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AS YOU SOW

**ENDORSED
FILED**
ALAMEDA COUNTY
MAR - 1 2014
CLERK OF THE SUPERIOR COURT
By ~~Barbara LaMotte~~ Deputy

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF ALAMEDA

9 AS YOU SOW, a non-profit
California corporation,

10 Plaintiff,

11 v.

12 SPRAY PRODUCTS
13 CORPORATION, a Pennsylvania
corporation; CHARTPAK, INC., a
14 Massachusetts corporation; and
15 UTRECHT MANUFACTURING
CORPORATION, a New Jersey
16 corporation,

17 Defendants.

) Case No. **RG14715992**

) **COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

) Health & Safety Code §25249.5, *et*
seq.

18
19 Plaintiff As You Sow brings this action in the interest of the general public and, on
20 information and belief, hereby alleges:

21 **INTRODUCTION**

22 1. This action seeks to remedy Defendant SPRAY PRODUCTS CORPORATION's
23 ("Spray Products"), Defendant CHARTPAK, INC.,'s ("Chartpak"), and Defendant UTRECHT
24 MANUFACTURING CORPORATION's ("Utrecht") continuing failure to warn consumers in
25 California that they are being exposed to ethylbenzene, a substance known to the State of
26 California to cause cancer, from Defendants' spray varnish products.

1 2. Spray Products manufactures, packages, distributes, markets, and/or sells in
2 California certain products containing ethylbenzene (the “S.P. PRODUCTS”) including:

- 3 **Grumbacher Workable Fixative (Matte);**
- 4 **Grumbacher Final Fixative (Matte);**
- 5 **Grumbacher Final Fixative (Gloss Brilliant);**
- 6 **Utrecht UV-Resistant Clear Acrylic Coating;**
- 7 **Utrecht Workable Fixative; and**
- 8 **Bob Ross Finishing Spray Varnish**

9
10 3. Chartpak manufactures, packages, distributes, markets, and/or sells in California
11 certain products containing ethylbenzene (the “CHARTPAK PRODUCTS”) including:

- 12 **Grumbacher Workable Fixative (Matte);**
- 13 **Grumbacher Final Fixative (Matte); and**
- 14 **Grumbacher Final Fixative (Gloss Brilliant)**

15 4. Utrecht manufactures, packages, distributes, markets, and/or sells in California
16 certain products containing ethylbenzene (the “UTRECHT PRODUCTS”) including:

- 17 **Utrecht UV-Resistant Clear Acrylic Coating; and**
- 18 **Utrecht Workable Fixative; and**

19 5. Ethylbenzene (hereinafter, the “LISTED CHEMICAL”) is a substance known to
20 the State of California to cause cancer.

21 6. The use and/or handling of the S.P. PRODUCTS, CHARTPAK PRODUCTS,
22 and UTRECHT PRODUCTS causes exposures to the LISTED CHEMICAL at levels requiring
23 a “clear and reasonable warning” under California’s Safe Drinking Water and Toxic
24 Enforcement Act of 1986, Health & Safety Code (“H&S Code”) §25249.5, *et seq.* (also known
25 as “Proposition 65”). Defendants have failed to provide the health hazard warnings required by
26 Proposition 65.

1 7. Spray Products' continued manufacturing, packaging, distributing, marketing
2 and/or sales of the S.P. PRODUCTS without the required health hazard warning, causes
3 individuals to be involuntarily and unwittingly exposed to the LISTED CHEMICAL in
4 violation of Proposition 65.

5 8. Chartpak's continued manufacturing, packaging, distributing, marketing and/or
6 sales of the CHARTPAK PRODUCTS without the required health hazard warning, causes
7 individuals to be involuntarily and unwittingly exposed to the LISTED CHEMICAL in
8 violation of Proposition 65.

9 9. Utrecht's continued manufacturing, packaging, distributing, marketing and/or
10 sales of the UTRECHT PRODUCTS without the required health hazard warning, causes
11 individuals to be involuntarily and unwittingly exposed the LISTED CHEMICAL in violation
12 of Proposition 65.

13 10. Plaintiff seeks injunctive relief enjoining Spray Products, Chartpak, and Utrecht
14 from the continued manufacturing, packaging, distributing, marketing and/or sales of the S.P.
15 PRODUCTS, CHARTPAK PRODUCTS, and UTRECHT PRODUCTS, respectively, in
16 California without provision of clear and reasonable warnings regarding the risks of cancer
17 posed by exposure to the LISTED CHEMICAL through the use and/or handling of the S.P.
18 PRODUCTS, CHARTPAK PRODUCTS, and UTRECHT PRODUCTS. Plaintiff seeks an
19 injunctive order compelling Defendants to bring their business practices into compliance with
20 Proposition 65 by providing a clear and reasonable warning to each individual who has been,
21 and who in the future may be, exposed to the LISTED CHEMICAL from the use of the S.P.
22 PRODUCTS, CHARTPAK PRODUCTS, and UTRECHT PRODUCTS.

23 11. Plaintiff also seeks an assessment of civil penalties of up to \$2,500 per day per
24 violation for each unlawful exposure to the LISTED CHEMICAL from the S.P. PRODUCTS,
25 CHARTPAK PRODUCTS, and UTRECHT PRODUCTS to remedy Defendants' failures to
26 provide clear and reasonable warnings regarding exposures to the LISTED CHEMICAL.

