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Attorneys for Plaintiff

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

09/12/2023
Clerk of the Court
BY: DAEJA ROGERS
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

PRECILA BALABBO,

Plaintiff,

vs.

BURLINGTON STORES, INC.,
BURLINGTON COAT FACTORY OF
TEXAS, INC.,

Defendants.

Case No.:

CGC-23-609001

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

Plaintiff Precila Balabbo ("Plaintiff"), by and through her attorneys, alleges the following
cause of action in the public interest of the citizens of the State of California.

BACKGROUND OF THE CASE

1. Plaintiff brings this representative action on behalf of all California citizens to
enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,
"[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
giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

2. This complaint is a representative action brought by Plaintiff in the public interest
of the citizens of the State of California to enforce the People's right to be informed of the health
hazards caused by exposure to lead, diethanolamine (DEA), and/or bisphenol A (BPA), toxic
chemicals found in products sold and/or distributed by defendants Burlington Stores, Inc. and/or

1 Burlington Coat Factory of Texas, Inc. (collectively, “Burlington” or “Defendants” and each a
2 “Defendant”) in California.

3 3. DEA¹ is a harmful chemical known to the State of California to cause cancer. BPA²
4 is harmful chemical known to the State of California to cause birth defects or other reproductive
5 harm. Lead³ is a harmful chemical known to the State of California to cause cancer and birth
6 defects or other reproductive harm.

7 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
8 within California or sell products therein to comply with Proposition 65 regulations. Included in
9 such regulations is the requirement that businesses must label any product containing a Proposition
10 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
11 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
12 chemical.

13 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
14 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
15 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
16 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
17 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
18 25249.7.

21 ¹ On June 22, 2012, the State of California listed DEA as a chemical known to the State to cause
22 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
23 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

24 ² On May 11, 2015, the State of California listed BPA as a chemical known to the State to cause
25 birth defects or other reproductive harm and BPA 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).

26 ³ On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and
27 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.
28 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State
of California listed lead as a chemical known to cause birth defects or other reproductive harm.

1 State of California. Plaintiff alleges that defendant Burlington Stores, Inc. is a “person” in the
2 course of doing business within the meaning of Health & Safety Code sections 25249.6 and
3 25249.11.

4 13. Defendant Burlington Coat Factory of Texas, Inc., through its business, effectively
5 imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it
6 implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use
7 in the State of California. Plaintiff alleges that defendant Burlington Coat Factory of Texas, Inc.
8 is a “person” in the course of doing business within the meaning of Health & Safety Code sections
9 25249.6 and 25249.11.

10 VENUE AND JURISDICTION

11 14. Venue is proper in the County of San Francisco because one or more of the
12 instances of wrongful conduct occurred, and continue to occur in this county and/or because
13 Defendants conducted, and continue to conduct, business in the County of San Francisco with
14 respect to the Products.

15 15. This Court has jurisdiction over this action pursuant to California Constitution
16 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
17 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
18 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
19 jurisdiction over this lawsuit.

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

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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:

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 § 25603(c) 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.”

- 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 information. Identification may be through shelf labeling, signs, menus, or a combination of the foregoing.
- 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.

- 5 -

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

1 with such conspicuousness, as compared with other words, statements, designs, or devices
2 in the label, labeling or display as to render it likely to be read and understood by an
3 ordinary individual under customary conditions of purchase or use.

4 d. A system of signs, public advertising identifying the system and toll-free
5 information services, or any other system that provides clear and reasonable warnings.

6 21. Proposition 65 provides that any “person who violates or threatens to violate” the
7 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
8 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
9 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
10 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
11 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

12 **FACTUAL BACKGROUND**

13 22. On October 1, 1992, the state of California listed lead as a chemical known to cause
14 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
15 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
16 1987, the State of California listed lead as a chemical known to cause birth defects or other
17 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
18 State to cause cancer and birth defects or other reproductive harm.

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

22 24. On May 11, 2015, the State of California listed BPA as a chemical known to the
23 State to cause birth defects or other reproductive harm and BPA has come under the purview of
24 Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety
25 Code §§ 25249.8 & 25249.10(b).

26 25. The exposures that are the subject of the Notices result from the purchase,
27 acquisition, handling, and recommended use of the Products. The primary route of exposure to
28 lead, DEA, and/or BPA is through dermal absorption directly through the skin when consumers

1 use, touch, or handle the Products. Exposure through ingestion will occur by touching the Products
2 with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided
3 with the Products regarding the health hazards of exposure.

4 26. Defendants have processed, marketed, distributed, offered to sell and/or sold the
5 Products in California since at least September 14, 2022 with respect to the *Sunshine Squad*®
6 Product; since at least April 6, 2023 with respect to *The Spathecary*® Product, the *Nicka K New*
7 *York*® Product, and the *Absolute New York*® Product; since at least April 21, 2023 with respect to
8 the *Manna Kadar*® Product; and since at least May 18, 2023 with respect to *Ivy Houseware*®
9 Product. The Products continue to be distributed and sold in California without the requisite
10 warning information.

11 27. At all times relevant to this action, Defendants have knowingly and intentionally
12 exposed users and/or consumers of the Products to lead, DEA, and/or BPA without first giving a
13 clear and reasonable exposure warning to such individuals.

14 28. As a proximate result of acts by Defendants, each as a person in the course of doing
15 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
16 California, including in San Francisco County, have been exposed to lead, DEA, and/or BPA
17 without a clear and reasonable warning on the Products. The individuals subject to the violative
18 exposures include normal and foreseeable users and consumers that use the Products, as well as
19 all others exposed to the Products.

20 **SATISFACTION OF NOTICE REQUIREMENTS**

21 29. Plaintiff purchased the Products from Burlington. At the time of purchase,
22 Defendants did not provide a Proposition 65 exposure warning for lead, DEA, BPA, or any other
23 Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described
24 *supra*.

25 30. The *Sunshine Squad*® Product was sent to a testing laboratory to determine if, and
26 what amount of BPA would migrate and/or leach from the Product; *The Spathecary*® Product, the
27 *Nicka K New York*® Product, the *Absolute New York*® Product, and the *Manna Kadar*® Product
28 were sent to a testing laboratory for diethanolamine testing to determine the DEA content of the

1 Products; and the *Ivy Houseware*® Product was sent to a testing laboratory to determine if, and
2 what amount of, lead would migrate and/or leach from the Product.

3 31. For each Product that was sent to the laboratory, Plaintiff received a chemical test
4 report (collectively, the “Chemical Test Reports” and each a “Chemical Test Report”). The
5 Chemical Test Reports findings determined the *Sunshine Squad*® Product exposes users to BPA;
6 *The Spathecary*® Product, the *Nicka K New York*® Product, the *Absolute New York*® Product, and
7 the *Manna Kadar*® Product exposes users to DEA; and the *Ivy Houseware*® Product exposes
8 users to lead.

9 32. Plaintiff provided each Chemical Test Report and each Product to an analytical
10 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable
11 and foreseeable use of the Products, exposure to lead, DEA, and/or BPA will occur at levels that
12 require Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title
13 27 of the California Code of Regulations.

14 33. On September 14, 2022, Plaintiff received from the analytical chemist exposure
15 assessment reports for the *Sunshine Squad*® Product that concluded that persons in California who
16 use the *Sunshine Squad*® Product will be exposed to levels of BPA that require a Proposition 65
17 exposure warning. On April 6, 2023, Plaintiff received from the analytical chemist an exposure
18 assessment report for *The Spathecary*® Product, the *Nicka K New York*® Product, and the *Absolute*
19 *New York*® Product that concluded that persons in California who use *The Spathecary*® Product,
20 the *Nicka K New York*® Product, and the *Absolute New York*® Product will be exposed to levels
21 of DEA that require a Proposition 65 exposure warning. On April 21, 2023, Plaintiff received from
22 the analytical chemist an exposure assessment report for the *Manna Kadar*® Product that
23 concluded that persons in California who use the *Manna Kadar*® Product will be exposed to levels
24 of DEA that require a Proposition 65 exposure warning. On May 18, 2023, Plaintiff received from
25 the analytical chemist an exposure assessment report for the *Ivy Houseware*® Product that
26 concluded that persons in California who use the *Ivy Houseware*® Product will be exposed to
27 levels of lead that require a Proposition 65 exposure warning.

34. On September 14, 2022 (*Sunshine Squad*® 3 pc. beach sets), April 6, 2023 (*The Spathecary*® Vitamin C & Pineapple facial scrubs, the *Nicka K New York*® mascara sets, and the *Absolute New York*® brows and lashes growth serums), April 21, 2023 (*Manna Kadar*® brow phenom brow tint sets), and May 18, 2023 (*Ivy Houseware*® “Pray More Worry Less” spoon rests), 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 lead, DEA and/or BPA contained in the Products without proper warning, subject to a private action to Defendants 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” – “F” a true and correct copy of the Notices.

35. 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 lead, DEA, and/or BPA exposure, and that counsel believed there was meritorious and reasonable cause for a private action.

36. 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 Defendants under Proposition 65 to enforce the alleged violations which are the subject of the Notices.

37. Plaintiff is commencing this action more than sixty (60) days from the date of each Notice to Defendants, as required by law.

FIRST CAUSE OF ACTION

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

38. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer of the Products.

1 40. Use of the Products will expose users to lead, DEA, and/or BPA, hazardous
2 chemicals found on the Proposition 65 list of chemicals known to be hazardous to human health.

3 41. The Products do not comply with the Proposition 65 warning requirements.

4 42. Plaintiff, based on her best information and belief, avers that at all relevant times
5 herein, and at since at least September 14, 2022 with respect to the *Sunshine Squad*® Product;
6 since at least April 6, 2023 with respect to *The Spathecary*® Product, the *Nicka K New York*®
7 Product, and the *Absolute New York*® Product; since at least April 21, 2023 with respect to the
8 *Manna Kadar*® Product; and since at least May 18, 2023 with respect to *Ivy Houseware*® Product,
9 continuing until the present, that Defendants have continued to knowingly and intentionally expose
10 California users and consumers of the Products to lead, DEA, and/or BPA without providing
11 required warnings under Proposition 65.

12 43. The exposures that are the subject of the Notices result from the purchase,
13 acquisition, handling and recommended use of the Products. The primary route of exposure to
14 lead, DEA, and/or BPA is through dermal absorption directly through the skin when consumers
15 use, touch, or handle the Products. Exposure through ingestion will occur by touching the Products
16 with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided
17 with the Products regarding the health hazards of exposure.

18 44. Plaintiff, based on her best information and belief, avers that such exposures will
19 continue every day until clear and reasonable warnings are provided to purchasers and users or
20 until these known toxic chemicals are removed from the Products.

21 45. Defendants have knowledge that the normal and reasonably foreseeable use of the
22 Products expose individuals to lead, DEA, and/or BPA, and Defendants intend that exposures to
23 lead, DEA, and/or BPA will occur by its deliberate, non-accidental participation in the importation,
24 distribution, sale and offering of the Products to consumers in California.

25 46. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
26 Complaint.

27 47. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
28 described acts, Defendants are liable for a maximum civil penalty of \$2,500 per day per violation.

1 48. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
2 authorized to grant injunctive relief in favor of Plaintiff and against Defendants.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following
5 relief:

6 A. That the court assess civil penalties against each Defendant in the amount of \$2,500
7 per day for each violation for up to 365 days (up to a maximum civil penalty amount per
8 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

9 B. That the court preliminarily and permanently enjoin Defendants mandating
10 Proposition 65 compliant warnings on the Products;

11 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
12 amount of \$50,000.00.

