1	Evan J. Smith, Esquire (SBN 242352) Ryan P. Cardona, Esquire (SBN 302113)	ELECTRONICALLY				
2	BRODSKY SMITH 9595 Wilshire Blvd., Ste. 900 Beverly Hills, CA 90212	FILED Superior Court of California, County of San Francisco				
3	Telephone: (877) 534-2590 Facsimile: (310) 247-0160	08/02/2023				
5	Attorneys for Plaintiff	Clerk of the Court BY: AUSTIN LAM Deputy Clerk				
6	Anorneys for Figurity					
7	SUPERIOR COURT OF T	THE STATE OF CALIFORNIA				
8	COUNTY OF	SAN FRANCISCO				
9	PRECILA BALABBO,	Case No.: CGC-23-60808	3			
10	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF				
11	vs.	(Violation of Health & Safety Code § 25249.5 et				
12	TARGET CORPORATION,	seq.)				
13	Defendant.					
14	Plaintiff Precila Balabbo ("Plaintiff"), by and through her attorneys, alleges the following					
15	cause of action in the public interest of the citizens of the State of California.					
16	BACKGROUND OF THE CASE					
17	1. Plaintiff brings this representative action on behalf of all California citizens to					
18	enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at					
19	ne Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,					
20	"[n]o person in the course of doing business shall knowingly and intentionally expose any					
21	individual to a chemical known to the state to cause cancer or reproductive toxicity without first					
22	giving clear and reasonable warning to such ir	ndividual". Health & Safety Code § 25249.6.				
23	2. This complaint is a representat	ive action brought by Plaintiff in the public interest				
24	of the citizens of the State of California to enf	Force the People's right to be informed of the health				
25	hazards caused by exposure to diethanolamine	hazards caused by exposure to diethanolamine (DEA) and/or di(2-ethylhexyl) phthalate (DEHP),				
26	toxic chemicals found in products sold and	d/or distributed by defendant Target Corporation				
27	("Target" or "Defendant") in California.					
28						
	1	1				

COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF – VIOLATION OF HEALTH & SAFETY CODE §25249.5

- 3. DEA¹ is a harmful chemical known to the State of California to cause cancer.

 DEHP² is a harmful chemical known to the State of California to cause cancer and birth defects or other reproductive harm.
- 4. Proposition 65 requires all businesses with ten (10) or more employees that operate within California or sell products therein to comply with Proposition 65 regulations. Included in such regulations is the requirement that businesses must label any product containing a Proposition 65-listed chemical that will create an exposure above safe harbor levels with a "clear and reasonable" warning before "knowingly and intentionally" exposing any person to any such listed chemical.
- 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code \$ 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the actions of a defendant which "violate or threaten to violate" the statute. Health & Safety Code \$ 25249.7.
- 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California, without a requisite exposure warning, (a) *Lily Frilly*® mermaid sparkle clips for toddlers, UPC # 850007602222 (DEHP) and (b) *Pure Aura*® silver foil masks, UPC # 850002134018 (DEA) (collectively, the "Products") that expose persons to DEA and/or DEHP when used for their intended purpose.

On June 22, 2012, the State of California listed DEA as a chemical known to the State to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

² On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth defects or other reproductive harm.

- 7. Defendant's failure to warn consumers and other individuals in California of the health hazards associated with exposure to DEA and/or DEHP in conjunction with the sale and/or distribution of the Products is a violation of Proposition 65 and subjects Defendant to the enjoinment and civil penalties described herein.
- 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65 in accordance with Health and Safety Code § 25249.7(b).
- 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring Defendant to provide purchasers or users of the Products with required warnings related to the dangers and health hazards associated with exposure to DEA and/or DEHP pursuant to Health and Safety Code § 25249.7(a).
 - 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

PARTIES

- 11. Plaintiff is a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items. She brings this action in the public interest pursuant to Health and Safety Code § 25249.7(d).
- 12. Defendant Target, through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.
- 13. Plaintiff alleges that defendant Target is a "person" in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

VENUE AND JURISDICTION

- 14. Venue is proper in the County of San Francisco because one or more of the instances of wrongful conduct occurred, and continue to occur in this county and/or because Defendant conducted, and continues to conduct, business in the County of San Francisco with respect to the Products.
- 15. This Court has jurisdiction over this action pursuant to California Constitution Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those

given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has jurisdiction over this lawsuit.

16. This Court has jurisdiction over Defendant because Defendant is either a citizen of the State of California, has sufficient minimum contacts with the State of California, is registered with the California Secretary of State as foreign corporations authorized to do business in the State of California, and/or has otherwise purposefully availed itself of the California market. Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent and permissible with traditional notions of fair play and substantial justice.

STATUTORY BACKGROUND

- 17. The people of the State of California declared in Proposition 65 their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm." (Section 1(b) of Initiative Measure, Proposition 65.)
- 18. To effect this goal, Proposition 65 requires that individuals be provided with a "clear and reasonable warning" before being exposed to substances listed by the State of California as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in pertinent part:

No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...

