

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of)	
)	CPSC Docket No: 12-1
)	CPSC Docket No: 12-2
)	CPSC Docket No: 13-2
MAXFIELD AND OBERTON)	
HOLDINGS, LLC)	
AND)	
CRAIG ZUCKER, individually and as)	
an officer of)	
MAXFIELD AND OBERTON)	
HOLDINGS, LLC)	
AND)	HON. DEAN C. METRY
ZEN MAGNETS, LLC)	
AND)	
STAR NETWORKS USA, LLC)	
)	
)	
Respondents.)	

**ORDER REGARDING RESPONDENT'S APPLICATION FOR LEAVE TO
TAKE DEPOSITIONS**

Background

On April 2, 2014, Respondent Craig Zucker re-filed an Application for Leave to Take Depositions (Application) for the above-captioned matter. To date, the Consumer Product Safety Commission (CPSC) has not filed a response to the Application.¹ See 16 C.F.R. § 1025.23(c).

In the Application, Mr. Zucker requests leave to take the depositions of nineteen (19) employees or former employees of the CPSC, as well as any “[e]xpert witnesses

¹ In the CPSC’s April 7, 2014 Status Report, Counsel indicated it had agreed to provide three (3) responsive witnesses, explaining CPSC would attempt to meeting and confer with Mr. Zucker regarding the deposition requests. No further information was provided.

identified by Complaint Counsel.” In the Memorandum in Support of the Application, Mr. Zucker asserts Complaint Counsel had not responded to its requests for deponents.

Mr. Zucker further explains his list of proposed deponents contains two categories of persons: (1) employees identified by the CPSC as assisting in responding to interrogatories or identified in the public record as participating in the CPSC’s investigation, and (2) expert witnesses designated by Complaint Counsel. Mr. Zucker also indicates he wishes to depose Acting Chairman Robert Adler on the issue of “whether the Second Amended Complaint naming Respondent was properly authorized by the Commission.” To date, the CPSC has not responded.

Discussion

The applicable regulations provide that “[p]arties may obtain discovery regarding any matter, not privileged, which is within the Commission’s statutory authority and is relevant to the subject matter involved in the proceedings...”. 16 C.F.R. § 1025.31(c)(1). While the applicable regulations provide for broad discovery, the undersigned notes the regulations also explain “[t]he use of [discovery procedures] is subject to the control of the Presiding Officer, who may issue any just and appropriate order for the purpose of ensuring their timely completion.” 16 C.F.R. § 1025.31(i).

As discussed, Mr. Zucker has listed in excess of nineteen (19) people he wishes to depose. While Mr. Zucker has a right to prepare a defense, the undersigned notes that initial discovery requests were served in August 2013; this matter must proceed to hearing. See 16 C.F.R. § 1025.31(g) (explaining discovery should generally be completed within 150 days). While Mr. Zucker asserts his list of proposed deponents “is identical to the list of proposed deponents included in the original Application,” Mr.

Zucker withdrew his original Application before the undersigned granted leave to take depositions.² See 16 C.F.R. § 1025.35(a).

WHEREFORE,

IT IS HEREBY ORDERED THAT Mr. Zucker's request for leave to take depositions of all listed expert witnesses is hereby **GRANTED**.

IT IS FURTHER ORDERED THAT in addition to the expert witnesses and Acting Chairman Robert Adler, Mr. Zucker is granted leave to depose up to ten (10) additional CPSC employees.

IT IS FURTHER ORDERED THAT, as indicated in the undersigned's April 10, 2014 Scheduling Order, discovery shall cease on **Monday, June 23, 2014**.

SO ORDERED.

Done and dated this 24th day of April, 2014, at Galveston, TX



DEAN C. METRY
Administrative Law Judge

² Mr. Zucker filed his first request for Leave to take Depositions on December 23, 2013. On January 2, 2014, Mr. Zucker filed a Notice of Withdrawal of the same.