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Pursuant to 16 C.F.R. § 1025.36, Craig Zucker (“Mr. Zucker” or “Respondent”) hereby moves the Presiding Officer for an order directing Complaint Counsel to Respond to Respondent’s First Set of Requests for Admissions to Consumer Product Safety Commission, and in support states:

This is an action under Section 15(d) of the Consumer Product Safety Act, 15 U.S.C. § 2064(d), which states in pertinent part:

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distributor or retailer of such product to provide the notice required by subsection (c) and to take any one or more of the following actions it determines to be in the public interest:

(A) To bring such product into conformity with the requirements of the applicable rule, regulation, standard, or ban or to repair the defect in such product.

(B) To replace such product with a like or equivalent product which complies with the applicable rule, regulation, standard, or ban or which does not contain the defect.

(C) To refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more

(i) at the time of public notice under subsection (c) of this section, or

(ii) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

Specifically, in this matter, Complaint Counsel is seeking “remedial action to protect the public from the substantial risks of injury presented by aggregated masses of high-powered, small rare earth magnets, known as Buckyballs® and Buckycubes™.” Second Amended Compl. at ¶ 1. Complaint Counsel is also seeking an order holding Respondent Craig Zucker responsible for the recall under the doctrine holding corporate officers responsible for criminal acts of corporations upheld in United States v. Dotterweich, 320 U.S. 277 (1943) and United States v. Park, 421 U.S. 658 (1975).

Every single answer of Complaint Counsel to Respondents’ First Set of Requests for Admission is non-responsive.¹ The CPSC has taken actions that have forced M&O out of business, and now is using the power of the federal government to seek to hold Mr. Zucker

¹ A copy of Complaint Counsel’s Responses to Respondent’s First Set of Requests for Admissions to Consumer Product Safety Commission accompanies this motion as **Exhibit A**.

individually responsible for paying for a recall based on unprecedented legal theory. Having done so, however, Complaint Counsel has failed to honor its obligations to respond fully to Respondent's discovery requests. Specifically, Complaint Counsel's Answers are evasive, improperly invoke certain privileges, and improperly shift the burden of discovery to Respondents. For the reasons more thoroughly discussed below, Respondent respectfully request that the Presiding Officer enter an order directing Complaint Counsel to answer Respondent's First Set of Requests for Admissions to Consumer Product Safety Commission. Respondent has a constitutional right to conduct a defense in the matter, and the rules permit broad discovery as part of conducting that defense. Complaint Counsel's attempt to respond only to the discovery it wants to answer has already put undue financial burden on both parties and should not be allowed.

II. APPLICABLE LAW

A. Legal Conclusions

Federal Rule of Civil Procedure 36 explicitly permits a party to serve a written request to admit "facts, the application of law to fact, or opinions about either." FED. R. CIV. P. 33(a)(1)(A). The rule has been interpreted to permit a request for admission relating to how a particular source of a legal obligation applies to a given state of facts. Miller v. Holzmann, 240 F.R.D. 1, 5 (D.D.C. 2006).

B. The Document "Speaks for Itself"

It is well established that the tautological "objection" that the finder of fact can read a document for itself is not a legitimate objection but "an evasion of the responsibility to either admit or deny a request for admission." Miller v. Holzmann, 240 F.R.D. 1, 4 (D.D.C. 2006) (citing Sigmund v. Starwood Urban Retail VI, LLC, 236 F.R.D. 43, 46 (D.D.C.2006)). In this

regard courts have emphasized that such an objection is a waste of time and defeats the narrowing of issues in dispute that is the purpose of the rule permitting requests for admission. Id. Additionally, where a request for admission paraphrases a document the response should either admit or deny the accuracy of the paraphrasing and “stating the obvious—one can read the document oneself to see if the paraphrase is accurate—is not a legitimate objection and an equally great waste of time.” Id.

C. Public Records

There is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents. See e.g. Miller v. Holzmann, 240 F.R.D. 1, 4 (D.D.C. 2006). This is not surprising considering that the purpose of allowing requests for admissions is to expedite trial by establishing certain material facts as true and thus narrowing the range of issues for trial. Coca-Cola Bottling Co. of Shreveport, Inc. v. Coca-Cola Co., 123 F.R.D. 97, 102 (D. Del. 1988). Merely referring to public records does not serve the purpose of establishing material facts and narrowing the range of issues at trial.

D. Relevance

Both the Federal Rules of Civil Procedure and 16 C.F.R. § 1035.31(c)(1) define the scope of discovery with the same terms. When considering challenges to requests for admission on the grounds of relevance, Courts consistently recognize that the Rules of Federal Civil Procedure are to be liberally construed and that the scope of discovery under those rules is broad. V.D. Anderson Co. v. Helena Cotton Oil Co., 117 F. Supp. 932, 940 (E.D. Ark. 1953). Moreover, Federal Rule of Procedure 26(b)(1) explicitly provides that the scope of discovery includes information “relevant to any party’s claim or defense—including the existence, description,

nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter.” FED. R. CIV. P. 26. Further, Rule 26 also confirms that relevant information need not be admissible at trial if the discovery is reasonably calculated to lead to the discovery of admissible evidence. Id.

E. Deliberative Process Privilege

The deliberative process privilege is qualified, and not absolute. Xcel Energy, Inc. v. United States, 237 F.R.D. 416, 420 (D. Minn. 2006). Rather, the need for materials and for accurate fact-finding will override the government's interest in non-disclosure. Id. In this regard the following factors are considered: 1) the relevance of the evidence; 2) the availability of other evidence; 3) the government's role in the litigation; and 4) the extent to which disclosure would hinder frank and independent discussions regarding contemplated policies and decisions. Id.

F. Lack of Knowledge

A responding party may not refuse to admit or deny a request for admission based upon a lack of personal knowledge if the information relevant to the request is reasonably available to him. Herrera v. Scully, 143 F.R.D. 545, 548 (S.D.N.Y. 1992). Moreover, in the context of requests for admissions, “reasonable inquiry”

includes investigation and inquiry of any of defendant's officers, administrators, agents, employees, servants, enlisted or other personnel, who conceivably, but in realistic terms, may have information which may lead to or furnish the necessary and appropriate response. In this connection, relevant documents and regulations must be reviewed as well.

Id. (quoting Diederich v. Department of Army, 132 F.R.D. 614, 619 (S.D.N.Y.1990)).

G. Respondent's Own Files

There is no support in the laws of evidence for the proposition that because a document or information is available to the propounding party, the responding party is relieved from

admitting or denying the truth of its contents. See e.g. Miller v. Holzmann, 240 F.R.D. 1, 4 (D.D.C. 2006). This is not surprising considering that the purpose of allowing requests for admissions is to expedite trial by establishing certain material facts as true and thus narrowing the range of issues for trial. Coca-Cola Bottling Co. of Shreveport, Inc. v. Coca-Cola Co., 123 F.R.D. 97, 102 (D. Del. 1988). Merely referring to public records does not serve the purpose of establishing material facts and narrowing the range of issues at trial.

H. Evasive Discovery Responses

16 C.F.R. § 1025.36 explicitly states that “an evasive or incomplete response is to be treated as a failure to respond.” Moreover, it is well established that discovery requires candor in responding. Dollar v. Long Mfg., N.C., Inc., 561 F.2d 613, 616 (5th Cir. 1977). In this regard, Complaint Counsel is required to engage in “a conscientious endeavor to understand the questions and to answer fully such questions.” Maddox v. Wright, 11 F.R.D. 170, 171 (D.D.C. 1951).

III. ARGUMENT

For the reasons thoroughly explained below, Respondent respectfully requests that the Presiding Officer enter an order directing Complaint Counsel to answer the following Requests for Admission:

Request No. 7. *Admit that on or about July 27, 2012, the General Counsel of the CPSC sent correspondence to one or more retailers advising that retailers were not required by law to stop sale of the Subject Products.*

Answer: Admitted in part. Subject to and without waiving its objections, Complaint Counsel admits that Cheryl Falvey, the former General Counsel of the CPSC, sent letters to certain retailers on July 27, 2012 and that these letters included the following sentence:

Your firm is not required to stop sale of Buckyballs and Buckycubes unless it is notified that it must do so pursuant to a Commission Order after the completion of the adjudicative proceeding.

The letters speak for themselves, and Respondent's characterization is denied to the extent inconsistent with the documents.

Answer No. 7 is evasive and unresponsive to the Request for Admission. Request No. 7 seeks to determine whether Complaint Counsel disputes the fact that "the General Counsel of the CPSC sent correspondence to one or more retailers advising that retailers were not required by law to stop sale of the Subject Products." Complaint Counsel's quotation of the above language does not indicate whether it admits or denies that assertion. Additionally, Complaint Counsel objection that "the letters speak for themselves" is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 7 and the letters.

Request No. 9. *Admit that some retailers continue to sell Magnets other than the Subject Products and the subject products in CPSC Docket 12-2 and 12-3.*

Answer: Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it fails to specify a time period or a geographic area. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Complaint Counsel's objections to Request No. 9 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus whether the CPSC permits retailers to sell Magnets other than the Subject Products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-

disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 10. *Admit that CPSC has not requested all retailers to stop selling Magnets other than the Subject Products and the subject products in CPSC Docket 12-2 and 12- 3.*

Answer: Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it fails to specify a time period or a geographic area. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Subject to and without waiving its objections, Complaint Counsel admits that the CPSC issued a press release dated July 25, 2012 which included the following sentence: "a number of retailers have voluntarily agreed to stop selling Buckyballs, Buckycubes, and similar products manufactured by other companies." The full text of this press release is available online at <http://www.cpsc.gov/en/Newsroom/News-Releases/2012/CPSC-Sues-Maxfield--Oberton-Over-Hazardous-Buckyballs-and-Buckycube-Desk-Toys-Action-prompted-by-ongoingharm-to-children-from-ingested-magnets-/>.

Complaint Counsel's objections to Request No. 10 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus whether the CPSC permits retailers to sell Magnets other than the Subject Products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Also Complaint Counsel's admission is unresponsive in that it fails to address the content of Request No. 10

which inquired as whether Complaint Counsel disputes the fact that “CPSC has not requested all retailers to stop selling Magnets other than the Subject Products.”

Request No. 11. *Admit that CPSC is unaware of any incidents involving ingestion of Buckycubes®.*

Answer. Admitted in part. Subject to and without waiving its objections, Complaint Counsel admits that as of the date of this response, CPSC staff is not aware of ingestion incidents that clearly identify Buckycubes® as the product involved. Complaint Counsel is aware of a number of ingestion incidents where the product involved could be either Buckyballs® or Buckycubes®.

Answer No. 11 is evasive and unresponsive to the Request for Admission in that it fails to confirm whether or not Complaint Counsel disputes that fact that the “CPSC is unaware of any incidents involving ingestion of Buckycubes®.” In this regard, Answer No. 11 fails to indicate what part of the Request was admitted, what part was denied, and why.

Request No. 12. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small parts.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a multitude of products that are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel’s objections to Request No. 12 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to

treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 13. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small parts.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a multitude of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 13 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and

thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 14. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of latex balloons.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 14 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is

unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 15. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of latex balloons.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 15 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 16. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small balls.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 16 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 17. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of small balls.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's

obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 17 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 18. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of marbles.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question

that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 18 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 19. *Admit that the warnings contained in 16 C.F.R. § 1500.19 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with ingestion of marbles.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 19 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as 16 C.F.R. § 1500.19 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 20. *Admit that the warnings contained in ANSI/SVIA 1-2010 are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with child use of adult ATVs.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 20 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other adult products is relevant to both

Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as ANSI/SVIA 1-2010 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 21. *Admit that the warnings contained in ANSI/SVIA 1-2010 are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with child use of adult ATVs.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 21 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other adult products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the

government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as ANSI/SVIA 1-2010 is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 22. *Admit that the warnings contained on labels accessible at <http://www.babymonitorsafety.org/request-warning-label> are not defective and communicate effectively to consumers, including parents and caregivers, the hazard associated with cords on baby audio and video monitors.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 22 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar risks to children is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal

knowledge is unfounded as <http://www.babymonitorsafety.org/request-warning-label> is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 23. *Admit that the warnings contained on labels accessible at <http://www.babymonitorsafety.org/request-warning-label> are adequate to communicate effectively to consumers, including parents and caregivers, the hazard associated with cords on baby audio and video monitors.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 23 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other similar risks to children is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as <http://www.babymonitorsafety.org/request-warning-label> is readily

available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 24. *Admit that the warnings contained in the CPSC's Safety Alert found at <http://www.cpsc.gov/Global/Safety%20Education/Safety-Guides/Containers-andPackaging/390%20Laundry%20Packets.pdf> is expected to communicate effectively to consumers, including parents and caregivers, the hazards associated with ingesting single load liquid laundry packets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and warnings that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague, ambiguous, overly broad, and unduly burdensome because it calls for a blanket determination with respect to a question that requires consideration of many variables and an assessment of a class of products which are distinct from the Subject Products. Complaint Counsel further objects to this Request to the extent that responding fully would require information which the CPSC does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 24 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus what warnings the CPSC does consider effective in remedying hazards associated with other adult products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as the CPSC drafted the Safety Alert and it is thus readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 25. *Admit that CPSC agreed to a product recall and corrective action by M&O announced on May 27, 2010.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. Subject to and without waiving its objections, Complaint Counsel admits that the CPSC and M&O jointly announced a recall of Buckyballs® high powered magnet sets on May 27, 2010. The CPSC press release regarding this recall is accessible online at: <http://www.cpsc.gov/en/Recalls/2010/Buckyballs-High-Powered-Magnets-Sets-Recalled-byMaxfield-and-Oberton-Due-to-Violation-of-Federal-Toy-Standard/>.

