



A NON-PROFIT CORPORATION
311 California Street, Suite 510
San Francisco, California 94104
www.asyousow.org

May 20, 2004

NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.

Dear Public Enforcement Agencies:

As You Sow ("AYS") is a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education.

AYS has documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986 ("Proposition 65"), codified at Health & Safety Code §25249.5 *et seq.* This letter serves to provide AYS' notification of these violations to the public enforcement agencies and to the violator. Pursuant to §25249.7(d) of the statute, AYS intends to bring an enforcement action sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

Alleged violator. The name of the violator covered by this notice is **TOO, INC.** ("Too").

Chemicals. These violations involve exposures to lead and lead compounds from the products described below. On February 27, 1987, the State of California

officially listed lead as a chemical known to cause reproductive toxicity (Title 22 California Code of Regulations § 12000, *et seq.*). On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer (Title 22 California Code of Regulations § 12000, *et seq.*)

Consumer products. The products that are the subject of this notice are jewelry manufactured, distributed or sold by Too including, but not limited to, the products identified in Exhibit A attached hereto.

Route of exposure. The consumer exposures that are the subject of this notice result from the handling and/or wearing of these products. Accordingly, the consumer exposures have occurred and continue to occur through the dermal contact and ingestion.

Duration of violations. Each of these ongoing violations has occurred on every day since May 20, 2000, and will continue every day until clear and reasonable warnings are provided or until these deleterious chemicals are removed from the products. Under Proposition 65, each exposure constitutes a separate violation. Health & Safety Code §25249.7(b). The maximum civil penalty for each such violation is \$2,500. *Id.* These same facts constitute a violation of Business and Professions Code § 17200 *et seq.*

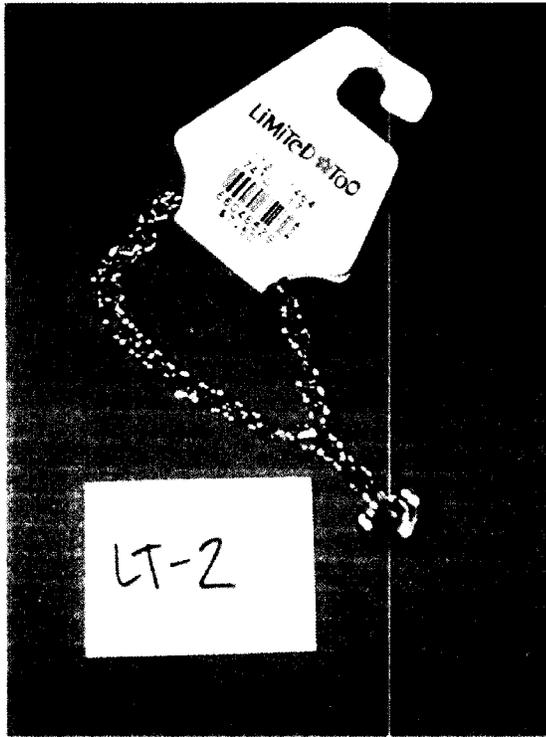
Pursuant to Title 11, C.C.R. § 3100, a Certificate of Merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to AYS' counsel in this matter:

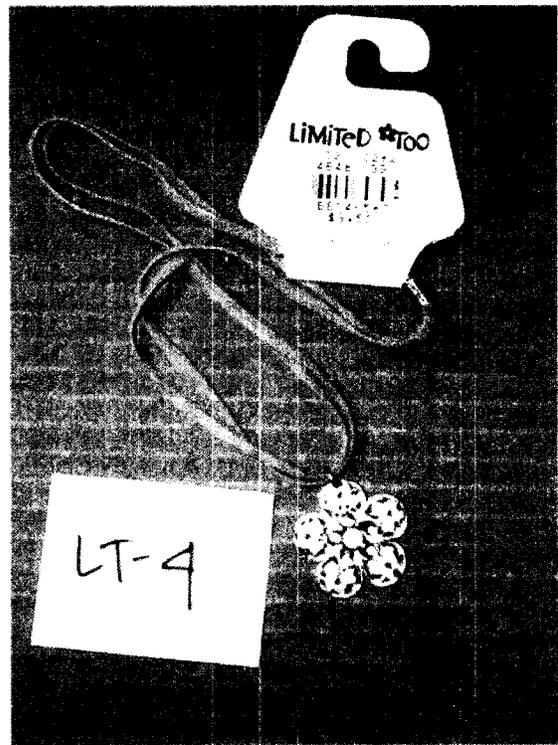
Babak Naficy, Esq.
1204 Nipoma Street
San Luis Obispo, CA 93401
Telephone: (805) 593-0926
Facsimile: (805) 593-0946

Enclosure

EXHIBIT A (TOO, INC.)



