

**60-DAY NOTICE OF INTENT TO SUE LODGIAN MANAGEMENT WORLDWIDE, INC.
UNDER HEALTH & SAFETY CODE SECTION 25249.6**

This Notice is given by Consumer Advocacy Group, Inc., which must be contacted through:

Reuben Yeroushalmi		
YEROUSHALMI & ASSOCIATES	Telephone:	213-382-3183
3700 Wilshire Blvd., Suite 480	Facsimile:	213-382-3430
Los Angeles, CA 90010	Email:	lawfirm@yeroushalmi.com

Consumer Advocacy Group, Inc. hereby notifies **Lodgian Management**, and its franchisees, as **listed on Exhibit A** hereto (hereinafter referred to collectively as “Violator”) has violated the Safe Drinking Water and Toxic Enforcement Act. (Health & Saf. Code, § 25249.6 et seq.) (“Proposition 65”). Violator violated Proposition 65 by exposing its customers, employees, and visitors, during its ordinary course of business, to chemicals listed by the State of California under California Code of Regulations, title 22, section 12306 (“§12306”) to cause cancer and/or reproductive toxicity without providing clear and reasonable warnings of such so that persons would be aware that if they entered hotels owned and/or operated by Violator they would likely be exposed to one or more of the listed chemicals. This Notice is designed to encourage Violator to comply with Proposition 65 by posting such warnings and to collect penalties available under Proposition 65.

1. Secondhand Tobacco Smoke

Description: Tobacco smoke and its by-products contain chemicals that are harmful when inhaled and under §12306 are known to cause cancer and/or reproductive toxicity. Smoking is allowed in areas designated by the hotels listed below, including designated rooms, lobbies, and some outdoor areas. When persons enter areas of the hotels where other persons are smoking, or have recently been smoking, they inhale airborne tobacco smoke and its by-products and are exposed to the chemicals contained in tobacco smoke and its by-products through inhalation and dermal contact. Persons are similarly exposed to the chemicals contained in tobacco smoke and its by-products when they enter areas that are both adjacent to the areas where smoking occurs and where barriers between the areas where smoking occurs and the areas adjacent to where smoking occurs are insufficient to prevent airborne tobacco smoke from escaping from the designated smoking areas and into the adjacent areas. Proposition 65-listed chemicals found in secondhand tobacco smoke and its by-products are listed in the attached Exhibit B, entitled “Carcinogens and Reproductive Toxins”.

Routes of exposure: direct inhalation and dermal contact with tobacco smoke and its by-products.
Persons exposed: Guests, visitors, and employees (including service, administrative, and professional staff), who enter designated smoking areas and certain adjacent locations as described above.
Locations of the source of exposure: Various designated smoking areas, including guestrooms.

2. Furnishings and Electrical Components

Description: Hotels contain furniture, carpeting, window treatments, locks, metal keys, and electrical appliances. These items contain chemicals listed under §12306, which, through normal use and close contact may create exposures through inhalation and/or dermal contact. The materials found in furniture and carpeting, which contain chemicals listed under §12306, include foams, metals, treated wood, carpet fibers and carpet padding, fabrics, coatings, rubber parts and plastics and vinyl.

Route(s) of exposure: Inhalation, dermal absorption, and ingestion through hand-to-mouth contact.
Person(s) exposed: Guests, visitors, and employees (including service, administration, and professional staff).
Locations of the source of exposure: All furnished locations in the hotel.
Among others, reasonably anticipated exposures are to lead (cancer and reproductive toxicity), found as a trace chemical in many products, including polyvinyl chloride in furniture and fixtures,

formaldehyde (cancer), a component of many adhesives, and acetaldehyde (cancer), which is released into room air. Other furnishings and components may contain other chemicals listed under §12306 as components or trace components.