Answer No. 25 is evasive and unresponsive to the Request for Admission. Request No. 25 seeks to determine whether Complaint Counsel disputes the fact that “CPSC agreed to a product recall and corrective action by M&O announced on May 27, 2010.” Complaint Counsel’s quotation of the above language does not indicate whether it admits or denies that assertion. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

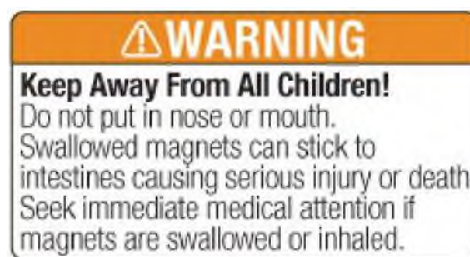
Request No. 26. *Admit that under the corrective action plan with which CPSC agreed, M&O in March 2010 changed its packaging, warnings, instructions and labeling to reflect that Buckyballs® are not intended for persons under 14 years of age.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request to the extent that responding fully would require information, which the CPSC does not possess and cannot determine upon reasonable inquiry because Complaint Counsel issued written discovery requests to Respondent regarding this topic and Respondent has failed to respond to those requests. Subject to and without waiving its objections, Complaint Counsel denies

this Request to the extent that it asserts that the CPSC approved M&O's corrective action plan in March 2010.

Answer No. 26 is evasive and unresponsive to the Request for Admission. Request No. 26 seeks to determine whether Complaint Counsel disputes the fact that "under the corrective action plan with which CPSC agreed, M&O in March 2010 changed its packaging, warnings, instructions and labeling to reflect that Buckyballs® are not intended for persons under 14 years of age." Complaint Counsel's Answer denies the Request only "to the extent that it asserts that the CPSC approved M&O's corrective action plan in March 2010" and does not indicate what it admits. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as the Request involves the corrective action plan that the CPSC was directly involved in and it is thus readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 27. *Admit that CPSC approved the following warning label for use on Buckyballs® packaging, instructions and carrying case:*



Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. Subject to and without waiving its objections, Complaint Counsel admits that CPSC staff accepted the

language contained in the warning label depicted in Request No. 27 for use on Buckyballs packaging, instructions and carrying case.

Answer No. 27 is evasive and unresponsive to the Request for Admission. Request No. 27 seeks to determine whether Complaint Counsel disputes the fact that “CPSC approved the following warning label for use on Buckyballs® packaging, instructions and carrying case.” Complaint Counsel’s Answer only admits that CPSC staff accepted the language. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 30. *Admit that CPSC staff urged M&O to establish an adult magnet manufacturer’s coalition to promote the safe use and labeling of magnets.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. The communications between the CPSC and M&O speak for themselves and Respondent’s characterizations are denied to the extent inconsistent with these communications. Subject to and without waiving its objections, Complaint Counsel denies this Request.

Answer No. 30 is evasive and unresponsive to the Request for Admission. Request No. 30 seeks to determine whether Complaint Counsel disputes the fact that “CPSC staff urged M&O to establish an adult magnet manufacturer’s coalition to promote the safe use and labeling of magnets.” Complaint Counsel’s objection that “[t]he communications between the CPSC and M&O speak for themselves” is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 30 and the communications.

Request No. 31. *Admit that M&O was the co-founder of the Coalition for Magnet Safety.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O.

Answer No. 31 is evasive and unresponsive to the Request for Admission. Request No. 31 seeks to determine whether Complaint Counsel disputes the fact that "M&O was the co-founder of the Coalition for Magnet Safety." Complaint Counsel's objection is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 32. *Admit that the document attached as Exhibit A hereto is a true and correct copy of the Amended and Restated Limited Liability Company Agreement of Maxfield and Oberton Holdings, LLC effective as of June 1, 2011 ("Operating Agreement").*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that the CPSC does not possess and that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request because the Trust has refused to produce the business records of M&O and therefore Complaint Counsel lacks sufficient knowledge or information to assess the authenticity of the Operating Agreement.

Answer No. 32 is evasive and unresponsive to the Request for Admission. Request No. 32 seeks to determine whether Complaint Counsel disputes the fact that "the document attached as Exhibit A hereto is a true and correct copy of the Amended and Restated Limited Liability Company Agreement of Maxfield and Oberton Holdings, LLC effective as of June 1, 2011." Complaint Counsel's objection is improper as there is no support in the laws of evidence for the proposition

that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 33. *Admit that as of July 25, 2012, pursuant to the provisions of the Operating Agreement, Mr. Zucker did not have the individual authority to initiate a corrective action with respect to the Subject Products, except to the extent that the costs of the corrective action did not incur any individual expenditure or series of related expenditures in excess of \$25,000.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information which the CPSC does not possess and that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request to the extent that it calls for a legal opinion regarding the meaning and effect of a legal document. Complaint Counsel further objects to this Request as vague and ambiguous because Complaint Counsel cannot ascertain what the phrase "except to the extent that the costs of the corrective action did not incur any individual expenditure" means.

Answer No. 33 is evasive and unresponsive to the Request for Admission. Request No. 33 seeks to determine whether Complaint Counsel disputes the fact that "that as of July 25, 2012, pursuant to the provisions of the Operating Agreement, Mr. Zucker did not have the individual authority to initiate a corrective action with respect to the Subject Products, except to the extent that the costs of the corrective action did not incur any individual expenditure or series of related expenditures in excess of \$25,000." Complaint Counsel's objection is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate.

Request No. 34. *Admit that at all times relevant to the Complaint, Mr. Zucker was acting in his capacity as an officer and/or employee of M&O.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that the CPSC does not possess and that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O.

Answer No. 34 is evasive and unresponsive to the Request for Admission. Request No. 32 seeks to determine whether Complaint Counsel disputes the fact that "at all times relevant to the Complaint, Mr. Zucker was acting in his capacity as an officer and/or employee of M&O." Complaint Counsel's objection is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 35. *Admit that Jake Bronstein owned a fifty percent interest in M&O.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request to the extent that it calls for a legal opinion regarding the meaning and effect of a legal document. Complaint Counsel further objects to this Request because the Trust has refused to produce the business records of M&O and therefore Complaint Counsel lacks sufficient knowledge or information to admit or deny this Request.

Answer No. 35 is evasive and unresponsive to the Request for Admission. Request No. 35 seeks to determine whether Complaint Counsel disputes the fact that "Jake Bronstein owned a fifty percent interest in M&O." Complaint Counsel's objection is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate.

Request No. 36. *Admit that on May 27, 2010, CPSC issued a press release in cooperation with M&O announcing a recall of Buckyballs® magnet sets labeled "Ages 13+."*

Answer: Objection. Complaint Counsel objects to this Request because it is duplicative of Request No. 25. Complaint Counsel further objects to this Request because it seeks information that is publicly accessible and therefore is readily accessible to the Respondent. To the extent a response is required, subject to and without waiving its objections, Complaint Counsel incorporates by reference its response to Request No. 25. The press release speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 36 is evasive and unresponsive to the Request for Admission. Request No. 36 seeks to determine whether Complaint Counsel disputes the fact that "on May 27, 2010, CPSC issued a press release in cooperation with M&O announcing a recall of Buckyballs® magnet sets labeled "Ages 13+." Request No. 36 is on its face not duplicative of Request No. 25, which seeks to determine whether Complaint Counsel disputes the fact that "CPSC agreed to a product recall and corrective action by M&O announced on May 27, 2010." Further Complaint Counsel's objection that "the letters speak for themselves" is not legitimate. Additionally, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 36 and the press release.

Request No. 37. *Admit that CPSC's May 27, 2012 press release announcing a recall of Buckyballs® labeled "Ages 13+" specifically stated that Buckyballs® sets labeled "Keep Away From All Children" were not recalled.*

Answer: Objection. Complaint Counsel objects to this Request because it is duplicative of Request No. 25. Complaint Counsel further objects to this Request because it seeks information that is publicly accessible and therefore is readily accessible to the Respondent. To the extent a response is required, subject to and

without waiving its objections, Complaint Counsel incorporates by reference its response to Request No. 25. The press release speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 37 is evasive and unresponsive to the Request for Admission. Request No. 36 seeks to determine whether Complaint Counsel disputes the fact that "CPSC's May 27, 2012 press release announcing a recall of Buckyballs® labeled "Ages 13+" specifically stated that Buckyballs® sets labeled "Keep Away From All Children" were not recalled." Request No. 37 is on its face not duplicative of Request No. 25, which seeks to determine whether Complaint Counsel disputes the fact that "CPSC agreed to a product recall and corrective action by M&O announced on May 27, 2010." Further Complaint Counsel's objection that "the letters speak for themselves" is not legitimate. Additionally, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 36 and the press release.

Request No. 38. *Admit that as part of the corrective action conducted by M&O in 2010 with respect to Buckyballs®, CPSC authorized M&O to send new packaging labeled "Keep Away From All Children" to retailers to be used to replace packaging labeled "Ages 13+."*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because he has knowledge of the requested information due to his prior role as an officer of M&O. Subject to and without waiving its objections, Complaint Counsel admits that M&O agreed to provide new packaging bearing a warning label to its retailers in 2010.

Answer No. 38 is evasive and unresponsive to the Request for Admission. Request No. 38 seeks to determine whether Complaint Counsel disputes the fact that "as part of the corrective action conducted by M&O in 2010 with respect to Buckyballs®, CPSC authorized M&O to send new

packaging labeled “Keep Away From All Children” to retailers to be used to replace packaging labeled “Ages 13+.” Complaint Counsel’s Answer only admits that “M&O agreed to provide new packaging bearing a warning label to its retailers in 2010.” Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 39. *Admit that if Buckyballs® sets labeled “Keep Away From All Children” violated the applicable provision of ASTM F963, CPSC would not have allowed sets so labeled to continue to be sold when it announced a recall of Buckyballs® labeled “Ages 13+.”*

Answer: Objection. Complaint Counsel objects to this Request because it calls for speculation. Complaint Counsel further objects to this Request to the extent that it calls for a legal conclusion. Counsel further objects to this Request to the extent that it seeks disclosure of information that is protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to specify the “applicable provision of ASTM F963” or the version of ASTM F963 to which it refers.

Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus whether CPSC would not have allowed sets so labeled to continue to be sold when it announced a recall of Buckyballs® labeled “Ages 13+ if *Buckyballs® sets labeled “Keep Away From All Children” violated the applicable provision of ASTM F963* is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Additionally, Complaint Counsel’s objection to Request No. 39 on the ground that the Request seeks a legal conclusion is not legitimate.

Request No. 40. *Admit that CPSC’s Office of Compliance is delegated authority to accept corrective action plans except for Class A hazards.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s

obligations under the Rules because it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent.

Complaint Counsel's objection to Request No. 40 is improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus whether the CPSC's Office of Compliance is delegated authority to accept corrective action plans except for Class A hazards is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards.

Request No. 41. *Admit that when the staff of the CPSC's Office of Compliance accepts a corrective action plan under authority delegated to it, it is acting for the Commission.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request because it calls for a legal conclusion.

Complaint Counsel's objections to Request No. 41 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus whether when the staff of the CPSC's Office of Compliance accepts a corrective action plan under authority delegated to it, it is acting for the Commission is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Additionally, Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate.

Request No. 42. *Admit that Bureau Veritas evaluated Buckyballs® and advised M&O in a test report dated January 28, 2010, that Buckyballs® meets the labeling requirements of ASTM F963-08.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Subject to and without waiving its objections, Complaint Counsel states that Technical Report (5110)021-002 dated January 28, 2010, prepared by Bureau Veritas speaks for itself, and Respondent's characterization is denied to the extent it is inconsistent with the document.

Answer No. 42 is evasive and unresponsive to the Request for Admission. Request No. 42 seeks to determine whether Complaint Counsel disputes the fact that "Bureau Veritas evaluated Buckyballs® and advised M&O in a test report dated January 28, 2010, that Buckyballs® meets the labeling requirements of ASTM F963-08." Complaint Counsel's objection that technical report speaks for itself is not legitimate. Additionally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 42 and the technical report. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 43. *Admit that M&O through its legal representative informed CPSC (specifically Carolyn Manley) of competitors of M&O, including Nanodots, marketing and selling aggregated masses of high powered, small rare earth magnet sets.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. To the extent that a response is required, subject to and without waiving its general objections, Complaint Counsel admits that M&O's former counsel Alan Schoem e-mailed Carolyn Manley on March 12, 2010 a list of four companies that he claimed were "competitors of Maxfield and Oberton that sell magnets". The e-mail speaks for itself and Respondent's characterization of the e-mail is denied to the extent that it is inconsistent with that document.