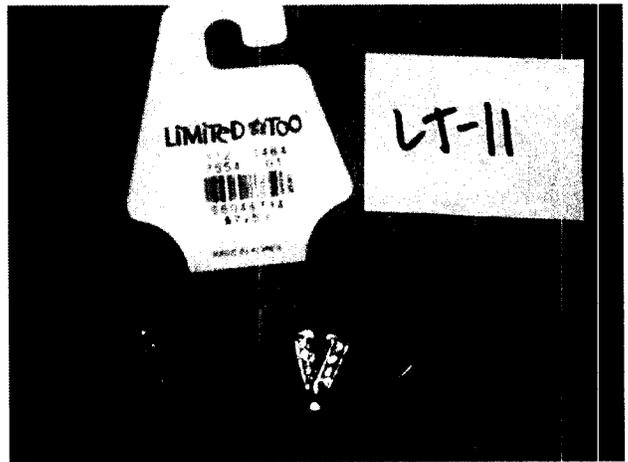
Product ID 66046529



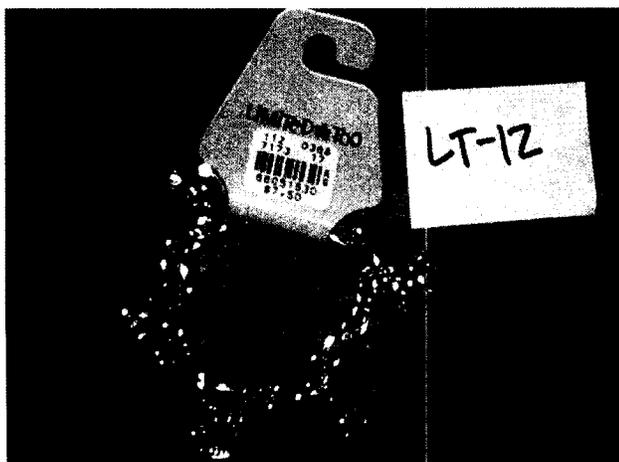
Product ID 66046587



Product ID 66045096



Product ID 66048734



Product ID 66051530

CERTIFICATE OF MERIT
(for As You Sow's Notice of Proposition 65 Violation on TOO, INC.)

I, Lawrence E. Fahn, declare:

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

2. I am the Executive Director of the noticing party, As You Sow.

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 exposure to the listed chemicals that are 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 that 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 §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: 5/19/04

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

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: 311 California Street, Suite 510, San Francisco, California 94104.

On May 20, 2004, I served the following documents:

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit
- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Michael W. Rayden, CEO
Too, Inc.
8323 Walton Parkway
New Albany, OH 43054

On May 20, 2004, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Attn: Craig Thompson, Deputy Attorney General
California Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

On May 20, 2004, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit

on each of the parties on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on May 20, 2004, at San Francisco, California.

PUBLIC ENFORCEMENT AGENCIES SERVICE LIST (updated 03/25/04)

