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## 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(D)

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May 19, 2004

To: California Attorney General's Office;  
District Attorney's Office for 58 Counties;  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles;  
Hubert Idled, President – ARC International North America Inc.  
Richard Kuzmich, President – Associated Merchandising Corporation  
Diane Neal, President – Mervyn's  
Robert J. Ulrich, President – Target Corporation  
Budi Lim, President – Komodo International Corp.  
Michael J. Potter, President- Big Lots Stores, Inc.  
Michael J. Potter, President- PNS Stores, Inc.  
Murray H. Dashe, President – Cost Plus, Inc.  
Peter Whitford, President – The Disney Store, Inc.  
Barbara Turf, President – Crate & Barrel  
James A. Zimmerman, President – Federated Department Stores, Inc.  
Michael J. Osborn, President – Macy's West Inc.  
Solomon Gabbay, President – Gibson Overseas Inc.  
Izidore Godinger, President – Home Essentials & Beyond, Inc.  
James Famalette, President – Gottschalks, Inc.  
James C. Peters, President – Ross Stores, Inc.  
John F. Meier, President – Libbey Glass Inc.  
Thomas A. Ferguson, President – The Anchor Hocking Company  
Steven Shaiken, President – Spencer Gifts, Inc.  
Hamid Ebrahimi, President – Tabletops Unlimited, Inc.  
Steve Silverstein, President – Linens 'N Things, Inc.

From: Dr. Whitney R. Leeman

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### INTRODUCTION

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My name is Whitney R. Leeman. I hold a Doctor of Philosophy degree in Environmental Engineering. I am a citizen of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This letter is provided to you pursuant to California Health & Safety Code §25249.6 et seq. ("Proposition 65"). As noted above, notice is being provided to the violators listed above (the "Violators"). The violations covered by this notice consist of the routes of exposures and type of harm potentially resulting from such exposure to the following toxic chemical or chemicals ("listed chemicals" or "cadmium"):

LISTED CHEMICALS

ROUTES OF EXPOSURE

TYPES OF HARM

Cadmium and cadmium compounds

Ingestion, Dermal

Birth Defects and Other  
Reproductive Harm

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**NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)**

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The specific type or types of products (hereafter the “products”) that are causing consumer and occupational exposures in violation of Proposition 65 (and that are covered by this notice) are listed on Exhibit A. The Violators’ sales of these glassware and other tableware products have been occurring from February 7, 2001 to the present. As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemicals produced by the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemicals from reasonably foreseeable use of the products.

*CONSUMER PRODUCT EXPOSURE*

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemicals. For example, exposures occur when California citizens use, display, clean, repair, pack, unpack, arrange, store or otherwise handle the products. These tasks cause consumers to be exposed through the routine touching of the parts or portions of the products containing readily available surface cadmium/cadmium compounds. Additionally, exposure can occur through the routine touching of other materials that are contaminated with the cadmium/cadmium compounds from the products as a result of these tasks. People likely to be exposed include both children and adults.

*OCCUPATIONAL EXPOSURE*

Similarly, men and women in California use the products as a part of their jobs and are, therefore, subject to occupational exposures to the listed chemicals. Employees are exposed at the California business locations of the apparent manufacturer, distributor and retailer (and their agents, assigns and divisions) as well as all other California locations where the products, or the component parts thereof that include the listed chemicals, are used, packed, unpacked, labeled, assembled, disassembled, arranged, displayed, cleaned, stocked, stored, repaired or otherwise handled. These tasks cause employee exposure through the routine touching of the parts or portions of the products containing readily available surface cadmium/cadmium compounds. Additionally, exposure can occur through the routine touching of other materials that are contaminated with the cadmium/cadmium compounds from

the products as a result of these tasks. These products are also used by sole proprietors and other persons in settings not covered by the OSH Act. This notice alleges the violation of Proposition 65 with respect to occupational exposure 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 the means of compliance in the general hazard communication requirement 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.