1 **JURISDICTION AND VENUE**

2 12. This Court has jurisdiction over this action pursuant to California Constitution
3 Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes
4 except those given by statute to other trial courts.” The statute under which this action is
5 brought does not specify any other basis for jurisdiction.

6 13. This Court has jurisdiction over Spray Products because, based on information
7 and belief, Spray Products is a business having sufficient minimum contacts with California, or
8 otherwise intentionally availing itself of the California market through the distribution and sale
9 of S.P. PRODUCTS in the State of California so as to render the exercise of jurisdiction over it
10 by the California courts consistent with traditional notions of fair play and substantial justice.

11 14. This Court has jurisdiction over Chartpak because, based on information and
12 belief, Chartpak is a business having sufficient minimum contacts with California, or otherwise
13 intentionally availing itself of the California market through the distribution and sale of some
14 the CHARTPAK PRODUCTS in the State of California so as to render the exercise of
15 jurisdiction over it by the California courts consistent with traditional notions of fair play and
16 substantial justice.

17 15. This Court has jurisdiction over Utrecht because, based on information and
18 belief, Utrecht is a business having sufficient minimum contacts with California, or otherwise
19 intentionally availing itself of the California market through the distribution and sale of the
20 UTRECHT PRODUCTS in the State of California so as to render the exercise of jurisdiction
21 over it by the California courts consistent with traditional notions of fair play and substantial
22 justice.

23 16. Venue in this action is proper in the Alameda Superior Court because the
24 Defendants have violated California law in the County of Alameda.
25
26

1 **PARTIES**

2 17. PLAINTIFF As You Sow is a non-profit corporation organized under
3 California's Corporation Law. As You Sow is dedicated to, among other causes, reducing the
4 use and misuse of hazardous and toxic substances, consumer protection, worker safety, and
5 corporate responsibility.

6 18. As You Sow is a person within the meaning of H&S Code §25118 and brings
7 this enforcement action in the public interest pursuant to H&S Code §25249.7(d).

8 19. Defendant Spray Products is a corporation organized under Pennsylvania's
9 Corporation Law and is a person doing business within the meaning of H&S Code §25249.11
10 with an office at 1323 Conshohocken Road, Plymouth Meeting, PA 19462.

11 20. Defendant Chartpak is a corporation organized under Massachusetts'
12 Corporation Law and is a person doing business within the meaning of H&S Code §25249.11
13 with an office at 1 River Road, Leeds, MA 01053.

14 21. Defendant Utrecht is a corporation organized under New Jersey's Corporation
15 Law and is a person doing business within the meaning of H&S Code §25249.11 with an office
16 at 6 Corporate Drive, Suite #1, Cranbury, NJ 08512.

17 22. Defendants manufacture, package, distribute, market and/or sell the PRODUCTS
18 for sale or use in California and in Alameda County.

19 **STATUTORY BACKGROUND**

20 23. The People of the State of California have declared in Proposition 65 their right
21 "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
22 reproductive harm." (Section 1(b) of Initiative Measure, Proposition 65).

23 24. To effect this goal, Proposition 65 requires that individuals be provided with a
24 "clear and reasonable warning" before being exposed to substances listed by the State of
25 California as causing cancer or reproductive toxicity. H&S Code §25249.6 states, in pertinent
26 part:

No person in the course of doing business shall knowingly and intentionally

1 expose any individual to a chemical known to the state to cause cancer or
2 reproductive toxicity without first giving clear and reasonable warning to such
individual....

3 25. Proposition 65 provides that any person “violating or threatening to violate” the
4 statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The
5 phrase “threatening to violate” is defined to mean creating “a condition in which there is a
6 substantial likelihood that a violation will occur.” (H&S Code §25249.11(e)). Violators are
7 liable for civil penalties of up to \$2,500 per day for each violation of the Act. (H&S Code
8 §25249.7.)

9 **FACTUAL BACKGROUND**

10 26. On June 11, 2004, the State of California officially listed the chemical
11 ethylbenzene as a chemical known to cause cancer. Ethylbenzene became subject to the
12 warning requirement one year later and was therefore subject to the "clear and reasonable"
13 warning requirements of Proposition 65 beginning on June 11, 2005. (27 California Code of
14 Regulations (“CCR”) §25000, *et seq.*; H&S Code §25249.5, *et seq.*).

15 27. Due to the high toxicity of ethylbenzene, the No Significant Risk Level
16 (“NSRL”) for ethylbenzene via inhalation is set at 54 µg/day (micrograms a day).

17 28. Spray Products has manufactured, distributed, and/or sold the S.P. PRODUCTS
18 containing ethylbenzene within the State of California without clear and reasonable warnings
19 that the intended and reasonably foreseeable use of the Products will result in exposure to
20 chemicals known to the State of California to cause cancer.

21 29. At all times relevant to this action, Spray Products therefore has knowingly and
22 intentionally exposed the users and/or handlers of the S.P. PRODUCTS to the LISTED
23 CHEMICAL without first giving a clear and reasonable warning to such individuals.

24 30. Chartpak has manufactured, distributed, and/or sold the CHARTPAK
25 PRODUCTS containing ethylbenzene within the State of California without clear and
26 reasonable warnings that the intended and reasonably foreseeable use of the products will result

1 in exposure to chemicals known to the State of California to cause cancer.

