

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

_____))
In the Matter of))
))
STAR NETWORKS USA, LLC))
)) CPSC DOCKET NO. 13-2
))
))
Respondent.))
_____)

**COMPLAINT COUNSEL'S
FIRST SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS AND THINGS TO RESPONDENT
STAR NETWORKS USA, LLC**

Pursuant to 16 C.F.R. § 1025.33, Complaint Counsel hereby requests that Respondent Star Networks USA, LLC, serve upon Complaint Counsel, within thirty (30) days, written responses to each of the requests set forth below, and, within thirty (30) days, produce at Complaint Counsel's office each of the documents and things requested below.

DEFINITIONS

1. "You," "your," "Respondent", "Star Networks", and "Star Networks USA, LLC" means the Respondent to whom these discovery requests are directed (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.

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 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, emails, voice mails, fax, memoranda, inquiries, reports, claims, and complaints.

10. “Subject Products” means Magnicube Magnet Balls and Magnicube Magnet Cubes.

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” shall mean the Complaint, and any amendments to the Complaint, filed in this action, CPSC Docket 13-2.

14. “Answer” shall mean the Answer and Defenses, and any amendments to the Answer and Defenses, of Respondent Star Networks USA, LLC, filed in this action.

15. “Interrogatories” shall mean Complaint Counsel’s First Set of Interrogatories to Respondent Star Networks USA, LLC, 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 Star Networks USA, LLC, 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. “Retailer” shall mean any Person who sold the Subject Products to consumers in the United States.

20. “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 .

21. “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.

22. “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.

23. “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 Star Networks (or any subsidiary of Star Networks) and any affiliate of Star Networks.

24. “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.

25. “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.

26. “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 to only 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 so as 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, so as 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 herein. If the meaning of any word or phrase used herein is unclear, the Respondent's attorneys are requested to contact Complaint Counsel for the purpose of resolving 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 of 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, it is under a duty to supplement that response to include information later obtained.

O. In producing the documents and things requested herein, 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 herein, and/or the Subject Products, between, among, by, or with any Persons, including,

but not limited to: the Respondent; the Respondent'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 2010, 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, including but not limited to Respondent's assertions at any time that the Subject Products "can assist in figuring out geometry which can lead to better scoring in standardized testing."

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, that appeared on the packaging, labeling, warnings and instructions of Subject Products, and/or was included in advertising and marketing materials for the Subject Products. This request includes labels, warnings and instructions that appeared on www.magnicube.com.

14. All Documents, including publications, studies, reports, or any other written materials of any kind, which evaluate or analyze 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, and sale of the Subject Products, including all changes in the marketing and promotion strategy, or in the advertisements, for the Subject Products. 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, that which appeared online, on the

radio, in newspapers and magazines, or on television. Included in this request is 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, email 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.

18. All Documents related to the advertisement of the Subject Products on www.magnicube.com as a toy or encouraging consumers to “get out of your daze with your new toy.”

19. Provide one copy or sample of every iteration or version of each advertisement and promotion 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 Star Networks, or by others at Star Networks’ direction or request, that appeared, among other places, online, on the radio, in newspapers and magazines, on television, and on Facebook, Twitter, PinInterest, Tumblr, You Tube, Flickr, and any other social media or internet sites. Your response should also

include billboards, posters, signs, brochures, direct mailings, email messages and advertising, marketing, and promotion in retail stores and directed to retail customers.

20. Provide an original or a copy of every iteration or version of Star Networks' product catalogues, whether in print media or electronic.

21. 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 all Documents referencing the U.S. Consumer Product Safety Commission, which at any time, could be seen on: www.magnicube.com; or accompanied, at any time or in any way, the Subject Products.

22. 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.

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

24. All Documents relating to the sale of the Subject Products through any Retailer or other Person, including Amazon.com, Inc. and/or Groupon, Inc., from 2010 to the present, including, but not limited to Documents related to your agreements with each such Retailer or other Person, including agreements regarding warnings that must accompany the Subject Products and/or agreements regarding restrictions on who can purchase the Subject Products.

