

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
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THYSSENKRUPP ACCESS CORP.)	CPSC DOCKET NO.: 21-1
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)	
Respondent.)	
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**RESPONDENT’S APPLICATION FOR THE ISSUANCE OF A SUBPOENA ON
NON-PARTY ROBERT S. ADLER**

Pursuant to 16 C.F.R. § 1025.35(b)(2), which requires the issuance of a subpoena to any non-party for the purpose of taking a deposition, and 16 C.F.R. § 1025.38, Respondent TK Access Solutions Corp., formerly known as thyssenkrupp Access Corp. (“Respondent”), through the undersigned counsel, respectfully requests that the Presiding Officer forward, and that the Commission issue, the subpoena submitted concurrently with this Application.

The non-party named in the subpoena is Robert S. Adler. Mr. Adler is a former Commissioner of the U.S. Consumer Product Safety Commission (“CPSC” or “agency”) who served in that capacity from approximately August 18, 2009, through approximately December 1, 2021, including serving as Acting Chair of CPSC from approximately December 1, 2013, through approximately July 28, 2014 (during which time CPSC closed its 2013 investigation into the elevator components manufactured by Respondent for installation by trade professionals) and again from approximately October 27, 2019, through approximately October 7, 2021 (during which time CPSC issued the Complaint).

In his capacity as a Commissioner, Mr. Adler was responsible for the oversight of CPSC activities. 15 U.S.C. § 2053. In his capacity as Acting Chair, Mr. Adler was “the principal executive officer of the Commission, and he [exercised] all of the executive and administrative functions of [CPSC], including . . . the appointment and supervision of [and] the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the [CPSC].” 15 U.S.C. § 2053(f). As such, Mr. Adler has direct knowledge of CPSC’s policies and practices, its handling of this matter, and the facts surrounding this action, including, but not limited to, the agency’s 2017 denial of a petition seeking adoption of a mandatory rule governing residential elevators and agency staff’s statement that they “could not identify any specific elevator models or manufacturers whose installations revealed design defects or installation defects that caused a substantial product hazard resulting from an excess space gap between the car door and hoistway [door].” TKAS_CPSC21-1_51511.

Additionally, documents produced by Complaint Counsel, CPSC_21-1_024693-94, suggest that Mr. Adler held at least one direct, private, previously undisclosed meeting with representatives of the law firm of Cash, Krugler & Fredericks, LLC, in or about 2013, regarding residential elevator components. As such, Mr. Adler has unique knowledge of the facts and circumstances surrounding the instigation of the 2013 investigation, which the agency subsequently closed without action during his first tenure as Acting Chair. Thus, the information Mr. Adler possesses is not only relevant to this matter, but it is also likely that Respondent would not have access to the requested information absent the issuance of this subpoena as Complaint Counsel advises there are no records of that meeting.

Accordingly, Respondent respectfully requests that the Presiding Officer forward this Application and the subpoena to the Commission for appropriate action.¹

Dated: January 25, 2022



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¹ This court approved electronic filing and service at the October 20, 2021, Initial Pre-Hearing Conference. The Court also noted at the pre-hearing conference that the parties have no objection to providing one electronic copy of the subpoena (instead of triplicate as prescribed by 16 C.F.R. § 1025.38).

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ATTORNEYS FOR RESPONDENT,

TK Access Solutions Corp.

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**ORDER TRANSMITTING RESPONDENT’S APPLICATION FOR THE ISSUANCE OF
A SUBPOENA ON NON-PARTY ROBERT S. ADLER**

On January 25, 2022, counsel for Respondent filed an Application for the Issuance of a Subpoena on Non-Party Robert S. Adler.

Pursuant to 16 C.F.R. § 1025.38(c), the Application is hereby transmitted to the Secretary so that it may be forwarded to the Commission.

Done and Date: _____
Arlington, VA

Mary F. Withum
Administrative Law Judge

CERTIFICATE OF SERVICE

Pursuant to 16 C.F.R. § 1025.16, as adopted by the Presiding Officer in CPSC Docket No. 21-1, I hereby certify that on January 25, 2022, true and correct copies of the foregoing Respondent's Application for the Issuance of a Subpoena on Non-Party Robert S. Adler were filed with the Secretary of the U.S. Consumer Product Safety Commission and served on all parties and participants of record in these proceedings in the following manner:

By electronic mail to the Secretary of the U.S. Consumer Product Safety Commission:

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

By electronic mail to the Presiding Officer:

The Honorable Mary Withum, Administrative Law Judge
c/o Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
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By electronic mail to Complaint Counsel:

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Michael J. Rogal, Trial Attorney
Frederick C. Millett, Trial Attorney
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