

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

| | | |
|---------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| |) | |
| THYSSENKRUPP ACCESS CORP. |) | CPSC Docket No: 21-1 |
| |) | |
| Respondent. |) | |
| |) | |

ORDER ISSUING SUBPOENA DUCES TECUM ON INCLINATOR COMPANY OF AMERICA

Section 27(b)(3) of the Consumer Product Safety Act (“CPSA”) authorizes the Commission to issue subpoenas for the production of all documentary and physical evidence relating to the execution of its duties. 15 U.S.C. § 2076(b)(3). The Commission’s Rules of Practice for Adjudicative Proceedings require a subpoena for any person not a party to the proceedings for the purpose of compelling attendance, testimony, and the production of documents. 16 C.F.R. § 1025.38(a). The Commission’s regulations further state that a subpoena duces tecum shall specify the books, papers, documents, or other materials or data compilations to be produced. 16 C.F.R. § 1025.38(b).

On March 4, 2022, the Respondent filed on the docket in this matter an Application for Issuance of Subpoenas Duces Tecum on Non-Parties Otis Elevator Company, Bella Elevator LLC, Inclinator Company of America, and Savaria Corporation. On March 8, 2022, the Presiding Officer issued an Order pursuant to 16 C.F.R. § 1025.38(c) transmitting Respondent’s Application to the Commission.

For the reasons stated in the Application, IT IS HEREBY ORDERED BY THE COMMISSION:

1. That the attached subpoena duces tecum to Inclinator Company of America be issued, and
2. That the Secretary of the Commission is authorized to sign and date the subpoena duces tecum to Inclinator Company of America as set forth in 16 C.F.R. § 1025.38(d).

SO ISSUED this 18th day of March, 2022.

FOR THE COMMISSION,

Alberta Mills

Alberta E. Mills

Secretary

Consumer Product Safety Commission

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

TO: INCLINATOR COMPANY OF AMERICA INC.
c/o Dwight Stone
Miles & Stockbridge PC
100 Light Street
Baltimore, MD 21202

SUBPOENA DUCES TECUM

Complaint Counsel in the above-captioned matter is seeking an Initial Decision and Order determining that components manufactured by Respondent thyssenkrupp Access Corp. (now known as TK Access Solutions Corp.), and used to install various residential elevators through 2012, present a substantial product hazard. In the underlying Complaint, Complaint Counsel seeks a recall and certain relief, including the imposition of notice and repair requirements on Respondent related to an alleged Elevator Hazard associated with residential elevators. Respondent believes Inclinator Company of America Inc. has in its possession, custody, or control information relevant to this matter and, in particular, the nature and scope of the requested relief.

The U.S. Consumer Product Safety Commission (“CPSC”) has authorized the issuance of this Subpoena *duces tecum* 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 certain documents as requested below. All**

documents produced in response to this Subpoena that are marked as confidential will be considered confidential within the meaning of the Protective Order entered on October 12, 2021, by the Presiding Officer in this matter.

I. GENERAL INSTRUCTIONS

A. This Subpoena shall be answered by you.

B. 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.

C. 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. § 1025.38. If the meaning of any word or phrase used herein is unclear, you 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.

D. Produce each document requested herein in its entirety, without deletion, redaction, or excision.

E. 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 metadata should be delivered in a Relativity-compatible load file (DAT and OPT)

accompanied by Bates-numbered single page Group IV TIFF images representing each page of production.

F. 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: 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.

G. 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.

H. 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:

A. "Inclinor" means Inclinor Company of America Inc., with its principal place of business located at 601 Gibson Blvd, Harrisburg, PA 17104, including any agent, parent, subsidiary, affiliate, successor, or predecessor entity, as well as past and present officers, directors, representatives, agents, and employees of Inclinor.

B. "Document(s)" shall be interpreted as the term is used in Federal Rule of Civil Procedure 34 and includes electronically stored information.

C. "Elevator Hazard" means the child entrapment hazard posed by the installation of the Elevators.

D. "CAP" refers to the final Corrective Action Plan entered into between Inclinor and the CPSC related to the "recall" to inspect home elevators announced on January 11, 2022.

E. "MPR" means any monthly progress report filed with the CPSC as part of the "recall" to inspect home elevators announced on January 11, 2022.

F. "Recall" refers to the CPSC's announcement on January 11, 2022, requiring Inclinor to inspect private residential elevators due to an alleged Elevator Hazard. See [Inclinor Company of America Recalls Residential Elevators Due to Child Entrapment Hazard; Risk of Serious Injury or Death to Young Children | CPSC.gov](#) (CPSC Recall No. 22-046).

III. SUBPOENA DUCES TECUM

You are ordered to produce and permit inspection of the following documents and things in your possession, custody, or control at the offices of Keller and Heckman, LLP, 1001 G St. NW, Washington, DC 20037 c/o Sheila A. Millar or through some other mutually convenient means within thirty days of service hereof.

1. The final CAP as approved by the CPSC.
2. Copies of all MPRs submitted to the CPSC related to the “recall to inspect” home elevators announced on January 11, 2022 (CPSC Recall No. 22-046).
3. A copy of any closing letter issued by the CPSC related to the recall and any additional communications between Inclinator and CPSC in response to or following up on any such closing letter by CPSC.

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 18th day of March, 2022

Alberta Mills

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