

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

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

Date: August 25, 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
Andrew Santulli, President – Certified International Corporation
Allen I. Questrom, Chief Executive Officer – J.C. Penney Corporation
Allen I. Questrom, Chief Executive Officer – J.C. Penney Company

From: Michael DiPirro

INTRODUCTION

My name is Michael DiPirro. I am a citizen of California and a private party acting in the interest of the general public who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in or produced by consumer and industrial products. This letter is provided to you pursuant to Health & Safety Code §25249.6 *et seq* ("Proposition 65"). As required, notice is also being provided to the violators, Certified International Corporation, J.C. Penney Corporation and J.C. Penney Company ("Violators"). The violations covered by this notice consist of the routes of exposures to the following toxic chemical or chemicals ("listed chemicals"):

CHEMICALS

Lead and lead compounds
Cadmium

ROUTES OF EXPOSURE

Ingestion, Dermal
Ingestion, Dermal

NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of products (hereafter "products") that is causing *consumer* and occupational exposures in violation of Proposition 65 (and that is covered by this notice) is listed hereafter in Exhibit A. The Violators' sales of these products have been occurring from August 25, 2001 to the present. As a result of the sale of these products, exposures to the above-referenced chemicals have been occurring without adequate warnings. Without proper warnings as to the toxic effects of exposures to the listed chemicals in 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 the use of the products.

▪ CONSUMER

California consumers, through the act of buying, acquiring and utilizing, the products, are exposed to the above-referenced Proposition 65 chemicals. For example, exposures occur when California citizens use, display, clean, repair, pack, unpack, assemble, disassemble, arrange, store or otherwise handle the products. These tasks cause consumers to be exposed though the routine touching of the parts or portions of the products containing readily available surface amounts of the listed chemicals. Additionally, exposure can occur through the routine touching of other materials that are contaminated with the listed chemicals as a result of these tasks. People likely to be exposed include, but are not limited to, children and adults.

▪ OCCUPATIONAL

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 amounts of the listed chemicals. Additionally, exposure can occur through the routine touching of other materials that are contaminated with the listed chemicals 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.

CONTACT INFORMATION

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

Clifford A. Chanler, Esq.
Chanler Law Group
655 Redwood Highway, Suite 216
Mill Valley, CA 94941
Telephone: (415) 380-9222
Facsimile: (415) 380-9223

PROPOSITION 65 INFORMATION

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.

ADDITIONAL INFORMATION

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

A specific example of the type of offending product identified herein (#730384019533) was recently purchased and witnessed being available for purchase or use in California at a retail store owned or controlled by J.C. Penney Company in Alameda County, Northern California. A specific example of the type of offending product identified herein (#730384072699) was recently purchased and witnessed being available for purchase or use in California at a retail store owned or controlled by J.C. Penney Company in Contra Costa County, Northern California. A specific example of the type of offending product identified herein (#730384023219) was recently purchased and witnessed being available for purchase or use in California at a retail store owned or controlled by J.C. Penney Company in Santa Clara County, Northern California. Based on publicly available information, the Violator is the manufacturer and JC Penney is a retailer of the products at issue. The chemicals at issue cause the following types of harm, as follows:

CHEMICALS

Lead and lead compounds; Cadmium

TYPES OF HARM

Birth Defects and Other Reproductive Harm

EXHIBIT A

PRODUCTS

Goblets and Other Glassware with Colored Designs or
Artwork (containing lead) on the Exterior

*Such as:

<i>Flora Goblet</i>	#730384023219
<i>Midnight Christmas Set of 4 – 16 oz. Glasses</i>	#730384072699
<i>Sunrise Goblet</i>	#730384019533

Goblets and Other Glassware with Colored Designs or
Artwork (containing cadmium) on the Exterior

*Such as:

<i>Flora Goblet</i>	#730384023219
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TOXINS

Lead and lead compounds

Cadmium

** These specifically identified examples of the type of products subject to this Notice are for the recipient's benefit and are not meant to be an exhaustive or comprehensive identification of each specific offending product.*

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 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 chemicals that are the subject of this 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 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: 8-25-04

