

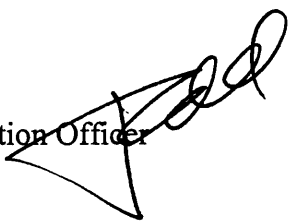


650K
UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Memorandum

Date: October 1, 1999

TO : File

FROM : Todd A. Stevenson, Freedom of Information Officer
Office of the Secretary 

SUBJECT : 1999 FOIA Appeals

FOIA Request No. Requesters Name/Firm Subject
FOIA Exemption, Dates: Appeal/ Recvd in OS / GC Due
Disposition / Date / Person Responsible

- (1) S802168 Workman/Chandler de Brun, Fink Seeking Swimming Pool Filters / Unconfirmed complaint
FOIA Exs. 3 and CPSA 6(b)(1)
10/5 10/8 10/15 DUE 11/13
Affirmed 10/19/98 by GC Jeffrey S. Bromme
- (2) S809039 Pollock/ Allmaerica Financial Seeking Active File on American Buyer
FOIA Exs. 5 and 7(A)
2/8 2/15 2/23 DUE 3/23
Reconsidered and affirmed in part 3/26/99 GC Jeffrey S. Bromme
- (3) S811026 Hadry seeking Alkyl Nitrites Import Notifications List
Appeal about File Search Adequacy
1/25 1/26 DUE 2/16
Withdrawn 2/4/99 after call from Alan Shakin and explanation
- (4) S701116B Swit/Product Safety Letter Seeking DeWalt Battery Chargers Compliance file RP960170
FOIA Exs. 3, 4, 5 and 7(E) and CPSA 6(a)(2) and 6(b)(1)
2/11, 3/5, 3/5 DUE 4/2
Affirmed in part, reconsidered in part, March 18, 1999 Jeffrey S. Bromme
Second release 4/9/99

- (5) S804033 Swit/Product Safety Letter Seeking Stihl chain saws Compliance file RP970074
FOIA Exs. 3, 4, 5 and 7(E) and CPSA 6(a)(2) and 6(b)(1)
2/4, 3/5, 3/5 DUE 4/2
Reconsidered in part and affirmed in part 3/29/99 by GC Jeffrey S. Bromme
- (6) S710140E Swit/Product Safety Letter Seeking Wood Chest Freezers Compliance file
RP960067
FOIA Exs. 3, 4, 5 and 7(E) and CPSA 6(a)(2) and 6(b)(1)
3/5 3/5 DUE 4/2
Reconsidered and affirmed 4/1/99 GC Jeffrey Bromme
- (7) S710148E Swit/Product Safety Letter Seeking the Visioneer Scanner active compliance file
RP960152
FOIA Exs. 5 and 7(A)
3/9, 3/11 DUE 4/8
Affirmed 4/6/99 GC Jeffrey Bromme
- (8) S804024 Swit/Product Safety Letter Seeking Maytag Gas Dryers ACTIVE Compliance file
RP970047
FOIA Exs. 5 and 7(A)
3/9 3/11 DUE 4/8
Affirmed 3/25/99 GC Jeffrey S. Bromme
- (9) S8120059 Hinchliffe/Univ of Illinois Seeking GC and Compliance Memoranda making
recommendations about all terrain vehicles
FOIA Ex. 5
2/26 3/5 DUE 4/2
Affirmed 3/23/99 GC Jeffrey S. Bromme
- (10) S710117A Swit/Product Safety Letter Seeking Turner Propane Radiant Heaters ACTIVE
Compliance file RP950030
FOIA Exs. 5 and 7(A)
3/11 3/12 DUE 4/9
reconsidered and reprocessed, partially affirmed 4/2/99 by GC Jeffrey Bromme
- (11) S710131 Swit/Product Safety Letter Seeking Maytag Dishwasher Compliance file
RP950240
FOIA Exs. 3, 4, 5 and 7(E) and CPSA 6(a)(2)
3/12 3/15 DUE 4/12
Reconsidered in part and affirmed 3/23/99 GC Jeffrey S. Bromme

- (12) S903009 Vecchetti seeking Personnel info about the admin officer series
Appealing the Delay in Responding
2/4 4/9 4/9 DUE 5/7
Request Responded 4/15 Appeal Withdrawn
- (13) S8100033 Schroeder/Sheehan Seeking Himalaya Amusement Ride
FOIA 5 and 7(A) and 3, 4, CPSA 6(b)(1), 6(a)(2)
4/7 4/8 DUE 5/6
Affirmed 5/4/99 GC Jeffrey Bromme
- (14) S8110022 Ketchum/Newton, O'Connor Seeking AMF Bowling Ball Returns ACTIVE
Compliance file CA960091
FOIA Exs. 5 and 7(A)
3/10 4/16 4/20 DUE 5/18
5/14 Reconsidered and part affirmed by GC Jeffrey Bromme
- (15) S9030040 Lynch/Cozen, O'Connor seeking Extension Cords and power strips
FOIA 5 and 7(E)
3/29 4/7 Due 5/5
5/4 Reconsidered in part and Affirmed by GC Jeffrey Bromme
- (16) S9020029 Dellacorino Seeking Iron Out Unconfirmed complaints
FOIA Exs. 3 and CPSA 6(b)(1)
4/2 4/29 4/30 DUE 5/28
5/6 Affirmed by GC Jeffrey Bromme
- (17) S9030017 Jayson / Wasserman, Comden Seeking Air compressors Campbell Hausfeld
Unconfirmed complaints
FOIA Exs. 3 and CPSA 6(b)(1)
4/29 5/6 5/11 DUE June 9
5/13/99 Affirmed by GC Jeffrey Bromme
- (18) S9010094 Lynch/Cozen, O'Connor seeking Power Strips by Electronics
Resources Preliminary Determination Sheet
FOIA 5 and 7(E)
4/23 5/3 5/13/1999 Due 6/11
5/25/99 Affirmed by GC Jeffrey Bromme

- (19) S9040083 McFarlan.McDermott, Hansen seeking Cigarette Lighter Subpoenas
FOIA 3 and 4, CPSA 6(a)(2)
5/3, 5/21, 5/25, DUE 6/22
6/23/99 Reconsidered and affirmed by GC Jeffrey Bromme
- (20) S8110002 Lynch/Cozen,O'Connor seeking First Choice Surge Protectors
(EXC file FW980017) Resources Preliminary Determination Sheet
FOIA 5 and 7(E)
5/24 6/1 6/10 Due 7/8
6/25/99 Affirmed by GC Jeffrey Bromme
- (21) S9030041 Marylander/Bogue, Koury seeking Playwell Toy Musical Toys
(EXC file RP960141) Preliminary Determination Sheet
FOIA 5 and 7(E)
7/1 7/8 Due August 5
7/19/99 Affirmed by GC Jeffrey Bromme
- (22) S8110005 Brown/Brown Freeston seeking Fisher-Price Power Wheels Active
Compliance file
FOIA exs. 3,4, 5, 7(A) CPSA 6(a)(2), 6(b)(1)
7/23 7/26 DUE August 23, 1999
Affirmed 8/10/99 by GC Jeffrey Bromme
- (23) S9010047 Fanning/ Timby, Dillon Seeking Black & Decker Toaster Ovens
FOIA 5 and 7(A) and 3, 4, CPSA 6(a)(2)
7/27 7/30 DUE 8/27
Affirmed 8/27/99 by GC Jeffrey S. Bromme
- (24) S9060186 Edwards Seeking Icon Exercise Equipment
FOIA 5 and 7(A)
7/26 8/5 DUE 9/2
Affirmed in part and reconsidered 9/8/99 by GC Jeffrey S. Bromme
- (25) S9070138 Krist Seeking Davidson Extension Ladder
FOIA 3 and CPSA 6(b)(1) and 25(c)
7/29 8/9 8/10 DUE 9/7
Affirmed 8/23/99 by GC Jeffrey S. Bromme
- (26) S8110069 Thomas/Berger, Montague Seeking Fisher-Price Power Wheels Active
Compliance file
FOIA exs. 3, 4, 5, 7(A) CPSA 6(a)(2), 6(b)(1)
8/5 8/10 DUE September 7
Affirmed 8/23/99 by GC Jeffrey S. Bromme

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207-0001

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme
General Counsel
Tel: 301-504-0980 ext. 2299
Fax: 301-504-0403

October 19, 1998

W. Michael Workman, Esq.
Chandler, deBrun, Fink & Hayes
1508 East Fourth Street
P.O. Box 34097
Charlotte, North Carolina 28234

Re: FOIA Appeal 802168 on
swimming pool filtration equipment

Dear Mr. Workman:

On October 8, 1998, you appealed the decision of the Commission's Freedom of Information Officer to withhold information responsive to your Freedom of Information Act (FOIA) request. Under authority delegated to me by the Commission, 16 C.F.R. § 1015.7, I have reviewed your appeal. I affirm the Freedom of Information Officer's decision to withhold seven unconfirmed consumer complaints, based on FOIA Exemption 3. 5 U.S.C. § 552(b)(3).

