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8 Attorneys for Plaintiff,
9 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12 (Unlimited Jurisdiction)

13 MATEEL ENVIRONMENTAL
14 JUSTICE FOUNDATION,

CASE NO. CGC-09-486680

15 Plaintiff,

FIRST AMENDED
COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

16 v.

17 SAFEWAY, INC.; and BEN MYERSON
18 CANDY CO., INC.,

TOXIC TORT/ENVIRONMENTAL

19 Defendants.
/

20 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

21 INTRODUCTION

22 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
23 failure of defendants SAFEWAY, INC.; and BEN MYERSON CANDY CO., INC., (hereinafter
24 "Defendants"), to give clear and reasonable warnings to those residents of California, who handle
25 and use, and drink beverages stored or contained in leaded crystal glassware such as leaded
26 crystal wine glasses, highball glasses, decanters, carafes, and juice glasses (hereinafter referred to
27 as "leaded crystal"), that handling and use of and drinking from, or eating food served from,
28

ENDORSED
FILED
Superior Court of California
County of San Francisco

SEP 07 2010

CLERK OF THE COURT
BY: WESLEY RAMIREZ
Deputy Clerk

1 leaded crystal causes those residents to be exposed to lead and lead compounds, lead acetate, lead
2 phosphate, and lead subacetate (hereinafter, collectively, "lead"). The types of products to which
3 this Complaint pertains are those types listed in the Product List appended to the Proposition 65
4 Notice of Violation Letter that is attached to and incorporated by reference into this Complaint.
5 Lead is known to the State of California to cause cancer, birth defects and male and female
6 reproductive toxicity. Defendants distribute, and/or market leaded crystal. These products cause
7 exposures to lead and lead compounds, which are chemicals known to the State of California to
8 cause cancer, birth defects and other reproductive harm.

9 2. Defendants market, and/or distribute leaded crystal. Defendants intend that
10 residents of California handle, use and drink beverages stored or contained in, or served from,
11 the leaded crystal that Defendants market, and/or distribute. When these products are handled
12 and used in their normally intended manner and when people drink beverages that has been
13 stored in or contained in leaded crystal the leaded crystal exposes people to lead. In spite of
14 knowing that residents of California were and are being exposed to this toxic heavy metal when
15 they handle, use and drink beverages contained or stored in, or served from, leaded crystal,
16 Defendants did not and do not provide clear and reasonable warnings that these products cause
17 exposure to chemicals known to cause cancer, birth defects and other reproductive harm.

18 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
19 to compel Defendants to bring their business practices into compliance with section 25249.5 et
20 seq. by providing a clear and reasonable warning to each individual who has been and who in the
21 future may be exposed to the above mentioned toxic chemicals from the use of Defendants'
22 products. Plaintiff seeks an order that defendant identify and locate each individual person who
23 in the past has purchased leaded crystal and to provide to each such purchaser a clear and
24 reasonable warning that the leaded crystal will cause exposures to chemicals known to cause
25 birth defects.

26 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
27 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
28 to cause cancer, birth defects and other reproductive harm.

PARTIES

1
2 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION (“Mateel”)
3 is a non-profit organization dedicated to, among other causes, the protection of the environment,
4 promotion of human health, environmental education, and consumer rights. Mateel is based in
5 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
6 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
7 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
8 California are regularly exposed to lead and lead compounds from leaded crystal marketed by
9 Defendants and are so exposed without a clear and reasonable Proposition 65 warning.

10 6. Defendants are persons doing business within the meaning of Health & Safety
11 Code Section 25249.11. Defendants are businesses that distribute, and/or market leaded crystal in
12 California, including the City and County of San Francisco. Distribution and/or marketing of
13 these products in the City and County of San Francisco and/or to people who live in San
14 Francisco, causes people to be exposed to lead and lead compounds while they are physically
15 present in the City and County of San Francisco.

