

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

IN THE MATTER OF

CPSC DOCKET NO.: 21-1

THYSSENKRUPP ACCESS CORP.,

Respondent.

**RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSION TO
CONSUMER PRODUCT SAFETY COMMISSION**

Pursuant to 16 C.F.R. § 1025.34, Respondent TK Access Solutions Corp. (“the Company”), formerly known as thyssenkrupp Access Corp., hereby requests that the Consumer Product Safety Commission (“CPSC”) admit the truth of each of the following matters under oath and in writing with 30 days of service hereof.

Pursuant to 16 C.F.R. § 1025.31(b), the Company reserves the right to submit additional requests for production of documents or things, requests for admission, or interrogatories.

DEFINITIONS

1. In the following requests:
 - A. “You,” or “your,” shall mean the CPSC and includes the current or former staff, contractors, agents, representatives, and officers, including the Commissioners and their personal staff.
 - B. “Document” shall be interpreted as the term is used in the Federal Rule of Civil Procedure 34, and shall include the original and all non-identical copies of all written, printed, typed, graphic, and photographic matter of any kind or nature, and all mechanical or electronic audio and/or visual recordings or transcripts thereof, however produced or reproduced, and all entries in a computer or electronic database (including Twitter and any other form of social media) of any kind, including but not limited to: correspondence,

telexes, telegrams, telephone messages, statements, voice mail, electronic mail, facsimiles, and all other computer files or data, claim forms, incident reports, intake forms or histories, summaries of records of telephone conversations, memoranda, records, summaries or records of personal conversations or interviews, invoices, contracts, agreements, orders, books, calendars, diaries, reports, notebooks, photographs, videos (digital or otherwise), slides, charts, notes, plans, drawings, sketches, maps, summaries or records of meetings or conferences, drafts, logs of meetings or telephone calls, or letters, now or formerly in the possession, custody, or control of CPSC, CPSC's attorneys, representatives, employees, or agents, including the Commissioners and their personal staff.

C. "Person" shall mean any natural person, corporation, partnership, unincorporated association, joint venture, not-for-profit corporation, trust, estate, public or quasi-public entity, or any other legal entity.

D. "Complaint" shall mean your Complaint filed against the Company in the above-captioned matter and any amendments thereto.

E. "Components" shall mean the alleged "consumer products" referred to in Paragraph 1 of your Complaint.

F. "Dealers" shall mean third-party distributors or retailers of the Components.

G. "Hoistway" shall mean a vertical shaft or channel through which a residential elevator car moves when in operation.

H. "Identify," "state the identity of," "identification," or "describe:

i When used in reference to an individual, shall mean to state their full name, maiden or former names, present or last known home and business address

and telephone numbers, and present or last known occupation, employer, and job title or description; or if none of the information is known, then the name and present home and business address and telephone numbers of all individuals who likely or may be able to provide all or part of the information.

ii When used in reference to an organization of any kind, shall mean to state its full name, its state of incorporation (if applicable), and the address of its principal place of business and its telephone numbers.

iii When used in reference to a Document, shall mean to state the type of Document, its date, the identity of its author(s) and its recipient(s), any title and/or serial number or file number appearing on the Document, the identity of its present custodian, its present location and a brief description of its subject matter. If any such Document was, but no longer is, in your possession or control or in existence, state whether it (i) is missing or lost, (ii) has been destroyed, (iii) has been transferred to others, or (iv) has been otherwise disposed of. In lieu of identifying a Document, a copy of the Document can be produced.

I. “Installer” shall mean and shall include, as specified:

i “Hoistway Installer,” which shall mean any Person responsible for designing or building Hoistways;

ii “Hoistway Door Installer,” which shall mean any Person responsible for selecting or installing Hoistway Doors; and

iii “Equipment Installer,” which shall mean any Person responsible for installing residential elevators.

