

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Re: Lead In Bracelets and Necklaces

December 8, 2003

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 attached hereto as Exhibit 1.
- The violations have been occurring since at least February 27, 1988 and are continuing to this day.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this notice.
- The categories of products causing these violations are bracelets and necklaces. A non-exclusive list of examples of these products is attached hereto as Exhibit 2. The Lead is contained in these products.
- Description of Violations: Use of the products identified in this notice results in human exposures to Lead. The bracelets and necklaces themselves, and in certain cases the beads, pendants, clasps, and other accompanying attachments, contain Lead. The route of exposure for the violations is direct ingestion when consumers place the products in their mouths, ingestion via hand to mouth contact after consumers touch or handle the products, and dermal absorption directly through the skin when consumers touch, handle, or wear the products. These exposures occur in homes, workplaces and everywhere else throughout California where these bracelets and necklaces are worn or handled. 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.

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: December 8, 2003

**EXHIBIT 1: List of Violators
(December 8, 2003 60-Day Notice Letter
By Center for Environmental Health
re: Lead In Bracelets and Necklaces)**

Target Corporation
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

Kmart Corporation
3100 W. Big Beaver Road
Troy, MI 48084

Jordache Enterprises, Inc.
226 West 37th Street
New York, NY 10018

Hot Topic, Inc.
18305 E. San Jose Ave.
City of Industry, CA 91748

Claire's Boutiques, Inc.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

Claire's Stores, Inc.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

CBI Distributing Corp.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

CBI Distributing Corp.
2400 West Central Road
Hoffman Estates, IL 60195-1930

Longs Drug Stores California, Inc.
P.O. Box 5222
Walnut Creek, CA 94596

Longs Drug Stores Corporation
P.O. Box 5222
Walnut Creek, CA 94596

The Gerson Company
1450 South Lone Elm Road
Olathe, KS 66061

Joe Boxer Company, LLC
1599 Post Road East
Westport, CT 06880

Windsong Allegiance Group, LLC
1599 Post Road East
Westport, CT 06880

Macy's West, Inc.
7 West Seventh Street
Cincinnati, OH 45202

Macy's Department Stores, Inc.
7 West Seventh Street
Cincinnati, OH 45202

Federated Department Stores, Inc.
7 West Seventh Street
Cincinnati, OH 45202

Forever 21 Retail, Inc.
2001 South Alameda Street
Los Angeles, CA 90058

Forever 21, Inc.
2001 South Alameda Street
Los Angeles, CA 90058

Styles For Less, Inc.
12728 S. Shoemaker Ave.
Santa Fe Springs, CA 90670

The New 5-7-9 and Beyond, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Rainbow Apparel of America, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Rainbow Apparel Distribution Center Corp.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

A.I.J.J. Enterprises, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Burlington Coat Factory Warehouse Corporation
1830 Rt. 130
Burlington, NJ 08016

Mervyn's
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

J.C. Penney Company, Inc.
6501 Legacy Drive, Mail Code 1106
Plano, TX 75024

J.C. Penney Corporation, Inc.
6501 Legacy Drive, Mail Stop 1205
Plano, TX 75024

Sears Roebuck & Co.
3333 Beverly Road
Hoffman Estates, IL 60179

Wal-Mart Stores, Inc.
702 S.W. 8th Street, Suite 0555
Bentonville, AR 72716-0555

The Buckle, Inc.
2407 West 24th Street
Kearney, NE 68845

The Wet Seal, Inc.
26972 Burbank
Foothill Ranch, CA 92610

The Wet Seal Retail, Inc.
26972 Burbank
Foothill Ranch, CA 92610

Hub Distributing, Inc.
2501 East Guasti Road
Ontario, CA 91761

American Retail Group, Inc.
1114 Avenue of the Americas
New York, NY 10036

American Retail Group, Inc.
6251 Crooked Creek Rd.
Norcross, GA 30092

**EXHIBIT 2: Non-Exclusive Examples of the Products
(December 8, 2003 60-Day Notice Letter
By Center for Environmental Health
re: Lead In Bracelets and Necklaces)**