Exemption 3 of the FOIA provides for withholding information that is specifically exempted from disclosure by another statute. In applying Exemption 3 to the withheld complaints, I am relying on section 6(b)(1) of the Consumer Product Safety Act (CPSA). 15 U.S.C. § 2055(b)(1).

Section 6(b)(1) requires that before disclosing information that would enable the public to identify the manufacturer or private labeler of a consumer product, the Commission "shall take reasonable steps to assure . . . that [the] information . . . is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the [CPSA]." The information that is being withheld pursuant to Exemption 3, relying on section 6(b)(1), consists of seven unconfirmed consumer complaints. The Commission's regulations require that this information be confirmed as a reasonable step

W. Michael Workman, Esq.
October 19, 1998

Page 2

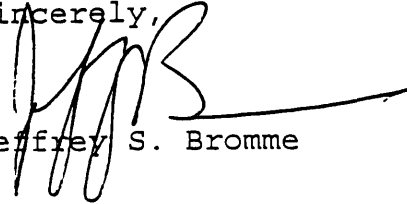
to assure the accuracy of the information. 16 C.F.R. § 1101.32(a)(3).

When consumers submit complaints to the Commission, the Commission sends them forms requesting that they confirm the information as accurate to the best of their knowledge and belief. We also send each submitter a franked return envelope for mailing back the confirmation. This process, which is voluntary on the part of the submitter, has been in place since 1983. The seven complaints being withheld were subjected to this process. However, because the submitters of these complaints did not respond to the Commission's request for confirmation, the Commission may not disclose the complaints under the FOIA.

You have argued that the information not disclosed would assist in your investigation of the safety hazards of the swimming pool filters. However, your intended use of the information is irrelevant for FOIA purposes. In addition, you have quoted a portion of the Freedom of Information Officer's October 5, 1998 decision letter, and argued that the Commission has investigated "this type of filter." However, a full reading of the letter (which paraphrases the applicable Commission regulation) makes clear that, for these documents to be disclosed, the Commission must have evaluated both the product at issue and the incident, and that the evaluation must corroborate the information that would be disclosed. See 16 C.F.R. § 1101.32(a)(2). These predicates have not been satisfied for the documents in question.

You have the right to seek judicial review of this decision, as provided by 5 U.S.C. § 552(a)(4)(B).

Sincerely,



Jeffrey S. Bromme

LAW OFFICES OF
Chandler de Bruin Fink & Hayes

1508 EAST FOURTH STREET
P. O. BOX 34097
CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6552

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
DISTRICT OF COLUMBIA, LOUISIANA AND CALIFORNIA

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN

3262
SWIM
10/5
CPSC/OFFICE OF
THE SECRETARY

1998 OCT 13 P 2:12

FAX
704-372-2003

A. MYLES HAYNES
OF COUNSEL

October 8, 1998

VIA CERTIFIED MAIL Z 355 190 700

FOIA Appeal
General Counsel
Attention: Office of the Secretary
U.S. Consumer Products Safety Commission
Washington, DC 20207

Re: FOIA Request: S-802168

Dear Sir/Madam:

I wish to appeal the partial denial of access to records I requested pursuant to FOIA request S-802168. [Injuries and/or complaints caused by swimming pool filtration equipment manufactured by Sta-Rite Industries; Purex Corporation; Pac-Fab, Incorporated; American Products/KDI American Products; Hayward Pool Products, Incorporated; and Lombard Industries (no records found for Harmsco Inc., Marine Filter Tank, Doughboy Recreational, Hydro-tech Chemical Corp.,; Astral Products, Inc.; Ampro-Diaclaer, Inc.; Metalite Mfg. Co. & Jacuzzi & Filtrex (R-1-99)].

According to the Commission's response, dated October 5, 1998, to my request, the Commission refuses to produce documents relating to seven (7) product complaints and reported incidents.

The Commission contends that it is acting pursuant to FOIA exemption 3 which purportedly prohibits the Commission from disclosing information about a consumer product that identified the manufacturer or product labeler unless the Commission has taken reasonable steps to assure that the information is accurate, that disclosure is fair under the circumstances, and that disclosure will be reasonably related to effectuating the purposes of the laws that the Commission administers.

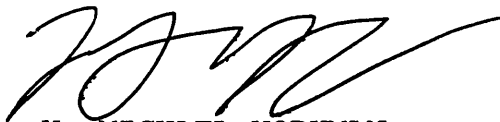
My law firm represents Robert Esberg (USPC #950202CBB1311), a young man who sustained catastrophic injuries, including brain damage and irreversible blindness, when a swimming pool filter top manufactured by Anthony Industries exploded off the bottom half of the filter and slammed into his forehead. During the last four

FOIA Appeal
General Counsel
October 8, 1998
Page 2

years, our investigation has uncovered dozens of serious injuries caused by this filter design, which is substantially similar to the filters sold by Sta-Rite Industries, Purex Corporation, PacFab Incorporated, and American Products. We believe that information contained in the seven unreleased product complaints and reported incidents would assist us in our investigation of the safety hazards of these swimming pool filters. Furthermore, in regards to the Commission's policy to withhold a consumer complaint or reported incident unless "(2) the Commission has conducted or obtained a technical, scientific, or other evaluation of the product..." the Commission has conducted numerous investigations of this type of filter, including filters manufactured by Sta-Rite, Purex, Pac-Fab, American Products, and Anthony Industries. It is our position that this swimming pool filter design is a substantial hazard, and we plan to request that the Commission conduct a full investigation of Anthony Industries.

If your office needs additional information to evaluate this appeal, please do not hesitate to contact me.

Very truly yours,



W. MICHAEL WORKMAN

WMW:djc

Enclosure: USPC Response to FOIA Request S-802168, dated
October 5, 1998.



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

October 5, 1998

W. Michael Workman
Chandler de Brun, Fink & Hayes
1508 East Fourth Street
P.O. Box 34097
Charlotte, NC 28234

RE: FOIA Request S-802168: Injuries and/or complaints associated with swimming pool filtration equipment manufactured by Sta-Rite Industries; Purex Corporation; Pac-Fab, Incorporated; American Products/KDI American Products; Hayward Pool Products, Incorporated; and Lombard Industries (no records found for Harmsco Inc., Marine Filter Tank, Doughboy Recreational, Hydro-tech Chemical Corp.; Astral Products, Inc.; Ampro-Diaclaer, Inc.; Metalite Mfg. Co. & Jacuzzi & Filtrex (R-1-99)

Dear Mr. Workman:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the Consumer Product Safety Commission (Commission). The records from the Commission files responsive to your request have been processed and copies of the releasable records are enclosed. The enclosed also represent a final response to your request (a partial response was provided under cover letter dated September 1, 1998).

The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are in files FW870010, FW870010 and FW870004 and are identified as hazard analysis memoranda and other correspondence, notes and documents. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems. The Commission believes that it has taken reasonable steps to assure the accuracy of the information.

