U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY

BETHESDA, MD 20814

Office of Compliance and Field Operations
Defect Investigations Division
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Joseph F. Williams
Compliance Officer
Tel: 301-504-7585
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Certified Mail/Email

Zen Magnets LLC
PO BOX 1744
Boulder, CO 80306

Re: CPSC File No. CA120106
Zen Magnets, LLC
Aggregated masses of small, powerful, individual magnets

Dear Mr. Qu:

The staff of the Office of Compliance and Field Operations of the U.S. Consumer Product Safety Commission ("Commission") has reviewed the available information concerning the above-referenced case.

After careful consideration and in accordance with 16 C.F.R. § 1115.12(a), the Office of Compliance and Field Operations staff has made a preliminary determination that aggregated masses of small, powerful, individual magnets ("Subject Products") which are manufactured/imported, distributed, and retailed by Zen Magnets, LLC ("Firm"), present a substantial product hazard under section 15(a) of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2064(a). Swallowing one or more small powerful magnets will likely require medical intervention to monitor the magnets' progress, and may cause serious gastrointestinal ("GI") injuries requiring surgical intervention to remove the magnets when the magnetic forces of the magnets attract, trapping and pinching GI tract tissue.

Voluntary Corrective Actions

The staff requests that the firm take voluntary action to notify consumers and to recall the subject products that are in the chain of distribution and in the possession of consumers. If the firm agrees to take voluntary corrective action, please submit a written corrective action plan describing the actions. Section 1115.20(a) of the regulations on Substantial Product Hazard Reports, 16 C.F.R. § 1115.20(a), outlines the elements of an appropriate corrective action plan. The staff will review the firm's plan promptly and discuss with it any suggestions it has or additional measures it believes Zen Magnets should take.

In this case, the staff recommends that Zen Magnets take the following corrective actions:

- Immediately stop the manufacture, importation, distribution, and sale of the affected products and provide stop sale notice to the distribution chain, including all retailers
- Direct recall notice to identified purchasers
- Joint press release announcing a recall
- Recall posters at retail locations
- Recall notice posted on the firm's Web site
- Video news release announcing a recall in broadcast form
- Targeted recall notice to specialty organizations, associations and media
- Submit a proposed remedy to be approved by the Commission staff (refund)
- Provide a step-by-step plan for reverse logistics including any 3rd party firms that will be handling the recalled product for destruction/repair/refurbishment

Compliance With Reporting Obligations

The staff will also investigate and assess whether it believes the firm has complied with the reporting requirements of section 15(b) of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2064(b). That section requires every manufacturer, importer, distributor, and retailer of a consumer product, or of any other product or substance over which the Commission has jurisdiction under any other statute enforced by the Commission, who obtains information which reasonably supports the conclusion that the product (1) contains a defect which could create a substantial product hazard, (2) creates an unreasonable risk of serious injury or death, (3) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA, 15 U.S.C. § 2058, or (4) fails to comply with any other rule, regulation, standard, or ban under the CPSA or any other statute enforced by the Commission, to immediately inform the Commission of the defect, risk, or failure to comply, unless the firm has actual knowledge that the Commission has been adequately informed of the defect, risk, or failure to comply. See 16 C.F.R. Part 1115. The CPSA makes it a prohibited act to violate the reporting requirements. Firms may be liable for a civil penalty of $100,000 for each violation involved up to a maximum of $15,000,000 for any

related series of violations. The maximum penalty increased to $15.15 million after January 1, 2012. Sections 15(b), 19(a)(4), 20, and 21 of the CPSA, 15 U.S.C. §§ 2064(b), 2068(a)(4), 2069, and 2070, describe the duties of manufacturers, importers, distributors, and retailers to furnish information to the Commission and the penalties for failing to furnish such information.

Continuing Obligations

The staff requests that the firm continue to implement its corrective action plan until as many Subject Products as possible have been removed from the marketplace. Please continue to maintain your toll-free recall number as a means for consumers to reach you about your recall. Should the firm decide to change or discontinue the toll-free number, you must notify the Office of Compliance and Field Operations and provide a new recall contact number for the firm. This information will be maintained by the Commission staff and provided to consumers and others seeking information on your recall.

If the firm receives or learns of any information concerning complaints, claims, incidents, or injuries that the firm did not report, or other information affecting the scope, prevalence, or seriousness of the reported problem, issue, or potential defect or hazard, the firm must immediately report that information to the Office of Compliance and Field Operations. Additionally, if the firm receives information that might indicate that its corrective actions are not satisfactory in eliminating the risk of injury or the potential defect or hazard, or that the effectiveness of the corrective action plan was less than what had been reported, it must immediately report that information to the Office of Compliance and Field Operations. In addition, under section 19(a)(2)(B) of the CPSA, 15 U.S.C. § 2068(a)(2)(B), it is unlawful to sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States a product that it is covered by a manufacturer's corrective action plan created in consultation with, and publicized by, the Commission.

Until this matter and any related matters are resolved, there will remain the possibility of further enforcement action, including reasonably anticipated litigation. Therefore, the firm must abide by the continuing legal obligation to preserve all information, documents, records, and samples, now in existence or created hereafter, related to the Subject Product.

The staff welcomes and will give full consideration to any comments or additional information from the firm concerning the staff's preliminary determination. The staff will meet with the firm as necessary to discuss its comments and/or corrective action.

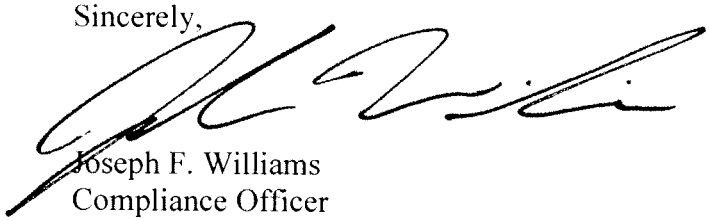
Due Date and Contact Information

The staff requests that the firm **respond in writing within 48 hours of the receipt of this letter** to confirm that (1) the Firm has stopped the manufacture, import, distribution, and sale of the Subject Products; and (2) the Firm has requested that its distributors and retailers immediately stop distribution and sale of the Subject Products; and provide a proposed corrective action plan **within 5 working days from receipt of this letter** for the staff's review. Please reference the file number stated above in your response and **send an electronic copy of all documents you are providing to the email address listed on the letterhead of this letter or by providing a CD with your response**.

The staff will make every effort to work closely and cooperatively with the firm to assure a successful corrective action plan which will protect the public while at the same time create a minimum of burden and inconvenience for the firm. If you have any questions or desire assistance in responding to this letter, you may contact me at 301-504-7585. Please address your correspondence to the following: Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, Room 613, 4330 East West Highway, Bethesda, MD 20814-4408. The Office of Compliance and Field Operations telefax number is (301) 504-0359.

Thank you for your cooperation.

Sincerely,



Joseph F. Williams
Compliance Officer
Defect Investigations Division

cc: T. Michael Lee, Compliance Officer, Regulatory Enforcement Division, CPSC