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8 *Attorneys for Plaintiff*

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

**01/15/2025**  
Clerk of the Court  
BY: SAHAR ENAYATI  
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 MICHAEL'S STORES, INC.,  
15 MICHAELS STORES PROCUREMENT  
16 COMPANY, INC.,

17 Defendants.

Case No.: CGC-24-620805

**FIRST AMENDED COMPLAINT FOR CIVIL  
PENALTIES AND INJUNCTIVE RELIEF**

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

18 Plaintiff Gabriel Espinoza ("Plaintiff"), by and through his attorneys, alleges the following  
19 cause of action in the public interest of the citizens of the State of California.

20 **BACKGROUND OF THE CASE**

21 1. Plaintiff brings this representative action on behalf of all California citizens to  
22 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
23 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,  
24 "[n]o person in the course of doing business shall knowingly and intentionally expose any  
25 individual to a chemical known to the state to cause cancer and birth defects or other reproductive  
26 harm without first giving clear and reasonable warning to such individual ...". Health & Safety  
27 Code § 25249.6.

28 2. This first amended 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 di(2-ethylhexyl) phthalate (DEHP), a toxic chemical

1 found in (a) Busoha large clear mesh vinyl bags, (b) Kubeixiong Corner 150 pc. art set cases, (c)  
2 *Glitzhome*® 4 ft. 3 layer portable greenhouses, and (d) *Makesy*® safety goggles sold and/or  
3 distributed by defendants Michael’s Stores, Inc. and/or Michaels Stores Procurement Company,  
4 Inc. (collectively, “Michael’s” or “Defendants” and each a “Defendant”) in California.

5 3. DEHP is a harmful chemical known to the State of California to cause cancer and  
6 birth defects or other reproductive harm. On January 1, 1988, the State of California listed DEHP  
7 as a chemical known to the State to cause cancer and it has come under the purview of Proposition  
8 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§  
9 25249.8 & 25249.10(b). On October 24, 2003, the State of California listed DEHP as a chemical  
10 known to cause birth defects or other reproductive harm.

11 4. Proposition 65 requires all businesses with ten (10) or more employees that operate  
12 within California or sell products therein to comply with Proposition 65 regulations. Included in  
13 such regulations is the requirement that businesses must label any product containing a Proposition  
14 65-listed chemical that will create an exposure above safe harbor levels with a “clear and  
15 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed  
16 chemical.

17 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
18 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be  
19 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code  
20 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the  
21 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §  
22 25249.7.

23 6. Plaintiff alleges that Defendants distribute and/or offer for sale in California,  
24 without a requisite exposure warning, (a) Busoha large clear mesh vinyl bags, (b) Kubeixiong  
25 Corner 150 pc. art set cases, (c) *Glitzhome*® 4 ft. 3 layer portable greenhouses, and (d) *Makesy*®  
26 safety goggles (collectively, the “Products” and each a “Product”) that expose persons to DEHP  
27 when used for their intended purpose.



1 **VENUE AND JURISDICTION**

2 14. 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 Defendants conducted, and continue to conduct, business in the County of San Francisco with  
5 respect to the Products.

6 15. 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 16. This Court has jurisdiction over Defendants because each Defendant is either a  
12 citizen of the State of California, has sufficient minimum contacts with the State of California, is  
13 registered with the California Secretary of State as foreign corporations authorized to do business  
14 in the State of California, and/or has otherwise purposefully availed itself of the California market.  
15 Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent  
16 and permissible with traditional notions of fair play and substantial justice.

17 **STATUTORY BACKGROUND**

18 17. 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 18. 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 and birth defects or other  
27 reproductive harm without first giving clear and reasonable warning to such individual...  
28

1           19.     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           20.     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>1</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           21.     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>1</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 22. On January 1, 1988, the State of California listed DEHP as a chemical known to  
5 the State to cause cancer and it has come under the purview of Proposition 65 regulations since  
6 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).  
7 On October 24, 2003, the State of California listed DEHP as a chemical known to cause birth  
8 defects or other reproductive harm.

9 23. The exposures that are the subject of the Notice result from the purchase,  
10 acquisition, handling and recommended use of the Product. The primary route of exposure to the  
11 is through dermal absorption directly through the skin when consumers use, touch, or handle the  
12 Products. Exposure through ingestion will occur by touching the Product with subsequent touching  
13 of the user's hand to mouth. No clear and reasonable warning is provided with the Products  
14 regarding the health hazards of exposure.

