

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of	)	
	)	
	)	
THYSSENKRUPP ACCESS CORP.	)	CPSC DOCKET NO.: 21-1
	)	
	)	
Respondent.	)	
	)	

TO: Cash, Krugler & Fredericks, LLC  
c/o Andrew B. Cash, Esq.  
5447 Roswell Road, N.E.  
Atlanta, GA 30342  
[acash@ckf.law](mailto:acash@ckf.law)  
404-659-1710

**SUBPOENA DUCES TECUM**

Complaint Counsel in the above-captioned matter (“Complaint Counsel”) is conducting administrative litigation seeking an order determining that various models of residential elevators manufactured and distributed by thyssenkrupp Access Corp., now known as TK Access Solutions Corp. (“TKA” or “Respondent”), present a substantial product hazard. Complaint Counsel believes that you, as counsel for two consumer families involved in TKA residential elevator incidents, possess information or have knowledge that will assist in that determination.

The U.S. Consumer Product Safety Commission has authorized the issuance of this Subpoena in this matter pursuant to Sections 15 and 27(b)(3)-(4) of the Consumer Product Safety Act, 15 U.S.C. §§ 2064 and 2076(b)(3)-(4), and 16 C.F.R. part 1025. **The Subpoena requires that you produce documents.**

## **I. GENERAL INSTRUCTIONS**

A. The Commission's rules for adjudications govern this Subpoena. 16 C.F.R. § 1025.38. Title 16 of the Code of Federal Regulations, Section 1025.38 sets forth procedures for motions to quash or modify the terms of this Subpoena.

B. This Subpoena shall be answered by you.

C. The public disclosure of any information provided to the Commission under this Subpoena shall be governed by the Freedom of Information Act, 5 U.S.C. § 552, the Commission's regulations under that Act, 16 C.F.R. part 1015, and the October 12, 2021, Protective Order entered in this matter, available at <https://www.cpsc.gov/Recalls/Recall-Lawsuits-Adjudicative-Proceedings>. If you wish to request confidential treatment for any information provided, you should submit a request for such treatment with responsive documents. Questions about this Subpoena should be directed to Michael J. Rogal, Trial Attorney, U.S. Consumer Product Safety Commission, Office of Compliance and Field Operations, Division of Enforcement and Litigation, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7528; e-mail: [mrogal@cpSC.gov](mailto:mrogal@cpSC.gov).

D. Each document production 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, 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 your or their control.

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 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, to make all definitions and discovery requests inclusive rather than exclusive. The singular shall include the plural and vice versa.

G. To the extent that you withheld, based upon a claim of privilege, any information or documents (including electronic records) that would have been responsive to any information or document production requests contained in the Subpoena, provide the following information:

1. For any document withheld, 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; and (i) provide all further information concerning the document and the circumstances upon which the claim of privilege is asserted.

2. Regarding any communication withheld, identify the persons or entities among whom the communication took place, the date of the communication, and the subject.

H. In an affidavit accompanying the response to the Subpoena, you must include a statement, signed under oath or affirmation, indicating that a diligent search of all files, records, and databases for responsive information and documents has been made, that the information contained in the responses to the questions is complete and accurate, and that you have produced true copies of all the documents requested in the Subpoena.

I. Submit your response to the Subpoena to Michael J. Rogal, Trial Attorney, U.S. Consumer Product Safety Commission, Office of Compliance and Field Operations, Division of Enforcement and Litigation, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7528; e-mail: [mrogal@cpsc.gov](mailto:mrogal@cpsc.gov). Documents should be provided electronically in native file format.

J. Your obligation to respond to the Subpoena is a continuing one. As additional information becomes available to you that is responsive to the Subpoena, you must submit that information immediately.

## **II. DEFINITIONS**

For the purposes of the Subpoena, the following definitions apply:

1. “TKA” means TK Access Solutions Corp., formerly known as thyssenkrupp Access Corp., a Missouri corporation with its principal place of business located at P.O. Box 545, Clinton, Missouri 64735, including any agent, subsidiary, affiliate, successor, or predecessor entity, as well as all past and present officers, directors, representatives, agents, and employees of TKA.

2. “Person” means any natural person, entity, group, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority,

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

3. “Subject Products” means various models of residential elevators that were manufactured and/or distributed in U.S. commerce by Respondent through 2012, including without limitation, the following models: Chaparral, Destiny, LEV, LEV II, LEV II Builder, Volant, Windsor, Independence, and Flexi-Lift. Subject Products include those products which are defined in the Complaint filed in *In the Matter of thyssenkrupp Access Corp.*, CPSC Docket No. 21-1, which is available at <https://www.cpsc.gov/Recalls/Recall-Lawsuits-Adjudicative-Proceedings>.

4. “Document(s)” shall be interpreted as the terms is used in Federal Rule of Civil Procedure 34, and includes electronically stored information.

5. “Communication(s)” shall mean any transfer of information, ideas, opinions, or thoughts by any means, at any time or place, under any circumstances, including, but not limited to, any transfer of information or data in a document, or from one location to another, by electrical, electronic, digital, or other means.

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

### **III. SUBPOENA DUCES TECUM**

You are directed to produce at the Commission’s headquarters at 4330 East West Highway, Bethesda, MD 20814, or by providing documents electronically through a mutually agreeable alternative method within ten (10) days of service of the subpoena, copies of all records in your possession, custody, or control relating to:

- 1) All Documents and Communications relating to deposition transcripts and video recordings of sworn testimony relating to residential elevator entrapment incidents involving the Subject Products.
- 2) All Documents and Communications relating to the engineering drawings and instructional materials, including installation, design, and planning guides (“Installation Materials”) for the Subject Products.
- 3) All Documents and Communications related to any interpretation regarding how to measure the hoistway door to the elevator car door or gate for the Subject Products.
- 4) All Documents and Communications, whether formal or informal, including opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, which discuss or refer to the effectiveness of any labels, warnings, instructions, or videos, including warnings related to the child entrapment hazard posed by the Subject Products.
- 5) All Documents and Communications, whether formal or informal, including opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, that discuss or refer to the child entrapment hazard posed by the Subject Products.
- 6) All Documents and Communications, whether formal or informal, including any opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, that evaluate in any way the adequacy, clarity, risks, hazards, or safety of the Installation Materials or the installation of the Subject Products generally.
- 7) Any and all Documents and Communications relating to any design changes or proposed design changes for Installation Materials on the Subject Products.

- 8) All Documents and Communications relating to any safety devices that would mitigate against or prevent the child entrapment hazard posed by the Subject Products.
- 9) All Documents and Communications previously produced to you by the Respondent identified in this matter or documents obtained by you relating to residential elevator entrapment incidents involving the Subject Products.

BY ORDER OF THE COMMISSION

The undersigned, an authorized official of the U.S. Consumer Product Safety Commission, has hereto set her hand and caused the seal of the Commission to be affixed at Bethesda, MD, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Alberta E. Mills  
Secretary  
U.S. Consumer Product Safety Commission