Answer No. 43 is evasive and unresponsive to the Request for Admission. Request No. 43 seeks to determine whether Complaint Counsel disputes the fact that “M&O through its legal representative informed CPSC (specifically Carolyn Manley) of competitors of M&O, including Nanodots, marketing and selling aggregated masses of high powered, small rare earth magnet sets.” Complaint Counsel only admits that “that M&O’s former counsel Alan Schoem e-mailed Carolyn Manley on March 12, 2010 a list of four companies that he claimed were ‘competitors of Maxfield and Oberton that sell magnets.’” In this regard, Complaint Counsel’s objection that email speaks for itself is not legitimate. Additionally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 43 and the e-mail. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 44. *Admit that Nano Magnetics Inc. is the maker of Nanodots.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because the term “maker” is not defined and because Complaint Counsel is unable to identify an entity called “Nano Magnetics, Inc.”

Complaint Counsel’s objections to Request No. 44 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by

the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 45. *Admit that Nanodots are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to specify the alleged "function" of the Subject Products.

Complaint Counsel's objections to Request No. 45 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 46. *Admit that Nanodots promotional material includes the Toy Industry Association logo.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's

obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague, ambiguous and overly broad in that it fails to specify the “promotional material” to which it refers. Complaint Counsel further objects to this request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Complaint Counsel’s objections to Request No. 46 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents.

Request No. 47. *Admit that Nanodots continue to be sold at stores that carry children’s products and on the Internet.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague, ambiguous, and overly broad in that it fails to specify a time period or geographical area. Complaint Counsel further objects to

this request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Complaint Counsel's objections to Request No. 47 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents.

Request No. 48. *Admit that as of the date of these requests, Nanodots were sold at Barstons Child's Play located at 5536 Connecticut Avenue, Washington, DC 20015.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this request to the extent that it seeks information that is publicly accessible, or accessible from the files of Barston's Child's Play, and is therefore equally accessible to the Respondent. Complaint Counsel further objects to this Request because it requires information that Complaint Counsel does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 48 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by

the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Further, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as it admits that the information is publicly accessible and thus is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 49. *Admit that Nanodots were sold at Barnes & Noble.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this request to the extent that it seeks information that is publicly accessible or accessible from the files of Barnes and Noble, Inc. and is therefore equally accessible to the Respondent. Complaint Counsel further objects to this Request because it requires information that Complaint Counsel does not possess and cannot determine upon reasonable inquiry.

Complaint Counsel's objections to Request No. 49 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such

information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Further, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded as it admits that the information is publicly accessible and thus is readily available to it and the rules require it to perform a reasonable inquiry of all relevant documents and regulations.

Request No. 52. *Admit that CPSC did not request Barnes & Noble to recall Nanodots.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this request to the extent that it seeks information that is equally accessible to the Respondent from the files of Barnes and Noble, Inc.

Complaint Counsel's objections to Request No. 52 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Further, there is no support in the laws of evidence for the

proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents.

Request No. 53. *Admit that Nanodots can be purchased online and shipped to the United States by subscribing to the site as a business or educational institute.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this request to the extent that it seeks information that is publicly available and therefore is equally accessible to the Respondent.

Complaint Counsel's objections to Request No. 53 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Further, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents.

Request No. 54. *Admit that many sets of Nanodots are age graded 3+.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the

Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this request to the extent that it seeks information that is publicly available and therefore is equally accessible to the Respondent. Complaint Counsel further objects to this request as vague and ambiguous because it fails to define “age graded.”

Complaint Counsel’s objections to Request No. 54 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Further, there is no support in the laws of evidence for the proposition that because a document is publicly available, a party is relieved from admitting or denying the truth of its contents.

Request No. 55. *Admit that as of August 5, 2013, CPSC has taken no action to stop the sale of Nanodots.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Complaint Counsel’s objections to Request No. 55 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products

(in particular how the CPSC regulates those products) is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 56. *Admit that as of the date of your response, CPSC has taken no action to stop the sale of Nanodots.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Subject to and without waiving its objections, Complaint Counsel admits that the CPSC issues a press release dated July 25, 2012 which included the following sentence: "a number of retailers have voluntarily agreed to stop selling Buckyballs, Buckycubes, and similar products manufactured by other companies." The full text of this press release is available online at <http://www.cpsc.gov/en/Newsroom/News-Releases/2012/CPSC-Sues-Maxfield--Oberton-Over-Hazardous-Buckyballs-and-Buckycube-Desk-Toys-Action-prompted-by-ongoing-harm-to-children-from-ingested-magnets-/>. The press release speaks for itself.

Complaint Counsel's objections to Request No. 56 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products (in particular how the CPSC regulates those products) is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its

assertion of confidentiality and thus Respondent has no way of evaluating that objection. Moreover, Answer No. 56 is evasive and unresponsive to the Request for Admission. Request No. 56 seeks to determine whether Complaint Counsel disputes the fact that “as of the date of your response, CPSC has taken no action to stop the sale of Nanodots.” The press release admitted by Complaint Counsel merely asserts that “a number of retailers have voluntarily agreed to stop selling Buckyballs, Buckycubes, and similar products manufactured by other companies.”

Request No. 57. *Admit that CPSC has not asked retailers of Nanodots to stop selling Nanodots.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Subject to and without waiving its objections, Complaint Counsel admits that the CPSC issued a press release dated July 25, 2012 which included the following sentence: “a number of retailers have voluntarily agreed to stop selling Buckyballs, Buckycubes, and similar products manufactured by other companies.” The full text of this press release is available online at <http://www.cpsc.gov/en/Newsroom/News-Releases/2012/CPSC-Sues-Maxfield--Oberton-Over-Hazardous-Buckyballs-and-Buckycube-Desk-Toys-Action-prompted-by-ongoing-harm-to-children-from-ingested-magnets-/>. The press release speaks for itself.

Complaint Counsel’s objections to Request No. 57 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products (in particular how the CPSC regulates those products) is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s

interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Moreover, Answer No. 56 is evasive and unresponsive to the Request for Admission. Request No. 56 seeks to determine whether Complaint Counsel disputes the fact that “CPSC has not asked retailers of Nanodots to stop selling Nanodots.” The press release admitted by Complaint Counsel merely asserts that “a number of retailers have voluntarily agreed to stop selling Buckyballs, Buckycubes, and similar products manufactured by other companies.”

Request No. 58. *Admit that Nanodots have not been the subject of a CPSC corrective action.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Complaint Counsel’s objections to Request No. 58 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, information regarding similar products (in particular how the CPSC regulates those products) is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, in light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Additionally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 59. *Admit that M&O developed a safety program to minimize the potential for the Subject Products being purchased by or for persons under 14 years of age.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to specify the "safety program" to which it refers. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Answer No. 59 is evasive and unresponsive to the Request for Admission. Request No. 33 seeks to determine whether Complaint Counsel disputes the fact that "M&O developed a safety program to minimize the potential for the Subject Products being purchased by or for persons under 14 years of age." Complaint Counsel's objection is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel's refusal to admit based upon a lack of personal knowledge is unfounded.

Request No. 60. *Admit that as part of its corrective action in 2010, by letter dated June 7, 2010 from Alan Schoem to Carolyn Manley, M&O provided CPSC with details of its safety program for Buckyballs®.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Subject to and without waiving its general objections, Complaint Counsel admits that M&O's former counsel M&O Alan Schoem sent Carolyn Manley an e-mail on June 7, 2010 with the subject line "Maxfield and Oberton" that attached three documents. The e-mail and attachments speak for themselves, and Respondent's characterization is denied to the extent inconsistent with these documents.

Answer No. 60 is evasive and unresponsive to the Request for Admission. Request No. 60 seeks to determine whether Complaint Counsel disputes the fact that “as part of its corrective action in 2010, by letter dated June 7, 2010 from Alan Schoem to Carolyn Manley, M&O provided CPSC with details of its safety program for Buckyballs®.” Complaint Counsel merely admits that “M&O’s former counsel M&O Alan Schoem sent Carolyn Manley an e-mail on June 7, 2010 with the subject line ‘Maxfield and Oberton’ that attached three documents.” Additionally, Complaint Counsel objection that “the letters speak for themselves” is not legitimate. Moreover, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 60 and the e-mails. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 61. *Admit that CPSC did not object to any aspect of the M&O safety program set forth in the letter dated June 7, 2010 from Alan Schoem to Carolyn Manley.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request because it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request to the extent that it assumes or implies that CPSC staff was required to comment on Alan Schoem’s e-mail of June 7, 2010. Subject to and without waiving its general objections, Complaint Counsel states that the communications between CPSC staff and M&O speak for themselves and Respondent’s characterization is denied to the extent inconsistent with these documents.

Answer No. 61 is evasive and unresponsive to the Request for Admission. Request No. 61 seeks to determine whether Complaint Counsel disputes the fact that “CPSC did not object to any aspect of the M&O safety program set forth in the letter dated June 7, 2010 from Alan Schoem to Carolyn Manley.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the CPSC’s objection to M&O’s safety program is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In this regard, Complaint Counsel’s objection that “the e-mails speak for themselves” is not legitimate. Moreover, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 61 and the e-mails. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 63. *Admit that CPSC did not comment upon or object to any information on the website, “magnetsafety.com.”*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it assumes or implies that CPSC staff was required to comment on information posted on the www.magnetsafety.com website. Subject to and without waiving its general objections, Complaint Counsel states that the communications between CPSC staff and M&O speak for themselves and Respondent’s characterization is denied to the extent inconsistent with these documents.

Answer No. 63 is evasive and unresponsive to the Request for Admission. Request No. 61 seeks to determine whether Complaint Counsel disputes the fact that “CPSC did not comment upon or object to any information on the website, ‘magnetsafety.com.’” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the CPSC’s comment upon magnetsafety.com is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In this regard, Complaint Counsel’s objection that “the communications between CPSC staff and M&O speak for themselves” is not legitimate. Moreover, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 62 and the such communications. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 64. *Admit that as part of its safety program, M&O required retailers who sold children’s products primarily, to sign a Responsible Seller Agreement that among other things required retailers to segregate Subject Products from children’s products and not to sell those products to persons under 14 years of age.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Mr. Zucker has identified himself as an author of M&O’s Responsible Seller Agreement and as a person responsible for ensuring compliance with the Responsible Seller Agreement. Complaint Counsel further objects to this Request to the extent that responding fully would require information, which the CPSC does not possess and cannot determine upon reasonable inquiry because Complaint Counsel issued written discovery requests to Respondent regarding this topic and Respondent has failed to respond to those requests. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Complaint Counsel's objections to Request No. 64 are improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 65. *Admit that as part of its safety program, M&O provided retailers who did not sell children's products primarily, e.g., Brookstone, a Responsible Seller Notice that provided guidance on selling Subject Products to minimize the potential for sales to persons under 14 years of age.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Mr. Zucker has identified himself as an author of M&O's Responsible Seller Agreement and as a person responsible for ensuring compliance with the Responsible Seller Agreement. Complaint Counsel further objects to this Request to the extent that responding fully would require information, which the CPSC does not possess and cannot determine upon reasonable inquiry because Complaint Counsel issued written discovery requests to Respondent regarding this topic and Respondent has failed to respond to those requests. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Complaint Counsel's objections to Request No. 65 are improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 66. *Admit that M&O did not sell Subject Products to retailers who primarily sold children's products if they failed to sign the Responsible Sellers Agreement.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Mr. Zucker has identified himself as an author of M&O's Responsible Seller Agreement and as a person responsible for ensuring compliance with the Responsible Seller Agreement. Complaint Counsel further objects to this Request to the extent that

responding fully would require information, which the CPSC does not possess and cannot determine upon reasonable inquiry because Complaint Counsel issued written discovery requests to Respondent regarding this topic and Respondent has failed to respond to those requests. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Complaint Counsel's objections to Request No. 65 are improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 67. *Admit that M&O declined to sell Subject Products to numerous retailers because they refused to sign the Responsible Sellers Agreement or otherwise did not meet M&O's criteria for selling Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Mr. Zucker has identified himself as an author of M&O's Responsible Seller Agreement and as a person responsible for ensuring compliance with the Responsible Seller Agreement. Complaint Counsel further objects to this Request to the extent that responding fully would require information, which the CPSC does not possess and cannot determine upon reasonable inquiry because Complaint Counsel issued written discovery requests to Respondent regarding this topic and Respondent has failed to respond to those requests. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Complaint Counsel's objections to Request No. 67 are improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 68. *Admit that ASTM F963 applies only to toys intended for children under 14 years of age.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it calls for a legal conclusion. Complaint Counsel further objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its objections,

Complaint Counsel states that ASTM F963 speaks for itself and Respondent's characterizations are denied to the extent that they are inconsistent with the standard.

Answer No. 68 is evasive and unresponsive to the Request for Admission. Request No. 68 seeks to determine whether Complaint Counsel disputes the fact that "ASTM F963 applies only to toys intended for children under 14 years of age." Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate. There is also no support in the laws of evidence for the proposition that because a document or information is available to Respondent and/or the public, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel objection that ASTM F963 speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 68 and ASTM F963.