15 24. Defendants have manufactured, processed, marketed, distributed, offered to sell  
16 and/or sold the Products in California since at least December 22, 2023 with respect to the Busoha  
17 large clear mesh vinyl bags; since at least January 29, 2024 with respect to the Kubeixiong Corner  
18 150 pc. art set cases; since at least February 22, 2024 with respect to the *Glitzhome*® 4 ft. 3 layer  
19 portable greenhouses; and since at least September 13, 2024 with respect to the *Makesy*® safety  
20 goggles. The Products continue to be distributed and sold in California without the requisite  
21 warning information.

22 25. At all times relevant to this action, Defendants have knowingly and intentionally  
23 exposed users of the Products to DEHP without first giving a clear and reasonable exposure  
24 warning to such individuals.

25 26. As a proximate result of acts by each Defendant, as a person in the course of doing  
26 business within the meaning of H&S Code § 25249.11, individuals throughout the State of  
27 California, including in San Francisco County, have been exposed to DEHP without a clear and  
28 reasonable warning on the Products. The individuals subject to the violative exposures include

1 normal and foreseeable users and consumers that use the Products, as well as all others exposed to  
2 the Products.

3 **SATISFACTION OF NOTICE REQUIREMENTS**

4 27. Plaintiff purchased the Products from Michael's. At the time of purchase,  
5 Defendants did not provide a Proposition 65 exposure warning for DEHP or any other Proposition  
6 65 listed chemical in a manner consistent with H&S Code § 25603.1 as described *supra*.

7 28. The Products were sent to a testing laboratory for phthalate testing to determine the  
8 phthalate content of the Product.

9 29. The laboratory provided the results of its analysis. Results of this test determined  
10 the Products expose users to DEHP (collectively, the "Chemical Test Reports" and each a  
11 "Chemical Test Report").

12 30. Plaintiff provided the Chemical Test Report and Product to an analytical chemist  
13 to determine if, based on the findings of the Chemical Test Report and the reasonable and  
14 foreseeable use of the Products, exposure to DEHP will occur at levels that require Proposition 65  
15 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California  
16 Code of Regulations.

17 31. On December 22, 2023 (Busoha large clear mesh vinyl bags), January 29, 2024  
18 (Kubeixiong Corner 150 pc. art set cases), February 22, 2024 (*Glitzhome*® 4 ft. 3 layer portable  
19 greenhouses), and September 13, 2024 (*Makesy*® safety goggles), Plaintiff received from the  
20 analytical chemist an exposure assessment report which concluded that persons in California who  
21 use the Products will be exposed to levels of DEHP that require a Proposition 65 exposure warning.

22 32. On December 22, 2023 (Busoha large clear mesh vinyl bags), January 29, 2024  
23 (Kubeixiong Corner 150 pc. art set cases), February 22, 2024 (*Glitzhome*® 4 ft. 3 layer portable  
24 greenhouses), and September 13, 2024 (*Makesy*® safety goggles), Plaintiff gave notice of alleged  
25 violation of Health and Safety Code § 25249.6 (collectively, the "Notices") to Defendants  
26 concerning the exposure of California citizens to DEHP from use of the Products without proper  
27 warning, subject to a private action to Defendants and to the California Attorney General's office  
28 and the offices of the County District attorneys and City Attorneys for each city with a population

1 greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at  
2 Exhibits “A” – “D” a true and correct copy of each Notice.

3 33. The Notices complied with all procedural requirements of Proposition 65 including  
4 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at  
5 least one person with relevant and appropriate expertise who reviewed relevant data regarding  
6 DEHP exposure, and that counsel believed there was meritorious and reasonable cause for a private  
7 action.

8 34. After receiving the Notices, and to Plaintiff’s best information and belief, none of  
9 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a  
10 cause of action against Defendants under Proposition 65 to enforce the alleged violations which  
11 are the subject of the Notices.

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

14 **FIRST CAUSE OF ACTION**

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

16 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of  
17 this First Amended Complaint as though fully set forth herein.