3. Food and Beverage Service

Description:

Alcoholic beverages are provided at bars, lounges, eating establishments, and minibars located within the hotels listed below. Alcoholic beverages contain ethyl alcohol, listed under §12306 to cause developmental toxicity. When persons drink alcoholic beverages, they are exposed to ethyl alcohol through ingestion. Persons may also be exposed to lead (listed under §12306 to cause cancer), via faucets and plumbing fixtures from which water is dispensed at bars, lounges, eating establishments, and minibars located within the hotels listed below, as well as when hotel guests dispense water from faucets found in guestrooms. Additionally, certain food preparations generate §12306-listed chemicals in some types of food. These include benzo(a)pyrene (cancer), from broiling and barbequing, and acrylamide (cancer), from frying. The products of these food preparations are then ingested.

Route(s) of exposure: Ingestion.

Person(s) exposed: Employees and visitors (including bartenders, guests, and food service workers).

Locations of the source of exposure: Bars and restaurants, guestrooms, and recreational facilities where food and beverages are served and where they are consumed.

4. Transportation-related Exposures

Description: The use of vehicles, including automobiles, buses, maintenance vehicles, and motorboats, is associated with hotel operations. These vehicles, when operating on the properties of the noticed hotels, including automobile parking facilities, emit airborne §12306-listed chemicals including benzene (cancer and reproductive toxicity) found in incompletely burned and vaporized gasoline and carbon monoxide (reproductive toxicity) found in motor vehicle exhaust. Persons near these operating vehicles inhale and may be exposed to the harmful airborne chemicals found in incompletely burned and vaporized gasoline and motor vehicle exhaust.

Route(s) of exposure: Inhalation.

Person(s) exposed: Employees, guests, and visitors.

Locations of the source of exposure: Exposures occur in and around hotel vehicles during transportation to and from the hotels, and on hotel grounds.

A. Environmental Exposures

While in the course of doing business at the locations in the attached Exhibit A, from June 13, 1999, through June 13, 2003, Violator has been and is knowingly and intentionally exposing customers, visitors, guests, and employees to Designated Chemicals listed below and designated under §12306 to cause cancer or reproductive toxicity without first giving clear and reasonable warning of such to the exposed persons. The locations of the exposures are at the Properties and vary due to facility activities (e.g. maintenance) and amenities provided. The nature of the exposures is detailed in Paragraphs 1 through 4.

B. Occupational Exposures

While in the course of doing business, at the locations in the attached Exhibit A, from June 13, 1999, through June 13, 2003, the Violator has been and is knowingly and intentionally exposing employees to Designated Chemicals listed below and designated under §12306 to cause cancer or reproductive toxicity without first giving clear and reasonable warning of such to the exposed persons. Employees include bartenders, cashiers, waiters, waitresses, cooks, engineering staff, janitors, maids,

housekeepers, concierge, bell boys, valets, security personnel, maintenance workers, services personnel, administrative personnel and professional personnel and business invitees and contractors who are employees of others, at the Properties and facilities and amenities. The nature of the exposures is detailed in Paragraphs 1 through 4.

C. Consumer Product Exposures

While in the course of doing business, at the locations in the attached Exhibit A, from June 13, 1999, through June 13, 2003, the Violator has been and is knowingly and intentionally exposing customers, visitors, guests, and employees to products containing Designated Chemicals listed below and designated under §12306 to cause cancer or reproductive toxicity without first giving clear and reasonable warning of such to the exposed persons. The product exposures derive from the use of products commonly used at hotels and lodging establishments. The persons, who are exposed to such products, and the locations and nature of such exposures, are detailed in Paragraphs 1 through 4.

Proposition 65 requires that a notice of violation and intent to sue be given to the Violator 60 days before commencing a private enforcement proceeding pursuant to Health & Safety Code section 25249.6, subsection (d). With this letter, Consumer Advocacy Group, Inc. gives notice of the alleged violations to the Violator and the Attorney General and District Attorney and the City Attorney of cities with a population of over 750,000, in each county and city in which the violation is alleged to have occurred. This notice covers all violations of Proposition 65 that are currently known to Consumer Advocacy Group, Inc. A Certificate of Merit has been provided to the Office of the Attorney General along with a copy of this notice.

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 the conduct of manufacturers occurring outside the State of California. 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 is 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.