Request No. 69. *Admit that it is unlawful to sell a children's toy that violates the provisions of the applicable version of ASTM F963.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it calls for a legal conclusion. Complaint Counsel further objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to specify the "applicable version" of ASTM F963 to which it refers and also fails to specify a time frame or jurisdiction. Subject to and without waiving its objections, Complaint Counsel states that ASTM F963 speaks for itself and Respondent's characterizations are denied to the extent that they are inconsistent with the standard.

Answer No. 69 is evasive and unresponsive to the Request for Admission. Request No. 68 seeks to determine whether Complaint Counsel disputes the fact that "it is unlawful to sell a children's toy that violates the provisions of the applicable version of ASTM F963." Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate. There is also no support in the laws of evidence for the proposition that because a document or information is available to Respondent and/or the public, Complaint Counsel is relieved from

admitting or denying the truth of its contents. Complaint Counsel objection that ASTM F963 speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 68 and ASTM F963.

Request No. 70. *Admit that by letter dated July 20, 2012, the CPSC General Counsel, Cheryl Falvey, confirmed to Alan Schoem “that it is not a violation of any law administered by the CPSC for any retailer to continue to sell Buckyballs® and Buckycubes®.”*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O.

Subject to and without waiving its objections, Complaint Counsel admits that the former General Counsel of the CPSC, Cheryl Falvey sent M&O’s former counsel Alan Schoem a letter dated July 20, 2012 that included the following sentence:

“At your request, I am confirming that it is not a violation of any law administered by the CPSC for any retailer to continue to sell Buckyballs and Buckycubes.”

Ms. Falvey’s letter speaks for itself and Respondent’s characterizations are denied to the extent inconsistent with the document.

Answer No. 70 is evasive and unresponsive to the Request for Admission. Request No. 70 seeks to determine whether Complaint Counsel disputes the fact that “by letter dated July 20, 2012, the CPSC General Counsel, Cheryl Falvey, confirmed to Alan Schoem ‘that it is not a violation of any law administered by the CPSC for any retailer to continue to sell Buckyballs® and Buckycubes®.’” Complaint Counsel’s quotation of the above language does not indicate whether it admits or denies that assertion. Complaint Counsel objection that Ms. Falvey’s letter speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 70 and the Letter.

Request No. 71. *Admit that by letter dated July 27, 2012, CPSC General Counsel Cheryl Falvey informed certain retailers that it “is not required to stop sale of Buckyballs® and Buckycubes® pending resolution of this case. Your firm is not required to stop sale of Buckyballs® and Buckycubes® unless it is notified that it must do so pursuant to a Commission Order after the completion of the adjudicative proceeding.”*

Answer: Objection. Complaint Counsel objects to this Request because it is duplicative of Request No. 70. To the extent a response is required, Complaint Counsel incorporates by reference, its response to Request No. 70.

Answer No. 71 is evasive and unresponsive to the Request for Admission. Request No. 70 seeks to determine whether Complaint Counsel disputes the fact that “by letter dated July 20, 2012, the CPSC General Counsel, Cheryl Falvey, confirmed to Alan Schoem by letter dated July 27, 2012, CPSC General Counsel Cheryl Falvey informed certain retailers that it ‘is not required to stop sale of Buckyballs® and Buckycubes® pending resolution of this case. Your firm is not required to stop sale of Buckyballs® and Buckycubes® unless it is notified that it must do so pursuant to a Commission Order after the completion of the adjudicative proceeding.’” Preliminarily, Request No. 71 is not duplicative of Request No. 70 as Request No. 70 seeks to determine whether Complaint Counsel disputes the fact that “by letter dated July 20, 2012, the CPSC General Counsel, Cheryl Falvey, confirmed to Alan Schoem ‘that it is not a violation of any law administered by the CPSC for any retailer to continue to sell Buckyballs® and Buckycubes®.’” Moreover, Complaint Counsel’s response is inadequate for the same reasons described above with respect to Request No. 70.

Request No. 72. *Admit that in a report dated January 28, 2010, Bureau Veritas advised M&O that Buckyballs® met the labeling requirements of ASTM F963-08.*

Answer: Objection. Complaint Counsel objects to this Request because it is duplicative of Request No. 43. To the extent a response is required, Complaint Counsel incorporates by reference, its response to Request No. 43.

Answer No. 73 is evasive and unresponsive to the Request for Admission. Request No. 73 seeks to determine whether Complaint Counsel disputes the fact that “in a report dated January 28, 2010, Bureau Veritas advised M&O that Buckyballs® met the labeling requirements of ASTM F963-08” Preliminarily, Request No. 72 is not duplicative of Request No. 43 as Request No. 43 seeks to determine whether Complaint Counsel disputes the fact that “M&O through its legal representative informed CPSC (specifically Carolyn Manley) of competitors of M&O, including Nanodots, marketing and selling aggregated masses of high powered, small rare earth magnet sets” Moreover, Complaint Counsel’s response is inadequate for the same reasons described above with respect to Request No. 43.

Request No. 73. *Admit that although M&O recalled Buckyballs® in 2010 in cooperation with CPSC, M&O has always maintained in communications with CPSC (as reflected in its letter to Carolyn Manley dated April 5, 2010, and otherwise) that the Subject Products are not toys subject to the provision of the applicable version of ASTM F963.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Mr. Zucker has indicated that Mr. Zucker was the managing member of M&O primarily responsible for ensuring that M&O complied with any applicable requirements of the Consumer Product Safety Act. Complaint Counsel further objects to this request as vague because it fails to define the “applicable version of ASTM F963.” Complaint Counsel further objects to this request as vague and overbroad because it fails to specify the communications to which it refers. M&O’s letters and other communications to the CPSC speak for themselves. Respondent’s characterizations are denied to the extent inconsistent with those communications.

Answer No. 73 is evasive and unresponsive to the Request for Admission. Request No. 7 seeks to determine whether Complaint Counsel disputes the fact that “that although M&O recalled Buckyballs® in 2010 in cooperation with CPSC, M&O has always maintained in communications with CPSC (as reflected in its letter to Carolyn Manley dated April 5, 2010, and

otherwise) that the Subject Products are not toys subject to the provision of the applicable version of ASTM F963.” Complaint Counsel’s Response does not indicate whether it admits or denies that assertion. Moreover, Complaint Counsel’s objection that M&O’s letters and other communications to the CPSC speak for themselves. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 73 and the communications.

Request No. 74. *Admit that despite the request on behalf of M&O that CPSC provide suggestions or thoughts on two websites with magnet safety information, www.magnetsafety.com and www.getbuckyballs.com/safety, CPSC offered no suggestions or thoughts.*

Answer: Objection. Complaint Counsel objects to this Request because it is duplicative of Request No. 63. To the extent a response is required, Complaint Counsel incorporates by reference its response to Request No. 63.

Answer No. 74 is evasive and unresponsive to the Request for Admission. Request No. 74 seeks to determine whether Complaint Counsel disputes the fact that “despite the request on behalf of M&O that CPSC provide suggestions or thoughts on two websites with magnet safety information, www.magnetsafety.com and www.getbuckyballs.com/safety, CPSC offered no suggestions or thoughts.” Preliminarily, Request No. 74 is not duplicative of Request No. 63 as Request No. 63 seeks to determine whether Complaint Counsel disputes the fact that “CPSC did not comment upon or object to any information on the website, “magnetsafety.com.” Moreover, Complaint Counsel’s response is inadequate for the same reasons described above with respect to Request No. 63.

Request No. 78. *Admit that The Rules of Practice provide at section 1025.11 that any adjudicative proceeding under 16 CFR Part 1025 “shall be commenced by issuance of a complaint, authorized by the Commission, and signed by the Associate Executive Director for Compliance and Enforcement.”*

Answer: Objection. Complaint Counsel objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. The Rules speak for themselves, and Respondent’s characterization is denied to the extent inconsistent with the Rules.

Complaint Counsel's objection to Request No. 78 is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent and/or the public, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel's objection that Rules speak for themselves is not legitimate. Moreover, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 78 and the Rules.

Request No. 78. *Admit that the CPSC Commissioners voted to authorize the issuance of a complaint against M&O which was issued on July 25, 2012.*

Answer: Objection. Complaint Counsel objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Complaint further objects to this Request as vague because it fails to distinguish between actions of individual CPSC commissioners as opposed to the Commission. Subject to and without waiving its objections, Complaint Counsel admits that the Commission posted a Record of Commission Action dated July 25, 2012 that states that "The Commission voted (3-1) to authorize issuance of the draft Complaint." The Record of Commission Action speaks for itself and Respondent's characterization is denied to the extent inconsistent with that document.

Complaint Counsel's objection to Request No. 78 is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent and/or the public, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel's objection that the Rules speak for themselves is not legitimate. Moreover, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 78 and the Rules.

Request No. 79. *Admit that the Complaint issued on July 25, 2012 against M&O was not signed by the Associate Executive Director for Compliance and Enforcement.*

Answer: Objection. Complaint Counsel objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. The complaint issued in CPSC Docket No. 12-1 on July 25, 2012 (the

Complaint) speaks for itself and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 79 is evasive and unresponsive to the Request for Admission. Request No. 79 seeks to determine whether Complaint Counsel disputes the fact that "the Complaint issued on July 25, 2012 against M&O was not signed by the Associate Executive Director for Compliance and Enforcement." Complaint Counsel's referral to CPSC Docket No. 12-1 on July 25, 2012 (the Complaint) does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Moreover, Complaint Counsel's objection that CPSC Docket No. 12-1 on July 25, 2012 (the Complaint) speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 79 and CPSC Docket No. 12-1 on July 25, 2012 (the Complaint).

Request No. 80. *Admit that the Amended Complaint against M&O dated September 18, 2012, specifies that it was "ISSUED BY ORDER OF THE COMMISSION."*

Answer: Objection. Complaint Counsel objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. The Amended Complaint in CPSC Docket No. 12-1 dated September 18, 2013 ("First Amended Complaint") speaks for itself and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 80 is evasive and unresponsive to the Request for Admission. Request No. 80 seeks to determine whether Complaint Counsel disputes the fact that "the Amended Complaint against M&O dated September 18, 2012, specifies that it was "ISSUED BY ORDER OF THE COMMISSION." Complaint Counsel's referral to CPSC Docket No. 12-1 on July 25, 2012 (the Complaint) does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is

available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Moreover, Complaint Counsel's objection that CPSC Docket No. 12-1 on July 25, 2012 (the Complaint) speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 80 and CPSC Docket No. 12-1 on July 25, 2012 (the Complaint).

Request No. 81. *Admit that the Amended Complaint against M&O dated September 18, 2012 was not signed by the Associate Executive Director for Compliance and Enforcement.*

Answer: Objection. Complaint Counsel objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. The First Amended Complaint speaks for itself and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 81 is evasive and unresponsive to the Request for Admission. Request No. 81 seeks to determine whether Complaint Counsel disputes the fact that "the Amended Complaint against M&O dated September 18, 2012 was not signed by the Associate Executive Director for Compliance and Enforcement." Complaint Counsel's referral to the First Amended Complaint does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Moreover, Complaint Counsel's objection that the First Amended Complaint speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 81 and the First Amended Complaint.

Request No. 82. *Admit that the Second Amended Complaint filed against Mr. Zucker dated February 11, 2013, specifies that it was "ISSUED BY ORDER OF THE COMMISSION."*

Answer: Objection. Complaint Counsel objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. The Amended Complaint in CPSC Docket No. 12-1, dated February

11, 2013 (“Second Amended Complaint”) speaks for itself and Respondent’s characterization is denied to the extent inconsistent with that document.

Answer No. 82 is evasive and unresponsive to the Request for Admission. Request No. 82 seeks to determine whether Complaint Counsel disputes the fact that “the Second Amended Complaint filed against Mr. Zucker dated February 11, 2013, specifies that it was “‘ISSUED BY ORDER OF THE COMMISSION.’” Complaint Counsel’s referral to the Amended Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”) does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Moreover, Complaint Counsel’s objection that the Amended Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”) speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 82 and the Amended Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”).

Request No. 83. *Admit that the Second Amended Complaint filed against Mr. Zucker dated February 11, 2013 was not signed by the Associate Executive Director for Compliance and Enforcement.*

Answer: Objection. Complaint Counsel objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. The Amended Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”) speaks for itself and Respondent’s characterization is denied to the extent inconsistent with that document.

Answer No. 83 is evasive and unresponsive to the Request for Admission. Request No. 83 seeks to determine whether Complaint Counsel disputes the fact that “the Second Amended Complaint filed against Mr. Zucker dated February 11, 2013 was not signed by the Associate Executive Director for Compliance and Enforcement.” Complaint Counsel’s referral to the Amended

Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”) does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Moreover, Complaint Counsel’s objection that the Amended Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”) is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 82 and the Amended Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”).

Request No. 84. *Admit that the CPSC Commissioners did not vote to authorize the Amended Complaint dated September 18, 2012 issued against M&O.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it assumes or implies that the Rules require the Commission to vote to authorize an amended complaint. Complaint Counsel further objects to this Request as vague because it fails to distinguish between actions of individual CPSC commissioners as opposed to the Commission. Subject to and without waiving its objections, Complaint Counsel admits that that no Record of Commission action was posted on September 18, 2012.