2 31. At all times relevant to this action, Chartpak therefore has knowingly and
3 intentionally exposed the users and/or handlers of the CHARTPAK PRODUCTS to the
4 LISTED CHEMICAL without first giving a clear and reasonable warning to such individuals.

5 32. Utrecht has manufactured, distributed, and/or sold the UTRECHT PRODUCTS
6 containing ethylbenzene within the State of California without clear and reasonable warnings
7 that the intended and reasonably foreseeable use of the products will result in exposure to
8 chemicals known to the State of California to cause cancer.

9 33. At all times relevant to this action, Utrecht therefore has knowingly and
10 intentionally exposed the users and/or handlers of the UTRECHT PRODUCTS to the LISTED
11 CHEMICAL without first giving a clear and reasonable warning to such individuals.

12 34. The S.P. PRODUCTS have allegedly been sold by Spray Products for use in
13 California since at least June 19, 2010. The S.P. PRODUCTS continue to be distributed and
14 sold in California without the requisite warning information.

15 35. The CHARTPAK PRODUCTS have allegedly been sold by Chartpak for use in
16 California since at least March 21, 2010. The CHARTPAK PRODUCTS continue to be
17 distributed and sold in California without the requisite warning information.

18 36. The UTRECHT PRODUCTS have allegedly been sold by Utrecht for use in
19 California since at least March 21, 2010. The UTRECHT PRODUCTS continue to be
20 distributed and sold in California without the requisite warning information.

21 37. On June 19, 2013, Plaintiff sent a 60-Day Notice of Proposition 65 violations to
22 the requisite public enforcement agencies, and to Spray Products (“S.P. Notice”) (attached
23 hereto as Exhibit A). The S.P. Notice was issued pursuant to, and in compliance with, the
24 requirements of H&S Code §25249.7(d) and the statute’s implementing regulations regarding
25 the notice of the violations to be given to certain public enforcement agencies and to the
26 violator. The notice given included, *inter alia*, the following information: the name, address,

1 and telephone number of the noticing individual; the name of the alleged violator; the statute
2 violated; the approximate time period during which violations occurred; and descriptions of the
3 violations, including the chemicals involved, the routes of toxic exposure, and the specific
4 product or type of product causing the violations, and was issued as follows:

- 5 a. Spray Products and the California Attorney General were provided copies
6 of the S.P. Notice by Certified Mail.
- 7 b. Spray Products was provided a copy of a document entitled “The Safe
8 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
9 Summary,” which is also known as Appendix A to Title 27 of CCR
10 §25903.
- 11 c. Plaintiff mailed a copy of the S.P. Notice to District Attorneys for
12 counties throughout the State, and relevant City Attorneys.
- 13 d. The California Attorney General was provided with a Certificate of Merit
14 by the attorney for the noticing party, stating that there is a reasonable
15 and meritorious case for this action, and attaching factual information
16 sufficient to establish a basis for the certificate, including the identity of
17 the persons consulted with and relied on by the certifier, and the facts,
18 studies, or other data reviewed by those persons, pursuant to H&S Code
19 §25249.7(h)(2).

20 38. On March 21, 2013, Plaintiff sent a 60-Day Notice of Proposition 65 violations
21 to the requisite public enforcement agencies, and to Chartpak (“Chartpak Notice”) (attached
22 hereto as Exhibit B). The Chartpak Notice was issued pursuant to, and in compliance with, the
23 requirements of H&S Code §25249.7(d) and the statute’s implementing regulations regarding
24 the notice of the violations to be given to certain public enforcement agencies and to the
25 violator. The notice given included, *inter alia*, the following information: the name, address,
26 and telephone number of the noticing individual; the name of the alleged violator; the statute

1 violated; the approximate time period during which violations occurred; and descriptions of the
2 violations, including the chemicals involved, the routes of toxic exposure, and the specific
3 product or type of product causing the violations, and was issued as follows:

- 4 a. Chartpak and the California Attorney General were provided copies of
5 the Chartpak Notice by Certified Mail.
- 6 b. Chartpak was provided a copy of a document entitled “The Safe Drinking
7 Water and Toxic Enforcement Act of 1986 (Proposition 65): A
8 Summary,” which is also known as Appendix A to Title 27 of CCR
9 §25903.
- 10 c. Plaintiff mailed a copy of the Chartpak Notice to District Attorneys for
11 counties throughout the State, and relevant City Attorneys.
- 12 d. The California Attorney General was provided with a Certificate of Merit
13 by the attorney for the noticing party, stating that there is a reasonable
14 and meritorious case for this action, and attaching factual information
15 sufficient to establish a basis for the certificate, including the identity of
16 the persons consulted with and relied on by the certifier, and the facts,
17 studies, or other data reviewed by those persons, pursuant to H&S Code
18 §25249.7(h)(2).