The Honorable Tom Orloff	Alameda County District Attorney	1225 Fallon Street, #900	Oakland	CA	94612
The Honorable William A. Richmond	Alpine County District Attorney	270 Laramie Street, Annex Building, PO BOX 248	Markleeville	CA	96120
The Honorable Todd Riebe	Amador County District Attorney	708 Court Street	Jackson	CA	95642
The Honorable Michael Ramsey	Butte County District Attorney	25 County Center Drive	Oroville	CA	95965
The Honorable Jeffrey Tuttle	Calaveras County District Attorney	891 Mountain Ranch Road	San Andreas	CA	95249
The Honorable John R. Poyner	Colusa County District Attorney	547 Market Street	Colusa	CA	95932
The Honorable Robert J. Kochly	Contra Costa County District Attorney	651 Pine Street, FL 12	Martinez	CA	94553
The Honorable Michael Riese	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 Elizabeth Egan	Fresno County District Attorney	2220 Tulare Street, #1000	Fresno	CA	93721
The Honorable Robert Holzapfel	Glenn County District Attorney	PO BOX 430	Willows	CA	95988
The Honorable Paul Gallegos	Humboldt County District Attorney	825 5th Street	Eureka	CA	95501
The Honorable Gilbert Otero	Imperial County District Attorney	939 West Main Street	El Centro	CA	92243
The Honorable Arthur Maillet	Inyo County District Attorney	PO 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 Gerhard Luck	Lake County District Attorney	255 North Forbes Street	Lakeport	CA	95453
The Honorable Robert Burns	Lassen County District Attorney	220 S. Lassen Street, Ste. 8	Susanville	CA	96130
The Honorable Steve Cooley	Los Angeles County District Attorney	210 West Temple Street	Los Angeles	CA	90012
The Honorable Ernests LiCaisi	Madera County District Attorney	209 West Yosemite Avenue	Madera	CA	93637
The Honorable Paula Camena	Marin County District Attorney	3501 Civic Center Drive	San Rafael	CA	94903
The Honorable Robert Brown	Mariposa County District Attorney	PO BOX 730	Mariposa	CA	95336
The Honorable Norman Vroman	Mendocino County District Attorney	PO BOX 1000	Ukiah	CA	95482
The Honorable Gordon Spencer	Merced County District Attorney	2222 M Street	Merced	CA	95340
The Honorable Jordan Funk	Modoc County District Attorney	204 S. Court Street, Room 202	Alturas	CA	96101
The Honorable George Booth	Mono County District Attorney	PO BOX 617	Bridgeport	CA	93517
The Honorable Dean Filippo	Monterey County District Attorney	240 Church Street, #101	Salinas	CA	93901
The Honorable Gary Lieberstein	Napa County District Attorney	931 Parkway Mall	Napa	CA	94559
The Honorable Michael Ferguson	Nevada County District Attorney	201 Church Street, Suite 8	Nevada City	CA	95959
The Honorable Tony Rackauckas	Orange County District Attorney	401 Civic Center Drive West	Santa Ana	CA	92701
The Honorable Bradford Fenocchio	Placer County District Attorney	11562 B Avenue	Auburn	CA	95603
The Honorable Jeff Cunan	Plumas County District Attorney	520 Main Street, Room 404	Quincy	CA	95971
The Honorable Grover Trask II	Riverside County District Attorney	4075 Main Street	Riverside	CA	92501
The Honorable Jan Scully	Sacramento County District Attorney	901 G Street	Sacramento	CA	95814
The Honorable John Sarsfield	San Benito County District Attorney	419 4th Street, Second Floor	Hollister	CA	95203
The Honorable Michael Ramos	San Bernadino County District Attorney	316 N. Mountain View Avenue	San Bernadino	CA	92415
The Honorable Bonnie Dumanis	San Diego County District Attorney	330 W. Broadway Street, Suite 1320	San Diego	CA	92101
The Honorable Kamala Harris	San Francisco County District Attorney	880 Bryant Street, Room 325	San Francisco	CA	94103
The Honorable John Phillips	San Joaquin County District Attorney	PO 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 Fox	San Mateo County District Attorney	400 County Center, Third Floor	Redwood City	CA	94063
The Honorable Thomas 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 Bob Lee	Santa Cruz County District Attorney	701 Ocean Street, Room 200	Santa Cruz	CA	95060
The Honorable Gerald Benito	Shasta County District Attorney	1525 Court Street, Third Floor	Redding	CA	96001
The Honorable Lawrence Allen	Sierra County District Attorney	PO BOX 457	Downville	CA	95936
The Honorable Peter Knoll	Siskiyou County District Attorney	PO BOX 988	Yreka	CA	96097
The Honorable David Paulson	Solano County District Attorney	600 Union Avenue	Fairfield	CA	94533
The Honorable Stephan Passalacqua	Sonoma County District Attorney	600 Administration Drive, Room 212J	Santa Rosa	CA	95403
The Honorable James Brazelton	Stanislaus County District Attorney	800 11th Street, Room 200 PO BOX 442	Modesto	CA	95353
The Honorable Carl Adam	Sutter County District Attorney	446 Second Street	Yuba City	CA	95991
The Honorable Gregg Cohen	Tehama County District Attorney	PO BOX 519	Red Bluff	CA	96080
The Honorable David Cross	Trinity County District Attorney	PO BOX 1310	Weaverville	CA	96093
The Honorable Phillip Cline	Tulare County District Attorney	221 South Mooney Boulevard, Suite 224	Visalia	CA	93291
The Honorable Donald Segerstrom, Jr.	Tuolumne County District Attorney	423 No. Washington Street	Sonora	CA	95370
The Honorable Gregory Totten	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
The Honorable Bart J. Thiltgen	City of Bakersfield City Attorney	1501 Truxtun Avenue	Bakersfield	CA	93301
The Honorable Rockard Delgado	City of Los Angeles City Attorney	200 N. Main Street	Los Angeles	CA	90012
	San Jose City Attorney's Office	151 West Mission Street	San Jose	CA	95110
The Honorable Casey Gwinn	San Diego City Attorney's Office	1200 Third Avenue, 3rd Floor	San Diego	CA	92101
The Honorable Samuel Jackson	Sacramento City Attorney's Office	980 Ninth Street, Tenth Floor	Sacramento	CA	95814
The Honorable Dennis J. Herrera	San Francisco City Attorney's Office	1360 Market Street, Fifth Floor	San Francisco	CA	94102
The Honorable Bill Lockyer	California Attorney General's Office	1515 Clay Street	Oakland	CA	94612

PROOF OF SERVICE

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, CA 94568.

On August 25, 2004, I served the following document:

SUPPLEMENTAL 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 Violators listed below via 2nd Day Air Service by placing a true and correct copy in a sealed envelope, addressed to each Violator and placing such envelope in a Federal Express Drop-Off Box:

Andrew Santulli, President
Certified International Corporation
36 Vanderbilt Ave
Pleasantville, NY 40570

Allen I. Questrom, Chief Executive Officer
J.C. Penney Corporation
6501 Legacy Drive
Plano, TX 75024

Allen I. Questrom, Chief Executive Officer
J.C. Penney Corporation
6501 Legacy Drive
Plano, TX 75024

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:</i>	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.

Executed on August 25, 2004, at Dublin, California.