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### **CONTACT INFORMATION**

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Please direct all questions concerning this notice to my counsel at the following address:

Clifford A. Chanler, Esq  
Chanler Law Group  
11501 Dublin Blvd., Suite 200  
Dublin, CA 94568  
Telephone: (925) 558-2730  
Facsimile: (925) 558-2731

Gregory M. Sheffer, Esq.  
Sheffer Law Firm  
160 Sansome Street, 2<sup>nd</sup> Floor  
San Francisco, CA 94104  
Telephone: (415) 434-9111  
Facsimile: (415) 434-9115

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### **PROPOSITION 65 INFORMATION**

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For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

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### **ADDITIONAL NOTICE INFORMATION**

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*THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 § 12903(b)(4).*

Specific examples of some of the type of offending products that have tested positive for cadmium in the exterior decorations include, but are not limited to, as follows: Amstel Light 16 oz. Mixing Glass; Wine Glasses with Red Leaves and Green Vines Design, # 045275825347; Bali Set of 3 8 oz. Decorated Juice

Glasses, #143 320011166 6072; Tumbler/Drinking Glass (with Lighthouse Design), #143 320009822 8091; Juice Glass Giraffe #2348-6928; Tinker Bell Mug, #PG6233; Jinx Red and Orange Cooler, #253-804; The Cellar 4 Havana 14 oz. (414 mL) Highball Glasses, (Style #5030HHB687 / #6362 0203 8222); Table Casuals 2 12oz. Goblets/Risotto Goblets, (#085081613653/ Item #35584.02; Celebration Hand painted set of 4 goblets, (# 7 86460 02026 9); 4-Seasons HiBall Glass, (#7 86460 03355 9); Country Garden Set of 4 -14 oz. Hand-Painted Goblets, (#7 86460 03349 8 / #3349); Cherry Goblet, #0 31009 25751 5; The Simpsons™ Hi Ball Glass – D’ OH!, #689349; Torino 16 oz. Water Goblet, (#0 48552 32830 2 / #TU-32830). In addition, Leeman believes and alleges that the sale of the offending products has also occurred without the requisite warning at other locations including, but not limited to, transactions made over-the-counter, between business-to-business, through the internet and/or via a catalogue by the Violators and other distributors and retailers of the Violators.

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## **EXHIBIT A**

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### **PRODUCTS**

Glassware Such as Tumblers, Juice Glasses, Wine Glasses, Martini Glasses, Double Old Fashioned Glasses, Coolers, Highball Glasses, Goblets, Glass Sets and Other Tableware with Colored Artwork or Designs (containing cadmium) on the Exterior

### **TOXINS**

Cadmium and cadmium compounds

# PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 11501 Dublin Blvd., Suite 200, Dublin, California 94568.

On May 19, 2004, I served the following document(s):

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH  
HEALTH & SAFETY CODE §25249.7(d);**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE  
ATTORNEY GENERAL)**

served on the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and by placing each envelope in a United States Postal Service mailbox, first class postage prepaid:

The Attorney General of the State of California;

The District Attorney for Each of the 58 counties in California; and

The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

*A list of addresses for each of these recipients is attached.*

On May 20, 2004, I plan to serve the on the Violators by serving on their respective counsel and representatives listed below true and correct copies of the foregoing document(s) to be served by electronic mail at the time shown on the mailing to each interested party at the electronic mail address shown below. Each mailing was reported as sent and without error.

<b>Violator(s)</b>	<b>Counsel and/or Representatives</b>
ARC International North America Inc. Hubert Idled, President;  The Anchor Hocking Company Thomas A. Ferguson, President	Robert L. Falk, Esq. Lauren M. Michals, Esq. Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105-2482 <a href="mailto:rfalk@mofocom">rfalk@mofocom</a> , <a href="mailto:LMichals@mofocom">LMichals@mofocom</a>
Associated Merchandising Corporation, Richard Kuzmich, President  Target Corporation; Robert J. Ulrich, President  The Disney Store, Inc. Peter Whitford, President	Jeffrey B. Margulies, Esq. Fulbright & Jaworski, LLP 865 S. Figueroa Street, 29 <sup>th</sup> Floor Los Angeles, CA 90017 <a href="mailto:jmargulies@fulbright.com">jmargulies@fulbright.com</a>