- J. “Hoistway Door” shall mean both
- i a door, supplied and installed by persons who are not party to the above-captioned action, used to separate the Hoistway from the living space of a residence in which a residential elevator is installed and
 - ii the frame, jamb, flange, and similar fixed components, supplied and installed by persons who are not party to the above-captioned action, that are associated with a door.
- K. “Landing Sill” shall mean the edge of the floor of the residence within the Hoistway that leads to an installed residential elevator.
- L. “Gap Space” shall mean:
- i. The distance between the Hoistway Door and the edge of the Landing Sill and
 - ii. The distance between the Hoistway Door and the gate that is interior to a residential elevator car.
- M. “2013 Investigation” shall mean the entire CPSC file, under file number CA140069, or any other file number, under which CPSC investigated the Components in connection with the incident described in Paragraphs 67-73 of the Complaint, and all Documents associated therewith.
- N. “Closing Letter” shall mean the letter, dated June 19, 2014, from Jonathan Thron of CPSC to Jay Doyle, then-counsel to the Company, by which CPSC informed the Company that the agency had closed the 2013 Investigation at least in part in view of “the corrective action measures the [Company] has undertaken [including] establishing two

(2) websites to educate consumers about the hazard and partially subsidizing the cost of space guards for consumers whose elevators were installed out of specification.”

O. “Elevator Petition” shall mean the petition, filed by The Safety Institute and others on or about November 13, 2014, entitled “Petition for Recall to Repair/Retrofit and Rulemaking,” regarding which CPSC published notice and an opportunity for comment at pages 3226-27 of Volume 80 of the Federal Register on January 22, 2015.¹

P. “Briefing Package” shall mean the CPSC staff briefing package, prepared by Vincent J. Amodeo, Project Manager, et al., and dated March 15, 2017, which:

- i recommended that the Commission deny the Elevator Petition;
- ii described the “homeSAFE” campaign that the Company had undertaken in conjunction with elevator trade associations to address the hazards associated with Hoistway Doors and elevators that were improperly installed so as to create excessive Gap Spaces; and
- iii stated that “CPSC has not recalled any elevators related to the entrapment hazard identified by the petitioners [as] CPSC staff could not identify any specific elevator models or manufacturers whose installations revealed design defects or installation defects that caused a substantial product hazard.”

Q. “RCA” shall mean a CPSC Record of Commission Action or similar Document reflecting any vote by the Commission, whether conducted in an open or closed meeting, by ballot, or by electronic poll.

¹ The Federal Register notice states the Elevator Petition was filed November 1, 2013. However, as the copy of the Elevator Petition contained in the Briefing Package is stamped “Received CPSC 2014 NOV 13 . . . Office of the Secretary,” p. 1, and as the Elevator Petition refers to the Company’s homeSAFE campaign, p. 24-25, which was launched on June 25, 2014, the Company believes the Federal Register notice’s statement is in error.

R. “Buerkle Alert” shall mean a statement from then-Acting Chairman Ann Marie Buerkle, dated August 1, 2019, entitled “Safety Alert to Protect Children from a Deadly Gap between Doors of Home Elevators.”

S. “Buerkle Letter” shall mean a letter from then-Acting Chairman Ann Marie Buerkle, dated August 6, 2019, that was addressed to the governors of all U.S. states and that alerted the governors to the hazards associated with improper installations of Hoistway Doors and elevators and the “critical role of installers” in preventing these hazards.

T. “Press Release” shall mean any release or statement, issued by or through CPSC or any person associated with CPSC, or any Commissioner or any Commissioner’s staff, including the Buerkle Alert and the Buerkle Letter, to any news person or organization, including any newspaper or any broadcast or Internet person or organization, regarding the Components, residential elevators, or the hazards associated with improper installations of Hoistway Doors or elevators.

U. “Withdrawn Unilateral Statement” shall mean the proposed unilateral statement that the Company was notified, via a letter from CPSC staff member Harriet Kerwin dated February 2, 2021, that CPSC intended to issue regarding the Components.

V. “2017 Investigation” shall mean the entire CPSC file, under file numbers PI170085 or CA210007, or any other file number, under which CPSC investigated the Components, and any Documents associated therewith.

W. “PSA” shall mean any CPSC Product Safety Assessments, or any similar staff technical evaluations, associated with the Components or any other residential elevator.

X. “PD” shall mean any CPSC Preliminary Determination, or any similar staff technical evaluations, associated with the Components or any other residential elevator.

Y. “ASME” shall mean the American Society of Mechanical Engineers.

Z. “ASME A17.1” shall mean the American Society of Mechanical Engineers’ A17.1 *Safety Code for Elevators and Escalators*, including A17.1-2016 and any predecessor and successor standards.