19. An exposure to a chemical in a consumer product is one "which results from a person's acquisition, purchase, storage, consumption or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service." (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that "a person in the course of doing business ... shall provide a warning to any person to whom the product is sold or transferred unless the product is packaged or labeled with a clear and reasonable warning."

- 20. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or more of the following methods individually or in combination:³
 - a. A warning that appears on a product's label or other labeling.
 - b. Identification of the product at the retail outlet in a manner which provides a warning. Identification may be through shelf labeling, signs, menus, or a combination thereof.
 - c. The warnings provided pursuant to subparagraphs (a) and (b) shall be prominently placed upon a product's labels or other labeling or displayed at the retail outlet with such conspicuousness, as compared with other words, statements, designs, or devices in the label, labeling or display as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use.
 - d. A system of signs, public advertising identifying the system and toll-free information services, or any other system that provides clear and reasonable warnings.
- 21. Proposition 65 provides that any "person who violates or threatens to violate" the statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase "threaten to violate" is defined to mean creating "a condition in which there is a substantial probability that a violation will occur." (H&S Code § 25249.11(e).) Violators are liable for civil penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

FACTUAL BACKGROUND

22. On June 22, 2012, the State of California listed DEA as a chemical known to the State to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

³ Alternatively, a person in the course of doing business may elect to comply with the warning requirements set out in the amended version of 27 CCR 25601, *et.seq.*. as amended on August 30, 2016, and operative on August 30, 2018.

- 23. On January 1, 1988, the State of California listed DEHP as a chemical known to the State to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth defects or other reproductive harm.
- 24. The exposures that are the subject of the Notices result from the purchase, acquisition, handling, and recommended use of the Products. The primary route of exposure to DEA and/or DEHP is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Exposure through ingestion will occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure.
- 25. Defendant has processed, marketed, distributed, offered to sell and/or sold the Products in California since at least August 3, 2022 with respect to the *Lily Frilly®* Product; and since at least May 30, 2023 with respect to the *Pure Aura®* Product. The Products continue to be distributed and sold in California without the requisite warning information.
- 26. At all times relevant to this action, Defendant has knowingly and intentionally exposed users and/or consumers of the Products to DEA and/or DEHP without first giving a clear and reasonable exposure warning to such individuals.
- 27. As a proximate result of acts by Defendant, as a person in the course of doing business within the meaning of H&S Code § 25249.11, individuals throughout the State of California, including in San Francisco County, have been exposed to DEA and/or DEHP without a clear and reasonable warning on the Products. The individuals subject to the violative exposures include normal and foreseeable users and consumers that use the Products, as well as all others exposed to the Products.

SATISFACTION OF NOTICE REQUIREMNTS

28. Plaintiff purchased the Products from Target. At the time of purchase, Target did not provide a Proposition 65 exposure warning for DEA, DEHP, or any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described *supra*.

- 29. The *Pure Aura*® product was sent to a testing laboratory for diethanolamine testing to determine the diethanolamine content of the product; and the *Lily Frilly*® product was sent to a testing laboratory for phthalate testing to determine the phthalate content of the product.
- 30. For each Product that was sent to the laboratory, Plaintiff received a chemical test report (collectively, the "Chemical Test Reports"). The Chemical Test report findings determined the *Pure Aura*® product exposes users to DEA; and the *Lily Frilly*® product exposes uses to DEHP.
- 31. Plaintiff provided each Chemical Test Report and each Product to an analytical chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable and foreseeable use of the Products, exposure to DEA and/or DEHP will occur at levels that require Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California Code of Regulations.
- 32. On August 3, 2022, Plaintiff received from the analytical chemist an exposure assessment report for the *Lily Frilly*® product that concluded that persons in California who use the *Lily Frilly*® product will be exposed to levels of DEHP that require a Proposition 65 exposure warning; and on May 30, 2023, Plaintiff received from the analytical chemist an exposure assessment report for the *Pure Aura*® product that concluded that persons in California who use the *Pure Aura*® product will be exposed to levels of DEA that require a Proposition 65 exposure warning
- 33. On August 3, 2022 (*Lily Frilly*® product), and May 30, 2023 (*Pure Aura*® product), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively, the "Notices") to Defendant concerning the exposure of California citizens to DEA and/or DEHP contained in the Products without proper warning, subject to a private action to Defendant and to the California Attorney General's office and the offices of the County District attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at Exhibits "A" "B" a true and correct copy of the Notices.

- 34. The Notices complied with all procedural requirements of Proposition 65 including the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at least one person with relevant and appropriate expertise who reviewed relevant data regarding DEA and/or DEHP exposure, and that counsel believed there was meritorious and reasonable cause for a private action.
- 35. After receiving the Notices, and to Plaintiff's best information and belief, none of the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a cause of action against Defendant under Proposition 65 to enforce the alleged violations which are the subject of the Notices.
- 36. Plaintiff is commencing this action more than sixty (60) days from the date of each Notice to Defendant, as required by law.