Violator(s)	Counsel and/or Representatives
<p>Mervyn's Diane Neal, President</p>	<p>Jeffrey B. Margulies, Esq. Fulbright &amp; Jaworski, LLP 865 S. Figueroa Street, 29<sup>th</sup> Floor Los Angeles, CA 90017 <a href="mailto:jmargulies@fulbright.com">jmargulies@fulbright.com</a></p> <p>Peg Schoenfelder, General Counsel Mervyn's 22301 Foothill Blvd. MS4135 Hayward, CA 94541-2771 <a href="mailto:Peg.schoenfelder@target.com">Peg.schoenfelder@target.com</a></p>
<p>Federated Department Stores James A. Zimmerman, President</p> <p>Macy's West, Inc. Michael J. Osborn, President</p>	<p>Jeffrey B. Margulies, Esq. Fulbright &amp; Jaworski, LLP 865 S. Figueroa Street, 29<sup>th</sup> Floor Los Angeles, CA 90017 <a href="mailto:jmargulies@fulbright.com">jmargulies@fulbright.com</a></p> <p>Christine Brandt Federated Dept. Stores, Inc. Law Department Western Region P.O. Box 7888 – Internal Box 47 San Francisco, CA 94120 <a href="mailto:Christine.judas@fds.com">Christine.judas@fds.com</a></p>
<p>Komodo International Corp. Budi Lim, President</p>	<p>Steven McDonald Luce Forward Hamilton &amp; Scripps 600 West Broadway, Suite 2600 San Diego, CA 92101-3391 <a href="mailto:smcdonald@LUCE.com">smcdonald@LUCE.com</a></p> <p>Budi Mulyono-Lim Komodo International Corp./Bali 18405 S. Santa Fe Avenue Rancho Dominguez, CA 90221 <a href="mailto:bmlim@komodointernational.com">bmlim@komodointernational.com</a></p>
<p>Big Lots Stores, Inc. PNS Stores, Inc. Michael J. Potter, President</p>	<p>Michael Delehunt, Esq. William Tarantino, Esq. Foley &amp; Lardner One Maritime Plaza, Sixth Floor San Francisco, CA 94111-3409 <a href="mailto:mdelehunt@foleylaw.com">mdelehunt@foleylaw.com</a>, <a href="mailto:wtarantino@foleylaw.com">wtarantino@foleylaw.com</a></p> <p>William MacBeth, III Big Lots Stores, Inc., PNS Stores, Inc. 300 Phillipi Road Columbus, OH 43228 <a href="mailto:WMacbeth@biglots.com">WMacbeth@biglots.com</a></p>

Violator(s)	Counsel and/or Representatives
<p>Cost Plus, Inc. Murray H. Dashe, President</p>	<p>Nancy Casale, Esq Marcy Bergman, Esq. Cooper, White &amp; Cooper LLP 201 California Street Seventeenth Floor San Francisco, CA 94111 <a href="mailto:ncasale@cwclaw.com">ncasale@cwclaw.com</a></p> <p>John Luttrell Cost Plus, Inc. 200 Fourth Street Oakland, CA 94607 <a href="mailto:John.luttrell@cpwm.com">John.luttrell@cpwm.com</a></p>
<p>Crate &amp; Barrel Barbara Turf, President</p>	<p>Judith M. Praitis, Esq. Amy P. Lally, Esq. Sidley Austin Brown &amp; Wood LLP 555 West Fifth Street Los Angeles, CA 90013 <a href="mailto:alally@sidley.com">alally@sidley.com</a>, <a href="mailto:jpraitis@sidley.com">jpraitis@sidley.com</a></p>
<p>Gibson Overseas Inc. Solomon Gabbay, President</p>	<p>Trenton H. Norris, Esq. Nadia M.P. Wetzler, Esq. Peter M. Morrisette, Esq. Bingham McCutchen LLP Three Embarcadero Center San Francisco, CA 94111-4067 <a href="mailto:trent.norris@bingham.com">trent.norris@bingham.com</a> <a href="mailto:nadia.wetzler@bingham.com">nadia.wetzler@bingham.com</a>, <a href="mailto:peter.morrisette@bingham.com">peter.morrisette@bingham.com</a></p>
<p>Home Essentials &amp; Beyond, Inc. Izidore Godinger, President</p>	<p>Donald S. Burris, Esq. E. Randol Schoenberg, Esq. Jessica Moskovitz, Esq. Burris &amp; Schoenberg, LLP 12121 Wilshire Boulevard, Suite 800 Los Angeles, CA 90025-1168 <a href="mailto:randols@bslaw.net">randols@bslaw.net</a>, <a href="mailto:don@bslaw.net">don@bslaw.net</a>, <a href="mailto:jessica@bslaw.net">jessica@bslaw.net</a></p> <p>Ruben Kenigsberg Home Essentials &amp; Beyond, Inc. 3001 Woodbridge Avenue Edison, NJ 08837 <a href="mailto:RK@HEANDB.COM">RK@HEANDB.COM</a></p>
<p>Gottschalks Inc. James Famalette, President</p>	<p>James M. Cipolla 7 River Park Place East P.O. Box 28920 Fresno, CA 93720 <a href="mailto:Jim.cipolla@gottschalks.com">Jim.cipolla@gottschalks.com</a></p>