EXAMPLE ITEM DESCRIPTION	EXAMPLE ITEM/SKU #	RESPONSIBLE PARTIES
xhilation multi-stranded necklace with cross pendant	215002443	Target Corporation
xhilation necklace with oval pendant	215002544	Target Corporation
Thalia charm bracelet	1242131606	Kmart Corporation
Jordache necklace	7952260335	Jordache Enterprises, Inc.
Hot Topic bracelets	209236000	Hot Topic, Inc.
Claire's bracelets	48981	Claire's Stores, Inc.; Claire's Boutiques, Inc.
Icing By Claire's 5-stranded necklace	540906	Claire's Stores, Inc.; Claire's Boutiques, Inc.
Success Access Stories necklace with moon stone pendant	8375500800	Longs Drug Stores California, Inc.; Longs Drug Stores Corporation
Gerson necklace with round pendant and blue dangling ornaments	3791633799	The Gerson Company; Longs Drug Stores California, Inc.; Longs Drug Stores Corporation
Joe Boxer necklace with surfboard-style pendant	80931008827	Joe Boxer Company, LLC; Windsong Allegiance Group, LLC; Kmart Corporation
Macy's 6-stranded necklace	97986455016	Macy's West, Inc.; Macy's Department Stores, Inc.; Federated Department Stores, Inc.
Forever 21 necklace with pink rhinestones	10457054011	Forever 21 Retail, Inc.; Forever 21, Inc.
Fashion Jewelry necklace with cross	412086590007	Styles for Less, Inc.

EXAMPLE ITEM DESCRIPTION	EXAMPLE ITEM/SKU #	RESPONSIBLE PARTIES
5-7-9 bracelets	9046889	The New 5-7-9 and Beyond, Inc.; Rainbow Apparel of America, Inc.; Rainbow Apparel Distribution Center Corp.; A.I.J.J. Enterprises, Inc.
Orion necklace with trapezoidal pendant	36184676489	Burlington Coat Factory Warehouse Corporation
French Laundry necklace with square pendant	499480201210	Mervyn's
Worthington necklace	132 8181 0104 01	J.C. Penney Company, Inc.; J.C. Penney Corporation, Inc.
Mainframe 3-stranded necklace with round pendant	426046199	Sears Roebuck & Co.
Mainframe 6-stranded bracelet with round pendant	426047199	Sears Roebuck & Co.
Mainframe necklace with 3 round pendants	465576199	Sears Roebuck & Co.
No Boundaries necklace with cross pendants	73204163747	Wal-Mart Stores, Inc.
"Claw Tight" jelly bracelets	9595200000	The Buckle, Inc.
Zutopia double-stranded "Best friends" heart necklace	336522600009	The Wet Seal, Inc.; The Wet Seal Retail, Inc.
Anchor Blue jelly bracelets	11320	Hub Distributing, Inc.; American Retail Group, Inc.

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 December 8 2003, I served true copies of the following documents:

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

CERTIFICATE OF MERIT; 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 December 8, 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 December 8, 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
204 S Court Street
Alturas, CA 96101-4020

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

Robert J. Ulrich*
CEO
Target Corporation
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

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

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Pembroke Pines, FL 33207

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President and CEO
Longs Drug Stores California, Inc.
P.O. Box 5222
Walnut Creek, CA 94596

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1450 South Lone Elm Road
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Michael J. Osborn*
President
Macy's West, Inc.
7 West Seventh Street
Cincinnati, OH 45202

President*
Macy's Department Stores, Inc.
7 West Seventh Street
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Terry Lundgren*
President and CEO
Federated Department Stores, Inc.
7 West Seventh Street
Cincinnati, OH 45202

President*
Forever 21 Retail, Inc.
2001 South Alameda Street
Los Angeles, CA 90058

Don Chang*
CEO
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Michael De Angelo*
Chairman of the Board
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Monroe G. Millstein*
President and CEO
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1830 Rt. 130
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Diane L. Neal*
President
Mervyn's
1000 Nicollet Mall TPN-0945
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Allen Questrom*
CEO
J.C. Penney Company, Inc.
6501 Legacy Drive, Mail Code 1106
Plano, TX 75024

President*
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Alan Lacy*
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3333 Beverly Road
Hoffman Estates, IL 60179

H. Lee Scott, Jr.*
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Dennis Nelson*
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Peter D. Whitford*
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PROOF OF SERVICE BY MAIL

