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January 10, 2003

Edward G. Weil
Deputy Attorney General
California Department of Justice
1515 Clay Street, 20th Floor
Oakland, CA 94612

Dear Mr. Weil:

This office and Rachel and Chris Powers gives you notice that the private businesses named on the attached service list have been, are, will be and threaten to be in violation of California Health & Safety Code §25249.5 and §25249.6. This office and Rachel and Chris Powers are private enforcers of Proposition 65, both may be contacted at the above listed address and telephone number, and I am a responsible individual for this office and Rachel and Chris Powers. The above referenced violations occur from a converted warehouse located at 2777 9th Street, Berkeley, California, 94710. This work/loft converted warehouse structure exposes people who reside within it or come into contact with it to:

- trichloroethene a.k.a. trichloroethylen and TCE greater than 800 parts per billion (ppb) in groundwater well MW-2 in 1993 near the corner of 9th and Granyson Street and within about 30 ft of the building. The soil concentration used in a 1993 Levine-Fricke Health Risk Assessment for the Site was 6,085 ug/kg (**ppb).
- 1,1,1-trichloroethane a.k.a. 1,1,1-TCA greater than 600 parts per billion in groundwater in monitor well MW- 2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building. The soil concentration used in a 1993 Levine-Fricke Health Risk Assessment for the Site was 1,000 ug/kg (**ppb).

- 1,1-dichloroethene a.k.a. 1,1-DCE and 1,1-dichloroethylene greater than 550 parts per billion in groundwater well MW-2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building. The soil concentration used in a 1993 Levine-Fricke Health Risk Assessment for the Site was 270 ug/kg (**ppb).
- 1,1-dichloroethane a.k.a. 1,1-DCA greater than 100 parts per billion in groundwater in monitor well MW- 2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building.
- cis-1,2-dichloroethene aka cis-1,2-DCE and cis-1,2-dichloroethylene 60 parts per billion in groundwater in monitor well MW- 2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building. The soil concentration used in a 1993 Levine-Fricke Health Risk Assessment for the Site was 128 ug/kg (**ppb).
- trans-1,2-dichloroethene a.k.a. trans-1,2-DCE and trans-1,2-dichloroethylene 2 parts per billion in groundwater in monitor well MW-2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building.
- 1,1,2-trichloroethane a.k.a. 1,1,2-TCA 5 parts per billion in groundwater in monitor well MW-2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building.
- Freon 11 0.9 parts per billion in groundwater in monitor well MW-2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building.
- chloroform 0.7 parts per billion in groundwater in monitor well MW-2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building.
- 1,2-dichloroethane a.k.a. 1,2-DCA 0.7 parts per billion in groundwater in monitor well MW-2 in 1993 near the corner of 9th and Grayson Street and within about 30 ft of the Building.

All are chemical known to cause cancer, birth defects and other reproductive harm. People are exposed to the above listed chemicals when they are in or near the building at 2777 9th Street, Berkeley, California, 94710.

This is an EPA listed site on which a clean up was performed prior to its conversion to a work/loft site. In 1993 Levine-Fricke did a risk assessment of the site. This risk assessment showed the air quality outside of the building to be at the top most allowable limits. Despite a recommendation to test inside air quality, no assessment was done on the indoor air quality of this building. Inside air quality typically tests at higher levels than outside air, due to much lessened air circulation.

The private businesses named on the attached service list did not and do not provide people with clear and reasonable warnings before they expose them to these chemicals. These violations have occurred every day since at least 1993, and will continue every day until clear and reasonable warnings are provided or until the problems with the residential work/loft structure are remedied or abated. These violations are for occupational exposures as well as consumer and environmental exposures. We do not, however, allege occupational exposure violations outside of California.

SERVICE LIST

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CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Michelle Brenard, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.
4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: 1/10/03

CERTIFICATE OF SERVICE

I, ANNA PEREZ, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 177 Post Street, Suite 600, San Francisco, CA 94108. On January 10, 2003, I caused the attached 60-DAY NOTICE LETTER to be served by U.S. MAIL on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by Certified Mail I caused the attached 60-DAY NOTICE LETTER, CERTIFICATE OF MERIT and PROPOSITION 65: A SUMMARY to be sent Certified Mail to the private businesses entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on, at San Francisco, California.

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