Violator(s)	Counsel and/or Representatives
<p>Linen 'N Things, Inc. Steve Silverstein, President</p>	<p>Beatriz Mejia, Esq. Cooley Godward LLP One Maritime Plaza, 20<sup>th</sup> Floor San Francisco, CA 94111-2580 <a href="mailto:mejia@cooley.com">mejia@cooley.com</a></p> <p>Denise Tolles, VP of Legal Services Linen 'N Things, Inc. 6 Brighton Road Clifton, New Jersey 07015 <a href="mailto:Dtolles@Int.com">Dtolles@Int.com</a></p>
<p>Ross Stores, Inc. James C. Peters, President</p>	<p>Amy Beckstead Gray Cary Ware &amp; Freidenrich LLP 4365 Executive Drive, Suite 1100 San Diego, CA 92121-2133 <a href="mailto:abeckstead@graycary.com">abeckstead@graycary.com</a></p> <p>Ken Jew, Esq., Corporate Compliance Counsel Ross Stores, Inc. 8333 Central Avenue Newark, CA 94560 <a href="mailto:Ken.jew@ros.com">Ken.jew@ros.com</a></p>
<p>Libbey Glass Inc. John F. Meier, President</p>	<p>Andrea Sheridan Ordin, Esq. M. Christie Hind, Esq. Teresa MacDonald, Esq. Morgan, Lewis &amp; Bockius LLP 300 South Grand Avenue, Suite 2200 Los Angeles, CA 90071-3132 <a href="mailto:aordin@morganlewis.com">aordin@morganlewis.com</a> <a href="mailto:tmacdonald@morganlewis.com">tmacdonald@morganlewis.com</a></p> <p>A.H. Smith, Esq., VP and General Counsel Libbey Glass, Inc. P.O. Box 10060 Toledo, OH 43699-0060 <a href="mailto:smithah@libbey.com">smithah@libbey.com</a></p>
<p>Spencer Gifts, LLC. Steven Shaiken, President</p>	<p>John E. Dittoe, Esq. Reed Smith Crosby Heafey 1999 Harrison Street, Suite 2200 Oakland, CA 94612-3572 <a href="mailto:JDittoe@ReedSmith.com">JDittoe@ReedSmith.com</a></p> <p>Ronald Mangel Spencer Gifts LLC 6826 Black Horse Pike Egg Harbor Township, NJ 08234 <a href="mailto:Ronald.mangel@spencergifts.com">Ronald.mangel@spencergifts.com</a></p>

<b>Violator(s)</b>	<b>Counsel and/or Representatives</b>
Tabletops Unlimited, Inc. Hamid Ebrahimi, President	Michael L. McQueen, Esq. Law Offices of Michael L. McQueen 1000 Paseo Camarillo Suite 126 Camarillo, CA 93010 <a href="mailto:mmcqueen@mcqlaw.com">mmcqueen@mcqlaw.com</a>

Executed on May 19, 2004, at Dublin, California.

