

VIA U.S. MAIL

CEO/President/Owner
Blue's Roofing Co
1181 Campbell Ave.
San Jose, CA 95126
Attn: Tim Blue

12/21/01

60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6

This notice is given by Consumer Advocacy Group, Inc. 9899 Santa Monica Boulevard, # 225, Beverly Hills CA 90212. The noticing party must be contacted through the following entity: Reuben Yeroushalmi; 3700 Wilshire Blvd Ste 480 Los Angeles CA 90010; 213-382-3183. This letter constitutes notification that Proposition 65, The Safe Drinking Water and Toxic Enforcement Act (commencing with Health & Safety Code Section 25249.5) has been violated by the following company and/or entity (hereinafter, "the violator[s]") and during the time period referenced below:

Blue's Roofing Co.

PERIOD OF VIOLATION

From: 12/21/97 Through 12/21/01 And continuing thereafter.

Consumer Exposures

While in the course of doing business, each and every day, during the time period referenced above, the violators have been and are knowingly and intentionally manufacturing and/or selling and/or storing and/or distributing and/or installing and/or laying **roofing and/or paving** products in the State of California including, but not limited to:

Asphalt

and thereby exposing consumers and the general public to chemicals listed below and designated by the State of California to cause **cancer and reproductive toxicity**, without first giving clear and reasonable warning of that fact to the exposed persons (Health & Safety Code Section 25249.6). A "consumer product exposure" is an exposure, which results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service. **Asphalt** is a consumer product, which contains chemicals listed below and designated by the State of California to cause **cancer and reproductive toxicity**. The sale, purchase and the reasonably foreseeable use of **Asphalt** result in exposure to chemicals listed below and designated by the State of California to cause **cancer and reproductive toxicity** through inhalation and dermal contact.

All persons in the course of doing business, who manufacture, produce, assemble, process, handle, distribute, store, sell or otherwise transfer a consumer product must comply with Health & Safety Code Section 25249.6. Specifically, the violators have been manufacturing, producing, handling, distributing, storing or otherwise transferring **roofing and/or paving** products including, without limitation, **Asphalt**, in violation of Health & Safety Code Section 25249.6. Furthermore, a Proposition 65 notice of violation is not required to contain the specific retail outlet or time or date at which any product allegedly violating the Act was purchased. (California Code of Regulations Section 12903(b)(4)(A).)

Environmental Exposures

While in the course of doing business at, but not limited to:

Blue's Roofing Co. 1181 Campbell Ave., San Jose, CA 95126

during the time period referenced above, the violators have been and are knowingly and intentionally exposing their customers and the public including, but not limited to, neighbors of the premises at which *Asphalt* is manufactured and/or stored, neighbors and residents of the premises at which *roofing and/or paving* work has been performed, passersby, pedestrians, cyclists and motorists, to *Asphalt* and other chemicals listed below and designated by the State of California to cause **cancer and reproductive toxicity** without first giving clear and reasonable warning of that fact to the exposed persons (Health & Safety Code Section 25249.6). The sources of exposures are **Asphalt** and other chemicals listed below. The locations of the exposures include, but are not limited to, the area in and around each violator's principal place(s) of business, as referenced above, the area along the route traveled between said principal place(s) of business and the addresses at which *roofing and/or paving* materials have been stored and/or sold and/or *roofing and/or paving* work has been performed, and the area immediately proximate to such addresses at which such *roofing and/or paving* work has been performed including but not limited to, the street, sidewalks and pathways immediately adjacent to said addresses, the vicinity of work vehicles and the immediately neighboring areas affected by *Asphalt*, *Asphalt* smoke and associated fumes.

Occupational Exposures

While in the course of doing business at, but not limited to:

Blue's Roofing Co. 1181 Campbell Ave., San Jose, CA 95126

during the time period referenced above, the violator has been and is knowingly and intentionally exposing employees of the violator to *Asphalt* and other chemicals listed below and designated by the State of California to cause cancer and reproductive toxicity without first giving clear and reasonable warning of that fact to the exposed person (Health & Safety Code Section 25249.6). The sources of exposures include *Asphalt* and other chemicals listed below.

The employees exposed to said chemicals include, but are not limited to, factory workers, *roofing and/or paving* contractors, maintenance workers, service personnel, and security personnel. Said exposures took place in locations including, but not limited to, inside the factories where the *Asphalt* materials have been produced, inside the storage facilities where the *Asphalt* has been stored, inside the garage areas at the violator's principal place(s) of business, as referenced above, on, in and in the vicinity of work vehicles, at the addresses at which roofing installations have been performed, and the area along the route traveled between said principal place(s) of business and the addresses at which *roofing and/or paving* work has been performed.

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997.

This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to (a.) the conduct of manufacturers occurring outside the State of California; and (b.) employers with less than 10 employees. The approval also provides that an employer may use any means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement be subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

The route of exposure for Consumer and/or Environmental and/or Occupational Exposures, as referenced above, to the chemicals listed below has been inhalation and dermal contact. For each such type and means of exposure,

the violator has exposed and is exposing the above referenced persons to:

CARCINOGENS

Benz[a]anthracene	Chrysene	Toluene diisocyanate	Formaldehyde (gas)
5-Methylchrysene			

REPRODUCTIVE TOXINS

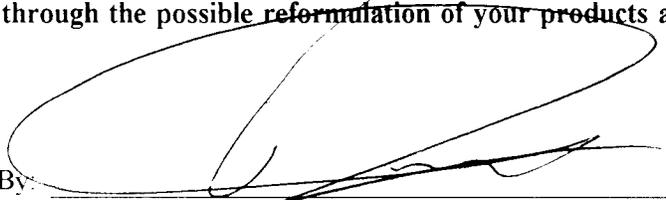
Toluene			
---------	--	--	--

Proposition 65 requires that notice and intent to sue be given to the violator(s) 60 days before the suit is filed. With this letter, *Consumer Advocacy Group, Inc.* gives notice of the alleged violations to the violator(s) and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to *Consumer Advocacy Group, Inc.* from information now available to it. With the copy of this notice submitted to the violator, a copy of the following is attached: *The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.*

Note: *Consumer Advocacy Group, Inc.*, in the interest of the public, is determined to resolve this matter in the least costly manner and one which would be beneficial to all parties involved. In order to encourage the expeditious and proper resolution of this matter, *Consumer Advocacy Group, Inc.* is prepared to forgo all monetary recovery including attorney fees and costs, penalties, and restitution in exchange for a complete elimination of the exposures listed above through the possible reformulation of your products and modification of your business practices.

Dated 12/21/01

By:



REUBEN YEROUSHALMI
Attorney for
Consumer Advocacy Group, Inc.

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3700 Wilshire Boulevard, Suite 480, Los Angeles, CA 90010.

I SERVED THE FOLLOWING:

- 1) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6
- 2) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (*only sent to violators*)

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.

Date of Mailing: 12/21/01
Place of Mailing: Los Angeles, CA

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

▽

Blue's Roofing Co. 1181 Campbell Ave. San Jose, CA 95126 Attn: Tim Blue

Santa Clara County District Attorney 70 W Hedding St. San Jose, CA 95110

San Francisco City Attorney # 1 Dr. Carlton B. Goodlett Place, Suite 234 San Francisco, CA 94102

▽

Office of the Attorney General P.O. BOX 70550 Oakland, CA 94612-0550

San Francisco County District Attorney 850 Bryant St, Rm 322 San Francisco, CA 94103

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated 12/21/01

By: 
Marco Cavuoto