AA. “ASME A17.3” shall mean the American Society of Mechanical Engineers’ A17.3 *Safety Code for Existing Elevators and Escalators*, including A17.3-2020 and any predecessor standards.

BB. “Administrative Record” shall mean the Documents relating to the 2013 Investigation, the Elevator Petition, and the 2017 Investigation, including all allegations in the Complaint, including, but not limited to, all reports, memoranda, correspondence, expert reports, analyses, safety studies and reports, engineering studies and reports, human factors studies and reports, ASME committee minutes, correspondence with any ASME staff or any ASME committee members, and other documents or information created or reviewed by the Commission that contributed to the Commission’s decision to close the 2013 Investigation, produce the preliminary determination associated with the 2017 Investigation, and/or issue the Complaint, was considered by the Commission prior to the filing of the Complaint, and/or factored in any way into the Commission’s decision to file or serve the Complaint, to deny the Elevator Petition or propose to issue the Withdrawn Unilateral Statement.

2. The words “and” and “or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

3. The word “including” shall be construed to mean without limitation.
4. 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 requests inclusive rather than exclusive.
5. The singular shall include the plural, and vice versa.

INSTRUCTIONS

6. These requests shall be read, interpreted, and answered in accordance with these instructions and the definitions set forth herein, as well as 16 C.F.R. § 1025.34. If the meaning of any word or phrase used herein is unclear, Complaint Counsel are requested to contact Respondent’s counsel for the purpose of resolving any ambiguity. If any request 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.
7. These requests shall be deemed continuing to the extent permitted by 16 C.F.R. § 1025.31(f) so as to require prompt further responses if additional information or Documents are obtained between the time the responses were served and the time of any hearing, trial, or other proceeding in or relating to the above-captioned action.
8. If CPSC or Complaint Counsel claims 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:
 - A. State the date, nature, and subject matter of the Document;
 - B. Identify each author of the Document;

- C. Identify each preparer of the Document;
 - D. Identify each Person who is an addressee or an intended recipient of the Document;
 - E. Identify each Person from whom the Document was received;
 - F. State the present location of the Document and all copies thereof;
 - G. Identify each Person who has or ever had possession, custody, or control of the Document or any copy thereof;
 - H. State the number of pages, attachments, appendices, and exhibits;
 - I. Provide all further information concerning the Document and the circumstances upon which the claim of privilege is asserted; and
 - J. Produce all non-privileged portions of the Document.
9. Identify each Person who assisted or participated in preparing and/or supplying any of the information give in response to or relied upon in preparing the answers to these requests.
10. The answers to these requests for admissions shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the required admission.
11. When good faith requires that a party qualify an answer or deny only a part of the matter to which an admission is requested, the party shall specify the portion that is true and qualify or deny the remainder.

REQUESTS FOR ADMISSION

- 1. Admit that the Components were installed by one or more professionals in the building trades.
- 2. Admit that, in most instances, the Components were installed by Persons other than the homeowner.

3. Admit that CPSC is not aware of any reported incidents or injuries involving enclosure of a person inside a Gap Space associated with a Component installed by a Company professional.
4. Admit that, in all instances, the Hoistway in which a Component was installed was designed and constructed by one or more professionals in the building trades.
5. Admit that, in all instances, the Hoistway was installed by a third party.
6. Admit that, in all instances, the Hoistway Door was manufactured and distributed by a Person other than the Company.
7. Admit that, in all instances, the Hoistway Door was selected by homeowners or by one or more third-party professionals in the building trades.
8. Admit that, in all instances, the Hoistway Door was installed by one or more professionals in the building trades.
9. Admit that, in all instances, the Hoistway Door was installed by a third party.
10. Admit that the power to adopt or update a building, fire, and/or electrical code lies with the state or local authority having jurisdiction.
11. Admit that the power to adopt or update a requirement for inspections of residential elevators lies with the state or local authority having jurisdiction.
12. Admit that professionals in the building trades were bound to follow building codes adopted by the relevant authority having jurisdiction when installing Hoistways, Hoistway doors, and residential elevators.
13. Admit that professionals in the building trades were bound to follow fire codes adopted by the relevant authority having jurisdiction when installing Hoistways, Hoistway Doors, and the Components.