Also enclosed are records pertaining to nine (9) Epidemiologic (In-Depth) Investigation Reports with the underlying and supporting documentation. The Commission has received this information from its formal investigation systems. Through these systems the Commission hopes to learn when specific products are associated with illness, injury or death. The Commission believes that it has taken

reasonable steps to assure the accuracy of this information. While conducting the interviews for the investigation reports, Commission staff or contractors have spoken with the individuals involved or with others who witnessed or are familiar with the incidents. Where possible, Commission staff have examined the products reportedly involved in the incidents. Although the Commission has investigated the incidents described in the investigation reports, the Commission has not necessarily determined the cause of the incidents.

You will note that information which could identify injured parties and persons treating them has been deleted from some of the records because section 25© of the Consumer Product Safety Act, 15 U.S.C. § 2074(c)(1), prohibits such disclosures without the consent of those individuals.

The Commission's FOIA regulations at 16 C.F.R. § 1015.9, provide for the charging of fees resulting from the processing of FOIA requests. The processing of your request involved:

- (1) the duplication of 1,130 pages X \$0.10/page = \$113.00;
- (2) file searching by professional personnel, 3 1/2 hours X \$19.60/hour = \$68.60; and
- (3) review time to determine whether records were permitted to be withheld, 1 hour X \$19.60/hour = \$19.60.

Please forward the total amount due, **\$201.20**, by check or money order made payable to the **TREASURY OF THE UNITED STATES** with the enclosed copy of this letter to: **Division of Financial Services, ADFS Room 522, U.S. CONSUMER PRODUCT SAFETY COMMISSION, Washington, D. C. 20207.**

Note that after thirty days interest will be charged on amounts billed. Furthermore, if billing is not paid in a timely manner the Commission will require advance payment for your future requests and any pending requests.

The Commission's Freedom of Information Officer, Office of the Secretary, will consider written request for a waiver of the assessed fees when the requester can show that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and disclosure of the requested information is not primarily in the commercial interest of the requester. Other factors to be considered are listed in the regulations at 16 C.F.R. § 1015.9(f)(5).

The other records from the Commission files responsive to your request relate to seven (7) product complaints and reported incidents that the Commission has obtained from consumers, attorneys for consumers and others. The Commission has not received confirmation of the accuracy of the information in the complaints and reported incidents. Pursuant to Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3) and section 6(b)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(b)(1), and our

Mr. Workman, S802168

Page 3

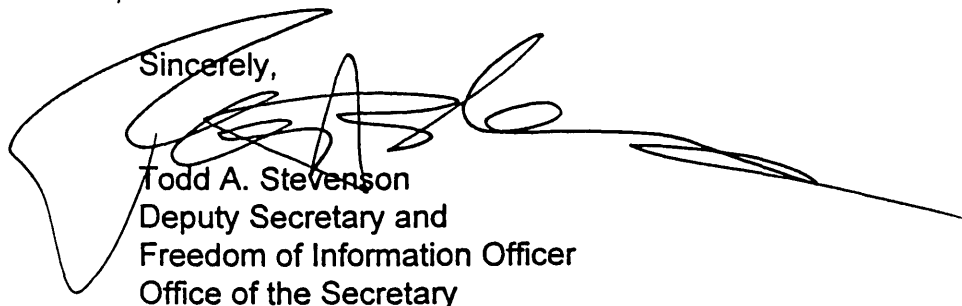
regulations, 16 C.F.R. § 1101.32, we must withhold the unconfirmed product complaints and reported incidents.

FOIA Exemption 3 provides for the withholding from disclosure of matters that are specifically exempted from disclosure by another statute. In applying FOIA Exemption 3, we are relying on section 6(b)(1) of the CPSA. That section prohibits the Commission from disclosing information about a consumer product that identifies a manufacturer or private labeler unless the Commission has taken "reasonable steps" to assure that the information is accurate, that disclosure is fair in the circumstances, and that disclosure will be reasonably related to effectuating the purposes of the laws that the Commission administers. See Commission regulation, 16 C.F.R. § 1101.32. The Commission's policy is to withhold each consumer complaint and reported incident unless: (1) the Commission has conducted an investigation of the complaint and reported incident, and the investigation corroborates the substance of the complaint and reported incident; (2) the Commission has conducted or obtained a technical, scientific, or other evaluation of the product that is the subject of the complaint and reported incident, and evaluation corroborates the substance of the information contained in the complaint and reported incident; or (3) the consumer or person reporting or submitting the incident confirms the accuracy of the information. The Commission did not take any of these steps with regard to these certain consumer complaints and reported incidents responsive to your request. While it has been Commission practice since June 1983 to seek confirmation of incoming consumer complaints and incidents, the Commission does not have the resources to seek confirmation of the complaints and incidents where a consumer has not responded to our request for confirmation of the information.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a partial denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D. C. 20207.

Thank you for your interest in consumer product safety. Should you have any questions, please contact Alberta Mills, Paralegal Specialist, by letter, facsimile (301) 504-0127 or telephone (301) 504-0785, ext. 1299.

Sincerely,



Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Enclosure



Firm: 3262 swimming pool filters
Off(6a6b release), Off(denial)
Ex. 3, ADFS R-1-99, FEELOG,
chron, spec. 3285



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

October 5, 1998

W. Michael Workman
Chandler de Brun, Fink & Hayes
1508 East Fourth Street
P.O. Box 34097
Charlotte, NC 28234

RE: FOIA Request S-802168: Injuries and/or complaints associated with swimming pool filtration equipment manufactured by Sta-Rite Industries; Purex Corporation; Pac-Fab, Incorporated; American Products/KDI American Products; Hayward Pool Products, Incorporated; and Lombard Industries (no records found for Harmsco Inc., Marine Filter Tank, Doughboy Recreational, Hydro-tech Chemical Corp.; Astral Products, Inc.; Ampro-Diaclae, Inc.; Metalite Mfg. Co. & Jacuzzi & Filtrex (R-1-99)

Dear Mr. Workman:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the Consumer Product Safety Commission (Commission). The records from the Commission files responsive to your request have been processed and copies of the releasable records are enclosed. The enclosed also represent a final response to your request (a partial response was provided under cover letter dated September 1, 1998).

The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are in files FW870010, FW870010 and FW870004 and are identified as hazard analysis memoranda and other correspondence, notes and documents. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems. The Commission believes that it has taken reasonable steps to assure the accuracy of the information.

Also enclosed are records pertaining to nine (9) Epidemiologic (In-Depth) Investigation Reports with the underlying and supporting documentation. The Commission has received this information from its formal investigation systems. Through these systems the Commission hopes to learn when specific products are

reasonable steps to assure the accuracy of this information. While conducting the interviews for the investigation reports, Commission staff or contractors have spoken with the individuals involved or with others who witnessed or are familiar with the incidents. Where possible, Commission staff have examined the products reportedly involved in the incidents. Although the Commission has investigated the incidents described in the investigation reports, the Commission has not necessarily determined the cause of the incidents.

You will note that information which could identify injured parties and persons treating them has been deleted from some of the records because section 25© of the Consumer Product Safety Act, 15 U.S.C. § 2074(c)(1), prohibits such disclosures without the consent of those individuals.

The Commission's FOIA regulations at 16 C.F.R. § 1015.9, provide for the charging of fees resulting from the processing of FOIA requests. The processing of your request involved:

- (1) the duplication of 1,130 pages X \$0.10/page = \$113.00;
- (2) file searching by professional personnel, 3 1/2 hours X \$19.60/hour = \$68.60; and
- (3) review time to determine whether records were permitted to be withheld, 1 hour X \$19.60/hour = \$19.60.

Please forward the total amount due, **\$201.20**, by check or money order made payable to the **TREASURY OF THE UNITED STATES** with the enclosed copy of this letter to: **Division of Financial Services, ADFS Room 522, U.S. CONSUMER PRODUCT SAFETY COMMISSION, Washington, D. C. 20207.**

Note that after thirty days interest will be charged on amounts billed. Furthermore, if billing is not paid in a timely manner the Commission will require advance payment for your future requests and any pending requests.

The Commission's Freedom of Information Officer, Office of the Secretary, will consider written request for a waiver of the assessed fees when the requester can show that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and disclosure of the requested information is not primarily in the commercial interest of the requester. Other factors to be considered are listed in the regulations at 16 C.F.R. § 1015.9(f)(5).

