

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

_____	)	CPSC Docket No. 12-1
In the Matter of	)	CPSC Docket No. 12-2
	)	CPSC Docket No. 13-2
MAXFIELD AND OBERTON	)	
HOLDINGS, LLC	)	Hon. Dean C. Metry
and	)	Administrative Law Judge
CRAIG ZUCKER, individually and as	)	
officer of MAXFIELD AND OBERTON	)	
HOLDINGS, LLC	)	
and	)	
ZEN MAGNETS, LLC	)	
STAR NETWORKS USA, LLC	)	
	)	
Respondents.	)	
_____	)	

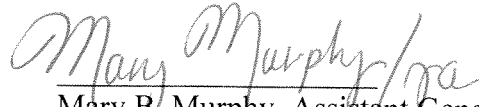
**COMPLAINT COUNSEL'S APPLICATION FOR THE ISSUANCE  
OF SUBPOENA ON NON-PARTY: BETHEL COSTELLO**

Pursuant to 16 C.F.R. § 1025.38, which requires the issuance of a subpoena to any non-party for the purpose of compelling attendance, testimony, and production of documents at a hearing or deposition, Complaint Counsel respectfully requests that the Presiding Officer forward, and that the Commission issue, the attached subpoena.

The named party in the subpoena, Bethel Costello, was head of wholesale customer service/compliance for Maxfield and Oberton Holdings, LLC from approximately 2010 to December 2012 and is believed to have relevant information regarding the Subject Products and M&O's compliance program, marketing advertising and promotion of the Subject Products, and the activities of M&O's customer service department. Accordingly, Complaint Counsel requests that the Presiding Officer

forward this application to the Commission for appropriate action.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary B. Murphy /ra".

Mary B. Murphy, Assistant General Counsel  
Jennifer C. Argabright, Trial Attorney  
Daniel Vice, Trial Attorney

Complaint Counsel  
Division of Compliance  
Office of the General Counsel  
U.S. Consumer Product Safety Commission  
Bethesda, MD 20814  
(301) 504-7809

Dated: April 18, 2014

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TO: Bethel Costello  
57 Withers Street, Apartment 1  
Brooklyn, NY 11211-1216

**SUBPOENA**

Staff of the U.S. Consumer Product Safety Commission (Staff) is conducting administrative litigation seeking an order determining that high-powered, small rare earth magnets, known as Buckyballs® and Buckycubes,™ present a substantial product hazard. Staff believes you, as former head of customer service/compliance and employee of Maxfield and Oberton Holdings, LLC (M & O), possess information or have knowledge that will assist in that determination. Therefore, the Commission authorizes issuance of this Subpoena to carry out its specific regulatory functions under Section 5 and 27(b)(1), (3) & (4) of the Consumer Product Safety Act, 15 U.S.C. §§ 2054 and 2076(b)(1), (3) & (4), and 16 C.F.R. part 1025. The Subpoena requires that you produce documents and appear for a deposition.



## **I. GENERAL INSTRUCTIONS**

A. The Commission's rules for adjudications govern this Subpoena. 16 C.F.R. part 1025. Title 165 of the Code of Federal Regulations, Section 1025.38 sets forth procedures for motions to quash or modify the terms of this Subpoena.

B. This Subpoena shall be answered by you.

C. The public disclosure of any information provided to the Commission under Subpoena shall be governed by the Freedom of Information Act, 5 U.S.C. § 552 and the Commission's regulations under that Act, 16 C.F.R. part 1015. If you wish to request confidential treatment for any information provided, you should submit a request for such treatment with responsive documents. Questions about this Subpoena should be directed to Jennifer C. Argabright, Trial Attorney, U.S. Consumer Product Safety Commission, Office of the General Counsel, Division of Compliance, Suite 708A, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7808; e-mail: [jargabright@cpsc.gov](mailto:jargabright@cpsc.gov).

D. Each document production request seeks production of all documents described herein, and any attachments thereto, in your possession, custody, or control, or in the possession, custody, or control of any of your attorneys, employees, agents, or representatives, and all documents and any attachments that you or any of your attorneys, employees, agents, or representatives have the legal right to obtain, or have the ability to obtain from sources under your or their control.

E. The words "and" and "or" shall be construed conjunctively or disjunctively, as necessary, to make the request inclusive rather than exclusive. The word

“including” shall be construed to mean without limitation. The words “any” and “all” shall be construed to make the request inclusive rather than exclusive.

F. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense, to make all definitions and discovery requests inclusive rather than exclusive. The singular shall include the plural and vice versa.