Answer No. 84 is evasive and unresponsive to the Request for Admission. Request No. 84 seeks to determine whether Complaint Counsel disputes the fact that “the CPSC Commissioners did not vote to authorize the Amended Complaint dated September 18, 2012 issued against M&O.” Complaint Counsel’s admission that “no Record of Commission action was posted on September 18, 2012” does not indicate whether it admits or denies that assertion.

Request No. 85. *Admit that the CPSC Commissioners did not vote to authorize the Second Amended Complaint filed against Craig Zucker dated February 11, 2013.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it assumes or implies that the Rules require the Commission to vote to authorize an amended complaint. Complaint Counsel further objects to this Request as vague because it fails to distinguish between actions of individual CPSC commissioners as opposed to the Commission.

Subject to and without waiving its objections, Complaint Counsel admits that that no Record of Commission action was posted on February 11, 2013.

Answer No. 85 is evasive and unresponsive to the Request for Admission. Request No. 85 seeks to determine whether Complaint Counsel disputes the fact that “the CPSC Commissioners did not vote to authorize the Second Amended Complaint filed against Craig Zucker dated February 11, 2013.” Complaint Counsel’s admission that “no Record of Commission action was posted on February 11, 2013” does not indicate whether it admits or denies that assertion.

Request No. 86. *Admit that the CPSC Commissioners did not hold a vote after July 25, 2012 to authorize the Second Amended Complaint filed against Craig Zucker dated February 11, 2013.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it assumes or implies that the Rules require the Commission to vote to authorize an amended complaint. Complaint Counsel further objects to this Request as vague because it fails to distinguish between actions of individual CPSC commissioners as opposed to the Commission. Subject to and without waiving its objections, Complaint Counsel admits that no Record of Commission action was posted between July 25, 2012 and October 3, 2013 regarding the Second Amended Complaint.

Answer No. 86 is evasive and unresponsive to the Request for Admission. Request No. 86 seeks to determine whether Complaint Counsel disputes the fact that “the CPSC Commissioners did not hold a vote after July 25, 2012 to authorize the Second Amended Complaint filed against Craig Zucker dated February 11, 2013.” Complaint Counsel’s admission that “no Record of Commission action was posted between July 25, 2012 and

October 3, 2013 regarding the Second Amended Complaint” does not indicate whether it admits or denies that assertion.

Request No. 87. *Admit that under the Consumer Product Safety Act, a “distributor” cannot be a “manufacturer” of a consumer product.*

Answer: Objection. Complaint Counsel objects to this Request because it calls for a legal conclusion. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. The Consumer Product Safety Act speaks for itself. Respondent’s characterization of the Consumer Product Safety Act is denied to the extent that it is inconsistent with the Act.

Answer No. 87 is evasive and unresponsive to the Request for Admission. Request No. 87 seeks to determine whether Complaint Counsel disputes the fact that “under the Consumer Product Safety Act, a “distributor” cannot be a “manufacturer” of a consumer product.” Complaint Counsel’s referral to the Consumer Product Safety Act does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Moreover, Complaint Counsel’s objection on the ground that the Request seeks a legal opinion is also not legitimate. Complaint Counsel objection that Consumer Product Safety Act speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 87 and the Amended Complaint in CPSC Docket No. 12-1, dated February 11, 2013 (“Second Amended Complaint”).

Request No. 88. *Admit that subsequent to the Buckyballs® recall dated May 27, 2010, CPSC did not ask M&O to stop selling any of the Subject Products until July 10, 2012.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of

admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it assumes or implies that CPSC staff was required to ask M&O to stop selling the Subject Products prior to July 10, 2012. Subject to and without waiving its general objections, Complaint Counsel states that the communications between CPSC staff and M&O speak for themselves and Respondent's characterization is denied to the extent inconsistent with these communications.

Answer No. 88 is evasive and unresponsive to the Request for Admission. Request No. 88 seeks to determine whether Complaint Counsel disputes the fact that "subsequent to the Buckyballs® recall dated May 27, 2010, CPSC did not ask M&O to stop selling any of the Subject Products until July 10, 2012." Complaint Counsel's referral to the communications between CPSC staff and M&O does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Moreover, Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate. Complaint Counsel's objection that the communications between CPSC staff and M&O speaks for itself is not legitimate. Moreover, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 88 and the communications. Finally, in light of the issues involved in this case, the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure.

Request No. 89. *Admit that M&O participated in a November 10, 2011, press release with CPSC warning that high powered magnets were intended for adults.*

Answer: Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or

more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that it issued a press release on November 11, 2011 that included statements by Mr. Zucker on behalf of M&O. The press release is accessible at <http://www.cpsc.gov/Newsroom/News-Releases/2012/CPSC-Warns-High-Powered-Magnets-and-Children-Make-a-Deadly-Mix/>. The press release speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 89 is evasive and unresponsive to the Request for Admission. Request No. 89 seeks to determine whether Complaint Counsel disputes the fact that "M&O participated in a November 10, 2011, press release with CPSC warning that high powered magnets were intended for adults." Complaint Counsel's admission that "it issued a press release on November 11, 2011 that included statements by Mr. Zucker on behalf of M&O. The press release is accessible at <http://www.cpsc.gov/Newsroom/News-Releases/2012/CPSC-Warns-High-Powered-Magnets-and-Children-Make-a-Deadly-Mix/>" does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel objection that the press release speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 89 and the press release.

Request No. 90. *Admit that M&O participated with CPSC in a video news release warning that high powered magnets were for adults.*

Answer: Objection. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request because it seeks

information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that it issued a video news release on November 11, 2011 that included statements by Mr. Zucker on behalf of M&O. The press release is accessible at <http://www.newsinfusion.com/events/cpscmagnetsandchildren>. The video news release speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that release.

Answer No. 90 is evasive and unresponsive to the Request for Admission. Request No. 90 seeks to determine whether Complaint Counsel disputes the fact that "M&O participated with CPSC in a video news release warning that high powered magnets were for adults." Complaint Counsel's admission that "it issued a video news release on November 11, 2011 that included statements by Mr. Zucker on behalf of M&O. The press release is accessible at <http://www.newsinfusion.com/events/cpscmagnetsandchildren>" does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel's objection that the video news speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 90 and the video news.

Request No. 91. *Admit that M&O requested CPSC to take action against [Amazon.com](http://www.amazon.com) to prevent Amazon from marketing and promoting Buckyballs® as children's products.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request because it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of

the Respondents. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to provide any time frame for M&O's purported requests to the CPSC. Subject to and without waiving its general objections, Complaint Counsel states that the communications between CPSC staff and M&O speak for themselves and Respondent's characterization is denied to the extent inconsistent with these documents.

Answer No. 91 is evasive and unresponsive to the Request for Admission. Request No. 91 seeks to determine whether Complaint Counsel disputes the fact that "M&O requested CPSC to take action against Amazon.com to prevent Amazon from marketing and promoting Buckyballs® as children's products." Complaint Counsel's referral to the communications between CPSC staff and M&O does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel's objection that the communications speaks for itself is not legitimate. Moreover, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 91 and the communications. Finally, as the issue here is whether the Subject Products create a substantial hazard Request No. 91 is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards.

Request No. 92. *Admit that the CPSC is aware of approximately 500 poisonings from single-load liquid laundry detergent packets during 2012.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 92 is evasive and unresponsive to the Request for Admission. Request No. 92 seeks to determine whether Complaint Counsel disputes the fact that “the CPSC is aware of approximately 500 poisonings from single-load liquid laundry detergent packets during 2012.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products other than the Subject Products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 90. *Admit that of those exposures, 454 -- 98% of all single-load liquid laundry detergent packet poisoning -- involved patients 5 years old or younger, and have resulted in adverse events including vomiting, mental status changes, and respiratory distress.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 90 is evasive and unresponsive to the Request for Admission. Request No. 90 seeks to determine whether Complaint Counsel disputes the fact that “of those exposures, 454 -- 98% of all single-load liquid laundry detergent packet poisoning -- involved patients 5 years old or younger, and have resulted in adverse events including vomiting, mental status changes, and respiratory distress.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products other than the Subject

Products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 93. *Admit that some small children are mistaking single-load liquid laundry detergent packets for candy and are swallowing them.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 93 is evasive and unresponsive to the Request for Admission. Request No. 93 seeks to determine whether Complaint Counsel disputes the fact that "some small children are mistaking single-load liquid laundry detergent packets for candy and are swallowing them." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products other than the Subject Products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 94. *Admit that there have been reports of patients 10 to 20 months old, developing some combination of symptoms of intense vomiting, somnolence, lack of response, seizure-like symptoms, and respiratory distress after biting into a single-load liquid laundry detergent packets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 94 is evasive and unresponsive to the Request for Admission. Request No. 94 seeks to determine whether Complaint Counsel disputes the fact that "there have been reports of patients 10 to 20 months old, developing some combination of symptoms of intense vomiting, somnolence, lack of response, seizure-like symptoms, and respiratory distress after biting into a single-load liquid laundry detergent packets." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products other than the Subject Products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 95. *Admit that some children have required intubation after biting into a single-load liquid laundry detergent packet.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated

to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 95 is evasive and unresponsive to the Request for Admission. Request No. 95 seeks to determine whether Complaint Counsel disputes the fact that “some children have required intubation after biting into a single-load liquid laundry detergent packet.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products other than the Subject Products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 96. *Admit that the Centers for Disease Control and Prevention has stated that the risk of injury from single-load liquid laundry detergent packets is “an emerging public health hazard in the United States.”*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly available and/or available from the CDC, and therefore is equally available to the Respondent.

Answer No. 96 is evasive and unresponsive to the Request for Admission. Request No. 96 seeks to determine whether Complaint Counsel disputes the fact that “the Centers for Disease Control

and Prevention has stated that the risk of injury from single-load liquid laundry detergent packets is ‘an emerging public health hazard in the United States.’” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products other than the Subject Products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 97. *Admit that on August 15, 2013, CPSC posted a post on Twitter referencing a report that a baby reportedly ingested a single-load liquid laundry detergent packet and died.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its general objections, Complaint Counsel states that posts on CPSC’s twitter account speak for themselves and Respondent’s characterization is denied to the extent inconsistent with these posts.

Answer No. 97 is evasive and unresponsive to the Request for Admission. Request No. 97 seeks to determine whether Complaint Counsel disputes the fact that “on August 15, 2013, CPSC posted a post on Twitter referencing a report that a baby reportedly ingested a single-load liquid laundry detergent packet and died.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products by the CPSC other than the Subject Products is relevant to both Respondent’s defense and whether the

treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel objection that posts on CPSC's twitter account speak for themselves is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 97 and the posts.

Request No. 98. *Admit that the CPSC has not issued an administrative complaint to seek a recall of single-load liquid laundry detergent packets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it requests publicly accessible information that is equally accessible to the Respondent.

Answer No. 98 is evasive and unresponsive to the Request for Admission. Request No. 98 seeks to determine whether Complaint Counsel disputes the fact that "the CPSC has not issued an administrative complaint to seek a recall of single-load liquid laundry detergent packets." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products by the CPSC other than the Subject Products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information

overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 99. *Admit that the CPSC is not seeking a recall of single-load liquid laundry detergent packets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 99 is evasive and unresponsive to the Request for Admission. Request No. 99 seeks to determine whether Complaint Counsel disputes the fact that "the CPSC is not seeking a recall of single-load liquid laundry detergent packets." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with adult products by the CPSC other than the Subject Products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 100. *Admit that CPSC announced that 13 manufacturers of Magnets were asked to stop sale and recall their products in or about July, 2012.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated

to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to the extent that this Request seeks publicly accessible information that is equally accessible to Respondent. Complaint Counsel further objects to this request as vague and ambiguous because it fails to specify the date or context of the announcement to which it refers. Subject to and without waiving its objections, Complaint Counsel states that the CPSC's press releases speak for themselves and Respondent's characterization is denied to the extent that it is inconsistent with such press releases.

Answer No. 100 is evasive and unresponsive to the Request for Admission. Request No. 100 seeks to determine whether Complaint Counsel disputes the fact that "CPSC announced that 13 manufacturers of Magnets were asked to stop sale and recall their products in or about July, 2012." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with similar products by the CPSC other than the Subject Products is relevant to both Respondent's defense whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel objection that the CPSC's press releases speak for themselves is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 100 and the CPSC's press releases.

Request No. 101. *Admit that the manufacturers of Magnets who were asked to stop sale and recall their products in or about July, 2012 were Strong Force, Inc., Global Sources, Inc., Nano Magnetics Inc., Maxfield and Oberton Holdings LLC, Star Networks USA LLC, Keshet Magnets, LLC, Neodox, LLC, Around the World Sales LLC, Reiss Innovations, LLC, Kringles Toys and Gifts, Zen Magnets, Collector's Paradise, and SCS Collectibles Inc.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules because it seeks information about products and

companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to Respondent.