The other records from the Commission files responsive to your request relate to seven (7) product complaints and reported incidents that the Commission has obtained from consumers, attorneys for consumers and others. The Commission has not received confirmation of the accuracy of the information in the complaints and reported incidents. Pursuant to Exemption 3 of the FOIA, 5 U.S.C. § 552(b)(3) and section 6(b)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2055(b)(1), and our

Mr. Workman, S802168

Page 3

regulations, 16 C.F.R. § 1101.32, we must withhold the unconfirmed product complaints and reported incidents.

FOIA Exemption 3 provides for the withholding from disclosure of matters that are specifically exempted from disclosure by another statute. In applying FOIA Exemption 3, we are relying on section 6(b)(1) of the CPSA. That section prohibits the Commission from disclosing information about a consumer product that identifies a manufacturer or private labeler unless the Commission has taken "reasonable steps" to assure that the information is accurate, that disclosure is fair in the circumstances, and that disclosure will be reasonably related to effectuating the purposes of the laws that the Commission administers. See Commission regulation, 16 C.F.R. § 1101.32. The Commission's policy is to withhold each consumer complaint and reported incident unless: (1) the Commission has conducted an investigation of the complaint and reported incident, and the investigation corroborates the substance of the complaint and reported incident; (2) the Commission has conducted or obtained a technical, scientific, or other evaluation of the product that is the subject of the complaint and reported incident, and evaluation corroborates the substance of the information contained in the complaint and reported incident; or (3) the consumer or person reporting or submitting the incident confirms the accuracy of the information. The Commission did not take any of these steps with regard to these certain consumer complaints and reported incidents responsive to your request. While it has been Commission practice since June 1983 to seek confirmation of incoming consumer complaints and incidents, the Commission does not have the resources to seek confirmation of the complaints and incidents where a consumer has not responded to our request for confirmation of the information.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a partial denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D. C. 20207.

Thank you for your interest in consumer product safety. Should you have any questions, please contact Alberta Mills, Paralegal Specialist, by letter, facsimile (301) 504-0127 or telephone (301) 504-0785, ext. 1299.

Sincerely,

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Enclosure



LAW OFFICES OF

Chandler de Brun Fink & Hayes

1508 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6662

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX
704-378-2000

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL

301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Sta-Rite Industries

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Sta-Rite Industries. Our request covers all
information from January 1, 1964 to the present, including but not
limited to all correspondence between Sta-Rite Industries and
Consumer Products Safety Commission.

Very truly yours,

W. MICHAEL WORKMAN

WMW:yr

5-802168

A/1

3262
14/4
EXDC

D-3

A
A

LAW OFFICES OF

Chandler De Brun Fink & Hayes

1508 EAST FOURTH STREET

F. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6552

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA

FAX
704-376-2003

A. MYLES HAYNES
OF COUNSEL

W. JAMES CRANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL

301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Purex Corporation

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Purex Corporation. Our request covers all
information from January 1, 1964 to the present, including but not
limited to all correspondence between Purex Corporation and
Consumer Products Safety Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

- B

LAW OFFICES OF

Chandler de Brun Fink & Hayes

1808 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6552

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX
704-372-2003

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Pac-Fab, Inc.

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Pac-Fab, Inc. Our request covers all information
from January 1, 1964 to the present, including but not limited to
all correspondence between Pac-Fab, Inc. and Consumer Products
Safety Commission.

Very truly yours,



W. MICHAEL WORKMAN

WMW:yr



LAW OFFICES OF
Chandler de Brun Fink & Hayes

1506 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6662

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

FAX
704-372-2003

A. MYLES HAYNES
OF COUNSEL

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
American Products/KDI American Products

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by American Products/KDI American Products. Our
request covers all information from January 1, 1964 to the present,
including but not limited to all correspondence between American
Products/KDI American Products and Consumer Products Safety
Commission.

Very truly yours,



W. MICHAEL WORKMAN

WMW:yr



LAW OFFICES OF

Chandler de Brun Fink & Hayes

1808 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-0332

LICENSED IN NORTH CAROLINA SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX
704-372-2003

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

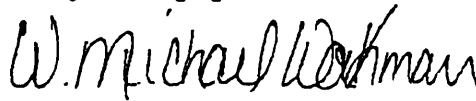
Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Harmsco Inc.

Dear Mr. Stevenson:

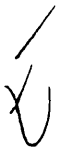
Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Harmsco Inc. Our request covers all information
from January 1, 1964 to the present, including but not limited to
all correspondence between Harmsco Inc. and Consumer Products
Safety Commission.

Very truly yours,



W. MICHAEL WORKMAN

WMW:yr



LAW OFFICES OF
Chandler de Brun Fink & Hayes

1506 EAST FOURTH STREET

P. O. BOX 24097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6652

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX
704-376-6000

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL

301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Marine Filter Tank

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Marine Filter Tank. Our request covers all
information from January 1, 1964 to the present, including but not
limited to all correspondence between Marine Filter Tank and
Consumer Products Safety Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

80215-0
802168

R

LAW OFFICES OF

Chandler de Brun Fink & Hayes

1508 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6532

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX

704-372-2003

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Doughboy Recreational

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Doughboy Recreational. Our request covers all
information from January 1, 1964 to the present, including but not
limited to all correspondence between Doughboy Recreational and
Consumer Products Safety Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

6

LAW OFFICES OF

Chandler De Brun Fink & Hayes

1808 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6582

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX
704-378-2000

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN E. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL

301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Hydro-tech Chemical Corp.

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Hydro-tech Chemical Corp. Our request covers all
information from January 1, 1964 to the present, including but not
limited to all correspondence between Hydro-tech Chemical Corp. and
Consumer Products Safety Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

H

LAW OFFICES OF
Chandler de Brun Fink & Hayes

1606 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6662

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN E. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

FAX
704-376-0000

A. MYLES HAYNES
OF COUNSEL

February 25, 1998

VIA FACSIMILE AND U.S. MAIL

301-504-0127

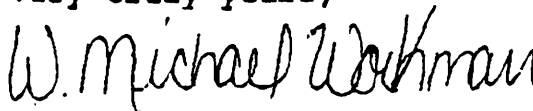
Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Astral Products, Inc.

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Astral Products, Inc. Our request covers all
information from January 1, 1964 to the present, including but not
limited to all correspondence between Astral Products, Inc. and
Consumer Products Safety Commission.

Very truly yours,



W. MICHAEL WORKMAN

WMW:yr



LAW OFFICES OF

Chandler de Brun Fink & Hayes

1508 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-8882

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

W. JAMES CRANGLER
DELAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

FAX
704-372-2003

A. MYLES HAYNES
OF COUNSEL

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

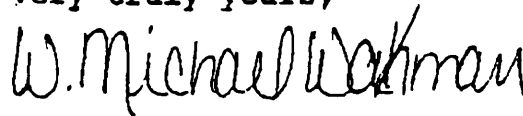
Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Ampro-Diaclaer, Inc.

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Ampro-Diaclaer. Our request covers all information
from January 1, 1964 to the present, including but not limited to
all correspondence between Ampro-Diaclaer, Inc. and Consumer
Products Safety Commission.

Very truly yours,



W. MICHAEL WORKMAN

WMW:yr



LAW OFFICES OF

Chandler de Brun Fink & Hayes

1508 EAST FOURTH STREET

F. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6662

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA

FAX
704-372-2003

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Hayward/Hayward Pool Products, Inc.

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Hayward/Hayward Pool Products, Inc. Our request
covers all information from January 1, 1964 to the present,
including but not limited to all correspondence between
Hayward/Hayward Pool Products, Inc. and Consumer Products Safety
Commission.