19 39. On March 21, 2013, Plaintiff sent a 60-Day Notice of Proposition 65 violations
20 to the requisite public enforcement agencies, and to Utrecht (“Utrecht Notice”) (attached hereto
21 as Exhibit C). The Utrecht Notice was issued pursuant to, and in compliance with, the
22 requirements of H&S Code §25249.7(d) and the statute’s implementing regulations regarding
23 the notice of the violations to be given to certain public enforcement agencies and to the
24 violator. The notice given included, *inter alia*, the following information: the name, address,
25 and telephone number of the noticing individual; the name of the alleged violator; the statute
26 violated; the approximate time period during which violations occurred; and descriptions of the

1 violations, including the chemicals involved, the routes of toxic exposure, and the specific
2 product or type of product causing the violations, and was issued as follows:

- 3 a. Utrecht and the California Attorney General were provided copies of the
4 Utrecht Notice by Certified Mail.
- 5 b. Utrecht was provided a copy of a document entitled “The Safe Drinking
6 Water and Toxic Enforcement Act of 1986 (Proposition 65): A
7 Summary,” which is also known as Appendix A to Title 27 of CCR
8 §25903.
- 9 c. Plaintiff mailed a copy of the Utrecht Notice to District Attorneys for
10 counties throughout the State, and relevant City Attorneys.
- 11 d. The California Attorney General was provided with a Certificate of Merit
12 by the attorney for the noticing party, stating that there is a reasonable
13 and meritorious case for this action, and attaching factual information
14 sufficient to establish a basis for the certificate, including the identity of
15 the persons consulted with and relied on by the certifier, and the facts,
16 studies, or other data reviewed by those persons, pursuant to H&S Code
17 §25249.7(h)(2).

18 40. The appropriate public enforcement agencies have failed to commence and
19 diligently prosecute a cause of action under H&S Code §25249.5, *et seq.* against Defendants
20 based on the allegations herein.

21 41. The statute of limitations for an action brought to enforce Proposition 65 is three
22 years for injunctive relief and one year for penalties. (Calif. Code Civ. Proc. §§ 338(a), 340(1).)

23 42. On August 28, 2013, for purposes of productively addressing the issues raised in
24 the 60-Day Notice, As You Sow and Spray Products signed a Tolling Agreement, whereby As
25 You Sow and Spray Products tolled any statute(s) of limitations for any claims that As You Sow
26 has or may have against Spray Products that would have expired prior to October 18, 2013. On

1 October 18, 2013, As You Sow and Spray Products signed a First Amended Tolling Agreement
2 that extended the expiration date to November 22, 2013. On November 22, 2013, As You Sow
3 and Spray Products signed a Second Amended Tolling Agreement that extended the expiration
4 date to January 10, 2014. On January 22, 2014, As You Sow and Spray Products signed a Third
5 Amended Tolling Agreement that extended the expiration date to February 28, 2014.

6 43. On June 26, 2013, for purposes of productively addressing the issues raised in
7 the 60-Day Notice, As You Sow and Chartpak signed a Tolling Agreement, whereby As You
8 Sow and Chartpak tolled any statute(s) of limitations for any claims that As You Sow has or
9 may have against Chartpak that would have expired prior to August 16, 2013. On August 28,
10 2013, As You Sow and Chartpak signed a First Amended Tolling Agreement that extended the
11 expiration date to October 18, 2013. On October 18, 2013, As You Sow and Chartpak signed a
12 Second Amended Tolling Agreement that extended the expiration date to November 22, 2013.
13 On November 22, 2013, As You Sow and Chartpak signed a Third Amended Tolling
14 Agreement that extended the expiration date to January 10, 2014. On January 22, 2014, As You
15 Sow and Chartpak signed a Fourth Amended Tolling Agreement that extended the expiration
16 date to February 28, 2014.

17 44. On June 26, 2013, for purposes of productively addressing the issues raised in
18 the 60-Day Notice, As You Sow and Utrecht signed a Tolling Agreement, whereby As You
19 Sow and Utrecht tolled any statute(s) of limitations for any claims that As You Sow has or may
20 have against Utrecht that would have expired prior to August 16, 2013. On August 28, 2013,
21 As You Sow and Utrecht signed a First Amended Tolling Agreement that extended the
22 expiration date to October 18, 2013. On October 18, 2013, As You Sow and Utrecht signed a
23 Second Amended Tolling Agreement that extended the expiration date to November 22, 2013.
24 On November 22, 2013, As You Sow and Utrecht signed a Third Amended Tolling Agreement
25 that extended the expiration date to January 10, 2014. On January 22, 2014, As You Sow and
26 Utrecht signed a Fourth Amended Tolling Agreement that extended the expiration date to

1 February 28, 2014.

2 45. As a proximate result of acts by Spray Products, as a person in the course of
3 doing business within the meaning of Health & Safety Code §25249.11, individuals throughout
4 the State of California, including in the County of Alameda, have been exposed to the LISTED
5 CHEMICAL without clear and reasonable warning. The individuals subject to the violative
6 exposures include normal and foreseeable users of the S.P. PRODUCTS, as well as all other
7 persons exposed to the S.P. PRODUCTS.

8 46. As a proximate result of acts by Chartpak, as a person in the course of doing
9 business within the meaning of Health & Safety Code §25249.11, individuals throughout the
10 State of California, including in the County of Alameda, have been exposed to the LISTED
11 CHEMICAL without clear and reasonable warning. The individuals subject to the violative
12 exposures include normal and foreseeable users of the CHARTPAK PRODUCTS, as well as all
13 other persons exposed to the CHARTPAK PRODUCTS.

