at Tab 19(c) to M&O’s May 25, 2012 submission to the CPSC.

22. “ASTM” shall mean ASTM International, formerly known as the American Society for Testing and Materials, of West Conshohocken, PA, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on ASTM’s behalf.

INSTRUCTIONS

A. Each interrogatory and every subpart thereof shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated. If objection is made to only part of an interrogatory, that part

shall be specified. An answer should not be supplied solely by reference to the answer to another interrogatory or subpart unless the answer is completely identical to the answer to which reference is made.

B. The answers shall be signed by the Person giving them, and the objections, if any, shall be signed by the Person or attorney making them. When a complete answer to a particular interrogatory is not possible after exercising the required diligence, the interrogatory shall be answered to the extent possible and a statement shall be made indicating the reasons only a partial answer is given, stating the information or knowledge you have concerning the unanswered portion or unproduced Documents, and describing your efforts to secure the unknown information or unproduced Documents.

C. Identify each Person who assisted or participated in preparing and/or supplying any of the information given in a response to or relied upon in preparing the answers to these interrogatories.

D. If precise information cannot be supplied in response to any interrogatory, an estimate (identified as such) and an explanation of the basis for the estimate shall be supplied.

E. The words “and” and “or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The word “including” shall be construed to mean without limitation. The words “any” and “all” shall be construed so as to make the request inclusive rather than exclusive.

F. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense, so as to make all definitions and discovery requests inclusive rather than exclusive.

G. The singular shall include the plural, and vice versa.

H. These interrogatories shall be read, interpreted, and answered in accordance with these instructions and the definitions set forth herein. If the meaning of any word or phrase used herein is unclear, the Respondents' attorneys are requested to contact Complaint Counsel for the purpose of resolving any ambiguity. If any interrogatory cannot be answered in full after exercising the required diligence, it shall be answered to the extent possible with a full statement of all efforts to fully answer and of all reasons a full answer cannot be made.

I. If it is claimed that the attorney-client privilege or any other privilege is applicable to any Document sought by these discovery requests, specify the privilege claimed and the factual basis you contend supports the assertion of the privilege, and identify the Document as follows:

- i) State the date, nature, and subject matter of the Document;
 - ii) Identify each author of the Document;
 - iii) Identify each preparer of the Document;
 - iv) Identify each Person who is an addressee or an intended recipient of the Document;
 - v) Identify each Person from whom the Document was received;
 - vi) State the present location of the Document and all copies thereof;
 - vii) Identify each Person who has or ever had possession, custody, or control of the Document or any copy thereof;
 - viii) State the number of pages, attachments, appendices, and exhibits;
- and

- ix) Provide all further information concerning the Document and the circumstances upon which the claim of privilege is asserted.

J. For any Communication with respect to which a privilege is asserted, identify the Persons or entities among whom the Communication took place, the date of the Communication, and the subject.

K. In the event that any Document sought by these discovery requests has been destroyed, discarded, or otherwise disposed of, that Document is to be identified as completely as possible, by including, without limitation, the following information:

- i) Each author of the Document;
- ii) Each preparer of the Document;
- iii) Each addressee or intended recipient of the Document;
- iv) Each Person who received the Document;
- v) The date of the Document;
- vi) The subject matter of the Document;
- vii) The reason for disposal of the Document;
- viii) Each Person who authorized disposal of the Document;
- ix) Each Person who disposed of the Document.

L. If any Document was, but is no longer, in your possession, custody, or control, provide the following information:

- i) State the disposition of the Document;
- ii) State the date such disposition was made;
- iii) Identify the present custodian of the Document, or, if the Document no longer exists, so state;

- iv) Identify the Person(s) who made the decision regarding the disposition of the Document; and
- v) State the reasons for the disposition and describe the Document and the contents of the Document, including the title, author, position or title of the author, addressee, position or title of the addressee, whether indicated or blind copies were made, date, subject matter, number of pages, attachments or appendices, and all Persons to whom the Document was distributed, shown, or explained.

M. Pursuant to 16 C.F.R. § 1025.31, the Respondents are under a continuing duty to supplement its responses to these discovery requests without further request from Complaint Counsel. Where the Respondents have responded to a discovery request with a response that was complete when made, Respondents are under a duty to supplement that response to include information later obtained.

N. Unless otherwise specified, the time period encompassed by these interrogatories is January 1, 2009 to the Present.

INTERROGATORIES

1. Identify each Person with knowledge of your efforts to respond to Complaint Counsel's Interrogatories and Requests for Production. For each Person identified, indicate the time period of his or her involvement and describe the Person's responsibility, role and contribution.

2. Identify each Person with knowledge of steps taken by you to preserve documents and information in connection with the above-captioned action.

