

LOG OF MEETING

DATE: August 3, 2010

LOCATION: CPSC, 4330 East West Highway, Bethesda, MD 20814

SUBJECT: ZAC Foundation meeting with Commissioner Adler and staff.

ATTENDEES: Karen Cohn, ZAC Foundation and Kenneth Nahigian, Nahigian Strategies on behalf of the ZAC Foundation

OBSERVERS: Carvin DiGiovanni, American Pool and Spa Professionals;
Sean Oberle, Product Safety Letter

CPSC ATTENDEES: Robert Adler, Commissioner
Jason K. Levine, Counsel to Commissioner Adler
Colin Justice, Legal Intern to Commissioner Adler

MEETING HIGHLIGHTS: The ZAC Foundation representatives requested to meet with Commissioner Adler to discuss the mission of the ZAC Foundation and various provisions of the Virginia Graeme Baker Pool and Spa Safety Act (VGBA).

Subsequent to the March and April votes to implement VGBA, Commissioner Adler received letters from Members of Congress and had a meeting with Representative Debbie Wasserman Schultz regarding his votes on the term “unblockable drain,” the model state legislation provision, and the Commission’s interpretation of the term “public accommodations.” With regard to the interpretation of the term “unblockable drain,” and whether an “unblockable drain cover” can constitute an “unblockable drain,” Commissioner Adler made a commitment to Rep. Wasserman Schultz to reconsider his vote on the interpretation of this term. Commissioner Adler has also met with representatives of the Pool Safety Council and the American Pool and Spa Professionals (APSP) to discuss these issues.

Mrs. Cohn’s son Zachary (aged 6) drowned in 2007 in an entrapment incident in the Cohn’s backyard pool. The pool was built in 2005 and did not meet

Connecticut's state code regarding pool safety. The ZAC Foundation, named after Zachary, has taken up as its mission to "set pioneering standards in the field of water safety," and to "improve pool safety for children." The Foundation undertakes this mission mainly through education programs.

The ZAC Foundation representatives discussed the issue of "unblockable drain" covers with the Commissioner and stated that based on his statement they understood his reasons, but they strongly disagreed with him regarding the intent of the law and felt that backup systems were necessary for safety reasons. Further, they noted that they would be willing to work for a change in the language of the law if that was necessary to achieve their goal of requiring backup systems for pools and spas.

Commissioner Adler thanked Mrs. Cohn and Mr. Nahigian for taking the time to meet with him and praised their work in this important safety field. He noted that while his March statement regarding the "unblockable drain" vote had referenced "cost" issues, such concerns were not the primary rationale for his decision, and that he was simply attempting to interpret the language provided by Congress to the best of his ability. He added that with respect to some other sections of the VGBA, he was urging the Commission on August 4th to take up and pass his amendment to redefine "public accommodations facility" under the Act to include all "places of lodging," be they B&B's or frequently rented vacation homes. Further, he noted that he would be introducing a motion to amend the model state legislation under the VGBA to more accurately reflect Congress' written intent to require both a drain cover and a backup system for pools with only a single main drain. The ZAC Foundation representatives noted that they were working on either urging states to pass the CPSC's model state legislation or creating their own so that laws at the state level could improve pool safety for all children.

The Foundation representatives also noted they would be holding pool safety education events around the country and hoped that the Commission (or the Commissioner specifically) would consider attending an

event. Additionally, the representatives noted that they will be looking into whether the Foundation can receive a grant from the Commission to conduct pool safety education programs to raise awareness about this important issue.

Upon being asked, the APSP representative said that APSP was supportive of pools without drains at all. He also noted that the pool industry (through APSP) was looking into improving drain cover standards because when drain covers come off swimmers need to be protected.

LOG AUTHOR: Jason Levine

LOG SUBMISSION DATE: August 5, 2010