14 47. As a proximate result of acts by Utrecht, as a person in the course of doing
15 business within the meaning of Health & Safety Code §25249.11, individuals throughout the
16 State of California, including in the County of Alameda, have been exposed to the LISTED
17 CHEMICAL without clear and reasonable warning. The individuals subject to the violative
18 exposures include normal and foreseeable users of the UTRECHT PRODUCTS, as well as all
19 other persons exposed to the UTRECHT PRODUCTS.

20
21 **FIRST CAUSE OF ACTION**

22 **Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* by Plaintiff
23 Against All Defendants**

24 48. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 45,
25 inclusive, as if specifically set forth herein.

26 49. By committing the acts alleged in this Complaint Defendants Spray Products,
Chartpak, and Utrecht at all times relevant to this action, and continuing through the present,

1 have violated H&S Code §25249.6 by, in the course of doing business, knowingly and
2 intentionally exposing individuals who use or handle the S.P. PRODUCTS, CHARTPAK
3 PRODUCTS, and UTRECHT PRODUCTS, respectively, to the LISTED CHEMICAL, without
4 first providing a clear and reasonable warning to such individuals pursuant to H&S Code §§
5 25249.6 and 25249.11(f).

6 50. By the above-described acts, Defendants have violated H&S Code § 25249.6 and
7 are therefore subject to an injunction ordering Defendants to stop violating Proposition 65 and
8 to provide warnings to all present and future customers who purchase or use the S.P.
9 PRODUCTS, CHARTPAK PRODUCTS, and/or UTRECHT PRODUCTS.

10 51. An action for injunctive relief under Proposition 65 is specifically authorized by
11 Health & Safety Code §25249.7(a).

12 52. Continuing commission by Defendants of the acts alleged above will irreparably
13 harm the citizens of the State of California, for which harm they have no plain, speedy, or
14 adequate remedy at law.

15 Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

16 **SECOND CAUSE OF ACTION**
17 **Civil Penalties for Violations of Health and Safety Code § 25249.5, et seq. by Plaintiff**
18 **Against All Defendants**

19 53. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 52,
20 inclusive, as if specifically set forth herein.

21 54. By committing the acts alleged in this Complaint, Spray Products at all times
22 relevant to this action, and continuing through the present, has violated H&S Code §25249.6 by,
23 in the course of doing business, knowingly and intentionally exposing individuals who use or
24 handle the S.P. PRODUCTS to the LISTED CHEMICAL, without first providing a clear and
25 reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

26 55. By committing the acts alleged in this Complaint, Charptak at all times relevant
to this action, and continuing through the present, has violated H&S Code §25249.6 by, in the

1 course of doing business, knowingly and intentionally exposing individuals who use or handle
2 the CHARTPAK PRODUCTS to the LISTED CHEMICAL, without first providing a clear and
3 reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

4 56. By committing the acts alleged in this Complaint, UTRECHT at all times
5 relevant to this action, and continuing through the present, has violated H&S Code §25249.6 by,
6 in the course of doing business, knowingly and intentionally exposing individuals who use or
7 handle the UTRECHT PRODUCTS to the LISTED CHEMICAL, without first providing a clear
8 and reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

9 57. By the above-described acts, Defendants Spray Products, Chartpak, and Utrecht
10 are liable, pursuant to H&S Code §25249.7(b), for a civil penalty of \$2,500 per day per
11 violation for each unlawful exposure to a LISTED CHEMICAL from the S.P. PRODUCTS,
12 CHARTPAK PRODUCTS, and UTRECHT PRODUCTS, respectively.

13 Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

14 **THE NEED FOR INJUNCTIVE RELIEF**

15 58. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 57, as if
16 set forth below.

17 59. By committing the acts alleged in this Complaint, Defendants have caused
18 irreparable harm for which there is no plain, speedy or adequate remedy at law. In the absence
19 of equitable relief, Defendants will continue to create a substantial risk of irreparable injury by
20 continuing to cause consumers to be involuntarily and unwittingly exposed to the LISTED
21 CHEMICAL through the use and/or handling of the S.P. PRODUCTS, CHARTPAK
22 PRODUCTS, and UTRECHT PRODUCTS.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff accordingly prays for the following relief:

25 A. A preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),
26 enjoining Spray Products, its agents, employees, assigns and all persons acting in concert or

1 participating with Spray Products, from distributing or selling the S.P. PRODUCTS in
2 California without first providing a clear and reasonable warning, within the meaning of
3 Proposition 65, that the users and/or handlers of the S.P. PRODUCTS are exposed to the
4 LISTED CHEMICAL;

5 B. A preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),
6 enjoining Chartpak, its agents, employees, assigns and all persons acting in concert or
7 participating with Chartpak, from distributing or selling the CHARTPAK PRODUCTS in
8 California without first providing a clear and reasonable warning, within the meaning of
9 Proposition 65, that the users and/or handlers of the CHARTPAK PRODUCTS are exposed to
10 the LISTED CHEMICAL;

11 C. A preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),
12 enjoining Utrecht, its agents, employees, assigns and all persons acting in concert or
13 participating with Utrecht, from distributing or selling the UTRECHT PRODUCTS in
14 California without first providing a clear and reasonable warning, within the meaning of
15 Proposition 65, that the users and/or handlers of the UTRECHT PRODUCTS are exposed to the
16 LISTED CHEMICAL;

17 D. an assessment of civil penalties pursuant to Health & Safety Code §25249.7(b),
18 against Defendants in the amount of up to \$2,500 per day for each violation of Proposition 65,;

19 E. an award to Plaintiff of its reasonable attorneys fees and costs of suit pursuant to
20 California Code of Civil Procedure §1021.5, as Plaintiff shall specify in further application to
21 the Court; and,

22 ///

23 ///

24 ///

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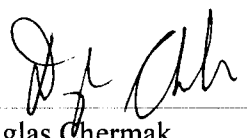
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F. such other and further relief as may be just and proper.