With the copy of this notice submitted to the violator, a copy is provided of *The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary*.

At any stage of the litigation (even though this litigation has extended over many years), Consumer Advocacy Group, Inc. would forego all monetary recovery, including penalties, restitution, and attorney's fees and costs, should the alleged Violator agree to adopt a smokefree policy and prohibit smoking on its premises.

Dated: Friday, June 20, 2003

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 Blvd., Suite 480, Los Angeles, CA 90010.

I AM SERVING 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: 9/5/2000
Place of Mailing: Los Angeles, CA

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

California Attorney General
P.O. Box 944255
Sacramento CA 94244 -2550

Riverside County District Attorney
4077 Main St
Riverside, CA 92501

W. Thomas Parrington, CEO
Lodgian Management
3445 Peachtree Road NE
Suite 700
Atlanta, GA 30326

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

Dated: 6/20/2003

EXHIBIT A
Lodgian Management Facilities

Holiday Inn Express Palm Desert
74675 Highway #11
Palm Desert, CA 92260

EXHIBIT B
Carcinogens and Reproductive Toxins

CARCINOGENS

Acetaldehyde	Acetamide
Acrylonitrile	4-Aminobiphenyl
(4-Aminodiphenyl)	Aniline
Ortho-Anisidine	Arsenic (inorganic arsenic compounds)
Benz[a]anthracene	Benzene
Benzo[b]fluoranthene	Benzo[j]fluoranthene
Benzo[k]fluoranthene	Benzo[a]pyrene
1,3-Butadiene	Cadmium
Captan	Chromium (hexavalent compounds)
Chrysene	Dichlorodiphenyltrichloroethane (DDT)
Dibenz[a,h]acridine	Dibenz[a,j]acridine
Dibenz[a,h]anthracene	7H-Dibenzo[c,g]carbazole
Dibenzo[a,e]pyrene	Dibenzo[a,h]pyrene
Dibenzo[a,i]pyrene	Dibenzo[a,l]pyrene
1,1-Dimethylhydrazine (UDMH)	Formaldehyde (gas)
Hydrazine	Lead and lead compounds
1-Naphthylamine	2-Naphthylamine
Nickel and certain nickel compounds	2-Nitropropane
N-Nitrosodi-n-butylamine	N-Nitrosodiethanolamine
N-Nitrosodiethylamine	N-Nitrosomethylethylamine
N-Nitrosomorpholine	N-Nitrosornicotine
N-Nitrosopiperidine	N-Nitrosopyrrolidine
Ortho-Toluidine	Tobacco Smoke
Urethane (Ethyl carbamate)	acrylamide

REPRODUCTIVE TOXINS

Arsenic (inorganic Oxides)	Cadmium
Carbon disulfide	Carbon monoxide
Lead	Nicotine
Toluene	Tobacco Smoke
Urethane	ethyl alcohol in alcoholic beverages

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Reuben Yeroushalmi, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) 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: June 13, 2003

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACTION 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees.. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals

exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

§14000. Chemicals Required by State or Federal Law to Have been Tested for Potential to Cause Cancer or Reproductive Toxicity, but Which Have Not Been Adequately Tested As Required.

(a) The Safe Drinking Water and Toxic Enforcement Act of 1986 requires the Governor to publish a list of chemicals formally required by state or federal agencies to have testing for carcinogenicity or reproductive toxicity, but that the state's qualified experts have not found to have been adequately tested as required [Health and Safety Code 25249.8(c)].

Readers should note a chemical that already has been designated as known to the state to cause cancer or reproductive toxicity is not included in the following listing as requiring additional testing for that particular toxicological endpoint. However, the "data gap" may continue to exist, for purposes of the state or federal agency's requirements. Additional information on the requirements for testing may be obtained from the specific agency identified below.

(b) Chemicals required to be tested by the California Department of Pesticide Regulation.

The Birth Defect Prevention Act of 1984 (SB 950) mandates that the California Department of Pesticide Regulation (CDPR) review chronic toxicology studies supporting the registration of pesticidal active ingredients.