14. Admit that professionals in the building trades were bound to follow electrical codes adopted by the relevant authority having jurisdiction when installing Hoistways, Hoistway Doors, and the Components.
15. Admit that ASME A17.1 incorporates, by reference, National Fire Prevention Association (“NFPA”) 70, *National Electrical Code*, into the ASME A17.1 provisions applicable to installations of residential elevators.
16. Admit that professionals in the building trades were bound to follow all applicable provisions of ASME A17.1 as adopted by the relevant authority having jurisdiction when installing Hoistways, Hoistway Doors, and the Components.
17. Admit that the Company sold and delivered the Components to dealers.
18. Admit that consumers do not have the training or experience to construct a Hoistway or install the Components.
19. Admit that the detailed engineering drawings, specifications, and installation instructions related to the construction of Hoistway and installation of the Components were provided to and for the use of professionals.
20. Admit that the Company ceased manufacture and distribution of the Components in 2012.
21. Admit that the Components, including any informational, instructional, or warning materials associated with the Components, have not changed since the Company ceased manufacture and distribution of the Components.
22. Admit that CPSC conducted the 2013 Investigation.

23. Admit that, during the course of the 2013 Investigation, CPSC requested information regarding the Components, including informational, instructional, and warning materials associated with the Components.
24. Admit that, during the course of the 2013 Investigation, CPSC received the requested information referenced in Request for Admission 23.
25. Admit that, during the course of the 2013 Investigation, CPSC received information regarding the homeSAFE campaign.
26. Admit that, on June 19, 2014, CPSC issued the Closing Letter.
27. Admit that the Closing Letter informed the Company of CPSC's decision to close the 2013 Investigation.
28. Admit that CPSC's decision to close the 2013 Investigation was based upon CPSC's determination that the Components, assuming *arguendo* that they were "consumer products," did not contain a defect that presented a substantial product hazard within the meaning of 15 U.S.C. § 2064.
29. Admit that CPSC's decision to close the 2013 Investigation was based upon CPSC's determination that, to the extent a hazard associated with the Components existed (and assuming *arguendo* that the Components were "consumer products"), that hazard was the result of the Components' being "installed out of specification." Closing Letter at 1.
30. Admit that CPSC's decision to close the 2013 Investigation was based upon CPSC's determination that, to the extent a hazard associated with the Components and Hoistway Doors being "installed out of specification," Closing Letter at 1, existed (and assuming *arguendo* that the Components were "consumer products"), the hazard was being addressed voluntarily through the homeSAFE campaign.

31. Admit that the Company launched the homeSAFE campaign on June 25, 2014.
32. Admit that the homeSAFE campaign included public information efforts to advise consumers of the potential hazards associated with the Components' and Hoistway Doors' being installed out of specification.
33. Admit that the homeSAFE campaign was not a "recall" within the meaning of 15 U.S.C. § 2064.
34. Admit that the Company requested CPSC's participation in or support of the homeSAFE campaign.
35. Admit that CPSC did not participate in or publicly support the homeSAFE campaign.
36. Admit that the Company requested that CPSC communicate information about the homeSAFE campaign to the public.
37. Admit that CPSC did not communicate to the public information about the homeSAFE campaign, including, but not limited to, the website uniform resource locators ("URL") or toll-free number.
38. Admit that CPSC staff briefed the then-Chairman of CPSC about the status of the 2013 Investigation, including CPSC staff's decision to close the 2013 Investigation.
39. Admit that, at the time of the issuance of the Closing Letter, Commissioner Robert S. Adler was Acting Chairman.
40. Admit that CPSC received the Elevator Petition.
41. Admit that the Elevator Petition included specific discussion of and references to the activities of the ASME "A17 Residence Elevator Committee." *See, e.g.*, Elevator Petition at 23.
42. Admit that, in preparing the Briefing Package, staff reviewed the "A17 Residence Elevator Committee" activities referenced in the Elevator Petition.