DATED: March 4, 2014

Lozeau|Drury LLP



Douglas Chermak
Richard Drury
Attorneys for Plaintiff
As You Sow

EXHIBIT A



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

June 19, 2013

VIA FIRST-CLASS MAIL

Bart Bastian, President
Spray Products Corporation
PO Box 737
Norristown, PA 19404

Agent for Service of Process for
Spray Products Corporation
2 Race Street
Upland, PA 19015

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et. seq.*

Dear Addressees:

I represent As You Sow in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

As You Sow is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The name of the Company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Spray Products Corporation

The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Grumbacher Workable Fixative (Matte) – ethylbenzene;
Grumbacher Final Fixative (Matte) – ethylbenzene;
Grumbacher Final Fixative (Gloss Brilliant) – ethylbenzene;
Utrecht UV-Resistant Clear Acrylic Coating – ethylbenzene;
Utrecht Workable Fixative – ethylbenzene; and
Bob Ross Finishing Spray Varnish – ethylbenzene

On June 11, 2004, the State of California officially listed ethylbenzene as a chemical known to cause cancer.

This letter is a notice to the Spray Products Corporation and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator that are currently known to As You Sow based on information now available to it. As You Sow may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose individuals within California to the identified chemicals, without providing clear and reasonable warning. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or use of these products by consumers. The primary route of exposure to these chemicals is through inhalation. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. In particular, the products do not provide any warnings of the carcinogenic hazards associated with the ethylbenzene contained in the products.

Each of these ongoing violations has occurred since June 19, 2010, and on every day since the products were introduced in the California marketplace (following the one year anniversary date of the listing of the chemical at issue); and will continue every day until clear and reasonable warnings are provided to product purchasers and users and/or the listed toxins are removed from the products.

Pursuant to Section 25249.7(d) of the statute, As You Sow intends to file a citizen enforcement action sixty days after effective service of this notice. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, As You Sow seeks a speedy and constructive resolution to this matter. Such a resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time-consuming litigation. Toward that end, As You Sow is willing to discuss effective remedies for the violations noted in this letter during the notice period.

As You Sow's President and Chief Counsel is Danielle Fugere, and is located at 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612; Telephone: (510) 735-8158. As You Sow has retained me in

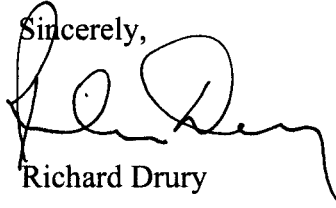
Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

June 19, 2013

Page 3

connection with this matter. You may contact Ms. Fugere directly or call me at the above-listed law office address and telephone number.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Drury', with a long horizontal flourish extending to the right.

Richard Drury

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Spray Products Corporation only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: As You Sow's Notice of Proposition 65 Violations by Spray Products Corporation

I, Douglas Chermak, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

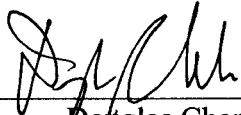
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultants, and on 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 plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 19, 2013



Douglas Chermak

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within- entitled action. My business address is 410 12th Street, Suite 250, Oakland, CA 94607.

On June 19, 2013, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by first-class mail:

Bart Bastian, President
Spray Products Corporation
PO Box 737
Norristown, PA 19404

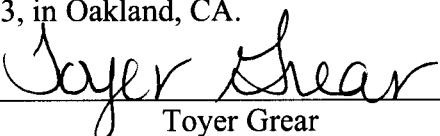
Agent for Service of Process for
Spray Products Corporation
2 Race Street
Upland, PA 19015

On June 19, 2013, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by first-class mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On June 19, 2013, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by first-class mail.

Executed on June 19, 2013, in Oakland, CA.



Toyer Grear

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

June 19, 2013

Page 6

Service List

District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney, Alpine County
270 Laramie St. P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
346 Fifth Street, Suite 101
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street
4th Floor
Eureka, CA 95501

District Attorney, Imperial County
County Administration Building
940 West Main Street, Suite 102
El Centro, CA 92243

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 North Forbes Street
Lakeport, CA 95453

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

District Attorney, Madera County
209 W. Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Monterey County
230 Church Street, Bldg. 2 & 3
Salinas, CA 93901

District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959

District Attorney, Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Suite 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

June 19, 2013

Page 7

District Attorney, Riverside County
3960 Orange Street
Riverside, CA 92501

District Attorney, Sacramento County
901 G Street
Sacramento, CA 95814

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
303 West 3rd Street, 6th Floor
San Bernardino, CA 92415-0004

District Attorney, San Diego County
330 West Broadway, Room 1300
San Diego, CA 92101

District Attorney, San Francisco County
850 Bryant Street, Room 322
San Francisco, CA 94103

