

ENDORSED
FILED
SAN FRANCISCO COUNTY
SUPERIOR COURT
2008 FEB 14 PM 3:32
GORDON PARK - LI. CLERK
BY: D. STEPPE
DEPUTY CLERK

1 WILLIAM VERICK, CSB #140972
2 Klamath Environmental Law Center
3 FREDRIC EVENSON, CSB #198059
4 Law Offices of Fredric Evenson
5 424 First Street
6 Eureka, CA 95501
7 Telephone: (707) 268-8900
8 Facsimile: (707) 268-8901
9 wverick@igc.org
10 ecorights@earthlink.org

11 DAVID H. WILLIAMS, CSB #144479
12 BRIAN ACREE, CSB #202505
13 370 Grand Avenue, Suite 5
14 Oakland, CA 94610
15 Telephone: (510) 271-0826
16 Facsimile: (510) 271-0829
17 davidhwilliams@earthlink.net
18 brianacree@earthlink.net

19 Attorneys for Plaintiff,
20 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

CASE MANAGEMENT CONFERENCE SET

JUL 18 2008 -9⁰⁰AM

DEPARTMENT 212

CGC-08-472189

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO
(Unlimited Jurisdiction)

21 MATEEL ENVIRONMENTAL
22 JUSTICE FOUNDATION,

CASE NO. CGC-08-472189

23 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

24 v.

25 DUALIT LTD; CMA SPA; GRUPPO
26 CIMBALI SPA; COSTCO WHOLESALE
CORPORATION; J.C. PENNEY
CORPORATION INC.; LIFETIME
BRANDS, INC.; LINENS 'N THINGS, INC;
RANCILIO MACCHINE PER CAFFE SPA;
RANCILIO NORTH AMERICA, INC.;
SAECO INTERNATIONAL GROUP SPA;
SAECO USA, INC.; SALTON, INC.;
SEARS, ROEBUCK AND CO; TARGET
CORPORATION; WAL-MART STORES,
INC.; WILLIAMS-SONOMA, INC.

TOXIC TORT/ENVIRONMENTAL

27 Defendants.

1 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

2 INTRODUCTION

3 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
4 failure of defendants DUALIT LTD; CMA SPA; GRUPPO CIMBALI SPA; COSTCO
5 WHOLESALE CORPORATION; J.C. PENNEY CORPORATION INC.; LIFETIME BRANDS,
6 INC.; LINENS 'N THINGS, INC; RANCILIO MACCHINE PER CAFFE SPA; RANCILIO
7 NORTH AMERICA, INC.; SAECO INTERNATIONAL GROUP SPA; SAECO USA, INC.;
8 SALTON, INC.; SEARS, ROEBUCK AND CO; TARGET CORPORATION; WAL-MART
9 STORES, INC.; and WILLIAMS-SONOMA, INC. (hereinafter "Defendants"), to give clear and
10 reasonable warnings to those residents of California who handle, use, and drink beverages made
11 in, espresso machines that utilize leaded brass components (hereinafter referred to as "espresso
12 machines"), that handling and use of these espresso machines causes those residents to be
13 exposed to lead and lead compounds, lead acetate, lead phosphate, and lead subacetate
14 (hereinafter, collectively, "lead"). The types of products to which this Complaint pertains are
15 those types listed in the Product List appended to the Proposition 65 60-Day Notice Letters that
16 are attached to and incorporated by reference into this Complaint. Lead is known to the State of
17 California to cause cancer, birth defects and male and female reproductive toxicity. Defendants
18 distribute, and/or market espresso machines. These products cause exposures to lead and lead
19 compounds, which are chemicals known to the State of California to cause cancer, birth defects
20 and other reproductive harm.

21 2. Defendants market, and/or distribute espresso machines. Defendants intend that
22 residents of California handle, use and drink beverages made using the espresso machines that
23 Defendants market, and/or distribute. When these products are handled and used in their
24 normally intended manner and when people drink beverages made from water that has been
25 heated in them, these espresso machines expose people to lead. In spite of knowing that residents
26 of California were and are being exposed to these chemicals when they handle, use and drink
27 beverages made using espresso machines, Defendants did not and do not provide clear and
28 reasonable warnings that these products cause exposure to chemicals known to cause cancer,
birth defects and other reproductive harm.

