

60-DAY NOTICE OF VIOLATION

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

Date: August 25, 2004

To: Bruce Peloquin, President – Four Star
Jeffrey A. Rein, President – Walgreen Co.

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;

From: Russell Brimer

I. INTRODUCTION

My name is Russell Brimer. 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 notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6 et seq. ("Proposition 65"). As noted above, notice is being provided to the violators, Four Star and Walgreen Co. (the "Violators"). The violations covered by this notice consist of the product exposures, routes of exposure and types of harm potentially resulting from such exposure to the following toxic chemical or chemicals ("listed chemicals" or "lead"):

| | |
|---------------------|-------------------------------------------|
| Product Exposure: | See Section VI. Exhibit A |
| Listed Chemicals: | Lead and lead compounds |
| Routes of Exposure: | Ingestion, Dermal |
| Types of Harm: | Birth Defects and Other Reproductive Harm |

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

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 in section VI below. The Violators' sales of these glass and metal candle holder products have been occurring from August 25, 2001 to the present. As a result of the sales of these candle holder 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.

A. CONSUMER PRODUCT EXPOSURE

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemicals. By way of example but not limitation, 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 amounts of the listed chemicals. Additionally, exposure can occur through the routine touching of other materials that are contaminated with the lead/lead compounds from the products as a result of these tasks. People likely to be exposed include both children and adults.

B. 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 by way of example but not limitation, used, packed, unpacked, labeled, 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 lead/lead 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.

III. CONTACT INFORMATION

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

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

IV. 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.

V. ADDITIONAL NOTICE INFORMATION

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

Identified below are specific examples of the type of offending products recently purchased and witnessed being available for purchase or use in California. Based on publicly available information, the retailers, distributors and/or manufacturers of the products at issue are also provided below. Brimer 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 manufacturer.

| <i>Products</i> | <i>Retailer(s)</i> | <i>Manufacturer(s)/Distributor(s)</i> |
|-------------------------------------------------------------|--------------------------------------------------|---------------------------------------|
| Pressed Flower Heart Candle Holder (#0 49022 18041 3) | Walgreens Alameda County, Northern California | Four Star; Walgreen Co. |

VI. EXHIBIT A

| <i>Category of Products</i> | <i>Such As*</i> | <i>Toxins</i> |
|-----------------------------------------------------|----------------------------------------------------------|-------------------------|
| Glass and Metal (containing lead) Candle Holders | Pressed Flower Heart Candle Holder (#0 49022 18041 3) | Lead and lead compounds |

*The specifically identified example of the type of products subject to this Notice are for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product category listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed in the category of products in Exhibit A.

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 Orioff | 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 Ernets LiCaisi | Madera County District Attorney | 209 West Yosemite Avenue | Madera | CA | 95637 |
| 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 | 95338 |
| The Honorable Norman Vroman | Mendocino County District Attorney | PO BOX 1000 | Ukiah | CA | 95462 |
| 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 Flippo | Monterey County District Attorney | 240 Church Street, #101 | Sainas | 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 6 | Nevada City | CA | 95959 |
| The Honorable Tony Rackaukas | Orange County District Attorney | 401 Civic Center Drive West | Santa Ana | CA | 92701 |
| The Honorable Bradford Fenocchio | Placer County District Attorney | 11582 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 Bernardino | 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 | 680 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 | Downieville | CA | 95936 |
| The Honorable Peter Knoll | Siskiyou County District Attorney | PO BOX 986 | 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 Delgadillo | 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 | 1380 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, 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, CA 94568.

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

**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 each sealed envelope, addressed to each Violator and placing such envelope in a Federal Express Drop-Off Box:

Bruce Peloquin, President
Four Star
63 South Street, Suite 190
Hopkinton, MA 01748
Tel. (508) 435-0588

Jeffrey Rein, President
Walgreen Co.
200 Wilmot Road
Deerfield, IL 60015
Tel: (847) 940-2500

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.