16 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
17 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
18 60-day Notice letter, dated December 18, 2008, and a copy of a 60-day Notice letter, dated June
19 24, 2010, which Mateel sent to California's Attorney General. Substantively identical letters were
20 sent to every District Attorney in the state, and to the City Attorneys of every California city with
21 a population greater than 750,000. Further a copy of the December 18, 2008 letter was sent to
22 defendant SAFEWAY, INC., and a copy of the June 24, 2010 letter was sent to defendant BEN
23 MYERSON CANDY CO., INC. Attached to the 60-Day Notice Letter sent to each defendant
24 was a summary of Proposition 65 that was prepared by California's Office of Environmental
25 Health Hazard Assessment. In addition, each 60-Day Notice Letter plaintiff sent was
26 accompanied by a Certificate of Service attesting to the service of the 60-Day Notice Letter on
27 each entity which received it. Pursuant to California Health & Safety Code Section 25249.7(d), a
28 Certificate of Merit attesting to the reasonable and meritorious basis for the action was also sent

1 with each 60-Day Notice Letter. Factual information sufficient to establish the basis of the
2 Certificate of Merit was enclosed with the 60-Day Notice letter Mateel sent to the Attorney
3 General.

4 8. Each defendant employs more than ten people.

5 JURISDICTION

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

11 10. This Court also has jurisdiction over Defendants because they are businesses that
12 have sufficient minimum contacts in California and within the City and County of San Francisco.
13 Defendants intentionally availed themselves of the California and San Francisco County markets
14 for leaded crystal. It is thus consistent with traditional notions of fair play and substantial justice
15 for the San Francisco Superior Court to exercise jurisdiction over Defendants.

16 11. Venue is proper in this Court because Defendants market their products in and
17 around San Francisco and thus cause people to be exposed to lead and lead compounds while
18 those people are physically present in San Francisco. Liability for Plaintiff's causes of action, or
19 some parts thereof, has accordingly arisen in San Francisco during the times relevant to this
20 Complaint and Plaintiff seeks civil penalties imposed by statute.

21 FIRST CAUSE OF ACTION
22 (Claim for Injunctive Relief)

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

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

28 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates

1 that businesses that knowingly and intentionally expose any individual to a chemical known to
2 the State of California to cause cancer or birth defects must first provide a clear and reasonable
3 warning to such individual prior to the exposure.

4 15. Since at least December 23, 2005, Defendant SAFEWAY INC., and since at least
5 June 24, 2007, Defendant BEN MYERSON CANDY CO., INC., have been engaged in conduct
6 that violates Health and Safety Code Section 25249.6 *et seq.* This conduct includes knowingly
7 and intentionally exposing to the above mentioned toxic chemicals, those California residents
8 who handle, use or drink beverages stored or contained in, or served from, leaded crystal. The
9 normally intended use of leaded crystal causes exposure to lead and lead compounds, which are
10 chemicals known to the State of California to cause cancer, birth defects and other reproductive
11 harm. Defendants have not provided clear and reasonable warnings, within the meaning of
12 Health & Safety Code Sections 25249.6 and 25249.11.

13 16. At all times relevant to this action, Defendants knew that the leaded crystal they
14 distributed or marketed were causing exposures to lead and lead compounds. Defendants
15 intended that residents of California handle, use and drink beverages stored or contained in
16 leaded crystal in such ways as would lead to significant exposures to these chemicals.

17 17. By the above described acts, Defendants have violated Cal. Health & Safety Code
18 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
19 65, to provide warnings to all present and future customers and to provide warnings to their past
20 customers who purchased Defendants' products without receiving a clear and reasonable
21 warning.

22 SECOND CAUSE OF ACTION
23 (Claim for Civil Penalties)

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

26 19. By the above described acts, Defendants are liable and should be liable pursuant
27 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
28 individual exposed without proper warning to lead and lead compounds from the handling, use

1 of, or the drinking of beverages stored or contained in, or served from, Defendants' leaded
2 crystal.

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PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against DEFENDANTS, as follows:

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


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

3. That Defendant be ordered to identify and locate each individual who purchased leaded crystal and provide a warning to each such person that the leaded crystal the person purchased will expose that person to chemicals known to cause birth defects.