District Attorney, San Joaquin County
Post Office Box 990
Stockton, CA 95201

District Attorney, San Luis Obispo County
1035 Palm Street, Room 450
San Luis Obispo, CA 93408

District Attorney, San Mateo County
400 County Center, 3rd Floor
Redwood City, CA 94063

District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney, Santa Clara County
70 W. Hedding Street, West Wing
San Jose, CA 95110

District Attorney, Santa Cruz County
701 Ocean Street, Rm. 200
Santa Cruz, CA 95060

District Attorney, Shasta County
1355 West Street
Redding, CA 96001-1632

District Attorney, Sierra County
Post Office Box 457
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Suite 4500
Fairfield, CA 94533

District Attorney, Sonoma County
600 Administration Drive, Room 212 J
Santa Rosa, CA 95403

District Attorney, Stanislaus County
832 12th Street, Suite 300
Modesto, CA 95354

District Attorney, Sutter County
446 Second Street, Suite 102
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tulare County
221 S. Mooney Blvd., Room 224
Visalia, CA 93291

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Ventura County
800 South Victoria Ave.
Ventura, CA 93009

District Attorney, Yolo County
301 Second Street
Woodland, CA 95695

District Attorney, Yuba County
215 5th St.
Marysville, CA 95901

Los Angeles City Attorney's Office
800 City Hall East
200 N. Main Street, Rm 800
Los Angeles, CA 90012

San Diego City Attorney's Office
City Center Plaza
1200 Third Ave., #1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 E. Santa Clara St.
16th Floor
San Jose, CA 95113

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Governor’s List.” Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “no significant risk” levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm (“reproductive toxicants”), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level (NOEL),” divided by a 1,000-fold safety or uncertainty factor. The “no observable effect level” is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” or “no observable effect” test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment’s Proposition 65 Implementation Office at (916) 445-6900.

EXHIBIT B



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

March 21, 2013

VIA CERTIFIED MAIL

Steven W. Roth or
Current President
Chartpak, Inc.
1 River Road
Leeds, MA 01053

CT Corporation System
Agent for Service of Process for Chartpak,
Inc.
155 Federal Street, Ste 700
Boston, MA 02110

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I represent As You Sow in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

As You Sow is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The name of the Company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Chartpak, Inc.

The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Grumbacher Workable Fixative (Matte) – ethylbenzene;
Grumbacher Final Fixative (Matte) – ethylbenzene;
Grumbacher Final Fixative (Gloss Brilliant) – ethylbenzene

On June 11, 2004, the State of California officially listed ethylbenzene as a chemical known to cause cancer.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator that are currently known to AS YOU SOW based on information now available to it. AS YOU SOW may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose individuals within California to the identified chemicals, without providing clear and reasonable warning. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or use of these products by consumers. The primary route of exposure to these chemicals is through inhalation. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. In particular, the products do not provide any warnings of the carcinogenic hazards associated with the ethylbenzene contained in the products.

Each of these ongoing violations has occurred since March 21, 2012, and on every day since the products were introduced in the California marketplace (following the one year anniversary dates of the listing of the chemicals at issue); and will continue every day until clear and reasonable warnings are provided to product purchasers and users and/or the listed toxins are removed from the products.

Pursuant to Section 25249.7(d) of the statute, AS YOU SOW intends to file a citizen enforcement action sixty days after effective service of this notice. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, AS YOU SOW seeks a speedy and constructive resolution to this matter. Such a resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time-consuming litigation. Toward that end, As You Sow is willing to discuss effective remedies for the violations noted in this letter during the notice period.

As You Sow's President and Chief Counsel is Danielle Fugere, and is located at 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612; Telephone: (510) 735-8158. As You Sow has retained me in connection with this matter. You may contact Ms. Fugere directly or call me at the

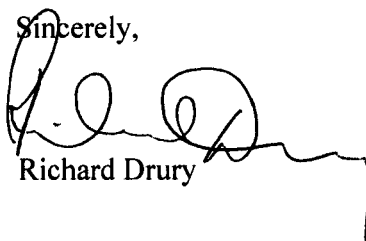
Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 21, 2013

Page 3

above-listed law office address and telephone number.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Drury', with a long horizontal flourish extending to the right.

Richard Drury

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Chartpak, Inc. only)

Additional Supporting Information for Certificate of Merit (to AG only)

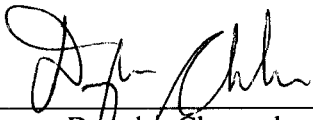
CERTIFICATE OF MERIT

Re: As You Sow's Notice of Proposition 65 Violations by ColArt Americas Inc.

I, Douglas Chermak, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action.
4. Based on the information obtained through those consultants, and on 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 plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: March 21, 2013



Douglas Chermak

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within- entitled action. My business address is 410 12th Street, Suite 250, Oakland, CA 94607.

On March 21, 2013, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Steven W. Roth or Current President
Chartpak, Inc.
1 River Road
Leeds, MA 01053

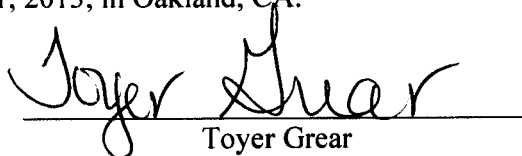
CT Corporation System
Agent for Service of Process for
Chartpak, Inc.
155 Federal Street, Ste 700
Boston, MA 02110

On March 21, 2013, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On March 21, 2013, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

Executed on March 21, 2013, in Oakland, CA.