Very truly yours,



W. MICHAEL WORKMAN

WMW:yr



LAW OFFICES OF

Chandler de Brun Fink & Hayes

1308 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6552

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINE
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

FAX
704-378-8003

A. MYLES HAYNES
OF COUNSEL

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Metalite Manufacturing Company

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Metalite Manufacturing Company. Our request covers
all information from January 1, 1964 to the present, including but
not limited to all correspondence between Metalite Manufacturing
Company and Consumer Products Safety Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

✓

LAW OFFICES OF
Chandler de Brun Fink & Hayes

1608 EAST FOURTH STREET
P. O. BOX 34097
CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-375-6558

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA

FAX
704-375-2003

A. MYLES HAYNES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINE
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Lomart Industries

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Lomart Industries. Our request covers all
information from January 1, 1964 to the present, including but not
limited to all correspondence between Lomart Industries and
Consumer Products Safety Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

M

LAW OFFICES OF

Chandler de Brun Fink & Hayes

1508 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6552

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX

704-378-2003

A. MYLES HAYES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN D. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Jacuzzi

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Jacuzzi. Our request covers all information from
January 1, 1964 to the present, including but not limited to all
correspondence between Jacuzzi and Consumer Products Safety
Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

LAW OFFICES OF

Chandler De Brun Fink & Hayes

1508 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6332

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA.

FAX

704-378-2003

A. MYLES HAYES
OF COUNSEL

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

February 25, 1998

VIA FACSIMILE AND U.S. MAIL
301-504-0127

Todd Stevenson
U.S. Consumer Products Safety Commission
Washington, DC 20207

RE: FOIA Request: Injuries and/or complaints associated with
swimming pool filtration equipment manufactured by
Filtrex

Dear Mr. Stevenson:

Pursuant to the Freedom of Information Act (FOIA), we hereby
request any and all information regarding injuries and/or
complaints associated with swimming pool filtration equipment
manufactured by Filtrex. Our request covers all information from
January 1, 1964 to the present, including but not limited to all
correspondence between Filtrex and Consumer Products Safety
Commission.

Very truly yours,

W. Michael Workman

W. MICHAEL WORKMAN

WMW:yr

9

LAW OFFICES OF

Chandler de Brun Fink & Hayes

1508 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6552

LICENSED IN NORTH CAROLINA, SOUTH CAROLINA,
VIRGINIA, DISTRICT OF COLUMBIA, LOUISIANA AND
CALIFORNIA

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

FAX
704-372-2000
A. MYLES HAYNES
OF COUNSEL

FAX COMMUNICATION PAGE 1 OF 12

FROM: W. Michael Workman DATE: 03/02/98

TO: Todd Stevenson FAX: 301-504-0127

Re: Pool Filtration Equipment

LAW OFFICES OF

Chandler de Brun Fink & Hayes

1508 EAST FOURTH STREET

P. O. BOX 34097

CHARLOTTE, NORTH CAROLINA 28234

TELEPHONE 704-376-6882

LICENSED IN NORTH CAROLINA SOUTH CAROLINA,
VIRGINIA DISTRICT OF COLUMBIA LOUISIANA AND
CALIFORNIA.

W. JAMES CHANDLER
BRIAN DEBRUN
ANDREW FINK
STEVEN B. HAYES
W. MICHAEL WORKMAN
DAVID S. DAWSON

FAX
704-372-2003

A. MYLES HAYNES
OF COUNSEL

FAX COMMUNICATION PAGE 1 OF 5

FROM: W. Michael Workman DATE: 02/25/98

TO: Todd Stevenson FAX: 301-504-0127

Re: Pool Filtration Equipment

Firm: 1604 American Buyers (cig.
lighters), Off(6a6b release)
Chron, spec. 3285



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

May 10, 1999

Mr. David Pollock, Special Investigator
Hanover Insurance
1455 Lincoln Parkway, Suite 800
Atlanta, GA 303046

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long, sweeping line extending upwards and to the right.

Re: FOIA Request S-809039 (Appeal); CPSC Investigation of American Buyers

Dear Mr. Pollock:

This responds to your Freedom of Information Act (FOIA) request seeking information from the Consumer Product Safety Commission. The records from the Commission files responsive to your request have been processed and are enclosed.

The enclosed records represent file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. The records are identified as Commission Investigative Reports and other correspondence notes and documents. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems. The Commission believes that it has taken reasonable steps to assure the accuracy of the information.

Processing your request, including searching files and preparing this information, cost \$60.00. In this instance, we waived the charges. Thank you for your interest in consumer product safety. Should you have any questions, please contact Alberta Mills, Paralegal Specialist, by letter, facsimile (301) 504-0127 or telephone (301) 504-0785 ext. 1299.

Sincerely,

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Enclosures



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207-0001

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme
General Counsel
Tel: 301-504-0980 ext. 2299
Fax: 301-504-0403
E-Mail: cpssc-gc@cpssc.gov

March 26, 1999

Mr. David Pollock
Special Investigator
Hanover Insurance
1455 Lincoln Parkway, Suite 800
Atlanta, Georgia 303046

RE: FOIA Appeal S809039
CPSC Investigation of American Buyers

Dear Mr. Pollock:

By letter dated February 15, 1999, you appealed the decision of the Commission's Freedom of Information Officer to withhold information responsive to your Freedom of Information Act (FOIA) request on the CPSC's investigation of American Buyers.

The FOI Officer has reconsidered his decision about an investigator's report of a fire that occurred at American Buyers. He is releasing this document under separate cover, because the Commission has complied with sections 6(a) and (b) of the Consumer Product Safety Act (CPSA). 15 U.S.C. §§ 2055(a) and (b).

Under authority delegated to me by the Commission, 16 C.F.R. § 1015.7, I have reviewed your appeal. I affirm the Freedom of Information Officer's decision to withhold other responsive information contained in the Commission's active law enforcement investigatory files. This decision is based on FOIA Exemptions 5, 7(A) and 7(E). 5 U.S.C. §§ 552(b)(5), (b)(7)(A), and (b)(7)(E).

Exemption 5 permits agencies to withhold certain inter-agency and intra-agency documents and incorporates the deliberative process privilege. The internal memoranda, legal memoranda, and staff notes withheld in this case consist of staff recommendations containing both pre-decisional and deliberative

Mr. David Pollack
March 26, 1999

Page 2

discussions. The deliberative process privilege protects advice, recommendations, and opinions that are part of the agency's deliberative, consultative, and decision-making processes. Release of this information would stifle the Commission's decisionmaking ability with respect to its investigation of this firm by impairing open and frank communication within the agency. Although this privilege applies only to the opinions or recommendations in a document and not to factual information, facts are withheld here because they are inextricably intertwined with the exempt portions. Disclosure of the factual information would itself expose the deliberative process.

The documents being withheld under Exemption 5 are also being withheld under Exemption 7(A). Exemption 7(A) provides for the withholding of investigatory information compiled for law enforcement purposes, but only to the extent that the production of such information could reasonably be expected to interfere with enforcement proceedings. We have determined that disclosure of these documents could reasonably be expected to interfere with law enforcement proceedings.

Exemption 7(E) of the FOIA exempts from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (E) would disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The information withheld under section 7(E) consists of legal memoranda and investigation reports compiled for the purposes of enforcing the CPSA and would disclose the Commission's investigatory techniques if released. Disclosure of the Commission's investigatory techniques would enable companies being investigated to attempt to change their operations to circumvent the investigatory process without complying with the CPSA.

At the present time, the investigatory file that contains the responsive documents is open since the investigation is ongoing. If the file is closed in the future, some of the information may be subject to disclosure under the FOIA. You may want to call our FOI office from time to time for suggestions on when to resubmit your FOIA request.

Mr. David Pollack
March 26, 1999

Page 3

You have the right to seek judicial review of this decision,
as provided by 5 U.S.C. § 552(a)(4)(B).

Sincerely,

J.S. Bromme

Jeffrey S. Bromme



ALLMERICA FINANCIAL®
HANOVER INSURANCE

February 15, 1999

CRS/DFC OF THE SECRETARY
 FREEDOM OF INFORMATION
 1999 FEB 23 A 11: 29

U S Consumers Product Safety Commission
 FOIA Appeal General Counsel
 Attention: Office of the Secretary
 Washington DC 20207

In Re: Claim Number: 65-320222
 Date of Loss: 02/25/98
 Insured: American Buyers
 PCA File: 98-00800

Dear Sirs:

Please be advised that the undersigned is conducting an investigation into the above captioned matter. Please also find attached correspondence from Todd Stevenson pursuant to that investigation. I would like to file a formal appeal on behalf of Allmerica Financial. I have left numerous phone messages for Mr. Stevenson, and have sent and faxed him our request for information on this file at least 3 separate times. The original request was sent 9/1/98. We are finally getting a response now.