Answer No. 101 is evasive and unresponsive to the Request for Admission. Request No. 101 seeks to determine whether Complaint Counsel disputes the fact that “the manufacturers of Magnets who were asked to stop sale and recall their products in or about July, 2012 were Strong Force, Inc., Global Sources, Inc., Nano Magnetics Inc., Maxfield and Oberton Holdings LLC, Star Networks USA LLC, Keshet Magnets, LLC, Neodox, LLC, Around the World Sales LLC, Reiss Innovations, LLC, Kringles Toys and Gifts, Zen Magnets, Collector’s Paradise, and SCS Collectibles Inc.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the risk to children associated with similar products by the CPSC other than the Subject Products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 102. *Admit that CPSC announced that 11 out of the 13 manufacturers of Magnets agreed to cease sales on or about August 7, 2012.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Subject to and without waiving

its objections, Complaint Counsel admits that the CPSC issued a press release dated August 7, 2012 which included the following sentences:

Eleven manufacturers and/or importers of sets of small, powerful, individual magnets, all of which are made in China, have voluntarily agreed to the CPSC staff's requests that they stop the manufacture, import, distribution and sale of their magnet products. Zen Magnets and Maxfield & Oberton (importer of Buckyballs® and Buckycubes™) are the only companies that have refused to comply, to date.

The press release is accessible online at <http://www.cpsc.gov/Newsroom/News-Releases/2012/CPSC-Sues-Zen-Magnets-Over-Hazardous-High-Powered-Magnetic-Balls-Action-prompted-by-ongoing-harm-to-children-from-ingested-magnets/>. The press release speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 102 is evasive and unresponsive to the Request for Admission. Request No. 102 seeks to determine whether Complaint Counsel disputes the fact that "CPSC announced that 11 out of the 13 manufacturers of Magnets agreed to cease sales on or about August 7, 2012." Complaint Counsel's admission citing the press release does not indicate whether it admits or denies that assertion. Additionally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Complaint Counsel objection that the press release speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 102 and the press release.

Request No. 103. *Admit that the following manufacturers have not agreed to conduct a recall of their Magnets: Global Sources, Inc., Nano Magnetics Inc., Keshet Magnets, LLC, Neodox, LLC, and Around the World Sales LLC.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of

information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 103 is evasive and unresponsive to the Request for Admission. Request No. 103 seeks to determine whether Complaint Counsel disputes the fact that “the following manufacturers have not agreed to conduct a recall of their Magnets: Global Sources, Inc., Nano Magnetics Inc., Keshet Magnets, LLC, Neodox, LLC, and Around the World Sales LLC.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the recalls associated with similar products by the CPSC other than the Subject Products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 104. *Admit that Strong Force, Inc. (“Strong Force”) is the manufacturer and/or distributor of Magnets sold under the name of “NeoCube.”*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it seeks publicly accessible information, or information which is available from the files of Strong Force, Inc., which is equally accessible to Respondent.

Answer No. 104 is evasive and unresponsive to the Request for Admission. Request No. 104 seeks to determine whether Complaint Counsel disputes the fact that “Strong Force, Inc.

(“Strong Force”) is the manufacturer and/or distributor of Magnets sold under the name of ;NeoCube.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus similar products are relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 105. *Admit that NeoCubes are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to define or specify the alleged “function” of the Subject Products.

Answer No. 105 is evasive and unresponsive to the Request for Admission. Request No. 105 seeks to determine whether Complaint Counsel disputes the fact that “NeoCubes are substantially similar in function to the Subject Products.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, similar products are relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is

arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 106. *Admit that NeoCubes were sold in retail stores and online.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are not part of this proceeding and therefore is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it seeks publicly accessible information, or information which is available from the files of Strong Force, Inc., which is equally accessible to Respondent.

Answer No. 106 is evasive and unresponsive to the Request for Admission. Request No. 106 seeks to determine whether Complaint Counsel disputes the fact that "NeoCubes were sold in retail stores and online." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the sale of similar products are relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 107. *Admit that the remedy offered to consumers by the manufacturer and/or distributor of NeoCubes was to discard NeoCube magnet sets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel admits that Strong Force, Inc. posted a notice on its website <http://www.theneocube.com> regarding Neocube magnet sets. The notice speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 107 is evasive and unresponsive to the Request for Admission. Request No. 107 seeks to determine whether Complaint Counsel disputes the fact that "the remedy offered to consumers by the manufacturer and/or distributor of NeoCubes was to discard NeoCube magnet sets." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the remedy offered to consumers by manufacturers of similar products are relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's admission incorporating the notice posted on <http://www.theneocube.com> does not indicate whether it admits or denies that assertion and fails to qualify its denial and indicate the inconsistencies between Request No. 107 and the notice.

Request No. 108. *Admit that CPSC agreed to the remedy offered to consumers by the manufacturer and/or distributor of NeoCubes to discard NeoCube magnet sets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel admits that Strong Force, Inc. posted a notice on its website <http://www.theneocube.com> regarding Neocube magnet sets. The notice speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 108 is evasive and unresponsive to the Request for Admission. Request No. 108 seeks to determine whether Complaint Counsel disputes the fact that "CPSC agreed to the remedy offered to consumers by the manufacturer and/or distributor of NeoCubes to discard NeoCube magnet sets." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the remedy offered to consumers by manufacturers of similar products are relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's admission incorporating the notice posted on <http://www.theneocube.com> does not indicate whether it admits or denies that assertion and fails to qualify its denial and indicate the inconsistencies between Request No. 107 and the notice.

Request No. 109. *Admit that Strong Force, in cooperation with CPSC, urged consumers of NeoCube magnet sets to immediately discard the sets, including all of the component magnets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel admits that Strong Force, Inc. posted a notice on its website <http://www.theneocube.com> regarding Neocube magnet sets. The notice speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 109 is evasive and unresponsive to the Request for Admission. Request No. 109 seeks to determine whether Complaint Counsel disputes the fact that "Strong Force, in cooperation with CPSC, urged consumers of NeoCube magnet sets to immediately discard the sets, including all of the component magnets." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the remedy offered to consumers by manufacturers of similar products are relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's admission incorporating the notice posted on <http://www.theneocube.com> does not indicate whether it admits or denies that assertion and fails to qualify its denial and indicate the inconsistencies between Request No. 109 and the notice.

Request No. 110. *Admit that CPSC did not require Strong Force to offer a refund, repair or replacement of Neocube magnet sets as part of its corrective action plan.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 110 is evasive and unresponsive to the Request for Admission. Request No. 110 seeks to determine whether Complaint Counsel disputes the fact that "CPSC did not require Strong Force to offer a refund, repair or replacement of Neocube magnet sets as part of its corrective action plan." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the action taken by the CPSC against manufacturers of similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 111. *Admit that Strong Force, in cooperation with CPSC, posted a notice on or about June 8, 2013 at www.theneocube.com urging consumers to discard their Neocubes magnet sets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint

Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to the extent that this Request seeks publicly accessible information, or information that is available from the files of Strong Force, Inc., that is equally accessible to Respondent. Complaint Counsel admits that Strong Force, Inc. posted a notice on its website <http://www.theneocube.com> regarding Neocube magnet sets. The notice speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 111 is evasive and unresponsive to the Request for Admission. Request No. 111 seeks to determine whether Complaint Counsel disputes the fact that "Strong Force, in cooperation with CPSC, posted a notice on or about June 8, 2013 at www.theneocube.com urging consumers to discard their Neocubes magnet sets." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the remedy offered to consumers by manufacturers of similar products are relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection. Finally, Complaint Counsel's admission incorporating the notice posted on <http://www.theneocube.com> does not indicate whether it admits or denies that assertion and fails to qualify its denial and indicate the inconsistencies between Request No. 111 and the notice.

Request No. 113. *Admit that as of the date of this request CPSC has not issued a press release or recall alert announcing the Neocube corrective action.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the

allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Answer No. 113 is evasive and unresponsive to the Request for Admission. Request No. 113 seeks to determine whether Complaint Counsel disputes the fact that “as of the date of this request CPSC has not issued a press release or recall alert announcing the Neocube corrective action.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the action taken by the CPSC against manufacturers of similar products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 114. *Admit that there has been no enforcement action taken against any responsible corporate officer of Strong Force, Inc.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint

Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Answer No. 114 is evasive and unresponsive to the Request for Admission. Request No. 114 seeks to determine whether Complaint Counsel disputes the fact that “there has been no enforcement action taken against any responsible corporate officer of Strong Force, Inc.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the action taken by the CPSC against manufacturers of similar products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 116. *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at http://www.amazon.com/216-Neodymium-5mm-Sphere-Magnets/dp/B00EI846PK/ref=pd_sim_indust_2.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request as vague and ambiguous because the website to which it refers contains no information regarding any products. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Answer No. 116 is evasive and unresponsive to the Request for Admission. Request No. 116 seeks to determine whether Complaint Counsel disputes the fact that “CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at http://www.amazon.com/216-Neodymium-5mm-Sphere-Magnets/dp/B00EI846PK/ref=pd_sim_indust_2.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the action taken by the CPSC against manufacturers of similar products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 120. *Admit that the products offered for sale at http://www.tealco.net/super_magnet_balls.html are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to specify the alleged “function” of the Subject Products. After reasonable inquiry, Complaint Counsel lacks knowledge and information sufficient to admit or deny this request.

Answer No. 120 is evasive and unresponsive to the Request for Admission. Request No. 120 seeks to determine whether Complaint Counsel disputes the fact that “the products offered for sale at http://www.tealco.net/super_magnet_balls.html are substantially similar in function to the

Subject Products.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 121. *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at http://www.tealco.net/super_magnet_balls.html.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 121 is evasive and unresponsive to the Request for Admission. Request No. 121 seeks to determine whether Complaint Counsel disputes the fact that “CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at http://www.tealco.net/super_magnet_balls.html.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is

inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 122. *Admit that the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=S2> are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to define or specify the alleged "function" of the Subject Products. After reasonable inquiry, Complaint Counsel lacks knowledge and information sufficient to admit or deny this request.

Answer No. 122 is evasive and unresponsive to the Request for Admission. Request No. 122 seeks to determine whether Complaint Counsel disputes the fact that "the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=S2> are substantially similar in function to the Subject Products." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 123. *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=S2>.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 123 is evasive and unresponsive to the Request for Admission. Request No. 123 seeks to determine whether Complaint Counsel disputes the fact that "CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=S2>." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products similar to the Subject Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 124. *Admit that the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=B222> are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint

Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to specify the alleged “function” of the Subject Products. After reasonable inquiry, Complaint Counsel lacks knowledge and information sufficient to admit or deny this request.

Answer No. 124 is evasive and unresponsive to the Request for Admission. Request No. 124 seeks to determine whether Complaint Counsel disputes the fact that “the products offered for sale at

<http://www.kjmagnetics.com/proddetail.asp?prod=B222> are substantially similar in function to the Subject Products.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 125. *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=B222>.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 125 is evasive and unresponsive to the Request for Admission. Request No. 125 seeks to determine whether Complaint Counsel disputes the fact that “CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.kjmagnetics.com/proddetail.asp?prod=B222>.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 126. *Admit that the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to define or specify the alleged “function” of the Subject Products. After reasonable inquiry, Complaint Counsel lacks knowledge and information sufficient to admit or deny this request.

Answer No. 126 is evasive and unresponsive to the Request for Admission. Request No. 126 seeks to determine whether Complaint Counsel disputes the fact that “the products offered for sale at

<http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> are substantially similar in function to the Subject Products.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 127. *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium>.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 127 is evasive and unresponsive to the Request for Admission. Request No. 127 seeks to determine whether Complaint Counsel disputes the fact that “CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium>.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is

arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 128. *Admit that the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> contain the following advertising: “These miniature beads make fun, ever changing jewelry . . .”*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Answer No. 128 is evasive and unresponsive to the Request for Admission. Request No. 128 seeks to determine whether Complaint Counsel disputes the fact that “the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> contain the following advertising: ‘These miniature beads make fun, ever changing jewelry . . .’” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus warnings of similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 129. *Admit that the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> contain the following warning: WARNING: CHOKING HAZARD—Small parts. Not for children under 3 years.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Answer No. 129 is evasive and unresponsive to the Request for Admission. Request No. 129 seeks to determine whether Complaint Counsel disputes the fact that “the products offered for sale at <http://www.teachersource.com/product/small-neodymium-beads-50pk/magnetism-neodymium> contain the following warning: WARNING: CHOKING HAZARD—Small parts. Not for children under 3 years.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus warnings of similar products is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 130. *Admit that the products offered for sale at <http://www.amazingmagnets.com/show-decimal-s250b.aspx> are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or

protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to define or specify the alleged “function” of the Subject Products. After reasonable inquiry, Complaint Counsel lacks knowledge and information sufficient to admit or deny this request.

Answer No. 130 is evasive and unresponsive to the Request for Admission. Request No. 130 seeks to determine whether Complaint Counsel disputes the fact that “the products offered for sale at <http://www.amazingmagnets.com/show-decimal-s250b.aspx> are substantially similar in function to the Subject Products.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 131. *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.amazingmagnets.com/show-decimal-s250b.aspx>.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 131 is evasive and unresponsive to the Request for Admission. Request No. 131 seeks to determine whether Complaint Counsel disputes the fact that “CPSC has taken no

enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.amazingmagnets.com/show-decimal-s250b.aspx>.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 132. *Admit that the products offered for sale <http://www.amazingmagnets.com/show-decimal-s250b.aspx> contain advertising that “Kids love to play with these things.”*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Answer No. 132 is evasive and unresponsive to the Request for Admission. Request No. 132 seeks to determine whether Complaint Counsel disputes the fact that “the products offered for sale <http://www.amazingmagnets.com/show-decimal-s250b.aspx> contain advertising that ‘Kids love to play with these things.’” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus advertisements of similar products is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support

in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 133. *Admit that the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx> are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to define or specify the alleged "function" of the Subject Products. After reasonable inquiry, Complaint Counsel lacks knowledge and information sufficient to admit or deny this request.

