

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

TO: Ms. Julie Beth Teicher
 Trustee of MOH Liquidating Trust
 Erman, Teicher, Miller, Zucker &
 Freedman, P.C.
 400 Galleria Officentre, Suite 444
 Southfield, MI 48034

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. Based upon your representations and those of counsel for Respondent Craig Zucker, staff believes that you, as the trustee of the MOH Liquidating Trust, to whom Maxfield and Oberton Holdings, LLC (M&O), entrusted business records after filing a Certificate of Cancellation on December 27, 2012, 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 708-A, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7808.

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 C. Argabright, Trial Attorney, U.S. Consumer Product Safety Commission, Office of the General Counsel, Division of Compliance, Suite 710-F, 4330 East West Highway, Bethesda, MD 20814. Direct any questions you have concerning the Subpoena to Jennifer C. Argabright (Tel: 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. “Trust Agreement” means the Liquidating Trust Agreement entered into on December 21, 2012, between M&O and Julie Beth Teicher and attached hereto as Exhibit A.

3. “MOH Trust” means the liquidating trust that was established pursuant to the Trust Agreement.

4. “Craig Zucker” means Craig Zucker, chief executive officer, managing member of M&O, and signatory to the Trust Agreement.

5. “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.

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

7. “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.

8. "Google files" shall mean any files and/or documents provided to you by M&O, its agents or representatives, subsequent to establishment of the MOH Trust on December 21, 2012, including, but not limited to, Gmail accounts of any and all former owners, managers, and employees of M&O, as well as documents or any other materials contained in the Google file account made available to you as Trustee.

9. “Quickbook files” shall mean any files and/or documents provided to you by M&O, its agents or representatives, after establishment of the MOH Trust on December 21, 2012, which contain the bookkeeping files of M&O, its former managers, officer, or employees.

10. “Communication(s)” shall mean any transfer of information, ideas, opinions, or thoughts by any means, at any time or place, under any circumstances, including, but not limited to, any transfer of information or data in a document, or from one location to another, by electrical, electronic, digital, or other means.

11. “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 this application is made, 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 ten (10) days after issuance of this 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 M&O business records provided to you that relate to the Subject Products and that were provided pursuant to the Trust Agreement, including

without limitation, all Google files and Quickbook files, including M&O's "electronically stored information," as that term is used in paragraph 9.3 of the Trust Agreement, together with all passwords, source codes, and other information that will allow access to such "electronically stored information."

- 2) Any and all communications and documents provided by Craig Zucker to you that relate to the Subject Products, including, without limitation, all "electronically stored information" as that term is used in the Trust Agreement, together with all passwords, source codes, and other information that will allow access to such "electronically stored information."
- 3) Any and all communications and documents relating to the Subject Products provided by any manager, employee, agent or representative of M&O, including, but not limited to, Reid Synenberg, head of operations for M&O from approximately May 2011 to December 2012, to MOH Trust.
- 4) All user names, passwords, source codes, or other information that will allow access to getbuckyballs.com Google account.
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- 6) All user names, passwords, source codes, or other information that will allow access to any information relating to the Subject Products stored by a cloud-based service provider on behalf of Craig Zucker or M&O, its agents or representatives.

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.

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

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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Todd A. Stevenson
Secretary
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TRIPPLICATE

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7. “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.

8. "Google files" shall mean any files and/or documents provided to you by M&O, its agents or representatives, subsequent to establishment of the MOH Trust on December 21, 2012, including, but not limited to, Gmail accounts of any and all former owners, managers, and employees of M&O, as well as documents or any other materials contained in the Google file account made available to you as Trustee.

9. “Quickbook files” shall mean any files and/or documents provided to you by M&O, its agents or representatives, after establishment of the MOH Trust on December 21, 2012, which contain the bookkeeping files of M&O, its former managers, officer, or employees.

10. “Communication(s)” shall mean any transfer of information, ideas, opinions, or thoughts by any means, at any time or place, under any circumstances, including, but not limited to, any transfer of information or data in a document, or from one location to another, by electrical, electronic, digital, or other means.

11. “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 this application is made, 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 ten (10) days after issuance of this 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 M&O business records provided to you that relate to the Subject Products and that were provided pursuant to the Trust Agreement, including

without limitation, all Google files and Quickbook files, including M&O's "electronically stored information," as that term is used in paragraph 9.3 of the Trust Agreement, together with all passwords, source codes, and other information that will allow access to such "electronically stored information."

- 2) Any and all communications and documents provided by Craig Zucker to you that relate to the Subject Products, including, without limitation, all "electronically stored information" as that term is used in the Trust Agreement, together with all passwords, source codes, and other information that will allow access to such "electronically stored information."
- 3) Any and all communications and documents relating to the Subject Products provided by any manager, employee, agent or representative of M&O, including, but not limited to, Reid Synenberg, head of operations for M&O from approximately May 2011 to December 2012, to MOH Trust.
- 4) All user names, passwords, source codes, or other information that will allow access to getbuckyballs.com Google account.
- 5) All user names, passwords, source codes, or other information that will allow access to M&O Quickbook files.
- 6) All user names, passwords, source codes, or other information that will allow access to any information relating to the Subject Products stored by a cloud-based service provider on behalf of Craig Zucker or M&O, its agents or representatives.

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.

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