43. Admit that the Elevator Petition included specific discussion of and references to the activities of the “TN05-803 Residence Elevator Committee.” *See, e.g.*, Elevator Petition at 24.
44. Admit that, in preparing the Briefing Package, staff reviewed the “TN05-803 Residence Elevator Committee” activities referenced in the Elevator Petition.
45. Admit that the Briefing Package informed the Commission that staff had identified five “incidents that might involve fatal entrapments between car [gates] and hoistway door between January 1, 1981 and November 10, 2016” associated with installed residential elevators. Briefing Package at 35.
46. Admit that the Briefing Package informed the Commission that staff had identified two reported injuries and one reported non-injury incident associated with installed residential elevators. Briefing Package at 36.
47. Admit that the Briefing Package states that “Hoistway doors are generally not manufactured or supplied by the elevator manufacturer.” Briefing Package at 7.
48. Admit that the Briefing Package states that “Elevator dealers or installers work with home remodeling contractors (if the elevator is being retrofitted into an existing home) and home builders (if the elevator is being installed in new construction) to design and build the hoistway or shaft in which the elevator will be installed.” Briefing Package at 7.
49. Admit that the Briefing Package states that “The contractor involved in building or modifying the house to accommodate the elevator hoistway or shaft would be responsible for building or installing the hoistway door and sill.” Briefing Package at 7.
50. Admit that the Briefing Package states that “[T]he HomeSafe [*sic*] Campaign (HomeSafe [*sic*]) . . . provides homeowners, manufacturers, and installers with information on how to install, operate, and maintain their home elevators safely.” Briefing Package at 13.

51. Admit that the Briefing Package does not inform any reader that the homeSAFE campaign offered subsidies toward the purchase of space guards for homeowners with Components produced by the Company installed in their home.
52. Admit that the Briefing Package states that “CPSC has not recalled any elevators related to the entrapment hazard identified by the petitioners.” Briefing Package at 14.
53. Admit that the statement in the Briefing Package that “CPSC has not recalled any elevators related to the entrapment hazard identified by the petitioners,” Briefing Package at 14, included, within the meaning of the term “elevators” as used therein, the Components that were the subject of the Closing Letter.
54. Admit that the Briefing Package states that “CPSC staff could not identify any specific elevator models or manufacturers whose installations revealed design defects or installation defects that caused a substantial product hazard resulting from an excess space gap between the car door and hoistway.” Briefing Package at 14.
55. Admit that the statement in the Briefing Package that “CPSC staff could not identify any specific elevator models or manufacturers whose installations revealed design defects or installation defects that caused a substantial product hazard resulting from an excess space gap between the car door and hoistway,” Briefing Package at 14, included, within the meaning of the term “elevators” as used therein, the Components that were the subject of the Closing Letter.
56. Admit that the Briefing Package recommended that the Commission deny the Elevator Petition.
57. Admit that the Briefing Package states that CPSC staff’s recommendation that the Commission deny the Elevator Petition was based on “Staff’s review [which] showed that the current voluntary standard for residential elevators, ASME A17.1-2016, *Safety Code for*

Elevators and Escalators, addresses the potential hazard of child entrapment between the elevator car door and elevator hoistway doors.” Briefing Package at 16.

58. Admit that the Briefing Package states that “In addition, if state building codes are updated to require safety inspections that meet the ASME A17.1-2016 requirements by fall 2017, staff expects that substantial compliance to the revised standard for new residential elevators will be likely.” Briefing Package at 16.

59. Admit that the Commission received the Briefing Package.

60. Admit that each Commissioner then serving received the Briefing Package.

61. Admit that the Commission voted to deny the Elevator Petition.

62. Admit that no Commissioner voted to grant the Elevator Petition.

63. Admit that no Commissioner issued a statement, contemporaneously with the vote to deny the Elevator Petition, disagreeing with, disputing, rejecting, or otherwise signaling an intention not to adopt the rationale for CPSC staff’s recommendation that the Commission deny the Elevator Petition.

64. Admit that all of the Components were manufactured and distributed prior to the adoption of ASME A17.1-2013 or any successor standard.

65. Admit that all of the Components were manufactured and distributed prior to the adoption of ASME A17.1-2016 or any successor standard.

66. Admit that, prior to the adoption of ASME A17.1-2016, the then-current version of ASME A17.1 at the time of any installation of the Components and any third-party installation of a Hoistway Door provided that the Gap Space should not exceed five inches between the Hoistway Door and the car gate or three inches between the Hoistway Door and the Landing Sill.