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

20 38. Use of the Products will expose users and consumers thereof to DEHP, a hazardous  
21 chemical found on the Proposition 65 list of chemicals known to be hazardous to human health.

22 39. The Products do not comply with the Proposition 65 warning requirements.

23 40. Plaintiff, based on his best information and belief, avers that at all relevant times  
24 herein, and since at least December 22, 2023 with respect to the Busoha large clear mesh vinyl  
25 bags; since at least January 29, 2024 with respect to the Kubeixiong Corner 150 pc. art set cases;  
26 since at least February 22, 2024 with respect to the *Glitzhome*® 4 ft. 3 layer portable greenhouses;  
27 and since at least September 13, 2024 with respect to the *Makesy*® safety goggles, continuing until  
28 the present, that Defendants have continued to knowingly and intentionally expose California users

1 and consumers of the Products to DEHP without providing required warnings under Proposition  
2 65.

3 41. The exposures that are the subject of the Notice result from the purchase,  
4 acquisition, handling and recommended use of the Product. The primary route of exposure to the  
5 is through dermal absorption directly through the skin when consumers use, touch, or handle the  
6 Products. Exposure through ingestion will occur by touching the Product with subsequent touching  
7 of the user's hand to mouth. No clear and reasonable warning is provided with the Products  
8 regarding the health hazards of exposure.

9 42. Plaintiff, based on his best information and belief, avers that such exposures will  
10 continue every day until clear and reasonable warnings are provided to purchasers and users or  
11 until this known toxic chemical is removed from the Products.

12 43. Defendants have knowledge that the normal and reasonably foreseeable use of the  
13 Products exposes individuals to DEHP, and Defendants intend that exposures to DEHP will occur  
14 by their deliberate, non-accidental participation in the importation, distribution, sale and offering  
15 of the Products to consumers in California

16 44. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
17 First Amended Complaint.

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

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

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following  
3 relief:

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

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

9 C. That the court grant Plaintiff reasonable attorney’s fees and costs of suit, in the  
10 amount of \$50,000.00.

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

12 Dated: January 15, 2025

BRODSKY SMITH

13 By:   
14 \_\_\_\_\_  
15 Evan J. Smith (SBN242352)  
16 Ryan P. Cardona (SBN302113)  
17 9465 Wilshire Boulevard, Suite 300  
18 Beverly Hills, CA 90212  
19 Telephone: (877) 534-2590  
20 Facsimile: (310) 247-0160

*Attorneys for Plaintiff*

# EXHIBIT “A”

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

December 22, 2023

|   |  |
|---|--|
| President/CEO<br>Michael's Stores, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808                    | President/CEO<br>Michael's Stores, Inc.<br>c/o Corporation Service Company da CSC-Lawyers<br>Incorporating Service Company<br>211 E. 7 <sup>th</sup> Street, Suite 620<br>Austin, TX 78701 |
| President/CEO<br>Michaels Stores Procurement Company, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808 | President/CEO<br>The Michaels Companies, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808   |

**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 represents Gabriel Espinoza ("Espinoza"), 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, Espinoza 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.

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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.

**I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Michael's Stores, Inc.; Michaels Stores Procurement Company, Inc.; The Michaels Companies, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least December 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 birth defect or other reproductive harm.
5. **Product:**

| Product <sup>2</sup> | Non- Exclusive Examples of the Product          |
|----------------------|---|
| Mesh Vinyl Bag       | Busoha Large Clear Mesh Vinyl Bag<br>X002A00NRB |

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 Espinoza 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, Espinoza 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 Espinoza'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.

Espinoza 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 “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

January 29, 2024

|  |  |
|--|--|
| President/CEO<br>Michael's Stores, Inc.<br>c/o Corporation Service Company<br>251 Little falls Drive<br>Wilmington, DE 19808                     | President/CEO<br>Michael's Stores, Inc.<br>c/o Corporation Service Company dba CSC-<br>Lawyers Incorporating Service Company<br>211 E. 7 <sup>th</sup> Street, Suite 620<br>Austin, TX 78701 |
| President/CEO<br>Michael's Stores Procurement Company, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808 | President/CEO<br>The Michaels Companies, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808   |

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With respect to the Product herein, Espinoza 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.