Allmerica Financial was contacted by your investigator (Bob Baxter) on this case several months ago. We cooperated fully with his requests for our file. Can we not expect the same courtesy? This case is critical, as there is some indication our insured was aware he was submitting a claim for "defective merchandise". Your entity deemed his cigarette lighters as non child-resistant. If he did knowingly submit a claim for defective merchandise, we may have a right of recovery against him. Please advise if there is any way we can expect your assistance in this matter.

Respectfully yours,

David Pollock
 Special Investigator



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

February 8, 1999

David Pollock, Special Investigator
Hanover Insurance
Allmerica Financial
1455 Lincoln Parkway, Suite 800
Atlanta, GA 30346

Re: FOIA Request S-809039: CPSC investigation of American Buyers, Inc.

Dear Mr. Pollock:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the Commission (Commission).

The records from the Commission files responsive to your request are contained in the Commission's active law enforcement investigatory files. We must withhold the records pursuant to the Exemption 5 and & 7(A), 5 U.S.C. § 552(b)(5 and (b) (7) (A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff notes, correspondence and memoranda containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

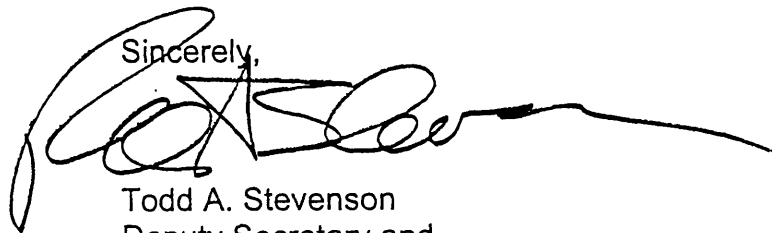
Mr. Pollock, S809039

Page 2

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D. C. 20207.

Processing this request, conducting the file searches and preparing the information cost the Commission \$50.00. In this instance we have waived all of the charges. Thank you for your interest in consumer product safety. Should you have any questions, please contact Alberta Mills, Paralegal Specialist, by letter, facsimile (301) 504-0127 or telephone (301) 504-0785, ext. 1299.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson", written over a horizontal line.

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Enclosure

OSFOI Denied, Off(denial) Ex. 5,
7(A), chron, spec. 3285



DEN
809039

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

February 8, 1999

~~UNRECORDED~~

David Pollock, Special Investigator
Hanover Insurance
Allmerica Financial
1455 Lincoln Parkway, Suite 800
Atlanta, GA 30346

A handwritten signature or set of initials, possibly "D", written in black ink.

Re: FOIA Request S-809039: CPSC investigation of American Buyers, Inc.

Dear Mr. Pollock:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the Commission (Commission).

The records from the Commission files responsive to your request are contained in the Commission's active law enforcement investigatory files. We must withhold the records pursuant to the Exemption 5 and & 7(A), 5 U.S.C. § 552(b)(5 and (b) (7) (A). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party other than an agency in litigation with the agency. Exemption 7(A) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff notes, correspondence and memoranda containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

Mr. Pollock, S809039

Page 2

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D. C. 20207.

Processing this request, conducting the file searches and preparing the information cost the Commission \$50.00. In this instance we have waived all of the charges. Thank you for your interest in consumer product safety. Should you have any questions, please contact Alberta Mills, Paralegal Specialist, by letter, facsimile (301) 504-0127 or telephone (301) 504-0785, ext. 1299.

Sincerely,

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Enclosure



U.S. CONSUMER PRODUCT SA
WASHINGTON, D.C

OFFICE OF THE SE
DIVISION OF FREEDOM O

FACSIMILE TRAN

Louie H. Pain
Compliance Officer
415-774-2962 office WLT
415 643-1429 home
* File is still open per Mr. Cornell (FO) 2/5/99
7A

DATE: 12/9/98

TO: Louie Pain

COMPANY: FOWR

SUBJECT: FOIA Request 5-809039; Cigarette Lighters

FROM: Alberta Mills

* Please let me know the status of this request

THIS IS PAGE 1 OF 3 BEING TRANSMITTED FROM FAX (301)504-0127.

IF ALL PAGES ARE NOT RECEIVED OR YOU HAVE ANY QUESTIONS CALL (301)504-0785 OR (301)504-0800.



United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

MEMORANDUM

DATE : December 9, 1998

TO : Louis H. Paine, Compliance Officer
Western Regional Center

THROUGH: Larry Cornell, Acting, Regional Director
Western Regional Center

THROUGH: Todd A. Stevenson, Deputy Secretary and FOIA Officer
Office of the Secretary *TAS*

FROM : Alberta Mills, FOIA Specialist *AM*

SUBJECT: FOIA Request S-809039; CPSC Investigation of American
Buyers, Inc.

Please search your files for responsive records to the attached FOIA request and return to OSFOI (Room 502) by December 23 14, 1998. If you have any questions, contact us by letter, facsimile (301) 504-0127 or telephone (301) 504-0785.

If there are no responsive documents please indicate below.

_____ NO RECORDS located responsive to this request.

_____ Materials being returned to OSFOI as requested.

File search performed by: _____ Date _____

Clerical search time: _____

Professional search time: _____

ATTACHMENT



ALLMERICA FINANCIAL
HANOVER INSURANCE

September 1, 1998

US Consumer Products Safety Commission
Attention: Todd Stevenson, Freedom of Information Act Officer
Washington DC 20227-0001

In Re: Claim Number: 65-320222
Insured: American Buyers, Inc.
Date of Loss: 2/25/98
Loss Location: Little Rock, AR

Dear Mr. Stevenson:

This letter will summarize my recent conversation with Melissa Hampshire in your office. We are conducting an investigation into the above matter. There is a possibility that our insured was reimbursed for some inventory that was either obsolete or deemed "non child resistant" by the United States Government. As I am sure you can understand, Hanover Insurance is interested in obtaining a copy of your files. This will assist us in determining if we should seek reimbursement directly from our insured. This may require Hanover to examine these options with local authorities in Little Rock, AR. Will your office assist Hanover in exploring those options?

Respectfully yours

David Pollock
Special Investigator
cc: David Goldshall

5-809039
770-353-6099

TO OP / ALBERTA

<p>Legal Research Institute Post Office Box 40077 Philadelphia PA 19106-0077 United States</p>	<p>(800) 376-6526 Telephone (215) 925-7273 Facsimile legalres@erols.com E-mail www.researchlaw.com Website</p>
---	---

January 25, 1999

Re: FOIA Request S-811026; Worldwide listing of alkyl nitrite contact persons.

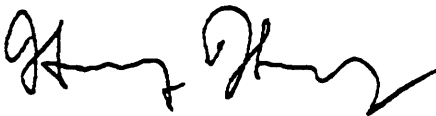
Dear General Counsel Jeffrey Broome:

Following please find the CPSC response to my FOIA referenced supra. Said request was for a listing of CPSC foreign contacts to whom applications for U.S. export of alkyl nitrites must be forwarded should the same be intended for their respective country. Insofar as 15 USC 2057 et seq requires that applications for the export of alkyl nitrites be made through the CPSC Office of Compliance who in turn forwards notification of the same to its respective foreign contacts for comment or objection there must be a listing such as the one requested otherwise CPSC Compliance would not know who or where to send such notification to.

I just got off the telephone with Paralegal Specialist Alberta Mills who informed me that she believed such a listing would be kept in the Office of Compliance. Insofar as this is an obvious mistake I want to give you an opportunity to correct it before submitting an appeal. In the unlikely event that you choose to maintain the position that the requested list does not exist please consider this letter as my appeal of the same.