Toyer Grear

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 21, 2013

Page 6

Service List

District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney, Alpine County
270 Laramie St. P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
346 Fifth Street, Suite 101
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street
4th Floor
Eureka, CA 95501

District Attorney, Imperial County
County Administration Building
940 West Main Street, Suite 102
El Centro, CA 92243

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 North Forbes Street
Lakeport, CA 95453

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

District Attorney, Madera County
209 W. Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Monterey County
230 Church Street, Bldg. 2 & 3
Salinas, CA 93901

District Attorney, Napa County
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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

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APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Governor’s List.” Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “no significant risk” levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm (“reproductive toxicants”), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level (NOEL),” divided by a 1,000-fold safety or uncertainty factor. The “no observable effect level” is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” or “no observable effect” test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment’s Proposition 65 Implementation Office at (916) 445-6900.

EXHIBIT C



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

March 21, 2013

VIA CERTIFIED MAIL

George Muench or Current President
Michael Ippolito or Current Chief
Executive Officer
Utrecht Manufacturing Corporation
6 Corporate Drive, Suite #1
Cranbury, NJ 08512

National Registered Agents, Inc.
Agent for Service of Process for Utrecht
Manufacturing Corporation
100 Canal Point Blvd., Suite 212
Princeton, NJ 08540

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I represent As You Sow in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

As You Sow is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The name of the Company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Utrecht Manufacturing Corporation

The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Utrecht UV-Resistant Clear Acrylic Coating – ethylbenzene

Utrecht Workable Fixative – ethylbenzene

On June 11, 2004, the State of California officially listed ethylbenzene as a chemical known to cause cancer.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator that are currently known to AS YOU SOW based on information now available to it. AS YOU SOW may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose individuals within California to the identified chemicals, without providing clear and reasonable warning. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or use of these products by consumers. The primary route of exposure to these chemicals is through inhalation. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. In particular, the products do not provide any warnings of the carcinogenic hazards associated with the ethylbenzene contained in the products.

Each of these ongoing violations has occurred since March 21, 2012, and on every day since the products were introduced in the California marketplace (following the one year anniversary dates of the listing of the chemicals at issue); and will continue every day until clear and reasonable warnings are provided to product purchasers and users and/or the listed toxins are removed from the products.

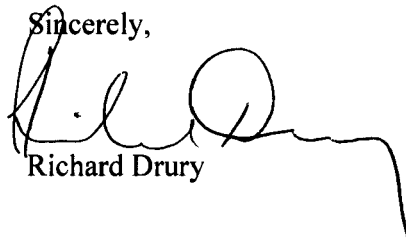
Pursuant to Section 25249.7(d) of the statute, AS YOU SOW intends to file a citizen enforcement action sixty days after effective service of this notice. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, AS YOU SOW seeks a speedy and constructive resolution to this matter. Such a resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time-consuming litigation. Toward that end, As You Sow is willing to discuss effective remedies for the violations noted in this letter during the notice period.

As You Sow's President and Chief Counsel is Danielle Fugere, and is located at 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612; Telephone: (510) 735-8158. As You Sow has retained me in connection with this matter. You may contact Ms. Fugere directly or call me at the

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
March 21, 2013
Page 3

above-listed law office address and telephone number.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Drury', with a long horizontal flourish extending to the right.

Richard Drury

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Utrecht Manufacturing Corporation only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: As You Sow's Notice of Proposition 65 Violations by Utrecht Manufacturing Corporation

I, Douglas Chermak, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

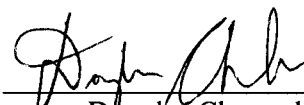
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultants, and on 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 plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: March 21, 2013



Douglas Chermak

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within- entitled action. My business address is 410 12th Street, Suite 250, Oakland, CA 94607.

On March 21, 2013, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

George Muench or Current President
Michael Ippolito or Current Chief
Executive Officer
Utrecht Manufacturing Corporation
6 Corporate Drive, Suite #1
Cranbury, NJ 08512

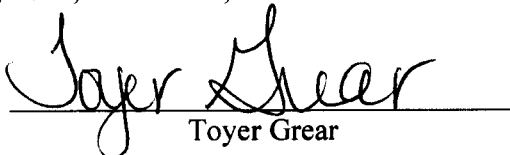
National Registered Agents, Inc.
Agent for Service of Process for
Utrecht Manufacturing Corporation
100 Canal Point Blvd., Suite 212
Princeton, NJ 08540

On March 21, 2013, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On March 21, 2013, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

Executed on March 21, 2013, in Oakland, CA.



Toyer Gear

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 21, 2013

Page 6

Service List

District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney, Alpine County
270 Laramie St. P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
346 Fifth Street, Suite 101
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street
4th Floor
Eureka, CA 95501

District Attorney, Imperial County
County Administration Building
940 West Main Street, Suite 102
El Centro, CA 92243

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 North Forbes Street
Lakeport, CA 95453

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

District Attorney, Madera County
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Madera, CA 93637

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San Rafael, CA 94903

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Ukiah, CA 95482

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