THE HONORABLE THOMAS J ORLOFF
ALAMEDA COUNTY DISTRICT ATTORNEY
1225 FALLON ST RM 900
OAKLAND CA 94612

THE HONORABLE ARTHUR MAILLET
INYO COUNTY DISTRICT ATTORNEY
PO DRAWER D
INDEPENDENCE CA 93526

THE HONORABLE DEAN FLIPPO
MONTEREY COUNTY DISTRICT ATTORNEY
PO BOX 1131
SALINAS CA 93902

THE HONORABLE WILLIAM RICHMOND
ALPINE COUNTY DISTRICT ATTORNEY
PO BOX 248
MARKLEEVILLE CA 96120

THE HONORABLE EDWARD R JAGELS
KERN COUNTY DISTRICT ATTORNEY
1215 TRUXTUN AVE
BAKERSFIELD CA 93301

THE HONORABLE GARY LIEBERSTEIN
NAPA COUNTY DISTRICT ATTORNEY
931 PARKWAY MALL
NAPA CA 94559

THE HONORABLE TODD D RIEBE
AMADOR COUNTY DISTRICT ATTORNEY
708 COURT ST STE 202
JACKSON CA 95642

THE HONORABLE RON CALHOUN
KINGS COUNTY DISTRICT ATTORNEY
1400 W LACEY BLVD
HANFORD CA 93230

THE HONORABLE MICHAEL FERGUSON
NEVADA COUNTY DISTRICT ATTORNEY
201 CHURCH ST STE 8
NEVADA CITY CA 95959

THE HONORABLE MICHAEL RAMSEY
BUTTE COUNTY DISTRICT ATTORNEY
25 COUNTY CTR DR
OROVILLE CA 95965

THE HONORABLE GERHARD LUCK
LAKE COUNTY DISTRICT ATTORNEY
255 N FORBES ST
LAKEPORT CA 95453

THE HONORABLE TONY RACKAUCKAS
ORANGE COUNTY DISTRICT ATTORNEY
401 CIVIC CTR DR WEST
SANTA ANA CA 92701

THE HONORABLE JEFFREY TUTTLE
CALAVERAS COUNTY DISTRICT ATTORNEY
891 MTN RANCH RD
SAN ANDREAS CA 95249

THE HONORABLE ROBERT BURNS
LASSEN COUNTY DISTRICT ATTORNEY
220 S LASSEN ST STE 8
SUSANVILLE CA 96130

THE HONORABLE BRAD FENOCCHIO
PLACER COUNTY DISTRICT ATTORNEY
11562 B AVE
AUBURN CA 95603

THE HONORABLE JOHN POYNER
COLUSA COUNTY DISTRICT ATTORNEY
547 MARKET ST
COLUSA CA 95932

THE HONORABLE STEVE COOLEY
LA COUNTY DISTRICT ATTORNEY
210 W TEMPLE ST STE 18000
LOS ANGELES CA 90012-3210

THE HONORABLE JEFF CUNAN
PLUMAS COUNTY DISTRICT ATTORNEY
520 MAIN ST RM 404
QUINCY CA 95971

THE HONORABLE ROBERT KOCHLY
CONTRA COSTA COUNTY DISTRICT ATTORNEY
PO BOX 670
MARTINEZ CA 94553

THE HONORABLE ERNEST LICALS
MADERA COUNTY DISTRICT ATTORNEY
209 W YOSEMITE AVE
MADERA CA 93637

THE HONORABLE GROVER C TRASK II
RIVERSIDE COUNTY DISTRICT ATTORNEY
4075 MAIN ST
RIVERSIDE CA 92501

THE HONORABLE MICHAEL RIESE
DEL NORTE COUNTY DISTRICT ATTORNEY
450 H ST STE 171
CRESCENT CITY CA 95531

THE HONORABLE PAULA FRESCHI KAMENA
MARIN COUNTY DISTRICT ATTORNEY
3501 CIVIC CTR DR RM 130
SAN RAFAEL CA 94903

THE HONORABLE JAN SCULLY
SACRAMENTO COUNTY DISTRICT ATTORNEY
901 G ST
SACRAMENTO CA 95814

THE HONORABLE GARY L LACY
EL DORADO COUNTY DISTRICT ATTORNEY
515 MAIN ST
PLACERVILLE CA 95667

THE HONORABLE ROBERT BROWN
MARIPOSA COUNTY DISTRICT ATTORNEY
PO BOX 730
MARIPOSA CA 95338

THE HONORABLE JOHN SANSFIELD
SAN BENITO COUNTY DISTRICT ATTORNEY
419 FOURTH ST, FL 2
HOLLISTER CA 95023

THE HONORABLE ELIZABETH EGAN
FRESNO COUNTY DISTRICT ATTORNEY
2220 TULARE ST STE 1000
FRESNO CA 93721

THE HONORABLE NORMAN VROMAN
MENDOCINO COUNTY DISTRICT ATTORNEY
PO BOX 1000
UKIAH CA 95482

THE HONORABLE MICHAEL RAMOS
SAN BERNARDINO COUNTY DISTRICT ATTORNEY
316 N MTN VIEW AVE
SAN BERNARDINO CA 92415-0004

THE HONORABLE ROBERT HOLZAPFEL
GLENN COUNTY DISTRICT ATTORNEY
PO BOX 430
WILLOWS CA 95988

THE HONORABLE GORDON SPENCER
MERCED COUNTY DISTRICT ATTORNEY
2222 M ST
MERCED CA 95340

THE HONORABLE BONNIE DUMANIS
SAN DIEGO COUNTY DISTRICT ATTORNEY
330 W BROADWAY STE 1320
SAN DIEGO CA 92101

THE HONORABLE PAUL GALLEGOS
HUMBOLDT COUNTY DISTRICT ATTORNEY
825 FIFTH ST
EUREKA CA 95501

THE HONORABLE JORDAN FUNK
MODOC COUNTY DISTRICT ATTORNEY
204 S COURT ST RM 202
ALTURAS CA 96101-4020

THE HONORABLE KAMALA HARRIS
SAN FRANCISCO COUNTY DISTRICT ATTORNEY
880 BRYANT ST RM 325
SAN FRANCISCO CA 94103

THE HONORABLE GILBERT OTERO
IMPERIAL COUNTY DISTRICT ATTORNEY
939 W MAIN ST
EL CENTRO CA 92243

THE HONORABLE GEORGE BOOTH
MONO COUNTY DISTRICT ATTORNEY
PO BOX 617
BRIDGEPORT CA 93517

THE HONORABLE JOHN D PHILLIPS
SAN JOAQUIN COUNTY DISTRICT ATTORNEY
PO BOX 990
STOCKTON CA 95201-0990

PUBLIC ENFORCEMENT AGENCIES SERVICE LIST (updated 03/25/04)