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

1. For any document withheld, specify the privilege claimed and the factual basis you contend supports the assertion of the privilege, and identify the document as follows: (a) state the date, nature, and subject matter of the document; (b) identify each author of the document; (c) identify each preparer of the document; (d) identify each person who is an addressee or an intended recipient of the document; (e) identify each person from whom the document was received; (f) state the present location of the document and all copies thereof; (g) identify each person who has, or ever had, possession, custody, or control of the document or any copy thereof; (h) state the number of pages, attachments, appendices, and exhibits; and (i) provide all further information concerning the document and the circumstances upon which the claim of privilege is asserted.

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

H. Your response is due ten (10) business days from the date of service of the Subpoena.

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

J. Submit your response to the Subpoena to Jennifer Argabright, Trial Attorney, U.S. Consumer Product Safety Commission, Office of the General Counsel, Division of Compliance, Suite708A, 4330 East West Highway, Bethesda, MD 20814. Direct any questions you have concerning the Subpoena to Mary Clare Claud at (301) 504-7808; e-mail: jargabright@cpsc.gov. Where possible, documents should be provided electronically in native file format.

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

## **II. DEFINITIONS**

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

1. "M & O" means Maxfield and Oberton Holdings, LLC, a Delaware limited liability company, which filed a Certificate of Cancellation on December 27, 2012, with its most recent principal place of business located at 180 Varick Street, Suite 212, New York, NY 10014, including any agent, subsidiary, affiliate, successor, or

predecessor entity, as well as all past and present officers, directors, representatives, agents, and employees of Maxfield and Oberton Holdings, LLC.

2. “Person” means any natural person, entity, group, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, officer, or other business or legal entity, whether private or governmental, and whether foreign or domestic.

3. “Subject Products” means Buckyballs® and Buckycubes.™

4. “Documents” mean the original and any nonidentical copy of any written, printed, reproduced, graphic, photographic, electronic, audio, visual, or computer records, however produced or reproduced, of any kind or description, whether prepared by you or by any other person, that is in your possession, custody, or control, including, but not limited to, the following: electronic mail; electronically stored information; papers; notes; books; letters; telecopies; facsimiles; photographs; motion pictures; videotapes; video disks; audio recordings; drawings; schematics; manuals; blueprints; intra- and interoffice communications; transcripts; minutes; reports; audio recordings; affidavits; statements; pleadings; summaries; indices; analyses; evaluations; agreements; calendars; appointment books; diaries; telephone logs; tabulations; charts; graphs; data sheets; computer tapes, disks, cards, printouts, and programs; microfilm; microfiche; social media communications, including, but not limited to, information posted on or transmitted through social networking platforms (*e.g.*, MySpace and Facebook), digital file-sharing services (*e.g.*, Flickr), blogs and microblogs (*e.g.*, Twitter); instant messages, customer reviews and/or comments posted on the M&O’s website(s) relating to the Subject Products; all accounts, entries, ledgers, budgets or other information found in Quickbook

ledgers and entries and all drafts, alterations, and/or amendments of, or to, any of the foregoing. The term includes all drafts of a document and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original. The term also includes information stored in or accessible through computer or other information retrieval systems (including computer archives or backup systems), together with instructions and all other materials necessary to use or interpret such data compilations.

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### **III. Subpoena Ad Testificandum and Duces Tecum**

You are ordered to appear at the Commission’s headquarters at 4330 East West Highway, Bethesda, MD 20814 to testify regarding the matters referred to above twenty (20) days after issuance of subpoena, or a date mutually agreeable to the parties, and continuing thereafter until your testimony is concluded.

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and prior to testifying at the deposition above, copies of all records in your possession, custody, or control relating to:

- 1) Any and all documents relating to M&O's development of the Subject Products, marketing or advertising of the Subject Products; and sale of the Subject Products;
- 2) Any and all documents relating to M&O's efforts to comply with European Union or U.S. consumer product safety regulations relating to the Subject Products;
- 3) Any and all documents relating to compensation, payments, or fund transfers from M&O to or on behalf of Craig Zucker, Jake Bronstein, or Strategy XXI. ;
- 4) Any and all documents relating to any companies or entities formed, established or incorporated in 2012-2013 by or at the direction of Jake Bronstein and/or Craig Zucker.
- 5) Any and all documents relating to communications between you and any other person relating to any companies or entities formed, established or incorporated in 2012-2013 by at the direction of Jake Bronstein and/or Craig Zucker.
- 6) Any and all documents relating to communications between you and any other person, entity or organization relating to the Subject Products.