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1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Michael's Stores, Inc.; Michael's Stores Procurement Company, Inc.; The Michaels Companies, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least January 29, 2024 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 birth defect or other reproductive harm.
5. **Product:**

| Product <sup>2</sup> | Non- Exclusive Examples of the Product                  |
|----------------------|---|
| Art Set Case         | Kubeixiong Corner 150 pc. Art Set Case<br>6971782060084 |

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.

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Espinoza 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,

A handwritten signature in black ink, appearing to be 'Evan J. 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 “C”

LAW OFFICES  
**BRODSKY SMITH**

9595 WILSHIRE BLVD., STE. 900  
BEVERLY HILLS, CA 90212  
877.534.2590  
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**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 22, 2024

|   |  |
|---|--|
| President/CEO<br>Glitzhome Corporation Ltd.<br>40 John Portman Blvd. NW<br>Atlanta, GA 30303  | President/CEO<br>Glitzhome Corporation (Shanghai), Ltd.<br>Suite 1002, Building C<br>2889 Jinke Road, Chamtime Plaza<br>Pudong, Shanghai<br>CHINA 201306   |
| President/CEO<br>Michael's Stores, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808                    | President/CEO<br>Michael's Stores, Inc.<br>c/o Corporation Service Company doing business in<br>CA as CSC-Lawyers Incorporating Service<br>Company<br>211 E. 7 <sup>th</sup> Street, Suite 620<br>Austin, TX 78701 |
| President/CEO<br>Michaels Stores Procurement Company, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808 | President/CEO<br>The Michaels Companies, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808   |

**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 represents Gabriel Espinoza ("Espinoza"), 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, Espinoza 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

<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.

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:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Glitzhome Corporation Ltd.; Glitzhome Corporation (Shanghai), Ltd.; Michael’s Stores, Inc.; Michaels Stores Procurement Company, Inc.; The Michaels Companies, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least February 22, 2024 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 birth defect or other reproductive harm.
5. **Product:**

| <b>Product<sup>2</sup></b> | <b>Non- Exclusive Examples of the Product</b>                |
|----------------------------|--|
| Portable Greenhouse        | Glitzhome 4 Ft. 3 Layer Portable Greenhouse<br>6952658830178 |

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 Espinoza 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

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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 Espinoza’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.

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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza 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,

A handwritten signature in black ink, appearing to be 'Evan J. 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 “D”

LAW OFFICES  
**BRODSKY SMITH**

9465 WILSHIRE BLVD., STE. 300  
BEVERLY HILLS, CA 90212  
877.534.2590  
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**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

September 13, 2024

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|--|--|
| President/CEO<br>Wood Candle Wick Technologies, Inc.<br>c/o Charlotte Katona<br>9750 Irvine Blvd., Suite 106<br>Irvine, CA 92618               | President/CEO<br>Wood Candle Wick Technologies, Inc. dba makesy<br>c/o Charlotte Katona<br>9750 Irvine Blvd., Suite 106<br>Irvine, CA 92618                        |
| Member/Manager<br>DD Worldwide, LLC<br>c/o DayNa Decker<br>9750 Irvine Blvd., Suite 106<br>Irvine, CA 92618                                    | President/CEO<br>Michaels Stores Procurement Company, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808                    |
| President/CEO<br>Michaels Stores, Inc.<br>c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808                    | President/CEO<br>Michaels Stores Procurement Company, Inc.<br>c/o CSC-Lawyers Incorporating Service<br>2710 Gateway Oaks Drive, Suite 150N<br>Sacramento, CA 95833 |
| President/CEO<br>Michaels Stores, Inc.<br>c/o CSC-Lawyers Incorporating Service<br>2710 Gateway Oaks Drive, Suite 150N<br>Sacramento, CA 95833 |  |

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

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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:** Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Wood Candle Wick Technologies, Inc.; Wood Candle Wick Technologies, Inc. dba makesy; DD Worldwide, LLC; Michaels Stores Procurement Company, Inc.; Michaels Stores, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 13, 2024 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 birth defect or other reproductive harm.
5. **Product:**

| Product <sup>2</sup> | Non- Exclusive Examples of the Product     |
|----------------------|--|
| Safety Goggles       | Makesy Safety Goggles<br>UPC# 810133884800 |

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.

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Sincerely,



Evan J. Smith

**Attachments**

Certificate of Merit

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