67. Admit that prior to the adoption of ASME A17.1-2016, the then-current version of ASME A17.1 at the time of any installation of the Components and any third-party installation of a Hoistway Door did not address how to measure the Gap Space.
68. Admit that prior to the adoption of ASME A17.1-2016, the then-current version of ASME A17.1 at the time of any installation of the Components and any third-party installation of a Hoistway Door did not call for use of any specific or unique measurement tool.
69. Admit that none of the three incidents referred to in Paragraphs 66 through 80 of the Complaint involved installations in which the Hoistway Doors, as installed by third-party Installers, met the Hoistway Door-to-still standard under the requirements of ASME A17.1 that were current at the time of installation.
70. Admit that none of the three incidents referred to in Paragraphs 66 through 80 of the Complaint involved installations in which the Hoistway Doors, as installed by third-party Installers, met the Hoistway Door-to-car door standard under the requirements of ASME A17.1 that were current at the time of installation.
71. Admit that the Complaint's identification of a "Hazardous Space" as one in which the space between the Hoistway Door and elevator car gate exceeds four inches is based upon ASME A17.1-2016's adoption of that standard.
72. Admit that states and localities may adopt varying portions of any edition of ASME A17.1 or any revisions thereto.
73. Admit that states and localities may adopt any edition of ASME A17.1 or any revisions thereto at varying times.

74. Admit that, because of the variability of adoption of ASME A17.1, members of the local building trades within each jurisdiction in which an elevator is installed are required to understand, apply, and comply with the each such local jurisdiction's requirements.
75. Admit that ASME A17.1 discusses the safety of new installations of residential elevators.
76. Admit that ASME A17.3 discusses the safety of existing elevator installations.
77. Admit that a manufacturer is not responsible for retrofitting its products to accommodate changes to relevant voluntary or mandatory standards that are promulgated or enacted subsequent to the manufacture of a product.
78. Admit that the CPSA, including, but not limited to, 15 U.S.C. § 2058(g)(1), prohibits the enactment of retroactive consumer product safety rules.
79. Admit that, where a voluntary standard has been adopted into a mandatory consumer product safety rule, CPSC has not sought recalls of products manufactured prior to that adoption.
80. Admit that, where a voluntary standard that has been adopted into a mandatory consumer product safety rule has been revised, CPSC has not sought recalls of products manufactured prior to that revision.
81. Admit that, in November 2020, the U.S. Government Accountability Office ("GAO") issued a report entitled Consumer Product Safety Commission: Actions Needed to Improve Processes for Addressing Product Defect Cases." U.S. Gov't Accountability Off., GAO-21-56 ("GAO Report").
82. Admit that the GAO Report stated that "voluntary standards are not enforceable by law." GAO Report at 40.
83. Admit that CPSC "generally concur[red] with the conclusions" of the GAO Report. GAO Report at app. IV.

84. Admit that CPSC did not dispute the GAO Report’s statement that “voluntary standards are not enforceable by law.” GAO Report at app. IV.

85. Admit that the April 26, 2017, letter informing the Elevator Petitioners of the Commission’s denial stated that “CPSC staff reviewed the incident information you submitted on 16 incidents that occurred between 1958 and 2013. Staff’s review found that nine of these incidents occurred in a nonresidential location, and four incidents did not match the hazard scenario described in the petition. Of the three remaining incidents that could have involved the entrapment-hazard scenario, there were insufficient details in two of the incidents to establish whether they occurred in a residential elevator.” Letter from Todd Stevenson to Jamie Schaefer-Wilson (“Petition Letter”), et al., p. 2 (Apr. 26, 2017).

86. Admit that the April 26, 2017, letter informed the Elevator Petitioners that “The 2013 version of ASME A17.1 allowed a 5-inch clearance between the residential elevator car door and the hoistway door.” Petition Letter at 2.

87. Admit that the April 26, 2017, letter informed the Elevator Petitioners that “ASME A17.1-2016 was published on November 30, 2016” and that “The standard becomes effective on May 30, 2017.” Petition Letter at 3.

88. Admit that the April 26, 2017, letter informed the Elevator Petitioners that “Based on staff’s review of the relevant incident data and the current ASME standard, the Commission is denying your petition.” Petition Letter at 4.

