

NOTICE OF VIOLATION

California Safe Drinking Water
and Toxic Enforcement Act

MARTHA STEWART LIVING OMNIMEDIA, INC.

KMART CORPORATION

September 10, 2003

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This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health. The Center for Environmental Health is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices.

Description of Violation:

- The names and addresses of the violators are:
 - Martha Stewart Living Omnimedia, Inc.
11 W. 42nd Street, 25th Floor
New York, NY 10036
 - Kmart Corporation
3100 W. Big Beaver Road
Troy, MI 48084
- The violations have been occurring since at least February 27, 1988 and are continuing to this day.
- This Notice of Violation covers both the "discharge provision" and the "warning provision" of Proposition 65, which are found at California Health and Safety Code Section 25249.5 and 25249.6, respectively.
- The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Discharges of Lead and exposures to Lead occur from use of the products identified in this notice.
- The category of products causing these violations is water hoses containing Lead. A specific example of these products is Martha Stewart Living Omnimedia and Kmart Corporation's 5-Ply Everflow Hose. The Lead is contained in these products.
- Discharge Violations: Use of these water hoses results in discharges or releases of Lead into water or onto land where Lead passes or probably will pass into a source of drinking water. Specifically, the water hoses that are the subject of this Notice of Violation contain sufficient quantities of Lead such that Lead will leach from the hoses into water discharged through the hoses. The water in these hoses is a source of drinking water. Furthermore, when not directly consumed by people drinking from the hoses, this water is then discharged into or onto

Land where the Lead passes or probably will pass into other sources of drinking water, including surrounding surface waters and underlying ground water. These discharges occur in homes, yards, gardens, workplaces and everywhere else throughout California where these hoses are used.

- Warning Violations: Use of the products identified in this notice also results in human exposures to Lead. The water hoses are constructed of materials that contain Lead. The route of exposure for the violations is ingestion of water discharged through the water hoses, ingestion via hand to mouth contact after consumers touch or handle the water hoses, and dermal absorption directly through the skin when consumers touch or handle the water hoses. These exposures occur in homes, yards, gardens, workplaces and everywhere else throughout California where these water hoses are used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

Please direct any inquiries regarding this notice to counsel for the Center for Environmental Health: Eric Somers, Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving Street, San Francisco, California 94122.

On September 22 2003, I served true copies of the following documents:

NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

CERTIFICATE OF MERIT;

INFORMATION SUPPORTING CERTIFICATE OF MERIT (Official Information pursuant to Evidence Code §1040, sent only to the Attorney General);
and

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those on service list marked with an asterisks).

I placed a true copy of this paper in an envelope addressed to:

See Attached Service List.

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I placed the envelope containing the above-mentioned documents for collection and mailing on September 22, 2003, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on September 22, 2003, at San Francisco, California.

Signed:

SERVICE LIST

District Attorney of Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney of Colusa County
547 Market Street
Colusa, CA 95932

District Attorney of Contra Costa County
725 Court Street, Room 402
Martinez, CA 94553

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Del Norte County
450 H Street, Ste 171
Crescent City, CA 95531

District Attorney of Amador County
708 Court Street, #202
Jackson, CA 95642

District Attorney of Butte County
25 County Center Drive
Oroville, CA 95965

District Attorney of El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney of Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Fresno County
2220 Tulare Street, #1000
Fresno, CA 93721

District Attorney of Glenn County
P.O. Box 430
Willows, CA 95988

District Attorney of Kings County
1400 West Lacey
Hanford, CA 93230

District Attorney of Sacramento County
901 "G" Street
Sacramento, CA 95814

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Humboldt County
825 5th Street
Eureka, CA 95501

District Attorney of Imperial County
939 Main Street
El Centro, CA 92243

District Attorney of Lassen County
220 S. Lassen St., Ste 8
Susanville, CA 96130

District Attorney of Inyo County
P.O. Drawer D
Independence, CA 93526

District Attorney of Los Angeles County
210 W. Temple Street, Room 345
Los Angeles, CA 90012

District Attorney of Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Marin County
3501 Civic Center Dr., Room 183
San Rafael, CA 94903

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93517

District Attorney of Mariposa County
P.O. Box 730
Mariposa, CA 95338

District Attorney of Monterey County
PO Box 1131
Salinas, CA 93901

District Attorney of San Joaquin County
P.O. Box 990
Stockton, CA 95201

District Attorney of Mendocino County
P.O. Box 1000
Ukiah, CA 95482

District Attorney of Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney of Merced County
2222 "M" Street
Merced, CA 95340

District Attorney of Nevada County
201 Church St., Suite 8
Nevada City, CA 95959

District Attorney of Orange County
401 Civic Ctr Drive West
Santa Ana, CA 92701

District Attorney of Modoc County
P.O. Box 1171
Alturas, CA 96101

District Attorney of Placer County
11562 "B" Avenue
Auburn, CA 95603

District Attorney of San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

District Attorney of Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney of San Diego County
330 West Broadway, Suite 1320
San Diego, CA 92112

District Attorney of Riverside County
4075 Main Street, 1st Floor
Riverside, CA 92501

District Attorney of San Francisco County
880 Bryant Street, Rm 325
San Francisco, CA 94103

District Attorney of San Luis Obispo County
1050 Monterey St, Room 450
San Luis Obispo, CA 93408

District Attorney of San Benito
County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney of San Mateo
County
400 County Ctr, 3rd Fl
Redwood City, CA 94063

District Attorney of Sierra County
Courthouse, P.O. Box 457
Downieville, CA 95936

District Attorney of Santa Barbara
County
1105 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney of Siskiyou
County
P.O. Box 986
Yreka, CA 96097

District Attorney of Solano County
600 Union Avenue
Fairfield, CA 94533

District Attorney of Santa Clara
County
70 West Hedding Street
San Jose, CA 95110

District Attorney of Santa Cruz
County
701 Ocean Street, Room 200
Santa Cruz, CA 95061

District Attorney of Sonoma County
600 Administration Drive, Room
212J
Santa Rosa, CA 95403

District Attorney of Shasta County
1525 Court Street, Third Floor
Redding, CA 96001-1632

District Attorney of Stanislaus
County
800 11th Street, Room 200
Modesto, CA 95353

District Attorney of Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney of Ventura County
800 South Victoria Ave
Ventura, CA 93009

District Attorney of Tehama County
P.O. Box 519
Red Bluff, CA 96080

District Attorney of Yolo County
301 Second Street
Woodland, CA 95695

District Attorney of Trinity County
P.O. Box 1310
Weaverville, CA 96093

District Attorney of Yuba County
215 Fifth Street
Marysville, CA 95901

District Attorney of Tulare County
221 S. Mooney Ave, Room 224
Visalia, CA 93291

District Attorney of Tuolumne
County
2 South Green
Sonora, CA 95370

San Jose City Attorney's Office
151 West Mission Street
San Jose, CA 95110

Los Angeles City Attorney's Office
Room 1800, City Hall East
200 N. Main Street
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 3rd Avenue, 12th Floor
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

Ed Weil, Deputy Attorney General
California Attorney General's
Office
1515 Clay Street
Oakland, CA 94612

Sharon L. Patrick, CEO*
Martha Stewart Living
Omnimedia, Inc.
11 W. 42nd Street, 25th Floor
New York, NY 10036

Julian C. Day*
CEO and President
Kmart Corporation
3100 W. Big Beaver Road
Troy, MI 48084

CERTIFICATE OF MERIT

Health & Safety Code §25249.7(d)

I, Eric Somers, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health (“CEH”).

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 exposures 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 plaintiff’s case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the 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 & Safety Code §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: September 22 2003