THE HONORABLE GERALD T SHEA
SAN LUIS OBISPO COUNTY DISTRICT ATTORNEY
1050 MONTEREY ST RM 450
SAN LUIS OBISPO CA 93408

THE HONORABLE DAVID W PAULSON
SOLANO COUNTY DISTRICT ATTORNEY
600 UNION AVE
FAIRFIELD CA 94533

THE HONORABLE GREG TOTTEN
VENTURA COUNTY DISTRICT ATTORNEY
800 S VICTORIA AVE
VENTURA CA 93006

THE HONORABLE JAMES P FOX
SAN MATEO COUNTY DISTRICT ATTORNEY
400 COUNTY CTR FL 3
REDWOOD CITY CA 94063

THE HONORABLE STEPHEN PASSALACQUA
SONOMA COUNTY DISTRICT ATTORNEY
600 ADMINISTRATION DR RM 212-J
SANTA ROSA CA 95403

THE HONORABLE DAVID C HENDERSON
YOLO COUNTY DISTRICT ATTORNEY
301 SECOND ST
WOODLAND CA 95695

THE HONORABLE THOMAS W SNEDDON JR
SANTA BARBARA COUNTY DISTRICT ATTORNEY
1105 SANTA BARBARA ST
SANTA BARBARA CA 93101

THE HONORABLE JAMES C BRAZELTON
STANISLAUS COUNTY DISTRICT ATTORNEY
PO BOX 442
MODESTO CA 95353

THE HONORABLE PATRICK MCGRATH
YUBA COUNTY DISTRICT ATTORNEY
215 FIFTH ST
MARYSVILLE CA 95901

THE HONORABLE GEORGE KENNEDY
SANTA CLARA COUNTY DISTRICT ATTORNEY
70 W HEDDING ST WEST WING
SAN JOSE CA 95110

THE HONORABLE CARL V ADAMS
SUTTER COUNTY DISTRICT ATTORNEY
446 SECOND ST
YUBA CITY CA 95991

LOS ANGELES CITY ATTORNEY'S OFFICE
800 CITY HALL EAST
200 N MAIN ST
LOS ANGELES CA 90012

THE HONORABLE BOB LEE
SANTA CRUZ COUNTY DISTRICT ATTORNEY
701 OCEAN ST RM 200
SANTA CRUZ CA 95060

THE HONORABLE GREGG COHEN
TEHAMA COUNTY DISTRICT ATTORNEY
PO BOX 519
RED BLUFF CA 96080

SAN DIEGO CITY ATTORNEY'S OFFICE
CIVIC CENTER PLAZA
1200 THIRD AVE STE 1620
SAN DIEGO CA 92101

THE HONORABLE GERALD C. BENITO
SHASTA COUNTY DISTRICT ATTORNEY
1525 COURT ST FL 3
REDDING CA 96001

THE HONORABLE DAVID L CROSS
TRINITY COUNTY DISTRICT ATTORNEY
PO BOX 310
WEAVERVILLE CA 96093

SAN JOSE CITY ATTORNEY'S OFFICE
151 W MISSION ST
SAN JOSE CA 95110

THE HONORABLE LAWRENCE ALLEN
SIERRA COUNTY DISTRICT ATTORNEY
PO BOX 457
DOWNIEVILLE CA 95936

THE HONORABLE PHILLIP J CLINE
TULARE COUNTY DISTRICT ATTORNEY
221 S MOONEY AVE RM 224
VISALIA CA 93291

SAN FRANCISCO CITY ATTORNEY'S OFFICE
CITY HALL RM 234
SAN FRANCISCO, CA 94102

THE HONORABLE PETER F KNOLL
SISKIYOU COUNTY DISTRICT ATTORNEY
PO BOX 986
YREKA CA 96097

THE HONORABLE DONALD I SEGERSTROM
TUOLUMNE COUNTY DISTRICT ATTORNEY
2 SOUTH GREEN ST
SONORA CA 95370