The Honorable Tom Orloff	Alameda County District Attorney	1225 Fallon Street, Room 900	Oakland	CA	94612
The Honorable Todd Riebe	Amador County District Attorney	708 Court Street, #202	Jackson	CA	95642
The Honorable L. Alan Turner	Alpine County District Attorney	P.O. Box 248	Markleeville	CA	96120
The Honorable Michael Ramsey	Butte County District Attorney, Admin. Bldg.	25 County Center Drive	Oroville	CA	95965
The Honorable Peter Smith	Calaveras County District Attorney	Government Center	San Andreas	CA	95249
The Honorable John R. Poyner	Colusa County District Attorney	547 Market Street	Colusa	CA	95932
The Honorable Gary T. Yancy	Contra Costa County District Attorney	P.O. Box 670	Martinez	CA	94553
Robert J. Drossel	Del Norte County District Attorney	450 H Street	Crescent City	CA	95531
The Honorable Gary Lacy	El Dorado County District Attorney	515 Main Street	Placerville	CA	95667
The Honorable Edward Hunt	Fresno County District Attorney	2220 Tulare Street, #1000	Fresno	CA	93721
The Honorable Robert Holzapfel	Glenn County District Attorney	P.O. Box 430	Willows	CA	95988
The Honorable Terry R. Farmer	Humboldt County District Attorney	825 5th Street	Eureka	CA	95501
The Honorable Gilbert G. Otero	Imperial County District Attorney	939 West Main Street	El Centro	CA	92243
The Honorable Philip McDowell	Inyo County District Attorney	P.O. Drawer D	Independence	CA	93526
The Honorable Edward R. Jagels	Kern County District Attorney	1215 Truxtun Avenue	Bakersfield	CA	93301
The Honorable Ronald Calhoun	Kings County District Attorney	1400 West Lacey Boulevard	Hanford	CA	93230
The Honorable Gary Luck	Lake County District Attorney	255 N. Forbes Street	Lakeport	CA	95453
The Honorable Robert Burns	Lassen County District Attorney	220 S. Lassen Street, Courthouse	Susanville	CA	96130
The Honorable Gil Garcetti	Los Angeles County District Attorney	210 West Temple Street, Suite 18000	Los Angeles	CA	90012
The Honorable Ernest LiCalsi	Madera County District Attorney	209 West Yosemite Avenue	Madera	CA	95637
The Honorable Paula Kamena	Marin County District Attorney	3501 Civic Center Drive, Room 183	San Rafael	CA	94903
The Honorable Christine Johnson	Mariposa County District Attorney	P.O. Box 748	Mariposa	CA	95338
The Honorable Norman L. Vroman	Mendocino County District Attorney	P.O. Box 1000	Ukiah	CA	95482
The Honorable Gordon Spencer	Merced County District Attorney	2222 M Street	Merced	CA	95340
The Honorable Tom Buckwalter	Modoc County District Attorney	P.O. Box 1171	Alturas	CA	96101
George Booth	Mono County Acting District Attorney	P.O. Box 617	Bridgeport	CA	93517
The Honorable Dean Flippo	Monterey County District Attorney	240 Church Street	Salinas	CA	93901
The Honorable Gary Lieberstein	Napa County District Attorney	931 Parkway Mall	Napa	CA	94559
The Honorable Mike Ferguson	Nevada County District Attorney	201 Church Street, Suite 8	Nevada City	CA	95959
The Honorable Tony Rackauckas	Orange County District Attorney	700 Civic Center Drive West, 2nd Floor	Santa Ana	CA	92701
The Honorable Brad Fennocchio	Placer County District Attorney	11562 B Avenue, DeWitt Center	Auburn	CA	95603
The Honorable James Reichle	Plumas County District Attorney	520 Main Street, Room 404	Quincy	CA	95971
The Honorable Grover C. Trask II	Riverside County District Attorney	4075 Main Street, 1st Floor	Riverside	CA	92501
The Honorable Jan Scully	Sacramento County District Attorney	P.O. Box 749	Sacramento	CA	95814
The Honorable Harry J. Damkar	San Benito County District Attorney	419 4th Street	Hollister	CA	95023
The Honorable Dennis Stout	San Bernadino County District Attorney	316 N. Mountain View Avenue	San Bernadino	CA	92415
The Honorable Paul Pfingst	San Diego District Attorney	330 W. Broadway, Suite 1320	San Diego	CA	92112
The Honorable Terence Hallinan	San Francisco County District Attorney	880 Bryant Street	San Francisco	CA	94103
The Honorable John Phillips	San Joaquin County District Attorney	P.O. Box 990	Stockton	CA	95201
The Honorable Gerald Shea	San Luis Obispo County District Attorney	1050 Monterey Street, Room 450	San Luis Obispo	CA	93408
The Honorable James P. Fox	San Mateo County District Attorney	400 County Center, Third Floor	Redwood City	CA	94063
The Honorable Thomas W. Sneddon, Jr.	Santa Barbara County District Attorney	1105 Santa Barbara Street	Santa Barbara	CA	93101
The Honorable George Kennedy	Santa Clara County District Attorney	70 West Hedding Street, West Wing	San Jose	CA	95110
The Honorable Ron Ruiz	Santa Cruz County District Attorney	701 Ocean Street	Santa Cruz	CA	95061
The Honorable Terence McGregor Scott	Shasta County District Attorney	1525 Court Street, Third Floor	Redding	CA	960C1
The Honorable Sharon O'Sullivan	Sierra County District Attorney	Courthouse, P.O. Box 457	Downieville	CA	95936
The Honorable Pete Knoll	Siskiyou County District Attorney	P.O. Box 986	Yreka	CA	96097
The Honorable David Paulson	Solano County District Attorney	600 Union Avenue	Fairfield	CA	94533
The Honorable Mike Mullins	Sonoma County District Attorney	600 Administration Drive, Room 212	Santa Rosa	CA	95403
The Honorable Jim Brazelton	Stanislaus County District Attorney	1100 I Street, Room 220, P.O. Box 442	Modesto	CA	95353
The Honorable Carl V. Adams	Sutter County District Attorney	446 Second Street	Yuba City	CA	95991
The Honorable Gregg Cohen	Tehama County District Attorney	P.O. Box 519	Red Bluff	CA	96080
The Honorable David L. Cross	Trinity County District Attorney	P.O. Box 310	Weaverville	CA	96093
The Honorable Phil Cline	Tulare County District Attorney	2350 Burrell Avenue, Suite 224	Visalia	CA	93291
The Honorable Nina Deane	Tuolumne County District Attorney	2 South Green	Sonora	CA	95370
The Honorable Michael Bradbury	Ventura County District Attorney	800 South Victoria Avenue	Ventura	CA	93009
The Honorable David C. Henderson	Yolo County District Attorney	301 Second Street	Woodland	CA	95695
The Honorable Patrick McGrath	Yuba County District Attorney	215 Fifth Street	Marysville	CA	95901
The Honorable Jack L. White	City of Anaheim City Attorney	200 S. Anaheim Boulevard	Anaheim	CA	92805
	City of Bakersfield City Attorney	1501 Truxtun Avenue	Bakersfield	CA	93301
	City of Los Angeles City Attorney	200 North Main Street	Los Angeles	CA	90012
The Honorable James K. Hahn	San Jose City Attorney's Office	151 West Mission Street	San Jose	CA	95110
	San Diego City Attorney's Office	1200 3rd Avenue, 12th Floor	San Diego	CA	92101
	Sacramento City Attorney's Office	980 Ninth Street, 10th Floor	Sacramento	CA	95814
Louise Renne	San Francisco City Attorney's Office	1380 Market Street, 5th Floor	San Francisco	CA	94102
Robert Thomas, Staff Investigator	California Attorney General's Office	1515 Clay Street	Oakland	CA	94612

# CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice has violated Health and Safety Code §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 chemicals that are the subject of this action. I have also communicated extensively with the California Attorney General's Office on this issue including the transmission of laboratory test results which demonstrate that there is a likelihood of a potential exposure to cadmium from a reasonably foreseeable use of certain externally decorated glassware products. Furthermore, I have had several meetings and written communications with the noticed violators and/or their counsel in which they have acknowledged that, during the relevant period, certain color decorations (e.g., yellow) consistently contain detectable amount of cadmium. Also, in a recent settlement agreement executed by the alleged violators served with this notice, these companies have requested that they be served this notice. Through this request, the noticed companies are essentially acknowledging that the noticing party is reasonably likely to be able to sustain her burden that there is a detectable exposure to cadmium from the use of one or more of the products covered by this notice.
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 that I have collected to date does not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute. Upon my review of the data collected and the extensive litigation that has transpired in the *DiPirro v. J.C. Penney* and *Leeman v. Arc International* cases, it is my view (and that of our consultants) that the presence of cadmium in the "lip and rim" would clearly exceed the NOE level.
5. The copy of this Certificate of Merit served on the Attorney General attaches to it a portion of the factual information sufficient to establish the basis for this certificate, including information identified in Health and 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.) Due to the volumes of facts, studies and other data collected in the various glassware enforcement actions (including the *DiPirro v. J.C. Penney* case, the attached information represents just a small fraction of the data we possess.

Dated: 5/19/04