3. Identify each Person with knowledge of M&O's efforts to respond to Complaint Counsel's Interrogatories and Requests for Production. For each Person identified, indicate the time period of his or her involvement and describe the Person's responsibility, role and contribution.

4. Identify each Person with knowledge regarding M&O's policies and practices regarding management and retention of documents and information.

5. Identify each Person with knowledge of steps taken by M&O to preserve documents and information in connection with the above-captioned action.

6. Identify each Person with knowledge regarding the ingestion of the Subject Products and describe with specificity the knowledge of each Person identified.

7. Identify each Person whom you expect to call as a witness at the trial or Hearing of this matter, and for each witness, state or provide the following information:

- a) The subject matter on which the witness is expected to testify; and
- b) The substance of the facts to which the witness is expected to testify.

8. Identify each Person whom you expect to call as an expert witness at the trial or Hearing of this matter, and for each such expert witness, state or provide the following information:

- a) The subject matter on which the expert is expected to testify;
- b) The substance of the facts and opinions to which the expert is expected to testify; and
- c) A summary of the grounds for each opinion.

9. Identify each Person with knowledge regarding the design and development of the Subject Products, including any Person who participated in the creation of the look, feel, and appearance of the Subject Products. For each Person identified, indicate the time period of his or her involvement and describe the Person's responsibilities, role and contribution.

10. Identify each Person with knowledge regarding the intended purpose, intended use, and intended user of the Subject Products. For each Person identified, indicate the time period of his or her involvement and describe the Person's responsibilities, role and contribution.

11. Identify each Person who participated in age grading, age labeling and/or age determination of the Subject Products, including any changes thereto. For each Person identified, indicate the time period of his or her involvement and describe the Person's responsibilities, role and contribution.

12. Identify each iteration or version of each label, warning, or instruction that appeared at any time on www.getbuckyballs.com, www.magnetsafety.com, and www.saveourballs.net, that referenced the recommended age of the user of the Subject Products and/or the possible risks associated with ingestion of the Subject Products. For each label, warning, or instruction, provide the first and last dates during which it was visible on www.getbuckyballs.com, www.magnetsafety.com, and www.saveourballs.net.

13. Identify each iteration or version of each label, warning, or instruction that accompanied the Subject Products that referenced the recommended age of the user of the Subject Products and/or the possible risks associated with ingestion of the Subject Products. Provide information (such as dates of distribution or sale; product names or

other identifying information; and quantity of products) sufficient to determine which units of the Subject Products were distributed with each iteration or version of each label, warning, or instruction.

14. Identify each Person involved in creating, designing, and manufacturing any and all versions or iterations of the packaging, labels, warnings, and instructions that accompanied the Subject Products, including any changes thereto. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

15. Identify each Person who participated in the marketing, advertising, and/or promotion of the Subject Products from 2009 through the present, in any form or through any media. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

16. Identify any studies, reports, publications, or written evaluations that discuss or refer to the effectiveness of any warnings that accompany, or in the past accompanied, the Subject Products with respect to the risk of ingestion.

17. In M&O's August 14, 2012 Supplemental Response to the Full Report submitted to the Commission on May 25, 2012, M&O identified a promotional video that can be found at: <http://web.archive.org/web/20090313053433/http://getbuckyballs.com/>. The video describes and demonstrates various uses of the Subject Products such as jewelry and refrigerator decorations. The video includes a clip of a woman using the Subject Products to simulate a tongue piercing. Identify all Persons who were involved in conceiving, developing, producing and promoting the video.

18. State the reasons why the following uses of the Subject Products were included in the video described in Interrogatory 17:

- a) Using the Subject products as jewelry;
- b) Using the Subject Products to simulate tongue piercings; and
- c) Using the Subject Products as magnets on refrigerators.

19. Identify each Person who participated in determining the prices at which M&O offered the Subject Products for sale. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

20. Identify each Person involved in creating, maintaining, and developing the contents of the websites: www.getbuckyballs.com, www.magnetsafety.com, and www.saveourballs.net, or any iteration of any of the above sites. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

21. Identify each Person who participated in marketing, advertising, or public relations campaigns or communications to the public with respect to the Subject Products following the filing of the Complaint. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

22. Identify each Person who communicated with CPSC Chairwoman Inez Tenenbaum, any of the current or former CPSC commissioners, or any CPSC staff member following the filing of the Complaint. For each Person identified, describe the Person's role, responsibilities, and the nature of the communication(s).

23. Identify each Retailer to whom M&O offer the Subject Products at a discounted price following the filing of the Complaint. With respect to each Retailer identified, state:

- a) The discounted price per unit;
- b) The number of units purchased by the retailer;
- c) The date of each such purchase; and
- d) Any other terms of the discount.