Answer No. 133 is evasive and unresponsive to the Request for Admission. Request No. 133 seeks to determine whether Complaint Counsel disputes the fact that "the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx> are substantially similar in function to the Subject Products." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 134. *Admit that CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx>.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 134 is evasive and unresponsive to the Request for Admission. Request No. 134 seeks to determine whether Complaint Counsel disputes the fact that "CPSC has taken no enforcement action against the manufacturer or distributor of the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx>." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products similar to the Subject Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 135. *Admit that the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx> are advertised as "a great size for adults and children alike."*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint

Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Answer No. 135 is evasive and unresponsive to the Request for Admission. Request No. 135 seeks to determine whether Complaint Counsel disputes the fact that ‘the products offered for sale at <http://www.amazingmagnets.com/show-decimal-c188a2.aspx> are advertised as “a great size for adults and children alike.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus advertisements of products considered similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 136. *Admit that on June 14, 2013, CPSC announced a recall of Nap Nanny and Chill infant recliners manufactured and/or distributed by Baby Matters LLC.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Answer No. 136 is evasive and unresponsive to the Request for Admission. Request No. 136 seeks to determine whether Complaint Counsel disputes the fact that “on June 14, 2013, CPSC announced a recall of Nap Nanny and Chill infant recliners manufactured and/or distributed by

Baby Matters LLC.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products with similar alleged risks to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 137. *Admit that from 2009 to the date of the June 14, 2013 press release announcing a recall of Nap Nanny and Chill infant recliners, the CPSC received reports of at least 92 incident reports involving Nap Nanny and Chill products, including 5 infant deaths.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Answer No. 137 is evasive and unresponsive to the Request for Admission. Request No. 137 seeks to determine whether Complaint Counsel disputes the fact that “from 2009 to the date of the June 14, 2013 press release announcing a recall of Nap Nanny and Chill infant recliners, the CPSC received reports of at least 92 incident reports involving Nap Nanny and Chill products, including 5 infant deaths.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products with similar alleged risks to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a

document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 138. *Admit that CPSC commenced an administrative complaint against Baby Matters, LLC (CPSC Docket 13-1), seeking, among other things, a recall of Nap Nanny and Chill infant recliners.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Answer No. 138 is evasive and unresponsive to the Request for Admission. Request No. 138 seeks to determine whether Complaint Counsel disputes the fact that "CPSC commenced an administrative complaint against Baby Matters, LLC (CPSC Docket 13-1), seeking, among other things, a recall of Nap Nanny and Chill infant recliners." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products with similar alleged risks to the Subject Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 139. *Admit the administrative complaint against Baby Matters LLC was settled by a Consent Agreement.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint

Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Answer No. 139 is evasive and unresponsive to the Request for Admission. Request No. 139 seeks to determine whether Complaint Counsel disputes the fact that “the administrative complaint against Baby Matters LLC was settled by a Consent Agreement.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products with similar alleged risks to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 140. *Admit that in the Baby Matters LLC Consent Agreement, the CPSC agreed that the recall of the affected products would advise consumers to dispose of the products, and did not offer any consumers a repair, replacement or refund of the products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Answer No. 140 is evasive and unresponsive to the Request for Admission. Request No. 140 seeks to determine whether Complaint Counsel disputes the fact that “in the Baby Matters LLC Consent Agreement, the CPSC agreed that the recall of the affected products would advise consumers to dispose of the products, and did not offer any consumers a repair, replacement or refund of the products.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus action taken regarding products with similar alleged risks to the Subject

Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 141. *Admit that Kringles Toys and Gifts, LLC is the manufacturer and/or distributor of Nanospheres.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege.

Answer No. 141 is evasive and unresponsive to the Request for Admission. Request No. 141 seeks to determine whether Complaint Counsel disputes the fact that "Kringles Toys and Gifts, LLC is the manufacturer and/or distributor of Nanospheres." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 142. *Admit that Nanospheres are substantially similar in function to the Subject Products.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request as vague and ambiguous because it fails to define or specify the alleged "function" of the Subject Products. After reasonable inquiry, Complaint Counsel lacks knowledge and information sufficient to admit or deny this request.

Answer No. 142 is evasive and unresponsive to the Request for Admission. Request No. 142 seeks to determine whether Complaint Counsel disputes the fact that "Nanospheres are substantially similar in function to the Subject Products." Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus products considered similar to the Subject Products by the CPSC is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 143. *Admit that Nanospheres were sold in retail stores and online.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint

Counsel further objects to the extent that this Request seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Answer No. 143 is evasive and unresponsive to the Request for Admission. Request No. 143 seeks to determine whether Complaint Counsel disputes the fact that “Nanospheres were sold in retail stores and online.” Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus the sale of products considered similar to the Subject Products by the CPSC is relevant to both Respondent’s defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government’s interest in non-disclosure. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel has not provided any basis for its assertion of confidentiality and thus Respondent has no way of evaluating that objection.

Request No. 144. *Admit that CPSC issued a press release announcing a recall of Nanosheres on January 31, 2013.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that the CPSC and Kringle Toys and Gifts jointly announced a recall of Nanospheres high powered magnet sets on January 31, 2013. The CPSC press release regarding this recall is accessible online at: <http://www.cpsc.gov/en/Recalls/2013/Kringles-Toys-and-Gifts-Recalls-High-Powered-Magnets/>. The press release speaks for itself, and Respondent’s characterization is denied to the extent it is inconsistent with the press release.

Answer No. 144 is evasive and unresponsive to the Request for Admission. Request No. 144 seeks to determine whether Complaint Counsel disputes the fact that “CPSC issued a press release announcing a recall of Nanospheres [sic] on January 31, 2013.” Complaint Counsel’s reference to its press release does not indicate whether it admits or denies that assertion. Complaint Counsel’s objection that press release speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 144 and the press release.

Request No. 145. *Admit that in the press release announcing the recall of Nanospheres, the CPSC stated: “The products were sold for use as an adult novelty item or desk toy with appropriate hazard warnings and stating the intended age level as 14 years and older.”*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that the CPSC and Kringle Toys and Gifts jointly announced a recall of Nanospheres high powered magnet sets on January 31, 2013. The CPSC press release regarding this recall is accessible online at: <http://www.cpsc.gov/en/Recalls/2013/Kringles-Toys-and-Gifts-Recalls-High-Powered-Magnets/>. The press release speaks for itself, and Respondent’s characterization is denied to the extent it is inconsistent with the press release.

Answer No. 145 is evasive and unresponsive to the Request for Admission. Request No. 145 seeks to determine whether Complaint Counsel disputes the fact that in the press release announcing the recall of Nanospheres, the CPSC stated: “The products were sold for use as an adult novelty item or desk toy with appropriate hazard warnings and stating the intended age level as 14 years and older.” Complaint Counsel’s reference to its press release does not indicate

whether it admits or denies that assertion. Complaint Counsel's objection that press release speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 145 and the press release.

Request No. 146. *Admit that on or about July 27, 2009, Scott Wolfson was appointed as Director of the Office of Information and Public Affairs.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to the extent that this Request seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that the Commission voted on July 27, 2009 to approve the appointment of Scott Wolfson as the Director of the Office of Information and Public Affairs. The record of commission of action is accessible online at <http://www.cpsc.gov/PageFiles/86422/positions.pdf> and Respondent's characterization is denied to the extent it is inconsistent with the document.

Answer No. 146 is evasive and unresponsive to the Request for Admission. Request No. 146 seeks to determine whether Complaint Counsel disputes the fact that "on or about July 27, 2009, Scott Wolfson was appointed as Director of the Office of Information and Public Affairs." Complaint Counsel's reference to the record of commission does not indicate whether it admits or denies that assertion. Complaint Counsel's objection that press release speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 146 and the record of commission.

Request No. 147. *Admit that in or about August, 2011, the Office of Information and Public Affairs was renamed the Office of Communications.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to the extent that this Request seeks information that is publicly accessible

and therefore is equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that Chairman Inez Tenenbaum issued a public statement on August 11, 2011 that addressed the Office of Communications. Chairman Tenenbaum's August 11, 2011 statement is accessible online at <http://www.cpsc.gov/PageFiles/123135/tenenbaum08112011.pdf>. Chairman Tenenbaum's statement speaks for itself, and Respondent's characterization is denied to the extent it is inconsistent with the document.

Answer No. 147 is evasive and unresponsive to the Request for Admission. Request No. 147 seeks to determine whether Complaint Counsel disputes the fact that "in or about August, 2011, the Office of Information and Public Affairs was renamed the Office of Communications." Complaint Counsel's admission that "that Chairman Inez Tenenbaum issued a public statement on August 11, 2011 that addressed the Office of Communications" does not indicate whether it admits or denies that assertion. Complaint Counsel's objection that statement speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 147 and the record of commission.

Request No. 148. *Admit that in or about August, 2011, the Commission approved a change to the Office of Communications' reporting structure so that its director reports directly to the Chairman of the CPSC, rather than the Executive Director.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to the extent that this Request seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that Chairman Tenenbaum issued a public statement on August 11, 2011 that addressed the Office of Communications. Chairman Tenenbaum's August 11, 2011 statement is accessible online at <http://www.cpsc.gov/PageFiles/123135/tenenbaum08112011.pdf>. Chairman Tenenbaum's statement speaks for itself, and Respondent's characterization is denied to the extent it is inconsistent with the document.

Answer No. 148 is evasive and unresponsive to the Request for Admission. Request No. 148 seeks to determine whether Complaint Counsel disputes the fact that “in or about August, 2011, the Commission approved a change to the Office of Communications’ reporting structure so that its director reports directly to the Chairman of the CPSC, rather than the Executive Director.” Complaint Counsel’s admission that “that Chairman Inez Tenenbaum issued a public statement on August 11, 2011 that addressed the Office of Communications” does not indicate whether it admits or denies that assertion. Complaint Counsel’s objection that statement speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 148 and the record of commission.

Request No. 149. *Admit that in an August 11, 2011 statement, CPSC Chairman Tenenbaum stated that the Chairman, as head of the Commission, serves as the public face and voice of the agency, and the Office of Communications needs direct access to the Chairman in order to successfully implement the Chairman’s strategic communications plan and consumer information agenda, and that the Office of Communications will continue to serve the Commission as a whole, represent policy decisions made by the Commissioners to the news media and public, and work in close coordination with all offices and divisions.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules because it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to the extent that this Request seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that Chairman Inez Tenenbaum issued a public statement on August 11, 2011 that addressed the Office of Communications. Chairman Tenenbaum’s August 11, 2011 statement is accessible online at <http://www.cpsc.gov/PageFiles/123135/tenenbaum08112011.pdf>. Chairman Tenenbaum’s statement speaks for itself, and Respondent’s characterization is denied to the extent it is inconsistent with the document.

Answer No. 149 is evasive and unresponsive to the Request for Admission. Request No. 149 seeks to determine whether Complaint Counsel disputes the fact that “in an August 11, 2011 statement, CPSC Chairman Tenenbaum stated that the Chairman, as head of the Commission,

serves as the public face and voice of the agency, and the Office of Communications needs direct access to the Chairman in order to successfully implement the Chairman's strategic communications plan and consumer information agenda, and that the Office of Communications will continue to serve the Commission as a whole, represent policy decisions made by the Commissioners to the news media and public, and work in close coordination with all offices and divisions." Complaint Counsel's admission that "that Chairman Inez Tenenbaum issued a public statement on August 11, 2011 that addressed the Office of Communications" does not indicate whether it admits or denies that assertion. Complaint Counsel's objection that statement speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 149 and the record of commission.

Request No. 150. *Admit that Scott Wolfson became the Director of the Office of Communications when the name of the Office of Information and Public Affairs was changed to the Office of Communications.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to the extent that this Request seeks information that is publicly accessible and therefore is equally accessible to the Respondent. Subject to and without waiving its objections, Complaint Counsel admits that the organizational chart for the CPSC is available at <http://www.cpsc.gov/Global/About-CPSC/cpscorgchart.pdf>. The organizational chart for the CPSC speaks for itself and Respondent's characterization is denied to the extent it is inconsistent with the document.

Answer No. 150 is evasive and unresponsive to the Request for Admission. Request No. 150 seeks to determine whether Complaint Counsel disputes the fact that "Scott Wolfson became the Director of the Office of Communications when the name of the Office of Information and Public Affairs was changed to the Office of Communications." Complaint Counsel's admission that the organizational chart is available does not indicate whether it admits or denies that

assertion. Complaint Counsel's objection that the organizational chart speaks for itself is not legitimate. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 150 and the organizational chart.