89. Admit that the Elevator Petitioners included the law firm of Cash, Krugler & Fredericks, LLC.

90. Admit that, after the publication of the Briefing Package, which referenced the homeSAFE campaign, CPSC did not provide the public with further information about the homeSAFE campaign.
91. Admit that, prior to initiating the 2017 Investigation, CPSC requested additional information and documentation about the Components from the Company.
92. Admit that CPSC received the information and documentation referenced in Request for Admission 91.
93. Admit that, as part of the 2017 Investigation, CPSC requested additional information and documentation about the Components from the Company.
94. Admit that CPSC received the information and documentation referenced in Request for Admission 93.
95. Admit that CPSC, through the Company's responses to various CPSC staff requests, including the requests referenced in Requests for Admission 91 and 93, CPSC has received more than 25,000 pages of documentation about the Company and the Components from the Company.
96. Admit that CPSC has not provided the Company with a copy of any PSA associated with the Components.
97. Admit that CPSC has refused to provide the Company with a copy of any PD associated with the Components.
98. Admit that CPSC has provided only a summary of a purported PD.
99. Admit that, in providing a summary of a purported PD, CPSC did not attach, provide specific, identifiable citations to, or furnish copies of any documents to support its conclusions.

100. Admit that, following the denial of the Elevator Petition and the issuance of the April 26, 2017, letter, CPSC did not make any further public statements about the hazard that is the subject of the Complaint until August 1, 2019.

101. Admit that, on April 8, 2019, CPSC personnel, including then-Acting Chairman Ann Marie Buerkle, Commissioners Adler, Baiocco, and Feldman, and their office staffs, met with representatives of Cash, Krugler & Fredericks, LLC, to discuss elevator safety.

102. Admit that, on April 8, 2019, CPSC personnel, including then-Acting Chairman Ann Marie Buerkle, Commissioners Adler, Baiocco, and Feldman, and their office staffs, met with Dennis Brickman to discuss elevator safety.

103. Admit that, no later than January 6, 2021, prior to the launch of its Home Elevator Safety Program, the Company informed CPSC of the Company's intent to conduct the Program.

104. Admit that the Company launched its Home Elevator Safety Program on February 16, 2021.

105. Admit that, prior to the launch of the Home Elevator Safety Program, the Company informed CPSC that the Program would offer free inspections of installed Components and, as needed, free installation of free space guards.

106. Admit that, prior to the launch of the Home Elevator Safety Program, the Company informed CPSC that the Program would provide information and education to the public, including elevator dealers, Installers, members of other building trades, and homeowners, of the hazards associated with excessive Gap Spaces created by the improper installation of Hoistways, Hoistway Doors, and elevators.

107. Admit that, prior to the launch of the Home Elevator Safety Program, the Company informed CPSC that the Program would include direct notification to former dealers of the

Components, enclosing information about the hazards associated with excessive Gap Spaces and requesting that those dealers forward that information to owners of homes with installed Components and/or provide the Company with contact information for those homeowners.

108. Admit that, prior and subsequent to the launch of the Home Elevator Safety Program, the Company requested that CPSC share information about the Program with the public.

109. Admit that CPSC has not shared information about the Program with the public by publicizing the ability to register for free measurement assistance, and if appropriate, free space guards and free installation support, referencing the Program website (<https://homelevator-safety.com>) and toll-free number (800) 285-9862.

110. Admit that, prior and subsequent to the launch of the Home Elevator Safety Program, the Company informed CPSC that, because the Company did not sell or distribute the Components to consumers, the Company lacks contact information for nearly all owners of homes with installed Components.

111. Admit that, prior and subsequent to the launch of the Home Elevator Safety Program, the Company requested that CPSC contact dealers who, after multiple attempts, refused or failed to provide the Company with such homeowner contact information and encourage those dealers to cooperate with the Program.

112. Admit that, assuming *arguendo* that the Components are “consumer products,” CPSC has jurisdiction over residential elevator dealers under the CPSA.

113. Admit that, assuming *arguendo* that the Components are “consumer products,” CPSC has jurisdiction over residential elevator installers under the CPSA.

114. Admit that the Company has informed CPSC that, because it ceased distributing Components for residential installation in 2012, based on a good faith search it lacks detailed historic sales records.