24. Identify each Person with knowledge of the manufacturing or packaging of the Subject Products, as well as any changes thereto. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

25. Identify each Person with knowledge of the following specific aspects of the manufacturing process for the Subject Products. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

- a) The identification and procurement of raw materials;
- b) The identification and procurement of component parts;
- c) The identification and retention of a facility to manufacture and package the Subject Products, including the component parts; and
- d) The creation and procurement of necessary tools and equipment,

26. Identify each Person (whether individual or entity) in M&O's supply chain for the Subject Products from the acquisition of raw materials and component parts

to the sale of the Subject Products. Your answer should include a description of the product or service that each Person provided to M&O.

27. Identify the author of M&O's Responsible Seller Agreement.

28. Identify each Person who executed a Responsible Seller Agreement with respect to the Subject Products.

29. Describe the circumstances under which, if ever, M&O refused to sell the Subject Products to certain Retailers. Identify those Retailers, and state the reasons for the refusal.

30. Describe those circumstances under which, if ever, M&O withdrew the Subject Products from, or ceased selling the Subject Products to, any Retailer for failure to comply with any provision of the Responsible Seller Agreement or for any other conduct inconsistent with M&O's agreements with that Retailer. Identify each such Retailer, and describe the reasons for the withdrawal of the Subject Products or the cessation of sales.

31. Identify and describe each step you or any other M&O employee took to ensure that Retailers that executed a Responsible Seller Agreement complied with the provisions of such agreements.

32. Identify each Person who was at any time responsible for ensuring compliance by Retailers with the terms of M&O's Responsible Seller Agreements.

33. Identify all Tests performed on the Subject Products. As part of your response for each Test:

a) Identify the specific product or products tested;

- b) Describe each Test including the date of the Test and the standard or protocols used;
- c) Identify all Persons who participated in the Test;
- d) Describe all information, directions, and requests that you or any other M&O employee provided to the Person conducting the Test;
- e) Describe and explain the results of the Test, including all observations and conclusions;
- f) Identify all Persons who participated in evaluating the test results; and
- g) Describe any changes to the Subject Products following the Test.

34. Identify each claim, complaint, inquiry, or report of incidents, injuries, or fatalities related to ingestion of the Subject Products, including those with respect to which it is unknown if the magnets involved were distributed by M&O. For each claim, complaint, inquiry, or report of incidents, injuries, or fatalities:

- a) Provide the name, address, telephone number, e-mail address, and any other identifying information of the claimant, complainant, or person submitting the inquiry or report;
- b) Identify the date M&O first received verbal or written information concerning the claim, complaint, inquiry, or report;
- c) State the information M&O received in the claim, complaint, inquiry, or report and how the information was received;
- d) State whether you or any other Person acting on behalf of M&O investigated or took other responsive steps after the initial claim,

complaint, inquiry, or report, and if so, state the date and description of each investigation or other step;

- e) State whether medical attention was received by any Person involved in any claim, complaint, inquiry, or reports;
- f) State the age of any Person involved in the incident;
- g) State the date of purchase of the product involved.
- h) State where the product involved was purchased and who purchased it;
- i) Describe the type of packaging and warnings on the involved product; and
- j) For each such claim that was submitted to an insurer, identify the insurer, state whether the insurer affirmed that coverage existed for the claim, state whether the insurer paid covered the claim, and state the sum paid, if any.

35. Identify each Person with knowledge of any lawsuits or alternative dispute resolution proceedings related to the Subject Products.

36. Identify each insurance policy that provides coverage to you or M&O (including M&O's officers and directors) for claims arising from the Subject Products.

37. Identify each Person who at any time served as a member, partner, officer or director of M&O. For each Person identified, list each position held and the dates of service.

38. Identify each Person who was at any time employed by M&O. For each Person identified, provide a job description and dates of employment for each position held during the duration of his or her employment at M&O.

39. Identify each Person who had responsibility for any aspect of M&O's 2010 recall of Buckyballs® and the 2011 Magnet Safety Alert.

40. Identify each Person responsible for maintaining the site www.getbuckyballs.com from December 27, 2012 to the present.

41. Identify each position you held during the duration of your affiliation with M&O.

42. With respect to each position identified in response to Interrogatory 41, provide a narrative description of your role, responsibilities, decision-making authority, as well as the name of your direct supervisor (if any) and the employees that reported directly to you.

43. Provide a narrative description of your role, responsibilities, and authority regarding M&O's efforts to comply with the requirements of the Consumer Product Safety Act, and any other statute or regulation enforced by the Consumer Product Safety Commission.

44. Identify, by description and date, each action you took on behalf of M&O in furtherance of M&O's compliance with the requirements of the Consumer Product Safety Act, and any other statute or regulation enforcement by the Consumer Product Safety Commission.