BY ORDER OF THE COMMISSION

The undersigned, an authorized official of the U.S. Consumer Product Safety Commission, has hereto set his hand and caused the seal of the Commission to be affixed at Bethesda, MD, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Todd A. Stevenson  
Secretary  
U.S. Consumer Product Safety Commission

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**DUPLICATE**

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BY ORDER OF THE COMMISSION

The undersigned, an authorized official of  
the U.S. Consumer Product Safety Commission,  
has hereto set his hand and caused the seal  
of the Commission to be affixed at  
Bethesda, MD, this \_\_\_\_\_ day of  
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Secretary  
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6. “Relating to” or “related to” shall mean consisting of, referring to, describing, discussing, constituting, evidencing, containing, mentioning, concerning, pertaining to, citing, summarizing, analyzing, or bearing any logical or factual connection to the matter discussed.

### **III. Subpoena Ad Testificandum and Duces Tecum**

You are ordered to appear at the Commission’s headquarters at 4330 East West Highway, Bethesda, MD 20814 to testify regarding the matters referred to above twenty (20) days after issuance of subpoena, or a date mutually agreeable to the parties, and continuing thereafter until your testimony is concluded.

You are also directed to produce at the Commission’s headquarters at 4330 East West Highway, Bethesda, MD 20814 within ten (10) days of issuance of the subpoena



and prior to testifying at the deposition above, copies of all records in your possession, custody, or control relating to:

- 1) Any and all documents relating to M&O's development of the Subject Products, marketing or advertising of the Subject Products; and sale of the Subject Products;
- 2) Any and all documents relating to M&O's efforts to comply with European Union or U.S. consumer product safety regulations relating to the Subject Products;
- 3) Any and all documents relating to compensation, payments, or fund transfers from M&O to or on behalf of Craig Zucker, Jake Bronstein, or Strategy XXI. ;
- 4) Any and all documents relating to any companies or entities formed, established or incorporated in 2012-2013 by or at the direction of Jake Bronstein and/or Craig Zucker.
- 5) Any and all documents relating to communications between you and any other person relating to any companies or entities formed, established or incorporated in 2012-2013 by at the direction of Jake Bronstein and/or Craig Zucker.
- 6) Any and all documents relating to communications between you and any other person, entity or organization relating to the Subject Products.

BY ORDER OF THE COMMISSION

The undersigned, an authorized official of the U.S. Consumer Product Safety Commission, has hereto set his hand and caused the seal of the Commission to be affixed at Bethesda, MD, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Todd A. Stevenson  
Secretary  
U.S. Consumer Product Safety Commission

**CERTIFICATE OF SERVICE**

I hereby certify that I have provided on this date, April 18, 2014, Complaint Counsel's Application for the Issuance of Subpoena on Non-Party: Bethel Costello upon the Secretary, the Presiding Officer, and all parties and participants of record in these proceedings in the following manner:

Original and two copies by hand delivery to the Secretary of the U.S. Consumer Product Safety Commission: Todd A. Stevenson.

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 USA, LLC*, CPSC Docket No. 13-2:

The Honorable Dean C. Metry  
U.S. Coast Guard  
U.S. Courthouse  
601 25th St., Suite 508A Galveston, TX 77550  
Janice.M.Emig@uscg.mil

One copy by electronic mail to counsel for Craig Zucker:

John R. Fleder  
Hyman, Phelps & McNamara, P.C.  
700 Thirteenth Street, N.W. Suite 1200  
Washington, DC 20005  
jfleder@hpm.com

Timothy L. Mullin, Jr.  
Miles & Stockbridge P.C.  
100 Light Street  
Baltimore, MD 21202  
410-385-3641 (direct dial)  
410-385-3700 (fax)  
tmullin@MilesStockbridge.com

Erika Z. Jones  
Mayer Brown LLP  
1999 K Street, N.W. Washington, D.C. 20006  
ejones@mayerbrown.com

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

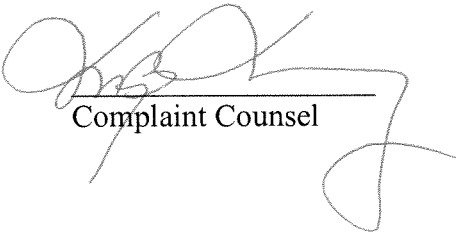
Paul M. Laurenza  
Dykema Gossett PLLC  
Franklin Square, Third Floor West  
1300 I Street N.W.

Washington, DC 20005  
plaurenza@dykema.com

Julie Beth Teicher, Trustee  
MOH Liquidating Trust  
Erman, Teicher, Miller, Zucker & Freedman, P.C.  
400 Galleria Officentre, Suite 444  
Southfield, MI 48034  
jteicher@ermanteicher.com

One copy by electronic mail to counsel for Respondents Zen Magnets, LLC and Star Networks USA, LLC:

David C. Japha  
The Law Offices of David C. Japha, P.C.  
950 S. Cherry Street, Suite 912  
Denver, CO 80246  
davidjapha@japhalaw.com



Complaint Counsel