4. That, pursuant to Civil Procedure Code § 1021.5, Defendant be ordered to pay to Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

5. For such other relief as this court deems just and proper.

Dated: September 7, 2010

By 
David Williams
Attorney for Plaintiff
Mateel Environmental Justice Foundation



December 18, 2008

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") hereby give you notice that the private businesses listed on the attached service list are, have been, will be and threaten to be in violation of Cal. Health & Safety Code §25249.6. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below-listed address and telephone number, I may be considered a "responsible individual" at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when the listed companies market leaded crystal vessels such as decanters, tumblers, wine glasses, champagne flutes, and cocktail glasses (as for martinis) (collectively hereinafter "leaded crystal vessels"). Though a specific model or SKU or product number is given as an example, this notice pertains to all models, and all variations, of the specific type of product of which the named model on the Product List is an example. Handling of, contact with, drinking from, and cleaning up broken glass from leaded crystal vessels exposes people to lead and lead compounds, lead phosphate, lead acetate, and lead subacetate (hereinafter, collectively, "lead"). Lead leaches from the vessel into the food or beverage stored in, or served from, the vessel. The food or beverage is then consumed and the accompanying lead ingested. These exposures (and resulting violations) occur occupationally, environmentally, and as the result of the sale of consumer products and/or services. In occupational settings, the type of work that is done during which the above-referenced exposures occur is handling the leaded crystal vessels, cleaning up broken glass from them, and drinking from them, such as at wine tastings and office parties. These exposures occur via the dermal absorption, inhalation, ingestion, and subcutaneous routes. These violations have occurred every day since at least December 18, 2005, and will continue every day until reasonable warnings are given to those people exposed or until the listed companies stop selling leaded crystal. 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 leaded stained glass lamps made outside of California, except as to workplaces the listed companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the listed private businesses' properties 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 70350
OAKLAND CA 94612-0530

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
PO BOX 1948
SACRAMENTO, CA 95812-1948

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
100 EAST SANTA CLARA STREET
SAN JOSE, CA 95113

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
709 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95963

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
391 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
315 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 TRUXTON 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 1
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 95307

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 95402

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
4073 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 92413-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
130 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 319
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 110
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
101 SECOND STREET
WOODLAND, CA 95695

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

PRESIDENT OR CEO
CRYSTAL CLEAR INDUSTRIES, INC.
2 BERGEN TURNPIKE
RIDGEFIELD PARK, NJ 07660

PRESIDENT OR CEO
CRYSTAL CLEAR INDUSTRIES, INC.
100 INDUSTRIAL AVE
RIDGEFIELD PARK, NJ 07660-1346

R LAWRENCE MONTGOMERY, CEO
KOHL'S DEPARTMENT STORES, INC.
6360 N. LAKE DRIVE
WHITEFISH BAY, WI 53217

R LAWRENCE MONTGOMERY, CEO
KOHL'S DEPARTMENT STORES, INC.
N36 W17000 RIDGEWOOD DR
MENOMONEE FALLS, WI 53051

STEVEN A BURD, CEO
SAFEWAY, INC.
5918 STONERIDGE MALL RD
PLEASANTON, CA 94588-3229

PRODUCT LIST

CRYSTAL CLEAR INDUSTRIES INC

NORMAN 6OZ MOUTHWASH DECANter 24% LEAD CRYSTAL UPC CODE: 044117
230301 This product description pertains not only to the specific model of the product listed, but also for all units of all models of leaded crystal vessels

KOHL'S DEPARTMENT STORES, INC.