45. Identify each Person with knowledge regarding M&O's decision to wind-down and/or file a certificate of cancellation.

46. Identify the first date on which M&O considered winding-down and/or filing a certificate of cancellation.

47. State the reasons that M&O decided to wind-down and file a certificate of cancellation.

48. Identify each step that you or any other Person acting on behalf of M&O took, prior to filing a certificate of cancellation to ascertain, quantify, and make reasonable provision for: (i) claims and obligations known to M&O; (ii) claims against M&O that were the subject of a pending action, suit, or proceeding to which M&O was a party; and (iii) claims against M&O that were likely to arise or become known to M&O within 10 years after the date of dissolution.

49. Identify by date, amount, and recipient each and every payment or disbursement made by M&O to you or any other employee, member, officer or director of M&O (whether past or present), between July 25, 2012 and December 27, 2012. Your response should include any payments made to entities owned or controlled by a Person who was at any time an employee, member, officer or director of M&O.

50. Identify each Person who participated in the decision-making process with regarding the amount, timing, or recipient each payment or disbursement identified in response to Interrogatory 49.

51. Identify each claim, potential claim, or obligation, identified by M&O prior to dissolution. For each claim, potential claim, or obligation:

- a) Provide the name, address, telephone number, e-mail address, and any other identifying information of the claimant or obligor;
- b) State the nature of the claim or obligation.

52. Provide a narrative statement describing how M&O determined how much money it would transfer to the MOH Liquidating Trust.

53. Identify each Person who participated in determining how much money M&O transferred to the MOH Liquidating Trust.

54. Identify each Proof of Claim that has been submitted to the MOH Liquidating Trust as of August 8, 2013, and for each Proof of Claim identified:

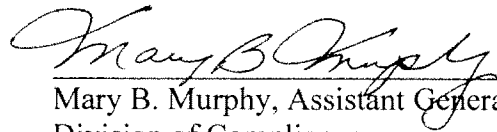
- a) Provide the name, address, telephone number, e-mail address, and any other identifying information of the claimant;
- b) State the nature of the claim or obligation described in the Proof of Claim;
- c) State the amount that the MOH Liquidating Trust has paid or allocated for payment to the claimant.

55. State the total number of units of the Subject Products that M&O had distributed in commerce as of December 31, 2012.

56. Identify each Person with knowledge of M&O's involvement in the formation of an ASTM Standard encompassing the Subject Products. For each Person identified, indicate the time period of his or her involvement, and describe the Person's responsibilities, role, and contribution.

57. Identify each step that you took, prior to M&O's filing of a certificate of cancellation, to preserve documents and information relating to the Subject Products.

58. Identify each step that M&O took, prior to filing a certificate of cancellation, to preserve documents and information relating to the Subject Products.



Mary B. Murphy, Assistant General Counsel
Division of Compliance
Office of the General Counsel
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
Tel: (301) 504-7809

Jennifer Argabright, Trial Attorney
Richa Shyam Dasgupta, Trial Attorney

Complaint Counsel for
U.S. Consumer Product Safety Commission
Bethesda, MD 20814

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2013, I served Complaint Counsel's First Set of Interrogatories to Craig Zucker as follows:

Original and three copies by hand delivery and one copy by electronic mail, to the Secretary of the U.S. Consumer Product Safety Commission: Todd A. Stevenson.

One copy by certified mail and one copy of electronic mail to counsel of record:

David C. Japha
The Law Offices of David C. Japha, P.C.
950 S. Cherry Street, Suite 912
Denver, CO 80246
davidjapha@japhalaw.com
*Counsel for Respondents Zen Magnets,
LLC and Star Networks USA, LLC*

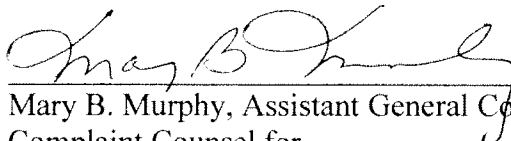
Erika Z. Jones
Mayer Brown LLP
1999 K Street N.W.
Washington, D.C. 20006
ejones@mayerbrown.com
Counsel for Respondent Craig Zucker

John R. Fleder
Hyman, Phelps & McNamara, P.C.
700 Thirteenth Street, N.W.
Suite 1200
Washington D.C. 20005
jfleder@hpm.com
Counsel for Respondent Craig Zucker

Timothy L. Mullin, Jr.
Miles & Stockbridge P.C.
100 Light Street
Baltimore, MD 21202
tmullin@milesstockbridge.com
Counsel for Respondent Craig Zucker

One copy by electronic mail to the Trustee for MOH Liquidating Trust:

Julie Beth Teicher, Trustee
MOH Liquidating Trust
Erman, Teicher, Miller, Zucker & Freedman, P.C.
400 Galleria Officentre, Suite 444
Southfield, MI 48034


Mary B. Murphy, Assistant General Counsel
Complaint Counsel for
U.S. Consumer Product Safety Commission