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Signed:

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District Attorney of Fresno County
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Fresno, CA 93721

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Willows, CA 95988

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1400 West Lacey
Hanford, CA 93230

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Sacramento, CA 95814

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Lakeport, CA 95453

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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
204 S Court Street
Alturas, CA 96101-4020

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

District Attorney of San
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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

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Obispo County
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San Luis Obispo, CA 93408

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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

Robert J. Ulrich*
CEO
Target Corporation
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

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

Joe Nakash*
President and CEO
Jordache Enterprises, Inc.
226 West 37th Street
New York, NY 10018

James McGinty*
CFO
Hot Topic, Inc.
18305 E. San Jose Ave.
City of Industry, CA 91748

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Co-Chairmen of the Board and Co-CEOs
Claire's Boutiques, Inc.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

Bonnie Schaefer and Marla Schaefer*
Co-Chairmen of the Board and Co-CEOs
Claire's Stores, Inc.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

Rowland Schaefer*
CBI Distributing Corp.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

President*
CBI Distributing Corp.
2400 West Central Road
Hoffman Estates, IL 60195-1930

W.F. Bryant*
President and CEO
Longs Drug Stores California, Inc.
P.O. Box 5222
Walnut Creek, CA 94596

W.F. Bryant*
President and CEO
Longs Drug Stores Corporation
P.O. Box 5222
Walnut Creek, CA 94596

President*
The Gerson Company
1450 South Lone Elm Road
Olathe, KS 66061

President*
Joe Boxer Company, LLC
1599 Post Road East
Westport, CT 06880

Joseph Weedler*
President and CEO
Windsong Allegiance Group, LLC
1599 Post Road East
Westport, CT 06880

Michael J. Osborn*
President
Macy's West, Inc.
7 West Seventh Street
Cincinnati, OH 45202

President*
Macy's Department Stores, Inc.
7 West Seventh Street
Cincinnati, OH 45202

Terry Lundgren*
President and CEO
Federated Department Stores, Inc.
7 West Seventh Street
Cincinnati, OH 45202

President*
Forever 21 Retail, Inc.
2001 South Alameda Street
Los Angeles, CA 90058

Don Chang*
CEO
Forever 21, Inc.
2001 South Alameda Street
Los Angeles, CA 90058

Michael De Angelo*
Chairman of the Board
Styles For Less, Inc.
12728 S. Shoemaker Ave.
Santa Fe Springs, CA 90670

Albert Chehebar*
CEO
The New 5-7-9 and Beyond, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Albert Chehebar*
President
Rainbow Apparel of America, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Joseph Chehebar*
President
Rainbow Apparel Distribution
Center Corp.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Joseph Chehebar*
President
A.I.J.J. Enterprises, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Monroe G. Millstein*
President and CEO
Burlington Coat Factory Warehouse
Corporation
1830 Rt. 130
Burlington, NJ 08016

Diane L. Neal*
President
Mervyn's
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

Allen Questrom*
CEO
J.C. Penney Company, Inc.
6501 Legacy Drive, Mail Code 1106
Plano, TX 75024

President*
J.C. Penney Corporation, Inc.
6501 Legacy Drive, Mail Stop 1205
Plano, TX 75024

Alan Lacy*
President/CEO
Sears Roebuck & Co.
3333 Beverly Road
Hoffman Estates, IL 60179

H. Lee Scott, Jr.*
President and CEO
Wal-Mart Stores, Inc.
702 S.W. 8th Street, Suite 0555
Bentonville, AR 72716-0555

Dennis Nelson*
President and CEO
The Buckle, Inc.
2407 West 24th Street
Kearney, NE 68845

Peter D. Whitford*
CEO
The Wet Seal, Inc.
26972 Burbank
Foothill Ranch, CA 92610

President*
The Wet Seal Retail, Inc.
26972 Burbank
Foothill Ranch, CA 92610

President*
Hub Distributing, Inc.
2501 East Guasti Road
Ontario, CA 91761

President*
American Retail Group, Inc.
1114 Avenue of the Americas
New York, NY 10036

President*
American Retail Group, Inc.
6251 Crooked Creek Rd.
Norcross, GA 30092