25. All Documents relating to the consumer reviews of the Subject Products on any website, including Star Networks' responses to any consumer reviews.

26. All Documents relating to Star Networks' sale of the Subject Products to any Person, whether directly or through any Retailer, platform, or other 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.

27. All documents which relate to your assertion in your Answer to Complaint filed on January 8, 2013 that “packaging of the Star magnets is completely different from other magnet or magnet balls.”

28. All documents which relate to your assertion in your Answer to Complaint filed on January 8, 2013 that “the potential for danger in Star’s magnets is significantly less than for Buckyballs, or other magnet or magnetic balls.”

29. All documents which relate to your assertion in your Answer to Complaint filed on January 8, 2013 that “Star’s magnet products have much higher precision than the magnetic or magnet balls alleged to cause injury through the Complaint.”

30. All Documents relating to any Tests performed 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 meets or fails 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 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.

31. 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.

32. 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 directly 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. It 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.

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

34. All Documents and Communications relating to negotiations, lawsuits, and alternative dispute resolutions to which any Person who manufactures, imports, distributes or sells products similar to the Subject Products, is a party including the following:

- a) Maxfield and Oberton Holdings LLC;
- b) Zen Magnets LLC;
- c) SCS Collectibles, Inc.;
- d) Strong Force, Inc.; and
- e) Neodox LLC

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

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

37. All founding and organizing Documents, past and present, for Star Networks and any amendments thereto including but not limited to the certificate of formation, limited liability company agreement, corporate bylaws, and articles of organization.

38. All Documents that Star Networks has filed with any of the following government entities:

- a) New Jersey Department of Treasury;
- b) New Jersey Division of Revenue; and
- c) Delaware Department of State, Division of Corporations

39. All Documents sufficient to identify all of Star Networks' past and present members, directors, officers, employees, and board members, the dates during which each such individual was employed by or otherwise affiliated with Star Networks, 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 Star Networks.

40. All Documents sufficient to identify the parent company or companies of Star Networks, as well as all subsidiaries of the parent company or companies of Star Networks.

41. All of Star Networks' 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.

42. Please provide the following Documents:

- a) Star Networks' federal and state tax returns filed for the past three years.
- b) Audited consolidated financial statements for the past three fiscal years and interim audited statements for the past fiscal year, including income statements, balance sheets, cash flow statements, and related notes;
- c) All agreements and arrangements relating to Borrowings of any nature by Star Networks or its subsidiaries or pursuant to which Star Networks or any subsidiary is or was between from 2009 to the present, a debtor party (including all amendments, and all

consents and waivers issued in connection with such agreements or arrangements); and

- d) All agreements or arrangements involving Star Networks and any Affiliate of Star Networks that has or may have the direct or indirect effect of providing capital support or contributions of any nature to Star Networks.

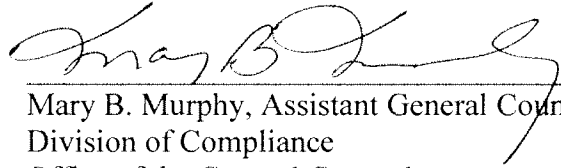
43. Two samples of each version, edition, and model of the Subject Products (including, but not limited to, the magnets themselves, the containers, the packaging, and the warnings/instructions) covering the period from the first dates on which they were imported and distributed, to the present. This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

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

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

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

47. All internal Star Networks Communications and Documents and external Communications and Documents between Star Networks and any other Person regarding ingestion or possible ingestion of the Subject Products.



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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 Star Networks USA, LLC, 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:

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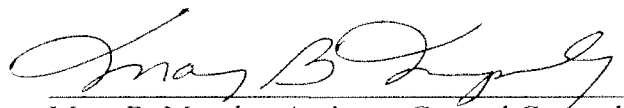
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One copy by electronic mail to the Trustee for MOH Liquidating Trust:

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