115. Admit that, since the February 16, 2021, launch of the Company's Home Elevator Safety Program, CPSC has issued multiple Press Releases and other public communications, including the Complaint, regarding residential elevator safety.

116. Admit that none of the Press Releases or other public communications issued by CPSC, the Commission, or any Commissioner or Commissioners since the February 16, 2021, launch of the Company's Home Elevator Safety Program, including the Complaint, has informed the public that the Program offers owners of homes with installed Components free inspections of their Gap Spaces and, as needed, free installation of free space guards.

117. Admit that at least one Person associated with CPSC informed at least one member of the news media of the Commission's decision to issue the Complaint prior to the public announcement of that decision.

118. Admit that at least one Person associated with CPSC informed at least one member of the news media of the Commission's decision to issue the Complaint prior to the Company's being informed of that decision.

119. Admit that the Company has voluntarily offered to assist homeowners to reduce excessive Gap Spaces.

120. Admit that the Buerkle Letter wrote of the "critical role of installers" in preventing the hazard that is the subject of the Complaint.

121. Admit that, on August 8, 2019, CPSC issued a Press Release warning that “Elevator installers should never allow any gap greater than four inches deep to exist in an elevator entryway.”

122. Admit that, on June 24, 2021, CPSC issued a Press Release warning that “Elevator installers should never allow any gap greater than four inches deep to exist in an elevator entryway.”

123. Admit that CPSC has issued each of the following

- a. a document entitled “Home Safe with Young Children” that identifies seven potential hazards associated with purported consumer products;
- b. a document entitled “Home Safe with Older Children” that identifies four potential hazards associated with purported consumer products;
- c. a document entitled “Home Safe with Seniors” that identifies four potential hazards associated with purported consumer products; and
- d. a document entitled “Home Safe for Everyone” that identifies five potential hazards associated with purported consumer products.

124. Admit that “Home Safe with Young Children,” “Home Safe with Older Children,” “Home Safe with Seniors,” and “Home Safe for Everyone” contain no mention of or reference to residential elevators.

125. Admit that Section 19(a)(2)(B) of the Consumer Product Safety Act, 15 U.S.C. § 2068(a)(2)(B), makes it “unlawful for any person to . . . sell, offer for sale [or] distribute in commerce . . . any consumer product . . . that is subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public.”

126. Admit that Section 19(a)(2)(C) of the Consumer Product Safety Act, 15 U.S.C. § 2068(a)(2)(C), makes it “unlawful for any person to . . . sell, offer for sale [or] distribute in commerce . . . any consumer product . . . that is subject to an order issued under section 2061 or 2064 of [Title 15].”

127. Admit that, assuming *arguendo* that the Components are “consumer products,” owners of homes with uncorrected installed home elevators would be “persons” within the meaning of 15 U.S.C. § 2068(a)(2)(B) and 2068(a)(2)(C), to the extent they sold such homes or offered such homes for sale.

128. Admit that, assuming *arguendo* that the Components are “consumer products,” homeowners would be barred from selling homes with uncorrected installed home elevators if those installed home elevators are recalled, whether voluntarily or under an order pursuant to either 15 U.S.C. § 2061 or 15 U.S.C. § 2064.

August 6, 2021

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2021, true and correct copies of the foregoing RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSION TO CONSUMER PRODUCT SAFETY COMMISSION were served via U.S. Mail and/or electronic mail on the Secretary of the U.S. Consumer Product Safety Commission and all parties and participants of record in these proceedings in the following manner:

Original and three copies by U.S. Mail, first-class and postage prepaid, and one copy by electronic mail, to the Secretary of the U.S. Consumer Product Safety Commission, Alberta Mills:

Alberta Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
amills@cpsc.gov

As no Presiding Officer has been appointed as of the date of service, one copy by U.S. Mail, first-class and postage-prepaid, to the Presiding Officer in the care of the Secretary of the U.S. Consumer Product Safety Commission, Alberta Mills, at the above address.

One copy by electronic mail to:

Robert Kaye
Assistant Executive Director
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
rkaye@cpsc.gov

One copy by electronic mail to Complaint Counsel:

Mary B. Murphy
Complaint Counsel

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