FIRST CAUSE OF ACTION

(By Plaintiff against Defendant for the Violation of Proposition 65)

- 37. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 36 of this Complaint as though fully set forth herein.
- 38. Defendant has, at all times mentioned herein, acted as distributer, and/or retailer of the Products.
- 39. Use of the Products will expose users to DEA and/or DEHP, a hazardous chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.
 - 40. The Products do not comply with the Proposition 65 warning requirements.
- 41. Plaintiff, based on her best information and belief, avers that at all relevant times herein, and at least since August 3, 2022 with respect to the *Lily Frilly®* product; and since at least May 30, 2023 with respect to the *Pure Aura®* product, continuing until the present, that Defendant has continued to knowingly and intentionally expose California users and consumers of the Products to DEA and/or DEHP without providing required warnings under Proposition 65.
- 42. The exposures that are the subject of the Notices result from the purchase, acquisition, handling and recommended use of the Products. The primary route of exposure to the is through dermal absorption directly through the skin when consumers use, touch, or handle the

Products. Exposure through ingestion will occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure.

- 43. Plaintiff, based on her best information and belief, avers that such exposures will continue every day until clear and reasonable warnings are provided to purchasers and users or until these known toxic chemicals are removed from the Products.
- 44. Defendant has knowledge that the normal and reasonably foreseeable use of the Products expose individuals to DEA and/or DEHP, and Defendant intends that exposures to DEA and/or DEHP will occur by its deliberate, non-accidental participation in the importation, distribution, sale and offering of the Products to consumers in California
- 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this Complaint.
- 46. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.
- 47. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

EXHIBIT "A"

BRODSKY & SMITH

9595 WILSTIIRE BLVD., STE, 900 BEVERLY HILLS, CA 90212 877.534.2590 www.brodskysmith.com

NEW JERSEY OFFICE 1310 NORTH KINGS HIGHWAY CHERRY HILL, NJ 08934 856.795.7250

NEW YORK OFFICE 240 MINEOLA BOULEVARD MINEOLA, NY 11501 516,741,4977 PENNSYLVANIA OFFICE TWO BALA PLAZA, STE. 805 BALA CYNWYD, PA 19004 610 667 6200

August 3, 2022

Member/Manager	Member/Manager
Lily Frilly, LLC	Olbali, LLC
c/o Courtney Adeleye	c/o Lily Frilly, LLC
131 Mist River Lane	6526 Old Brick Road, Suite 120-327
Huntsville, AL 35824	Windermere, FL 34786
President/CEO	President/CEO
Target Corporation	Target Brands, Inc.
c/o CT Corporation System	c/o CT Corporation System
1010 Dale St. N	1010 Dale St. N
St. Paul, MN 55117-5603	St. Paul, MN 55117-5603

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

- Enforcer: Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
- 2. Alleged Violator(s): Lily Frilly, LLC; Olbali, LLC; Target Corporation; Target Brands, Inc.
- 3. Time Period of Exposure: Violations have been occurring since at least August 3, 2022 and are continuing to this day.
- 4. Listed Chemical: Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.

5. Product:

Product ²	Non- Exclusive Examples of the Product
Clip	Lily Frilly Mermaid Sparkle Clip for toddlers
	UPC# 850007602222

6. Description of Exposure: The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,

Evan J. Smith

Attachments

Certificate of Merit Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT "B"

LAW OFFICES

BRODSKY & SMITH

9\$95 WILSHIRE BLVD., STE. 900 BEVERLY HILLS, CA 90212 877,534,2590 www.brodskysmith.com

NEW JERSEY OFFICE 1310 NORTH KINGS HIGHWAY CHERRY HILL, NJ 08934 856.795.7250 NEW YORK OFFICE 240 MINEOLA BOULEVARD MINEOLA, NY 11501 516.741.4977 PENNSYLVANIA OFFICE TWO BALA PLAZA, STE. 805 BALA CYNWYD, PA 19004 610.667.6200

May 30, 2023

President/CEO	President/CEO	
Shinhwa Corp.	Target Corporation	
c/o Jay Seo	c/o CT Corporation System	
3435 Wilshire Blvd., #2310	1010 Dale St. N	
Los Angeles, CA 90010	St. Paul, MN 55117-5603	
President/CEO		
Target Brands, Inc.		
c/o CT Corporation System		
1010 Dale St. N		
St. Paul, MN 55117-5603		

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act1

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

I. DESCRIPTION OF THE VIOLATION

- Enforcer: Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
- 2. Alleged Violator(s): Shinhwa Corp.; Target Corporation; Target Brands, Inc.
- 3. Time Period of Exposure: Violations have been occurring since at least May 30, 2023 and are continuing to this day.
- 4. Product: Listed Chemical: Diethanolamine (DEA) is listed under Proposition 65 as a chemical known to the State to cause cancer.

5. Product:

Product ²	Non- Exclusive Examples of the Product
Face Mask	Pure Aura Silver Foil Mask
	UPC# 850002134018

6. Description of Exposure: The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal exposure. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,

Evan I Smith

Attachments

Certificate of Merit Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary