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ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**08/22/2023**  
Clerk of the Court  
BY: AUSTIN LAM  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

PRECILA BALABBO,  
  
Plaintiff,  
  
vs.  
  
ROSS STORES, INC.,  
  
Defendant.

Case No.:

**CGC-23-608544**

**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 di(2-ethylhexyl) phthalate (DEHP), toxic chemicals found in products sold and/or distributed by defendant Ross Stores, Inc. ("Ross") in California.

1           3.       DEA<sup>1</sup> is a harmful chemical known to the State of California to cause cancer. Lead<sup>2</sup>  
2 and DEHP<sup>3</sup> are harmful chemicals known to the State of California to cause cancer and birth  
3 defects or other reproductive harm.

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

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

16          6.       Plaintiff alleges that Defendant distributes and/or offers for sale in California,  
17 without a requisite exposure warning, (a) *Yay! Let's Play*® bags, # 400239095776, (DEHP), (b)  
18 “Little Worker” bags, # 400245972894, (DEHP), (c) mugs & hot cocoa mix sets, UPC #  
19  
20

21 <sup>1</sup> 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  
Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).

23 <sup>2</sup> On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and  
24 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.  
25 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.

26 <sup>3</sup> . On January 1, 1988, the State of California listed DEHP as a chemical known to the State to  
27 cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal.  
28 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.

1 702014659198, (lead), (d) *b. happi®* bags, # 400250277427, (DEHP), (e) *Olivia's Pantry®*  
2 canisters, # 400238291971, (lead), (f) *Okay®* men's blackhead removal facial washes, UPC # 8  
3 15166 02903 7, (DEA), (g) *Bohemian Sunsets®* bags, RN # 150450, (DEHP), and (h) *Outerbanks*  
4 *Provisions®* bags, # 400251626064, (DEHP) (collectively, the "Products" and each a "Product")  
5 that expose persons to lead, DEA, and/or DEHP when used for their intended purpose.

6 7. Defendant's failure to warn consumers and other individuals in California of the  
7 health hazards associated with exposure to lead, DEA, and/or DEHP in conjunction with the sale  
8 and/or distribution of the Products is a violation of Proposition 65 and subjects Defendant to the  
9 enjoinder and civil penalties described herein.

10 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65  
11 in accordance with Health and Safety Code § 25249.7(b).

12 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
13 Defendant to provide purchasers or users of the Products with required warnings related to the  
14 dangers and health hazards associated with exposure to lead, DEA, and/or DEHP pursuant to  
15 Health and Safety Code § 25249.7(a).

16 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

17 **PARTIES**

18 11. Plaintiff is a citizen of the State of California acting in the interest of the general  
19 public to promote awareness of exposures to toxic chemicals in products sold in California and to  
20 improve human health by reducing hazardous substances contained in such items. She brings this  
21 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

22 12. Defendant Ross, through its business, effectively imports, distributes, sells, and/or  
23 offers the Products for sale or use in the State of California, or it implies by its conduct that it  
24 imports, distributes, sells, and/or offers the Products for sale or use in the State of California.  
25 Plaintiff alleges that defendant Ross is a "person" in the course of doing business within the  
26 meaning of Health & Safety Code sections 25249.6 and 25249.11.

1 **VENUE AND JURISDICTION**

2 13. Venue is proper in the County of San Francisco because one or more of the  
3 instances of wrongful conduct occurred, and continue to occur in this county and/or because  
4 Defendant conducted, and continues to conduct, business in the County of San Francisco with  
5 respect to the Products.

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

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

17 **STATUTORY BACKGROUND**

18 16. The people of the State of California declared in Proposition 65 their right “[t]o be  
19 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
20 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

21 17. To effect this goal, Proposition 65 requires that individuals be provided with a  
22 “clear and reasonable warning” before being exposed to substances listed by the State of California  
23 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in  
24 pertinent part:

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

1        18.     An exposure to a chemical in a consumer product is one “which results from a  
2 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
3 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
4 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
5 shall provide a warning to any person to whom the product is sold or transferred unless the product  
6 is packaged or labeled with a clear and reasonable warning.”

7        19.     Pursuant to H&S Code § 25603.1, the warning may be provided by using one or  
8 more of the following methods individually or in combination:<sup>4</sup>

9            a.        A warning that appears on a product’s label or other labeling.

10          b.        Identification of the product at the retail outlet in a manner which provides  
11 a warning. Identification may be through shelf labeling, signs, menus, or a combination  
12 thereof.

13          c.        The warnings provided pursuant to subparagraphs (a) and (b) shall be  
14 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet  
15 with such conspicuousness, as compared with other words, statements, designs, or devices  
16 in the label, labeling or display as to render it likely to be read and understood by an  
17 ordinary individual under customary conditions of purchase or use.

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

20        20.     Proposition 65 provides that any “person who violates or threatens to violate” the  
21 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase  
22 “threaten to violate” is defined to mean creating “a condition in which there is a substantial  
23 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil  
24

25  
26  
27 <sup>4</sup> Alternatively, a person in the course of doing business may elect to comply with the warning  
28 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.

1 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to  
2 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

3 **FACTUAL BACKGROUND**

4 21. On October 1, 1992, the state of California listed lead as a chemical known to cause  
5 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code  
6 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,  
7 1987, the State of California listed lead as a chemical known to cause birth defects or other  
8 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the  
9 State to cause cancer and birth defects or other reproductive harm.

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

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

18 24. The exposures that are the subject of the Notices result from the purchase,  
19 acquisition, handling, and recommended use of the Products. The primary route of exposure to  
20 lead, DEA, and/or DEHP is through dermal absorption directly through the skin when consumers  
21 use, touch, or handle the Products. Exposure through ingestion will occur by touching the Products  
22 with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided  
23 with the Products regarding the health hazards of exposure.

24 25. Defendant has processed, marketed, distributed, offered to sell and/or sold the  
25 Products in California since at least October 27, 2022 with respect to the *Yay! Let's Play*® Product  
26 and the "Little Worker" Product; since at least January 12, 2023 with respect to the mugs & hot  
27 cocoa mix Product; since at least February 1, 2023 with respect to the *b. happi*® Product; since at  
28 least March 17, 2023 with respect to *Olivia's Pantry*® Product; since at least March 22, 2023 with

1 respect to the *Okay*® Product; since at least March 29, 2023 with respect to the *Bohemian Sunsets*®  
2 Product; and since at least May 22, 2023 with respect to the *Outerbanks Provisions*® Product. The  
3 Products continue to be distributed and sold in California without the requisite warning  
4 information.

5 26. At all times relevant to this action, Defendant has knowingly and intentionally  
6 exposed users and/or consumers of the Products to lead, DEA, and/or DEHP without first giving  
7 a clear and reasonable exposure warning to such individuals.

8 27. As a proximate result of acts by Defendant, as a person in the course of doing  
9 business within the meaning of H&S Code § 25249.11, individuals throughout the State of  
10 California, including in San Francisco County, have been exposed to lead, DEA, and/or DEHP  
11 without a clear and reasonable warning on the Products. The individuals subject to the violative  
12 exposures include normal and foreseeable users and consumers that use the Products, as well as  
13 all others exposed to the Products.

#### 14 **SATISFACTION OF NOTICE REQUIREMENTS**

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

18 29. The *Yay! Let's Play*® Product, the “Little Worker” Product, the *b. happi*® Product,  
19 the *Bohemian Sunsets*® Product, and the *Outerbanks Provisions*® Product were sent to a testing  
20 laboratory for phthalate testing to determine the phthalate content of the Product; the *Okay*®  
21 Product was sent to a testing laboratory for diethanolamine testing to determine the DEA content  
22 of the Products; and the mugs & hot cocoa mix Product and the *Olivia's Pantry*® Product were  
23 sent to a testing laboratory to determine if, and what amount of, lead would migrate and/or leach  
24 from the Products.

25 30. For each Product that was sent to the laboratory, Plaintiff received a chemical test  
26 report (collectively, the “Chemical Test Reports”). The Chemical Test Report findings determined  
27 the *Yay! Let's Play*® Product, the “Little Worker” Product, the *b. happi*® Product, the *Bohemian*  
28 *Sunsets*® Product, and the *Outerbanks Provisions*® Product exposes users to DEHP; the *Okay*®

1 Product exposes users to DEA; and the mugs & hot cocoa mix Product and the *Olivia's Pantry*®  
2 Product exposes users to lead.

3 31. Plaintiff provided each Chemical Test Report and each Product to an analytical  
4 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable  
5 and foreseeable use of the Products, exposure to lead, DEA, and/or DEHP will occur at levels that  
6 require Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title  
7 27 of the California Code of Regulations.

8 32. On October 27, 2022, Plaintiff received from the analytical chemist exposure  
9 assessment reports for the *Yay! Let's Play*® Product and the "Little Worker" Product that  
10 concluded that persons in California who use the *Yay! Let's Play*® Product and the "Little Worker"  
11 Product will be exposed to levels of DEHP that require a Proposition 65 exposure warning. On  
12 January 12, 2023, Plaintiff received from the analytical chemist an exposure assessment report for  
13 the mugs & hot cocoa mix Product that concluded that persons in California who use the mugs &  
14 hot cocoa mix Product will be exposed to levels of lead that require a Proposition 65 exposure  
15 warning. On February 1, 2023, Plaintiff received from the analytical chemist an exposure  
16 assessment report for the *b. happi*® Product that concluded that persons in California who use the  
17 *b. happi*® Product will be exposed to levels of DEHP that require a Proposition 65 exposure  
18 warning. On March 17, 2023, Plaintiff received from the analytical chemist an exposure  
19 assessment report for the *Olivia's Pantry*® Product that concluded that persons in California who  
20 use the *Olivia's Pantry*® Product will be exposed to levels of lead that require a Proposition 65  
21 exposure warning. On March 22, 2023, Plaintiff received from the analytical chemist an exposure  
22 assessment report for the *Okay*® Product that concluded that persons in California who use the  
23 *Okay*® Product will be exposed to levels of DEA that require a Proposition 65 exposure warning.  
24 On March 29, 2023, Plaintiff received from the analytical chemist an exposure assessment report  
25 for the *Bohemian Sunsets*® Product that concluded that persons in California who use the  
26 *Bohemian Sunsets*® Product will be exposed to levels of DEHP that require a Proposition 65  
27 exposure warning. On May 22, 2023, Plaintiff received from the analytical chemist an exposure  
28 assessment report for the *Outerbanks Provisions*® Product that concluded that persons in



1 California who use the *Outerbanks Provisions*® Product will be exposed to levels of DEHP that  
2 require a Proposition 65 exposure warning.

3 33. On October 27, 2022 (*Yay! Let's Play*® bags and “Little Worker” bags), January  
4 12, 2023 (mugs & hot cocoa mix sets), February 1, 2023 (*b. happi*® bags), March 17, 2023  
5 (*Olivia's Pantry*® canisters), March 22, 2023 (*Okay*® men's blackhead removal facial washes),  
6 March 29, 2023 (*Bohemian Sunsets*® bags), and May 22, 2023 (*Outerbanks Provisions*® bags),  
7 Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively, the  
8 “Notices”) to Defendant concerning the exposure of California citizens to lead, DEA and/or DEHP  
9 contained in the Products without proper warning, subject to a private action to Defendant and to  
10 the California Attorney General's office and the offices of the County District attorneys and City  
11 Attorneys for each city with a population greater than 750,000 persons wherein the herein  
12 violations allegedly occurred. See attached at Exhibits “A” – “H” a true and correct copy of the  
13 Notices.

14 34. The Notices complied with all procedural requirements of Proposition 65 including  
15 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at  
16 least one person with relevant and appropriate expertise who reviewed relevant data regarding  
17 lead, DEA, and/or DEHP exposure, and that counsel believed there was meritorious and reasonable  
18 cause for a private action.

19 35. After receiving the Notices, and to Plaintiff's best information and belief, none of  
20 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a  
21 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are  
22 the subject of the Notices.

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

25 **FIRST CAUSE OF ACTION**

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

27 37. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 36 of  
28 this Complaint as though fully set forth herein.

1           38.     Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of  
2 the Products.

3           39.     Use of the Products will expose users to lead, DEA, and/or DEHP, hazardous  
4 chemicals found on the Proposition 65 list of chemicals known to be hazardous to human health.

5           40.     The Products do not comply with the Proposition 65 warning requirements.

6           41.     Plaintiff, based on her best information and belief, avers that at all relevant times  
7 herein, and at since at least October 27, 2022 with respect to the *Yay! Let's Play*® Product and the  
8 “Little Worker” Product; since at least January 12, 2023 with respect to the mugs & hot cocoa mix  
9 Product; since at least February 1, 2023 with respect to the *b. happi*® Product; since at least March  
10 17, 2023 with respect to *Olivia's Pantry*® Product; since at least March 22, 2023 with respect to  
11 the *Okay*® Product; since at least March 29, 2023 with respect to the *Bohemian Sunsets*® Product;  
12 and since at least May 22, 2023 with respect to the *Outerbanks Provisions*® Product, continuing  
13 until the present, that Defendant has continued to knowingly and intentionally expose California  
14 users and consumers of the Products to lead, DEA, and/or DEHP without providing required  
15 warnings under Proposition 65.

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

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

25           44.     Defendant has knowledge that the normal and reasonably foreseeable use of the  
26 Products expose individuals to lead, DEA, and/or DEHP, and Defendant intends that exposures to  
27 lead, DEA, and/or DEHP will occur by its deliberate, non-accidental participation in the  
28 importation, distribution, sale and offering of the Products to consumers in California.

1 45. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
2 Complaint.

3 46. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above  
4 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

5 47. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
6 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following  
9 relief:

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

13 B. That the court preliminarily and permanently enjoin Defendant mandating  
14 Proposition 65 compliant warnings on the Products;

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

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

18 Dated: August 22, 2023

BRODSKY SMITH

19 By: 

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21 Ryan P. Cardona (SBN302113)  
22 9595 Wilshire Boulevard, Suite 900  
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24 Telephone: (877) 534-2590  
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26 *Attorneys for Plaintiff*

# EXHIBIT “A”

LAW OFFICES  
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October 27, 2022

President/CEO Banaus Inc. c/o Dongjie Lin 7365 Carnelian Street, Suite 226 Rancho Cucamonga, CA 91730	President/CEO Banaus Inc. 7365 Carnelian Street., Suite 226 Rancho Cucamonga, CA 91730
President/CEO Banatoys Co., Limited Nit No. 338-339 on 3/F Peninsula Centre No. 67 Mody Road Tism Sha Tsui east Kowloon, Hong Kong	President/CEO Ross Stores, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203
President/CEO Ross Stores, Inc. dba dd's Discounts c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Ross 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 Act<sup>1</sup>**

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

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<sup>1</sup> 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.

...” 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. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Banaus Inc.; Banatoys Co., Limited; Ross Stores, Inc.; Ross Stores, Inc. dba dd's Discounts
3. **Time Period of Exposure:** Violations have been occurring since at least October 27, 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Bag	Yay Let's Play Bag

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 &

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<sup>2</sup> 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, 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**

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

October 27, 2022

President/CEO Shantou Dihua Trading Co., Ltd. 2/F, No 1 Leshon Road Longhu District Shantou Guangdong CHINA	President/CEO Ross Stores, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203
President/CEO Ross Stores, Inc. dba dd's Discounts c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Ross 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 Act<sup>1</sup>**

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**

<sup>1</sup> 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 W. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Shantou Dihua Trading Co., Ltd.; Ross Stores, Inc.; Ross Stores, Inc. dba dd's Discounts
3. **Time Period of Exposure:** Violations have been occurring since at least October 27, 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Bag	Little Worker Bag 400245972894

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.

---

<sup>2</sup> 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](mailto: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 “C”

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

January 12, 2023

President/CEO MSRF, Inc. c/o The Prentice-Hall Corporation System, Inc. 251 Little Falls Drive Wilmington, DE 19808	President/CEO MSRF, Inc. c/o Barry J. Shkolnik 70 W. Madison Street, Suite 5200 Chicago, IL 60602
President/CEO Ross Stores, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Ross 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 Act<sup>1</sup>**

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 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**

<sup>1</sup> 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 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** MSRF, Inc.; Ross Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least January 12, 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Mug	Mugs & Hot Cocoa Mix Set UPC# 702014659198

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 ("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.

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<sup>2</sup> 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, LLC, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, [esmith@brodskysmith.com](mailto: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

February 1, 2023

Ross Stores, Inc.  
c/o The Corporation Trust Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, DE 19801

Ross Stores, 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 Act<sup>1</sup>**

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. **Enforcer:** Precila Balabbo, 285 W. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Ross Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least February 1, 2023 and are continuing to this day.

<sup>1</sup> 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.

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 <sup>2</sup>	Non- Exclusive Examples of the Product
Bag	b.happi bag 400250277427

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**

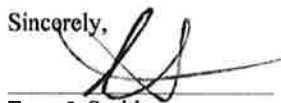
For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **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.

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](mailto:esmith@brodskysmith.com).**

Sincerely,

  
Evan J. Smith

<sup>2</sup> 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.

# EXHIBIT “E”

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

March 17, 2023

President/CEO Sunsmile Industry Co., Ltd. c/o Roger Guo Unit 966, 9/F., Time Intl Plaza, No. 89-2 Fuxin Rd., Fuzhou, Fujian, China. 350011 sunsmile@sunsmileinc.com	President/CEO Sunsmile Industry Co., Ltd. 5/F Nanquan Blgs, No. 58 Zhongpu Rd. Xiamen China
President/CEO Ross Stores, Inc. dba dd's Discounts c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Ross 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 Act<sup>1</sup>**

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 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**

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<sup>1</sup> 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 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Sunsmile Industry Co., Ltd.; Ross Stores, Inc. dba dd's Discounts; Ross Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least March 17, 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Food Canister	Olivia's Food Canister (Coffee, sugar, crackers, etc.)

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 ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

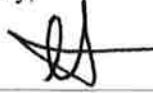
Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure 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.

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<sup>2</sup> 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, LLC, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,

A handwritten signature in black ink, appearing to be 'EJ Smith', written over a horizontal line.

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**

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

March 22, 2023

President/CEO Xtreme Tools International, Inc. c/o Mira Mithavayani 15400 NW 34 <sup>th</sup> Avenue Miami, FL 33054	President/CEO/Owner Xtreme Beauty International 15400 NW 34 <sup>th</sup> Avenue Miami Gardens, FL 33054-2461
President/CEO Xtreme Tools International, Inc. 15400 NW 34 <sup>th</sup> Avenue Miami Gardens, FL 33054-2461	President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Ross Stores, Inc. c/o CT Corporation System 28 Liberty Street New York, NY 10005	President/CEO Ross Stores, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203
President/CEO OKAY Pure Naturals DC 3121 NW 125 <sup>th</sup> Street Miami, FL 33167	President/CEO OKAY Pure Naturals 15400 NW 34 <sup>th</sup> Ave., Miami Gardens, FL 33054

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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

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<sup>1</sup> 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.



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. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Xtreme Tools International, Inc.; Xtreme Beauty International; Ross Stores, Inc.; OKAY Pure Naturals DC; OKAY Pure Naturals
3. **Time Period of Exposure:** Violations have been occurring since at least March 22, 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Men’s Facial Wash	Okay Men’s Blackhead Removal Facial Wash UPC# 8 15166 02903 7

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

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<sup>2</sup> 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.

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](mailto: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 “G”

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

March 29, 2023

President/CEO Parkview Home Textiles, Inc. 104 Sherman Avenue New York, NY 10034	President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Ross Stores, Inc. CT Corporation System 28 Liberty Street New York, NY 10005	President/CEO Ross Stores, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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**

<sup>1</sup> 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 W. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Parkview Home Textiles, Inc.; Ross Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least March 29, 2023 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Bag	Bohemian Sunsets Bag RN# 150450

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.

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<sup>2</sup> 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](mailto:esmith@brodskysmith.com).**

Sincerely,



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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 “H”

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

May 22, 2023

Member/Manager JMLE, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Member/Manager JMLE, LLC c/o CT Corporation System 28 Liberty Street New York, NY 10005
Member/Manager JMLE, LLC c/o CT Corporation System 330 N. Brand Blvd. Glendale, CA 91203	Member/Manager JMLE, LLC 5130 Hacienda Drive Dublin, CA 94568
President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	President/CEO Ross Stores, Inc. c/o CT Corporation System 28 Liberty Street New York, NY 10005
President/CEO Ross Stores, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

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

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<sup>1</sup> 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 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. **Enforcer:** Precila Balabbo, 285 W. 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** JMLE, LLC; Ross Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least May 22, 2023 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 <sup>2</sup>	Non- Exclusive Examples of the Product
Bag	Outerbanks Provisions Bag 400251626064

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

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<sup>2</sup> 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.

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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](mailto: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