13 D. That the court grant any further relief as may be just and proper.

14 Dated: September 12, 2023

BRODSKY SMITH

15 By: 

16 Evan J. Smith (SBN242352)

17 Ryan P. Cardona (SBN302113)

9595 Wilshire Boulevard, Suite 900

Beverly Hills, CA 90212

18 Telephone: (877) 534-2590

19 Facsimile: (310) 247-0160

20 *Attorneys for Plaintiff*

EXHIBIT “A”

LAW OFFICES
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MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

September 14, 2022

President/CEO Idea Nuova, Inc. 302 Fifth Avenue 4 Corporate Place Piscataway, NY 10001	President/CEO Idea Nuova, Inc. 302 Fifth Avenue, 5 th Floor New York, NY 10001
President/CEO Burlington Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Coat Factory of Texas, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

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 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.

1. **Enforcer:** Precila Balabbo, 285 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818.434.4023.
2. **Alleged Violator(s):** Idea Nuova, Inc.; Burlington Stores, Inc.; Burlington Coat Factory of Texas, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 2022 and are continuing to this day.
4. **Listed Chemical:** Bisphenol A (BPA). BPA is listed under Proposition 65 as a chemical known to the State to cause reproductive toxicity.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Water Bottle	Sunshine Squad 3 pc. Beach Set – Water Bottle UPC# 784857962628

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 BPA 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
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PENNSYLVANIA OFFICE
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BALA CYNWYD, PA 19004
610.667.6200

April 6, 2023

President/CEO Global Beauty Care Inc. 709 Avenue T, Brooklyn, NY 11223	President/CEO Global Beauty Care, Inc. 1296 E 10 th St., Brooklyn, NY 11230
President/CEO Global Beauty Care, Inc. 16 W 36 th St., New York, NY 10018	Member/Manager Jajas IP Holdings LLC c/o Albert Savdie 1296 E 10 th St., Brooklyn, NY 11230
President/CEO Burlington Coat Factory Warehouse Corporation c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Burlington Coat Factory of Texas, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Coat Factory of Texas, Inc. c/o CT Corporation System 28 Liberty Street New York, NY 10005

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)

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.

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.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Global Beauty Care Inc.; Global Beauty Care, Inc.; Jajas IP Holdings LLC; Burlington Coat Factory Warehouse Corporation; Burlington Store, Inc.; Burlington Coat Factory of Teas, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least April 6, 2023 and are continuing to this day.
4. **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
Facial Scrub	The Spathecary Vitamin C & Pineapple Facial Scrub UPC# 8 14655 04016 4

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.

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.

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.

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 Act of 1986 (Proposition 65): A Summary

EXHIBIT “C”

LAW OFFICES
BRODSKY & SMITH

9595 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

April 6, 2023

President/CEO Proxima, Inc. 109-15 178 th St., Jamaica, NY 11433	President/CEO Proxima, Inc. dba Nicka K Cosmetics 109-15 178 th St., Jamaica, NY 11433
President/CEO Nicka K New York c/o Sundoc Filings 7801 Folsom Blvd., Ste. 202 Sacramento, CA 95826	President/CEO Nicka K New York Inc. c/o Diversified Corporate Service Int'l, Inc. 18560 North Bay Rd., Sunny Isles Beach, FL 33160
President/CEO Burlington Coat Factory Warehouse Corporation c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Coat Factory of Texas, Inc. c/o CT Corporation System 28 Liberty Street New York, NY 10005
President/CEO Burlington Coat Factory of Texas, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

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)

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.

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.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Proxima, Inc.; Proxima, Inc. dba Nicka K Cosmetics; Nicka K New York; Nicka K New York Inc.; Burlington Coat Factory Warehouse Corporation; Burlington Stores, Inc.; Burlington Coat Factory of Texas, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least April 6, 2023 and are continuing to this day.
4. **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
Mascara Set	Nicka K New York Mascara Set UPC# 6 07203 05306 4

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.