SHANNON CRYSTAL BY GODINGER DUBLIN SET OF 4 10OZ. CRYSTAL HIGHBALLS
24% LEAD CRYSTAL UPC CODE: 028199 258842; SHANNON CRYSTAL BY GODINGER
DUBLIN SET OF 4 9OZ CRYSTAL GOBLETS 24% LEAD CRYSTAL STYLE# 25904 UPC
CODE: 028199 259047; LONGCHAMP CRISTAL D'ARQUES 4 53/4OZ GLASSES UPC
CODE: 026102 673119 These product descriptions pertain not only to the specific models of the
products listed, but also for all units of all models of leaded crystal vessels

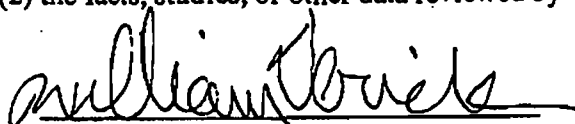
SAFEWAY, INC.

RIEDEL VINUM CRYSTAL CHAMPAGNE #6416/8 UPC CODE: 632868 016086; RIEDEL
VINUM CHABLIS UPC CODE: 632868 716054 These product descriptions pertain not only to
the specific models of the products listed, but also for all units of all models of leaded crystal
vessels

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: December 18, 2008

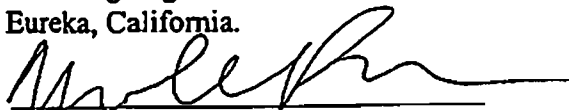

William Verick

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 December 18, 2008, 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 December 18, 2008, at Eureka, California.


Nicole Frank



June 24, 2010

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") hereby give you notice that Ben Myerson Candy Co., Inc. (hereinafter "Ben Myerson"), is, has been, will be and threatens to be in violation of Cal. Health & Safety Code §25249.6. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below-listed address and telephone number, I may be considered a "responsible individual" at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when Ben Myerson markets leaded crystal vessels such as decanters, tumblers, wine glasses, champagne flutes, and cocktail glasses (as for martinis) (collectively hereinafter "leaded crystal vessels"). Some specific examples include: RIEDEL VINUM CHABLIS UPC CODE: 632868 716054; and RIEDEL VINUM CRYSTAL CHAMPAGNE #6416/8 UPC CODE: 632868 016086. While specific names and UPC #'s are listed, this notice pertains to all similar types of leaded crystal vessels. Handling of, contact with, drinking from, and cleaning up broken glass from leaded crystal vessels exposes people to lead and lead compounds, lead phosphate, lead acetate, and lead subacetate (hereinafter, collectively, "lead"). Lead leaches from the vessel into the food or beverage stored in, or served from, the vessel. The food or beverage is then consumed and the accompanying lead ingested. These exposures (and resulting violations) occur occupationally, environmentally, and as the result of the sale of consumer products and/or services. In occupational settings, the type of work that is done during which the above-referenced exposures occur is handling the leaded crystal vessels, cleaning up broken glass from them, and drinking from them, such as at wine tastings and office parties. These exposures occur via the dermal absorption, inhalation, ingestion, and subcutaneous routes. Ben Myerson did not and does not provide people with clear and reasonable warnings before it exposes them to the above-referenced chemicals. The above referenced violations have occurred every day since at least June 24, 2007 and will continue every day until the warnings are given. These 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 of these products manufactured outside of California, except as to workplaces Ben Myerson itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Ben Myerson's private business properties and in each of California's 58 counties.

Cordially,

William Verick

SERVICE LIST

PROPOSITION 65 ENFORCEMENT
REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE 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
PO BOX 1948
SACRAMENTO, CA 95812-1948

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113

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 95842

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
691 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
235 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
110 UNION STREET

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
10810 JUSTICE CENTER DR., STE 240
ROSEVILLE, CA 95678

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, SUITE 1100
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

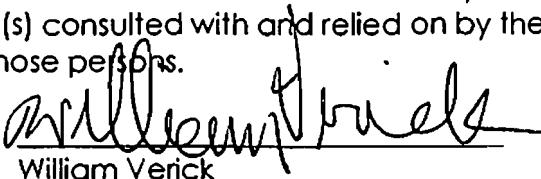
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

ROBERT MYERSON, CEO
BEN MYERSON CANDY CO., INC
6550 E WASHINGTON BLVD
COMMERCE, CA 90040

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: June 24, 2010


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 June 24, 2010, 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 June 24, 2010, at Eureka, California.


Nicole Frank