1 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference are copies of
2 60-day Notice letters, dated October 17, 2007 and November 11, 2007, which Mateel sent to
3 California's Attorney General. Substantively identical letters were sent to the District Attorney
4 for each of California's 58 counties, and to the City Attorneys of each California city that has a
5 population greater than 750,000. Substantively identical letters were sent to the each Defendant.
6 Attached to the 60-Day Notice Letters sent to the Defendants was a summary of Proposition 65
7 that was prepared by California's Office of Environmental Health Hazard Assessment. In
8 addition, each 60-Day Notice Letter plaintiff sent to all of the above-referenced entities was
9 accompanied by a Certificate of Service attesting to the service of the 60-Day Notice Letter on
10 each entity which received it. Pursuant to California Health & Safety Code Section 25249.7(d).
11 A Certificate of Merit attesting to the reasonable and meritorious basis for the action was also
12 sent with each 60-Day Notice Letter. Factual information sufficient to establish the basis of the
13 Certificate of Merit was enclosed with the 60-Day Notice letters that Mateel sent to the Attorney
14 General.

15 8. Each Defendant has more than ten people who work for it.

16 JURISDICTION

17 9. The Court has jurisdiction over this action pursuant to California Health & Safety
18 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court
19 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter
20 6.6 of the Health & Safety Code, which contains the statutes under which this action is brought,
21 does not grant jurisdiction to any other trial court.

22 10. This Court also has jurisdiction over each Defendant because each is a business
23 that has sufficient minimum contacts in California and within the City and County of San
24 Francisco. Defendants intentionally availed themselves of the California and San Francisco
25 County markets for espresso machines. It is thus consistent with traditional notions of fair play
26 and substantial justice for the San Francisco Superior Court to exercise jurisdiction over
27 Defendants.

28 11. Venue is proper in this Court because each Defendant markets its products in and

1 around San Francisco and thus causes people to be exposed to lead and lead compounds while
2 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or
3 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this
4 Complaint and Plaintiff seeks civil penalties imposed by statute.

5 FIRST CAUSE OF ACTION
6 (Claim for Injunctive Relief)

7 12. Plaintiff realleges and incorporates by reference into this First Cause of Action, as
8 if specifically set forth herein, paragraphs 1 through 11, inclusive.

9 13. The People of the State of California have declared by referendum under
10 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed
11 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

12 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
13 that businesses that knowingly and intentionally expose any individual to a chemical known to
14 the State of California to cause cancer or birth defects must first provide a clear and reasonable
15 warning to such individual prior to the exposure.

16 15. Since at least October 17, 2004 Defendants have engaged in conduct that violates
17 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
18 intentionally exposing to the above mentioned toxic chemicals, those California residents who
19 handle, use, or drink beverages made using, espresso machines. The normally intended use of
20 espresso machines causes exposure to lead and lead compounds, which are chemicals known to
21 the State of California to cause cancer, birth defects and other reproductive harm. No Defendant
22 has provided any clear and reasonable warnings, within the meaning of Health & Safety Code
23 Sections 25249.6 and 25249.11.

24 16. At all times relevant to this action, Defendants knew that the espresso machines
25 they distributed or marketed were causing exposures to lead and lead compounds. Defendants
26 intended that residents of California handle, use and drink beverages made using espresso
27 machines in such ways as would lead to significant exposures to these chemicals.

28 17. By the above described acts, Defendants have violated Cal. Health & Safety Code

1 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
2 65, to provide warnings to all present and future customers and to provide warnings to customers
3 who purchased Defendants' products in the past and who continue to be exposed to lead without
4 receiving a clear or reasonable warning.

5 SECOND CAUSE OF ACTION
6 (Claim for Civil Penalties)

7 18. Plaintiff realleges and incorporates by reference into this Second Cause of Action,
8 as if specifically set forth herein, paragraphs 1 through 17, inclusive.

9 19. By the above described acts, each Defendant is liable and should be liable
10 pursuant to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
11 individual exposed without proper warning to lead and lead compounds from the handling, use
12 of, or the drinking of beverages made using Defendants' espresso machines.

13
14 PRAYER FOR RELIEF

15 Wherefore, plaintiff prays for judgment against Defendants, as follows:

16 1. Pursuant to the First Cause of Action, that Defendants be enjoined, restrained,
17 and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
18 Code;

19 2. Pursuant to the Second Cause of Action, that Defendants be assessed a civil
20 penalty in an amount equal to \$2,500.00 per day per individual exposed in violation of Section
21 25249.6 of the California Health & Safety Code to lead and lead compounds as the result of
22 Defendants' distributing or marketing of espresso machines;

23 3. That Defendants be ordered to identify and locate each individual who purchased
24 espresso machines and provide a warning to each such person that the espresso machines the
25 person purchased will expose that person to chemicals known to cause birth defects.

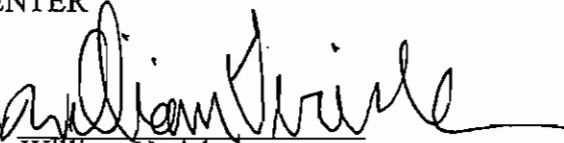
26 4. That, pursuant to Civil Procedure Code § 1021.5, Defendants be ordered to pay to
27 Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.
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5. For such other relief as this court deems just and proper.

Dated: February 7, 2008

KLAMATH ENVIRONMENTAL LAW
CENTER

By 

William Verick
Attorney for Plaintiff
Mateel Environmental Justice Foundation



Klamath

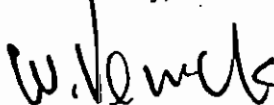
November 7, 2007

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that Salton, Inc. has been, is, will be and threatens to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations occur when California residents come into contact with leaded brass components (brass group heads, boilers, tubes, fittings, steam wands and porta filters, collectively hereinafter "leaded brass plumbing") in espresso and coffee machines ("espresso machines") and when they drink beverages, the water for which has flowed through the leaded brass plumbing in these machines. A specific example of the products at issue is FARBERWARE MILLENIUM ESPRESSO MAKER W/ 15 BAR PUMP #FES15B This product description pertains not only to the specific model of the product listed, but also for all units of all models of espresso machines. The leaded brass plumbing through which water flows in these espresso machines is made from leaded brass, which contains lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead whenever they handle the leaded brass plumbing in these machines, such as when adjusting, maintaining or repairing the machines, or when drinking beverages (such as coffee drinks or tea) that are made from water that has flowed through the leaded brass plumbing. Lead is transferred from the brass to peoples' hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. Lead also leaches from the leaded brass plumbing into the water that flows through this plumbing and is then made into drinks that are drunk. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. Salton, Inc. did not and does not provide people with clear and reasonable warnings before it exposes them to lead. These violations have occurred every day since at least November 7, 2004, and will continue every day until the lead is removed from the brass plumbing in these machines, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any espresso machine made outside of California, except as to workplaces Salton, Inc. itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Salton, Inc.'s property and in each of California's 58 counties.

Cordially,



William Verick

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
380 9th Street, 10th Floor
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
151 W. MISSION ST.
SAN JOSE, CA 95110

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET STREET
COLUSA, CA 95932

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
204 SOUTH COURT STREET
ALTURAS, CA 96101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
401 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
520 MAIN STREET #404
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501.

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
901 G STREET
SACRAMENTO, CA 95814

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
330 W. BROADWAY
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNIEVILLE, CA 95936

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
800 SOUTH VICTORIA AVE
VENTURA, CA 93009

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

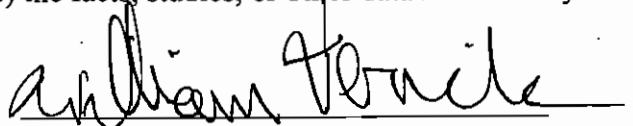
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

WILLIAM M. LUTZ, CEO
SALTON, INC.
1935 FIELD COURT
LAKE FOREST, IL 60045

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: November 7, 2007

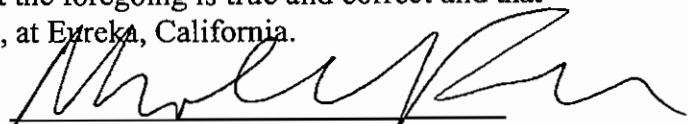

William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On November 7, 2007, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on November 7, 2007, at Eureka, California.


Nicole Frank



Klamath

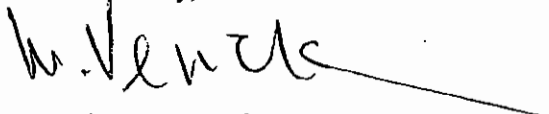
October 17, 2007

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private businesses on the attached service list have been, are, will be and threaten to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations occur when California residents come into contact with leaded brass components (brass group heads, boilers, tubes, fittings, steam wands and porta filters, collectively hereinafter "leaded brass plumbing") in espresso and coffee machines ("espresso machines") and when they drink beverages, the water for which has flowed through the leaded brass plumbing in these machines. A list of specific examples of the specific types of products at issue is attached. The leaded brass plumbing through which water flows in these espresso machines is made from leaded brass, which contains lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead whenever they handle the leaded brass plumbing in these machines, such as when adjusting, maintaining or repairing the machines, or when drinking beverages (such as coffee drinks or tea) that are made from water that has flowed through the leaded brass plumbing. Lead is transferred from the brass to peoples' hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. Lead also leaches from the leaded brass plumbing into the water that flows through this plumbing and is then made into drinks that are drunk. These lead exposures thus occur via the dermal absorption, subcutaneous, mucus membrane, ingestion and inhalation routes. The listed businesses did not and do not provide people with clear and reasonable warnings before they expose them to lead. These violations have occurred every day since at least October 17, 2004, and will continue every day until the lead is removed from the brass plumbing in these machines, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any espresso machine made outside of California, except as to workplaces these companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the private businesses' property and in each of California's 58 counties.

Cordially,



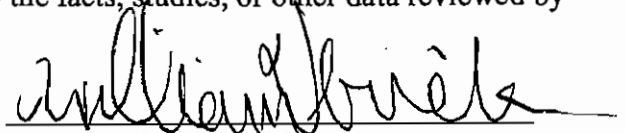
William Verick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: October 17, 2007

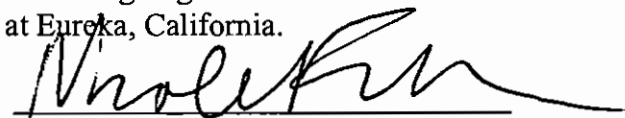

William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On October 17, 2007, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 17, 2007, at Eureka, California.


Nicole Frank

PRODUCTS LIST

COSTCO WHOLESALE CORPORATION

PRIMA ESPRESSO MAKER V41006; GAGGIA BABY D MODEL# 11300 S/N# 1106205434 12/06; FARBERWARE MILLENIUM ESPRESSO MAKER W/ 15 BAR PUMP #FES15B; SAECO AROMA This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

CMA SpA

EURO 2000 JUNIOR RANCILIO S 26 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass espresso machines.

DUALIT LTD

DUALIT ESPRESSO US CHROME MODEL# 84024 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass espresso machines.

GRUPPO CIMBALI SpA

LA CIMBALI ESPRESSO DOMUS TRONIC BLACK #893756 This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass espresso machines.

J. C. PENNEY CORPORATION, INC

SAECO STAINLESS STEEL AROMA INOX PUMP ESPRESSO MACHINE This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass espresso machines.

LIFETIME BRANDS, INC.

FARBERWARE MILLENIUM ESPRESSO MAKER W/ 15 BAR PUMP #FES15B This product description pertains not only to the specific model of the product listed, but also for all units of all models of brass espresso machines.

LINENS 'N THINGS, INC.

DUALIT ESPRESSO US MODEL 84024 S/N# 0410; ESPRESSIONE CAFE RETRO MODEL # 1385 ESPRESSO MACHINE This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

RANCILIO MACCHINE PER CAFFE SpA / RANCILIO NORTH AMERICA, INC.

RANCILIO S 26; RANCILIO SYLVIA This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

SAECO INTERNATIONAL GROUP SpA / SAECO USA, INC

SAECO STAINLESS STEEL AROMA INOX PUMP ESPRESSO MACHINE; GAGGIA BABY GAGGIA D MODEL #11300; SAECO AROMA This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

SEARS, ROEBUCK AND CO.