This letter was faxed to General Counsel Jeffrey Broome (301) 504-0403, Assistant Executive Director of Compliance Alan Schoem (301) 504-0008 and Paralegal Specialist Alberta Mills (301) 504-0127 on or about 25 January 1999, 12:55 P.M. Eastern Standard Time.

Respectfully yours,


 Henry Hadry

2/4/99 - I talked to him on phone - he now understands that we have no list because we get addresses off State Dept. website, as needed - he said I made things "crystal clear" - no need to respond.

04:10 PM 25 JEN 99

RECEIVED GENERAL COUNSEL



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

January 19, 1998

9

Mr. Henry Hadry
Legal Research Institute
P.O. Box 40077
Philadelphia, PA 19106-0077

RE: FOIA Request S-811026: Listing of alkyl nitrite contact persons throughout the world

Mr. Hadry:

This responds to your Freedom of Information Act (FOIA request seeking information from the Consumer Product Safety Commission ("Commission").

Please note that the Commission does not maintain the type of list referenced in your request, however, enclosed are copies of incoming letters received from countries regarding the exportation of butyl nitrite. ~~closed~~

Processing this request, performing the file searches and preparing the information cost the Commission \$30.00. In this instance, we have waived all of the charges. Thank you for your interest in consumer product safety. Should you have any question, please contact the undersigned by letter, facsimile (301) 504-0127 or by telephone (301) 504-0785, ext. 1299.

Sincerely,

Alberta Mills
Paralegal Specialist
Freedom of Information Division
Office of the Secretary

Enclosure

OSFOI Granted, Off(release),
chron. spec. 3285



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

January 19, 1998

65 811026
Z

Mr. Henry Hadry
Legal Research Institute
P.O. Box 40077
Philadelphia, PA 19106-0077

RE: FOIA Request S-811026: Listing of alkyl nitrite contact persons throughout the world

Mr. Hadry:

This responds to your Freedom of Information Act (FOIA request seeking information from the Consumer Product Safety Commission ("Commission").

Please note that the Commission does not maintain the type of list referenced in your request, however, enclosed are copies of incoming letters received from countries regarding the exportation of butyl nitrite. closed

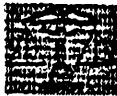
Processing this request, performing the file searches and preparing the information cost the Commission \$30.00. In this instance, we have waived all of the charges. Thank you for your interest in consumer product safety. Should you have any question, please contact the undersigned by letter, facsimile (301) 504-0127 or by telephone (301) 504-0785, ext. 1299.

Sincerely,

Alberta Mills
Paralegal Specialist
Freedom of Information Division
Office of the Secretary

Enclosure

This document contains Confidential Trade Secrets, Commercial and Financial Information, the disclosure of which is prohibited by the [Consumer Product Safety Act (CPSA)], [(15 USC §§ 2055(a) and (b))], [16 CFR Part 1101] and [Freedom of Information Act, 5 USC § 552(b)(3) and (4)].



Legal Research Institute
Post Office Box 40077
Philadelphia PA 19106-0077
United States

(800) 376-6526 Telephone
(215) 925-7273 Facsimile
legalres@erols.com E-mail
www.researchlaw.com Website

OFFICE OF THE SECRETARY OF INFORMATION
NOV -6 A 11:30

November 6, 1998

Tod A. Stevenson
Freedom of Information Officer
U. S. Consumer Product Safety Commission
Washington, District of Columbia 20207-0001

Mary F. Toro
Compliance Officer
Office of Compliance
U. S. Consumer Product Safety Commission
Washington, District of Columbia 20207-2001

M/1

Dear Officers:

Thank you for your prompt and informative response, a copy of which follows, to my letters of 28 and 29 November 1998.

Please accept herein my Federal Freedom of Information Act Request pursuant Title 5 United State Code § 552, as amended, for originals or legible reproductions of: (1) a listing of your alkyl nitrite contact persons in all countries and provinces throughout the world cross-referenced with the respective agency information including name, address, telephone number, facsimile number and e-mail address of the employer-agency; and (2) all literature submitted with respect to such notification to the persons, agencies and countries supra.

9994

edc

In-the unlikely event that you should choose to assert claims of exemption please provide me with the following: (1) a listing of all nonsegregable portions withheld; (2) an itemization of the purported statutory or other justification for exemption and an explanation with respect to how you believe they apply on an individual basis; (3) a detailed and comprehensive index cross-referencing (1) and (2) supra and; (4) an

D.3

4-811026

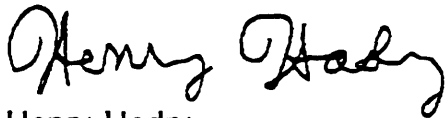
explanation with respect to why you choose not to invoke your discretionary authority to waive such exemptions in the interests of the public at large i.e. government disclosure.

I realize the above may seem intrinsically pedantic and obtuse but it is in fact quite simple insofar as what I am seeking is merely a copy of the same paperwork you look at when you try to figure out to whom and where to send my client's "Notifications of Intent to Export Noncomplying Goods" to as well as the paperwork you send along with them.

Certainly I agree to pay all reasonable costs associated with this request as required by statute and accordingly I will appreciate an answer within the time period mandated by statute.

Please do not hesitate to let me know if there is anything I can do to make these easier for you to comply.

Respectfully yours,

A handwritten signature in black ink that reads "Henry Hadry". The signature is written in a cursive, flowing style.

Henry Hadry



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207-0001

OFFICE OF COMPLIANCE
Recalls and Compliance Division
email: mtoro@cpsc.gov

Mary F. Toro
Compliance Officer
Tel: 301-504-0808 Ext. 1378
Fax: 301-504-0359

NOV 02 1998

Mr. Henry Hadry
Legal Research Institute
P.O. Box 40077
Philadelphia, PA 19106-0077

Dear Mr. Hadry:

This letter is in response to your letters dated September 28 and 29, 1998, to the Office of Compliance regarding procedural requirements for export notification of alkyl nitrite, a banned hazardous substance. You inquired whether there is an acceptable procedure for delivering a small quantity of alkyl nitrite to an overseas company concurrent with notification to the Commission of your intent to export.

In accordance with section 9 of the Consumer Product Safety Act (CPSA), 15 U.S.C. §§ 2051, 2058, the Commission promulgated a rule declaring butyl nitrite, and isopropyl nitrite and other nitrites to be banned hazardous products under section 8 of the CPSA, 15 U.S.C. § 2057, on November 18, 1988 and November 29, 1990, respectively. Section 18 of the CPSA, 15 U.S.C. § 2067, authorizes the exportation of any product that is declared to be a banned hazardous substance by rule promulgated under section 9 of the CPSA.

The Consumer Product Safety Act Authorization Act of 1978 established export notification requirements and authorized the Commission to issue regulations to implement them. Regulations at 16 C.F.R. Part 1019, describe the procedures for exporting noncomplying, misbranded, or banned products from the United States. Although the Commission has not established forms for this procedure, it encourages exporters to provide the required information in the order listed in 16 C.F.R. §§ 1019.4(d) and (e).

Exportation of any quantity of butyl nitrite or isopropyl or other volatile nitrite subject to the ban, prior to notification to the Commission, could subject the exporter to a civil penalty not to exceed \$6,000 for each such violation. Under section 20(a)(1) of the CPSA, 15 U.S.C. § 2069(a)(1), a violation of section 19(a)(10) of the CPSA constitutes a separate offense with respect to each consumer product involved; except that the maximum civil penalty shall not exceed \$1,500,000 for any related series of violations.

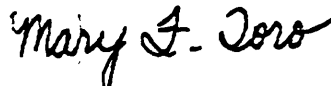
The admission into a country of a noncomplying, misbranded, or brand product is

Mr. Henry Hadry
Page 2

within the legal province of the country that is to review the product. That country will contact you directly after it has been notified of your intent to export. You should be aware that many countries have restrictions on the trade of products that contain alkyl or amyl nitrite, or they may regard them as controlled substances. In some countries the importers must be licensed to handle the goods as they may be considered "medicinal products". For example, the United Kingdom regards "poppers" as a prescription medicine. Thus an importer must have the required licenses to import and distribute that product. New Zealand also has restriction on the sale of such products.