Request No. 152. *Admit that the Office of Information and Public Affairs and its successor offices, including without limitation the Office of Communications, serves as the CPSC's spokesperson to the national print and broadcast media, develops and disseminates the CPSC's news releases, and organizes CPSC news conferences.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to the extent that this Request seeks information that is publicly accessible at <http://www.cpsc.gov> and therefore is equally accessible to the Respondent.

Complaint Counsel's objection to Request No. 152 is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 153. *Admit that Scott Wolfson serves as a spokesperson for the Chairman of CPSC to the national the national print and broadcast media.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to the extent that this Request seeks information that is publicly accessible and therefore is equally accessible to the Respondent.

Complaint Counsel's objection to Request No. 153 is improper as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 154. *Admit that on and after July 25, 2012, Scott Wolfson was speaking on behalf of the Chairman of the CPSC when discussing Buckyballs® and Buckycubes®.*

Answer: Objection. Complaint Counsel objects to this Request as vague to the extent that it fails to specify discussions by Scott Wolfson or the person or persons with whom such discussions were had. Complaint Counsel further objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents.

Complaint Counsel's objections to Request No. 154 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus statements by or on behalf of the Commission are relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Respondent is entitled to a response as to whether Mr. Wolfson was speaking on behalf of the Chairman.

Request No. 155. *Admit that on and after July 25, 2012, Scott Wolfson was speaking on behalf of the Commission when discussing Buckyballs® and Buckycubes®.*

Answer: Objection. Complaint Counsel objects to this Request as vague to the extent that it fails to specify discussions by Scott Wolfson or the person or persons with whom such discussions were had. Complaint Counsel further objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents.

Complaint Counsel's objections to Request No. 155 are improper. Preliminarily, the issue here is whether the Subject Products create a substantial hazard, thus statements by or on behalf of the Commission are relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Respondent is entitled to a response as to whether Mr. Wolfson was speaking on behalf of the Chairman.

Request No. 156. *Admit that Scott Wolfson subscribed to receive updates and promotions from M&O.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O.

Complaint Counsel's objections to Request No. 156 are improper. Complaint Counsel has mischaracterized an email sent from M&O, and this request is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 157. *Admit that Scott Wolfson provided his CPSC email address to M&O either on the M&O website or the Buckyballs® Facebook page in order to receive updates and promotions from M&O.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O.

Complaint Counsel's objections to Request No. 157 are improper. Complaint Counsel has mischaracterized an email sent from M&O, and this request is relevant to both Respondent's

defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 158. *Admit that CPSC Chairman Tenenbaum reviewed and approved the press release dated April 12, 2013 (Recall 13-168) announcing a recall of the Subject Products by certain retailers.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents. Subject to and without waiving its objections, Complaint Counsel admits that pursuant to CPSC Directive 1450.2, accessible online at <https://www.cpsc.gov/en/About-CPSC/Policies-Statements-and-Directives/Clearance-Procedures-For-Providing-Information-To-The-Public-Directives-/>, final clearance for press releases are obtained from the Office of the Chairman.

Answer No. 158 is evasive and unresponsive to the Request for Admission. Request No. 158 seeks to determine whether Complaint Counsel disputes the fact that "CPSC Chairman Tenenbaum reviewed and approved the press release dated April 12, 2013 (Recall 13-168) announcing a recall of the Subject Products by certain retailers." Complaint Counsel's admission that CPSC Directive 1450.2 is available does not indicate whether it admits or denies that assertion.

Request No. 159. *Admit that CPSC Commissioner Adler reviewed and approved the press release dated April 12, 2013 (Recall 13-168) announcing a recall of the Subject Products by certain retailers.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents.

Complaint Counsel's objections to Request No. 159 are improper. Whether or not the Commissioners approved this communication is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards.

Request No. 160. *Admit that CPSC Commissioner Nord reviewed and approved the press release dated April 12, 2013 (Recall 13-168) announcing a recall of the Subject Products by certain retailers.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is not reasonably expected to yield information relevant to the allegations of the Complaint or to the defenses of the Respondents.

Complaint Counsel's objections to Request No. 160 are improper. Whether or not the Commissioners approved this communication is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards.

Request No. 161. *Admit that under the CPSC's Meetings Policy "Any Agency employee holding a telephone conversation in which substantial interest matters are discussed with an outside party must prepare a telephone call summary of the conversation."*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks publicly accessible information that is equally accessible to the Respondent. The CPSC's Meetings Policy, codified at 16 C.F.R. Part 1012, speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 161 is evasive and unresponsive to the Request for Admission. Request No. 161 seeks to determine whether Complaint Counsel disputes the fact that "under the CPSC's

Meetings Policy ‘Any Agency employee holding a telephone conversation in which substantial interest matters are discussed with an outside party must prepare a telephone call summary of the conversation.’” Complaint Counsel’s reference to the CPSC’s Meetings Policy does not indicate whether it admits or denies that assertion. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 161 and the CPSC’s Meetings Policy.

Request No. 162. *Admit that under the CPSC’s Meetings Policy, telephone call summaries should include the essence of all substantive matters relevant to the agency.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel’s obligations under the Rules to the extent that it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks publicly accessible information that is equally accessible to the Respondent. The CPSC’s Meetings Policy, codified at 16 C.F.R. Part 1012, speaks for itself, and Respondent’s characterization is denied to the extent inconsistent with that document.

Answer No. 162 is evasive and unresponsive to the Request for Admission. Request No. 162 seeks to determine whether Complaint Counsel disputes the fact that “under the CPSC’s Meetings Policy, telephone call summaries should include the essence of all substantive matters relevant to the agency.” Complaint Counsel’s reference to the CPSC’s Meetings Policy does not indicate whether it admits or denies that assertion. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally,

Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 162 and the CPSC's Meetings Policy.

Request No. 163. *Admit that the Subject Products are a substantial interest matter as substantial interest matter is defined at 16 CFR § 1012.2(d).*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks publicly accessible information that is equally accessible to the Respondent. Complaint Counsel further objects to this Request to the extent that it calls for a legal conclusion. The CPSC's Meetings Policy, codified at 16 C.F.R. Part 1012, speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 163 is evasive and unresponsive to the Request for Admission. Request No. 163 seeks to determine whether Complaint Counsel disputes the fact that "the Subject Products are a substantial interest matter as substantial interest matter is defined at 16 CFR § 1012.2(d)." Complaint Counsel's reference to the CPSC's Meetings Policy does not indicate whether it admits or denies that assertion. Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 163 and the CPSC's Meetings Policy.

Request No. 164. *Admit that under the CPSC's Meetings Policy meeting summaries must be submitted to the Office of the Secretary within 20 calendar days after the meeting or telephone conversation for which the summary is required.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's

obligations under the Rules to the extent that it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks publicly accessible information that is equally accessible to the Respondent. The CPSC's Meetings Policy, codified at 16 C.F.R. Part 1012, speaks for itself, and Respondent's characterization is denied to the extent inconsistent with that document.

Answer No. 164 is evasive and unresponsive to the Request for Admission. Request No. 164 seeks to determine whether Complaint Counsel disputes the fact that "under the CPSC's Meetings Policy meeting summaries must be submitted to the Office of the Secretary within 20 calendar days after the meeting or telephone conversation for which the summary is required." Complaint Counsel's reference to the CPSC's Meetings Policy does not indicate whether it admits or denies that assertion. Moreover, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Finally, Complaint Counsel fails to qualify its denial and indicate the inconsistencies between Request No. 164 and the CPSC's Meetings Policy.

Request No. 166. *Admit that CPSC has not commenced an administrative complaint or taken any other enforcement action against any person, other than Mr. Zucker, alleged to be a responsible corporate officer of any manufacturer or distributor of Magnets.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information about products and companies that are neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it seeks disclosure of information that is confidential, proprietary or trade secret information and/or protected from disclosure by the deliberative process privilege. Complaint Counsel further objects to this Request to the extent that it seeks information that is publicly accessible and is therefore equally accessible to the Respondent.

Complaint Counsel's objections to Request No. 166 are improper. Whether CPSC has not commenced an administrative complaint or taken any other enforcement action against any person, other than Mr. Zucker, alleged to be a responsible corporate officer of any manufacturer or distributor of Magnets is relevant to both Respondent's defense and whether the treatment of the Subject Products by the Commission is arbitrary and capricious compared to treatment of other hazards. In light of these issues the deliberative process privilege is inapplicable as the need for such information overrides the government's interest in non-disclosure. Finally, there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Request No. 168. *Admit that CPSC did not give M&O advance notice that staff was making a preliminary determination that the Subject Products constituted a substantial product hazard.*

Answer: Objection. Complaint Counsel objects to this Request as overly broad and unduly burdensome or otherwise inconsistent with Complaint Counsel's obligations under the Rules to the extent that it seeks information that is neither relevant to this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence relating to the allegations in the Complaint or to the defenses of the Respondent. Complaint Counsel further objects to this Request to the extent that it implies or assumes that CPSC staff was obligated to provide M&O of advance notice regarding staff's deliberative process. Subject to and without waiving its objections, Complaint Counsel admits that CPSC staff informed M&O by letter dated July 10, 2012 that:

“[S]taff has made a preliminary determination that aggregated masses of small, powerful, individual magnets (‘Subject Products’) under the brand names Buckyballs and/or Buckycubes . . . present a substantial product hazard.”

Answer No. 168 is evasive and unresponsive to the Request for Admission. Request No. 168 seeks to determine whether Complaint Counsel disputes the fact that “CPSC did not give M&O advance notice that staff was making a preliminary determination that the Subject Products

constituted a substantial product hazard.” Complaint Counsel’s quotation of the above language does not indicate whether it admits or denies that assertion.

Request No. 171. *Admit that M&O has dissolved.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request because to respond fully would require information such as information regarding the process by which M&O dissolved, which Complaint Counsel has attempted to obtain from Respondent through discovery requests and Respondent has refused to answer. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Complaint Counsel’s objections to Request No. 171 are not legitimate as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents. Respondent is entitled to a response to this request to establish predicate facts about the status of M&O.

Request No. 172. *Admit that M&O dissolved in accordance with the provisions of the Delaware Limited Liability Company Act.*

Answer: Objection. Complaint objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent’s own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request because to respond fully would require information such as information regarding the process by which M&O dissolved, which Complaint Counsel has attempted to obtain from Respondent through discovery requests and Respondent has refused to answer. Complaint Counsel further objects to the extent that this Request calls for a legal conclusion. Subject to and without waiving its objections, Complaint Counsel

states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Complaint Counsel's objections to Request No. 172 are not legitimate as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate. Respondent is entitled to a response to this request to establish predicate facts about the status of M&O.

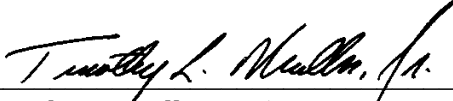
Request No. 173. *Admit that M&O established a liquidating trust known as the MOH Liquidating Trust in accordance with the provisions of the Delaware Limited Liability Company Act.*

Answer: Objection. Complaint Counsel objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent from Respondent's own files or from the files of the Trust. Complaint Counsel further objects to this Request to the extent that it seeks information that is readily or more easily accessible to Respondent because Respondent has knowledge of the requested information due to his prior role as an officer of M&O. Complaint Counsel further objects to this Request because to respond fully would require information such as information regarding the process by which M&O dissolved, and the circumstances under which the Trust was created, which Complaint Counsel has attempted to obtain from Respondent through discovery requests and Respondent has refused to answer. Complaint Counsel further objects to the extent that this Request calls for a legal conclusion. Subject to and without waiving its objections, Complaint Counsel states that after reasonable inquiry, Complaint Counsel lacks sufficient knowledge or information to admit or deny this request.

Complaint Counsel's objections to Request No. 173 are not legitimate as there is no support in the laws of evidence for the proposition that because a document or information is available to Respondent, Complaint Counsel is relieved from admitting or denying the truth of its contents.

Complaint Counsel's objection on the ground that the Request seeks a legal opinion is also not legitimate. Respondent is entitled to a response to this request to establish predicate facts about the status of M&O.

Dated: March 31, 2014


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Attorney for Respondent, Craig Zucker

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of March, 2014, a true and correct copy of the foregoing Respondent Craig Zucker's Motion to Compel Complaint Counsel's Answers to Respondent's Amended First Set of Interrogatories to Consumer Product Safety Commission was served on all parties and participants of record in these proceedings in the following manner:

Original and three copies by U.S. mail, and one copy by electronic mail, to the Secretary of the U.S. Consumer Product Safety Commission:

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

One copy by U.S. mail and one copy by electronic mail to the Presiding Officer for *In the Matter of Maxfield and Oberton Holdings, LLC*, CPSC Docket No. 12-1; *In the Matter of Zen Magnets, LLC*, CPSC Docket No. 12-2, and *In the Matter Of Star Networks UA, LLC*, CPSC Docket No. 13-2:

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U.S. Courthouse
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One copy by electronic mail (by agreement) to Complaint Counsel:

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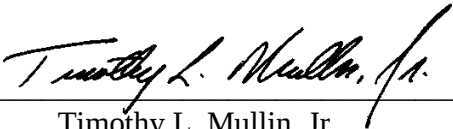
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