ESPRESSIONE CAFE RETRO MODEL # 1385 ESPRESSO MACHINE; BRIEL DOMUS DUE #ES161AMB-TB This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

TARGET CORPORATION

SAECO AROMA; ESPRESSIONE CAFE RETRO MODEL #1385 ESPRESSO MACHINE This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

WAL-MART STORES, INC.

SAECO STAINLESS STEEL AROMA INOX PUMP ESPRESSO MACHINE; DUALIT ESPRESSO US CHROME MODEL# 84024 This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

WILLIAMS-SONOMA, INC.

ELEKTRA CASA SEMI AUTOMATICA CHROME; PAVONI 8CUP CHROME EUROPICOLA This product description pertains not only to the specific models of the products listed, but also for all units of all models of brass espresso machines.

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
980 9th Street, 10th Floor
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
151 W. MISSION ST.
SAN JOSE, CA 95110

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET STREET
COLUSA, CA 95932

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
204 SOUTH COURT STREET
ALTURAS, CA 96101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
401 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
520 MAIN STREET #404
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
901 G STREET
SACRAMENTO, CA 95814

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
330 W. BROADWAY
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNTONVILLE, CA 95936

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
800 SOUTH VICTORIA AVE
VENTURA, CA 93009

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

NELLO DAL TIO, CEO
CMA S.p.A
VILLA DEL COLLI 66
31058 SUSEGANA
ITALY

NELLO DAL TIO, CEO
C.M.A. S.p. A.
VIA CONDOTTI BARDINI,
I- 31058 SUSEGANA (TREVISO)
ITALY

JAMES D SINEGAL, CEO
COSTCO WHOLESALE CORPORATION
999 LAKE DR
ISSAQUAH, WA 98027

PRESIDENT OR CEO
DUALIT LTD
COUTY OAK WAY
CRAWLEY
WEST SUSSEX
RH11 7ST

ENRICO ROGNONI,
MANAGING DIRECTOR
GRUPPO CIBALI SpA
VIA A. MANZONI, 17
20082 BINASCO (MI) ITALY

M.E. ULLMAN III, CEO
J. C. PENNEY CORPORATION, INC.
6501 LEGACY DR
PLANO, TX 75024

JEFFREY SIEGEL, CEO
LIFETIME BRANDS, INC.
1 MERRICK AVE
WESTBURY, NY 11590

JEFFREY SIEGEL, CEO
LIFETIME BRANDS, INC.
1000 STEWART AVENUE
GARDEN CITY, NY 11530

ROBERT J DINICOLA, CEO
LINENS 'N THINGS, INC.
6 BRIGHTON RD
CLIFTON, NJ 07015

GIORGIO RANCILIO, PRESIDENT
RANCILIO NORTH AMERICA INC.
8102 S. LEMONT RD # 1200
WOODRIDGE, IL 60517

GEORGIO RANCILIO, PRESIDENT
RANCILIO MACCHINE PER CAFFE SpA
20010 VILLASTANZA DI PARABIAGO
MILANO ITALY

GIORGIO RANCILIO, PRESIDENT
RANCILIO MACCHINE PER CAFFE SPA
VLE DELLA REPUBBLICA 40
20015 FRAZ. VILLASTANZA PARABIAGO
ITALY

PRESIDENT OR CEO
SAECO USA, INC.
7905 COCHRAN ROAD
GLENWILLOW, OH 44139

PRESIDENT OR CEO
SAECO INTERNATIONAL
GROUP S.p.A.
VIA TORETTA 240
40041 GAGGIO MONTANO (BO)
ITALY

AYLWIN B LEWIS, CEO
SEARS, ROEBUCK AND CO.
3333 BEVERLY ROAD, B2-130B
HOFFMAN ESTATES, IL 60179

ROBERT J ULRICH, CEO
TARGET CORPORATION
1000 NICOLLET MALL TPN-0945
MINNEAPOLIS, MN 55403

H. LEE SCOTT, JR., CEO
WAL-MART STORES, INC.
702 SW 8TH STREET
BENTONVILLE, AR 72716

EDWARD A MUELLER, CEO
HOWARD LESTER, CEO
WILLIAMS-SONOMA, INC
3250 VAN NESS AVE
SAN FRANCISCO, CA 94109