I hope this information is responsive to your inquiry. If I can be of further assistance you may reach me at the above listed numbers.

Sincerely,



Mary F. Toro
Compliance Officer



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

April 9, 1999

Mr. David Swit
Publisher
Washington Business Information
1117 North 19th Street, Suite 200
Arlington, VA 22209

Re: FOIA Request and Appeal S710116B: DeWalt Battery / CPSC Compliance file RP960170

Dear Mr. Swit:

Enclosed are copies of the records (that were previously withheld) from the referenced file, as discussed in the letter dated March 18, 1999, from the General Counsel responding to your appeal. The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems. The Commission believes that it has taken reasonable steps to assure the accuracy of the information.

Sincerely,

A handwritten signature in black ink, appearing to be "Todd A. Stevenson", written over a horizontal line.

Todd A. Stevenson

Enclosures



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207-0001

OFFICE OF THE GENERAL COUNSEL

Jeffrey S. Bromme
General Counsel
Tel: 301-504-0980 ext. 2299
Fax: 301-504-0403
E-Mail: jbromme@cpsc.gov

March 18, 1999

Mr. David Swit
Publisher
Washington Business Information Inc.
1117 North 19th Street
Suite 200
Arlington, VA 22209-1799

RE: FOIA Appeal S710116B
DeWalt Battery Chargers

Dear Mr. Swit:

By letter dated March 5, 1999, you appealed the decision of the Commission's Freedom of Information Officer to withhold information responsive to your Freedom of Information Act (FOIA) request on the recall of DeWalt Industries battery chargers.

The FOI Officer has reconsidered his decision regarding some documents that are primarily facsimile cover sheets containing staff notes. He is releasing these documents, under separate cover, because the Commission has complied with sections 6(a) and (b) of the Consumer Product Safety Act (CPSA). 15 U.S.C. §§ 2055(a) and (b).

Under authority delegated to me by the Commission, 16 C.F.R. 1015.7, I have reviewed your appeal. I affirm the Freedom of Information Officer's decision to withhold a preliminary staff determination, documents containing confidential information furnished by DeWalt, meeting notes, notes of telephone conversations, draft documents prepared during settlement discussions, and correspondence with attachments between Commission staff and counsel for DeWalt, based on FOIA Exemptions 3 and 4. 5 U.S.C. §§ 552(b)(3) and (b)(4). I am also affirming the Freedom of Information Officer's decision to withhold the preliminary staff determination based on FOIA Exemption 7(E). 5 U.S.C. § 552(b)(7)(E).

Mr. David Swit
March 18, 1999

Page 2

Exemption 3 of the FOIA provides for withholding information that is specifically exempted from disclosure by another statute. In applying Exemption 3 to the withheld documents, I am relying on section 6(b)(1) of the Consumer Product Safety Act. 15 U.S.C. § 2055(b)(1).

Section 6(b)(1) requires that, before disclosing information that would enable the public to identify the manufacturer or private labeler of a consumer product, the Commission "shall take reasonable steps to assure . . . that [the] information . . . is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the [CPSA]." The information that is being withheld pursuant to Exemption 3, based on section 6(b)(1), consists of documents containing confidential information furnished by DeWalt, including the preliminary staff determination, meeting notes, notes of telephone conversations, draft documents prepared during settlement discussions, and correspondence with attachments between Commission staff and counsel for DeWalt. All of these documents concern the firm's section 15 report. The Commission has determined that it is unfair in the circumstances to disclose information furnished by a firm to facilitate prompt remedial action or settlement where the firm has a reasonable expectation that the information will be maintained in confidence. 16 C.F.R. §§ 1101.32(b)(1) and (b)(2). The withheld information falls within the scope of these regulations.

In addition, under Exemption 3, the Commission is relying on section 6(a)(2) of the COSA. 15 U.S.C. § 2055(a)(2). Section 6(a)(2) expressly prohibits the disclosure of information reported to or otherwise obtained by the Commission which contains or relates to trade secrets or other confidential commercial information. Section 6(a)(2) incorporates Exemption 4 of the FOIL. That exemption protects trade secrets and confidential commercial information obtained from a person.

Commercial information is confidential if disclosure is likely (1) to impair the government's ability to obtain the necessary information in the future or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. The information that has been withheld pursuant to Exemption 3, based on section 6(a)(2), and Exemption 4 consists of a preliminary staff determination and a full section 15 report containing DeWalt's confidential distribution data, manufacturing and price information, and other marketing and engineering data.

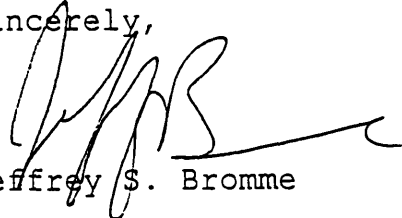
Mr. David Swit
March 18, 1999

Page 3

Exemption 7(E) of the FOIA exempts from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (E) would disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." 5 U.S.C. § 552(b)(7)(E). The information withheld under Exemption 7(E) consists of an internal staff preliminary determination report. This information was compiled for the purpose of enforcing section 15 of the CPSA and would disclose the Commission's investigatory techniques if released. Disclosure of the Commission's investigatory techniques, which are not shared with the public, would enable companies being investigated to attempt to change their operations to circumvent the investigatory process without complying with CPSA section 15.

You have the right to seek judicial review of this decision, as provided by 5 U.S.C. § 552(a)(4)(B).

Sincerely,



Jeffrey S. Bromme



WASHINGTON BUSINESS INFORMATION, INC. • 1117 NORTH 19TH STREET, SUITE 200, ARLINGTON, VA 22209-1798 • (703)247-3434, FAX 247-3421

March 5, 1999

FOIA APPEAL, General Counsel
Attn: Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

FAX: 301/504-0127
(Page 1 of 1)

Handwritten initials and a circled '0'.

Dear Sir,

Pursuant to the Freedom of Information Act, we hereby appeal the denial of major parts of FOIA Request S-710116B, Dewalt Industrial Tool Company. We appeal because:

A -- The denial contradicts the instructions of the President and the Attorney General, as well as CPSC's own regulations, that disclosure be the rule, rather than the exception.

B -- CPSC apparently has accepted, without evaluation, the company's claim that records are confidential, and thus protected from disclosure. The company has not met its burden of establishing the basis for its claim of confidentiality here.

C -- CPSC has not provided sufficient information for Requester to evaluate validity of the agency's withholding 63 complete pages (2-5, 6, 10-54, 56-63, 71-75) while disclosing only 11 substantive pages (some partly redacted) and omitting many records that customarily are disclosed in such files. Those omitted include, but are not limited to:

- (1) Form 1A -- CPSC staff's initial input and staff worksheet
- (2) Company's "Full Report" on possible hazard
- (3) Company's Corrective Action Plan Progress Reports
- (4) Safety-related consumer or dealer complaints, warranty claims, reports of injury,

and copies of all documents related to such complaints, claims and injuries, including court complaints and related documents filed in or associated with lawsuits involving the product, and a description of the resolution of those lawsuits, if any. If the complaints and other documents requested in this sub-paragraph are unavailable, CPSC's records should contain the reason for such unavailability and a summary of the requested items containing the name, address and phone number of the claimant or of his/her attorney.

D -- CPSC has provided no proof of its claim that disclosing some or all of these records would disclose techniques and procedures for law enforcement. Moreover, CPSC's blanket withholding of these records is inconsistent with the agency's stated policy that the invoking of these exemptions to the FOIA is discretionary, not mandatory.

We note that Dewalt's counsel is a former General Counsel of CPSC, and feel he must be aware of how his claims of confidentiality far exceed the bounds of reasonableness.

Please sign below to confirm receipt of this appeal, and fax it to me at 703/247-3421.

Sincerely,

David Swit, Publisher
Product Safety Letter

Receipt of the above is acknowledged:

	3/5/99
Signature	Date
LYNN CARTER	SECRETARY TO
Name (please print)	TODD STEVENSON
	Title

cc: E. Koch, Esq.
SEC-rf, DIR/f, PSL