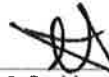
² The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive 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.

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.

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 “D”

LAW OFFICES
BRODSKY & SMITH

9595 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

April 6, 2023

President/CEO Absolute Hot New York Corp. c/o Diversified Corporate Services Int'l, Inc. 18560 N. Bay Road, Sunny Isles Beach, FL 33160	President/CEO Absolute Hot New York Corp. c/o Hyon-Chung Kim 19 Harbor Park Drive Port Washington, NY 11050
President/CEO Absolute Hot New York Corp. c/o Sundoc Filings 7801 Folsom Blvd., #202 Sacramento, CA 95826	President/CEO ABSNY GmbH Alfredstrasse 356, 45133 Essen, Nordhein-Westfalen Germany
President/CEO Burlington Coat Factory Warehouse Corporation c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Burlington Coat Factory of Texas, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Coat Factory of Texas, Inc. c/o CT Corporation System 28 Liberty Street New York, NY 10005

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

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.

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.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Absolute Hot New York Corp.; ABSNY GmbH; Burlington Store, Inc.; Burlington Coat Factory Warehouse Corporation; Burlington Coat Factory of Texas, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least April 6, 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
Growth Serum	Absolute New York Brows and Lashes Growth Serum UPC# 8 88432 94470 9

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

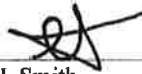
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a

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.

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.

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 Act of 1986 (Proposition 65): A Summary

EXHIBIT “E”

LAW OFFICES
BRODSKY & SMITH

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

NEW JERSEY OFFICE
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CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
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MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

April 21, 2023

President/CEO Manna Kadar Beauty, Inc. c/o Registered Agent Solutions, Inc. 838 Walker Road, Suite 21-2 Dover, DE 19904	President/CEO Manna Kadar Beauty, Inc. c/o Julianne Pfister 16 Technology Dr., #102 Irvine, CA 92618
President/CEO Burlington Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Coat Factory of Texas, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203
President/CEO Burlington Coat Factory of Texas, Inc. c/o CT Corporation System 1200 South Pine Island Road Plantation, FL 33324	President/CEO Burlington Coat Factory of Texas, Inc. 1830 Route 130 North Burlington, NJ 08016

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

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.

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. **Enforcer:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Manna Kadar Beauty, Inc.; Burlington Stores, Inc.; Burlington Coat Factory of Texas, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least April 21, 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:**

Product²	Non- Exclusive Examples of the Product
Brow Tint	Manna Kadar Brow Phenom Set – Brow Tint UPC# 850016286949

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

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.

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.

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 “F”

LAW OFFICES
BRODSKY & SMITH, LLC

9595 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 18, 2023

President/CEO Burlington Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Burlington Coat Factory of Texas, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203
President/CEO Burlington Coat Factory of Texas, Inc. c/o CT Corporation 1200 South Pine Island Road Plantation, FL 33324	President/CEO Burlington Coat Factory of Texas, Inc. 1830 Route 130 North Burlington, NJ 08016
President/CEO Ivy Houseware Co., Ltd. 6 th Bldg. 2# Shui Ku Road Nankeng Bantian Shenzhen Guangdong CHINA	

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, LLC ("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

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.

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. **Enforcer:** Precila Balabbo, 285 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Burlington Stores, Inc.; Burlington Coat Factory of Texas, Inc.; Ivy Houseware Co. Ltd.
3. **Time Period of Exposure:** Violations have been occurring since at least May 18, 2023 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead 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
Spoon Rest	Ivy Houseware "Pray More Worry Less" Spoon Rest 16181333209224

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion and dermal absorption exposure. When used for its intended purpose, the Product will be in contact with foods. The Listed Chemical will leach into the foods it comes into contact with. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. 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 ("OEHHHA"). For more information concerning the provisions of Proposition 65, contact OEHHHA 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 &

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.

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.

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, LLC, 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