

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)	
and)	Hon. Dean C. Metry
CRAIG ZUCKER, individually and as)	Administrative Law Judge
officer of MAXFIELD AND OBERTON)	
HOLDINGS, LLC)	
and)	
ZEN MAGNETS, LLC)	
STAR NETWORKS USA, LLC)	
)	
Respondents.)	
_____)	

COMPLAINT COUNSEL’S MOTION FOR LEAVE TO TAKE DEPOSITIONS

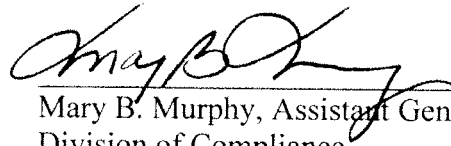
Pursuant to 16 C.F.R. § 1025.35, Complaint Counsel seeks leave to take the depositions upon oral examination of the following individuals in the instant matter:

1. Craig Zucker, Co-Founder, Co-Managing Member, and later Managing Member of Maxfield & Oberton Holdings, LLC (M&O);
2. Jake Bronstein, Co-Founder and Co-Managing Member of M&O¹;
3. Shihan Qu, Founder and Owner of Zen Magnets, LLC; and
4. Daniel Peykar, Founder and Member/Manager of Star Networks, LLC;
5. Julie Teicher, Esq., Trustee of M&O’s Liquidating Trust, which was established on December 21, 2012, after M&O elected to dissolve in accordance with the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-801–18-806;² and

¹ Complaint Counsel will make an application for the issuance of subpoena for Mr. Bronstein’s deposition and production of materials at the deposition pursuant to 16 C.F.R. § 1025.35(b)(2) because Mr. Bronstein is not a named party in this proceeding.

6. Complaint Counsel also seeks leave to take the deposition of each person who Respondents name as expert witnesses.

If the Presiding Officer grants this Motion, Complaint Counsel will serve written notice of the depositions on all parties and the Presiding Officer at least ten (10) days before the date noticed for the deposition, as required by 16 C.F.R. § 1025.35(b).



Mary B. Murphy, Assistant General Counsel
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Complaint Counsel for
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Bethesda, MD 20814

DATED: December 12, 2013

² Complaint Counsel will make an application for the issuance of subpoena for Ms. Teicher's deposition and production of materials pursuant to 16 C.F.R. § 1025.35(b)(2). Counsel for Respondent Craig Zucker advised Complaint Counsel that Mr. Zucker is no longer in possession of M&O's business records and that Ms. Teicher, as Trustee of M&O's Liquidating Trust, has exclusive possession of M&O's business records. Without waiving its right to object, Complaint Counsel will subpoena Ms. Teicher pursuant to her representations that she will not respond to Complaint Counsel's discovery requests, nor participate in this proceeding as Trustee for M&O's Liquidating Trust.

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MEMORANDUM IN SUPPORT OF COMPLAINT
COUNSEL’S MOTION FOR LEAVE TO TAKE DEPOSITIONS

Complaint Counsel seeks leave pursuant to 16 C.F.R. § 1025.35 to take the depositions upon oral examination of Craig Zucker, Co-Founder, Co-Managing Member, and later Managing Member of Maxfield & Oberton Holdings, LLC (M&O); Jake Bronstein, Co-Founder and Co-Managing Member of M&O¹; Shihan Qu, Founder and Owner of Zen Magnets, LLC; Daniel Peykar, Founder and Member/Manager of Star Networks, LLC; Jake Bronstein, Co-Founder and Co-Managing Member of M&O; Julie Teicher, Esq., Trustee of M&O’s Liquidating Trust,² which was established on December 21, 2012, after M&O elected to dissolve in accordance with

¹ Complaint Counsel will make an application for the issuance of subpoena for Mr. Bronstein’s deposition and production of materials at the deposition pursuant to 16 C.F.R. § 1025.35(b)(2) because Mr. Bronstein is not a named party in this proceeding.

² Complaint Counsel will make an application for the issuance of subpoena for Ms. Teicher’s deposition and production of materials pursuant to 16 C.F.R. § 1025.35(b)(2). Counsel for Respondent Craig Zucker’s advised Complaint Counsel that Mr. Zucker is no longer in possession of M&O’s business records and that Ms. Teicher, as Trustee of M&O’s Liquidating Trust, has exclusive possession of M&O’s business records. Without waiving its right to object, Complaint Counsel will subpoena Ms. Teicher pursuant to her representations that she will not respond to Complaint Counsel’s discovery requests, nor participate in this proceeding as Trustee for M&O’s Liquidating Trust.

the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-801–18-806; and each person who Respondents name as expert witnesses.

The rules permit depositions of parties, “including the agents, employees, consultants, or prospective witnesses of that party,” upon leave of the Presiding Officer. 16 C.F.R. § 1025.35(a). The rules also state that such depositions may be considered by the Presiding Officer in deciding motions for a Summary Decision. *See* 16 C.F.R. § 1025.25(c). Leave to take depositions should be granted for good cause, but may be denied “to prevent dilatory tactics, as well as harassment or abuse.” 45 Fed. Reg. 29206, 29212-13 (May 1, 1980).

Here, Complaint Counsel is timely seeking leave to take depositions of individuals who are central to the disposition of the matter in this proceeding. Craig Zucker, Shihan Qu, and Daniel Peykar are all founders and Managing Members of their respective companies and are most knowledgeable of all matters relating to the Amended Complaint filed in this proceeding. Mr. Bronstein was a co-founder and at one point, a co-managing member of M&O. Thus the depositions of Mr. Zucker, Mr. Bronstein, Mr. Qu and Mr. Peykar are necessary and appropriate under the rules. Ms. Teicher’s deposition is also necessary and appropriate under the rules, given her position as Trustee of M&O’s Liquidating Trust. M&O’s Liquidating Trust was established on December 21, 2012, after M&O elected to dissolve in accordance with the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-801–18-806.

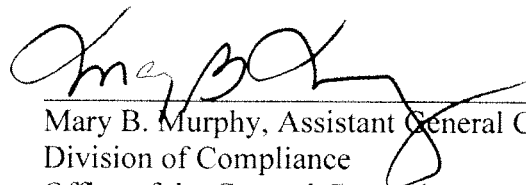
On August 8, 2013, Complaint Counsel served a Request for Production of Documents on Respondent Craig Zucker. In a Response filed on September 9, 2013, Counsel for Mr. Zucker declined to produce the records and represented that the records sought in the Request for Production were no longer in Mr. Zucker’s possession but had been transferred to Ms. Teicher, the Trustee of the Liquidating Trust. On September 11, 2013, Ms. Teicher, in her capacity as

Trustee, confirmed with Complaint Counsel that she had, acquired possession, custody, and control of M&O's business records, including Quickbook files and a Google account containing all documents and e-mail communications of M&O, its former officers, agents, employees, and representatives. These business records contain information regarding Buckyballs® and Buckycubes,™ the Subject Products in the above-captioned administrative proceeding.

Ms. Teicher has advised Complaint Counsel that the files constitute all of M&O's records and that she has been provided access codes for the Google account and the Quickbook files.

Ms. Teicher has refused to produce the documents voluntarily to Complaint Counsel on behalf of M&O or M&O's Liquidating Trust. Instead, Ms. Teicher has requested that Complaint Counsel issue a subpoena to compel production of the requested documents. Accordingly, Complaint Counsel has made an application for issuance of a subpoena and in addition, herein requests leave to serve a deposition notice on Ms. Teicher. Because the Presiding Officer may also decide the issues in this case based on the opinions of any experts named by the Respondents, Complaint Counsel also seeks leave to depose Respondents' expert witnesses once they are identified by Respondents.

Complaint Counsel seeks leave to take depositions to develop evidence directly pertinent to the issues before this Court. Complaint Counsel respectfully requests that the motion be granted.



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STAR NETWORKS USA, LLC)	
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Respondents.)	

ORDER

This matter having come before the Court on Complaint Counsel’s Motion for Leave to Take Depositions, and upon consideration of the Motion and any other pleadings of record, it is by this Court, this ____ day of _____ 2013,

ORDERED that Complaint Counsel’s Motion for Leave to Take Depositions upon oral examination of Craig Zucker, Co-Founder, Co-Managing Member and later Managing Member of Maxfield & Oberton Holdings, LCC (M&O); Jake Bronstein, Co-Founder and Co-Managing Member of M&O; Shihan Qu, Founder and Owner of Zen Magnets, LLC; Daniel Peykar, Founder and Member/Manager of Star Networks, LLC; Julie Teicher, Esq., Trustee of

M&O's Liquidating Trust; and each person who Respondents name as expert witnesses is
GRANTED.

The Honorable Dean C. Metry
Presiding Officer

CERTIFICATE OF SERVICE

I hereby certify that I served Complaint Counsel's Motion for Leave to Take Depositions, Memorandum in Support of Complaint Counsel's Motion for Leave to Take Depositions, and Order upon the following parties in these proceedings by emailing a copy to each on this 12th day of December, 2013.

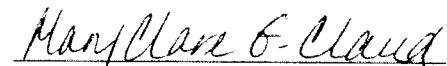
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