

Feds delay action on other toy; kids burned

1. By Patricia Callahan | Tribune staff reporter

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The government's failure to police Rose Art's troubled Magnetix toys was not an isolated case of dithering.

Long before Magnetix were launched, a Philadelphia attorney urged the U.S. Consumer Product Safety Commission to recall a different Rose Art Industries product—a soapmaking kit that was landing children in hospital burn units.

Rose Art knew the children had been burned when the kit's plastic scoops melted and hot soap poured out, attorney Joel Albert told the agency in 1999. Albert asserted that the company did nothing to fix the product and didn't notify the CPSC of the injuries. One of the attorney's clients reported his child's burn injuries that same year.

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[Rose Art's Soap Making Kit Photo](#)

[Attorney Joel Albert Photo](#)

[But CPSC investigators did not contact Albert or the parents of the injured children for years.](#)

[In October 2000, Albert fumed as he watched Alan Schoem, then the CPSC's top cop, vow to a room full of attorneys that the agency planned to crack down on companies that fail to report defects and injuries linked to their products, especially those intended for children.](#)

["I went up to him at a break saying, 'I'm beating my head against a wall sending you guys information about this stupid product that's hurting children and shouldn't be on the market," Albert recalled. "He said, 'Send me a letter.'"](#)

[Albert did. He outlined the injuries of seven children and included parents' letters to Rose Art describing the burns. The most striking item in the packet: a photo of a child's hand disfigured by third-degree burns. The 8-year-old girl's injuries were so painful that "she was hysterical on the floor" of the emergency room, "screaming, begging for God to help her," her mother testified in a deposition.](#)

Doctors had to put the girl in a straitjacket so they could treat the blisters on her palm.

Recommended for children ages 8 and up, the soapmaking kit called for kids to put pieces of glycerin soap in a plastic scoop, microwave them on "half power" and pour the melted soap into decorative molds.

The scoop, designed to measure and pour liquids and powders, was never meant to be microwaved or heated in any way, the chief executive of the company that supplied the scoops to Rose Art said under oath.

In many instances melted scoops allowed hot soap to leak through the sides and bottom onto children's hands and legs. Some kids and parents, who didn't understand what "half power" meant, heated the soap on full power. Microwaves vary in size and power, so half-power on one oven may be stronger than that setting on another.

Some of the victims were burned even as their parents supervised the activity.

A British consultant hired by Rose Art had suggested the company change the recommended age to children 12 and older and rewrite the instructions to say that all microwaving should be handled solely by adults—advice the company declined to follow, according to internal Rose Art documents.

The soap-kit box assured parents: "Safety tested—Formulated for children."

The kit's designer at Rose Art explained in sworn testimony that "Safety tested" meant that the soap itself was safe for use on skin. She said she had tested the kit by microwaving the soap in the company cafeteria and in a photo studio while a colleague tried it at home.

To Albert, the evidence was damning. After each child was burned, he said, the company had a chance to recall the product and replace the scoops with ones that wouldn't melt. Instead, Rose Art employees forwarded the claims to the company's insurance broker and didn't change anything, according to depositions from Rose Art employees and internal company documents.

Albert was hopeful the CPSC would issue a swift recall after Schoem received his letter. But another 1½ years passed before the agency announced a recall of the soap kit.

Between the time Albert's packet arrived on Schoem's desk in October 2000 and the March 2002 recall, two more children suffered serious injuries requiring treatment in hospital burn units.

Ultimately, the agency made good on Schoem's promise to penalize companies that don't report injuries promptly. But it came five years after Albert had reported nearly all of

those injuries: In April 2005, Rose Art agreed to pay a \$300,000 civil penalty after the CPSC accused it of knowingly withholding details about the burn injuries.

Although Rose Art agreed to pay the penalty, the company said the injuries were the result of inadequate adult supervision and product misuse. Through their attorney, the brothers who owned and ran the company at the time of the injuries declined to comment about the soapmaking kit.

Schoem, who left the CPSC to become a consultant for consumer-product companies in 2004, says he does not recall having the conversation with Albert but doesn't dispute his account.

"I won't give excuses as to why it might have taken so long" to recall the soapmaking kit, Schoem said. "It's never fast enough, especially if you're the parent of a child that's been injured."

In any case, the CPSC later would have a hard time documenting its investigation of the soap kit. The agency answered a Tribune request for its investigative records with this response: "The file is lost."

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