

Proposition 65 Notices

And

Certificate of Merit

(re: Swatch Skin Red Illusion SUYR 100)

Submitted by:

Yeroushalmi & Associates
3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010

October 19, 2004

VIA U.S. MAIL

Yann Gamard
The Swatch Group (U.S.) Inc
1200 Harbor Blvd.
Weehawken, NJ 07087

October 19, 2004

**60-DAY NOTICE OF INTENT TO SUE CLINIQUE UNDER HEALTH & SAFETY
CODE SECTION 25249.6**

This Notice is given by Consumer Advocacy Group, Inc., which must be contacted through:

Reuben Yeroushalmi, Esq.
YEROUSHALMI & ASSOCIATES
3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010
Telephone: 213-382-3183
Facsimile: 213-382-3430
Email: lawfirm@yeroushalmi.com

Consumer Advocacy Group, Inc. hereby notifies **The Swatch Group (U.S.) Inc** (hereinafter referred to as "Violator") that it has violated the Safe Drinking Water and Toxic Enforcement Act (Health & Saf. Code, § 25249.6 et seq.) (Hereinafter referred to as "Proposition 65").

Consumer Product Exposures

While in the course of doing business each and every day between October 19th, 2000 and October 19th, 2004, and continuing thereafter, Violator violated Proposition 65 by exposing consumers and other foreseeable users to **Lead**, a chemical contained in Violator's **Swatch Skin Red Illusion SUYR 100**, and designated by the State of California under California Code of Regulations, title 22, section 12306 to cause cancer and reproductive toxicity (hereinafter referred to as "§12306"), without providing clear and reasonable warnings of the exposures as required by Proposition 65. While in the course of doing business, during the time period referenced above, the Violator has been and is knowingly and intentionally manufacturing, distributing and selling this product in the State of California. Violator placed this product in the stream of commerce so that it was sold to consumers. Consumers then used this product, the packaging for which contained no proposition 65 warnings, by wrapping it around their arms by way of strapping it to their skin. Therefore, they were exposed to the chemical **Lead** without having received clear and reasonable statutory warnings.

A "Consumer Product Exposure" is an exposure that results from a person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use and/or misuse of a consumer good. The **Swatch Skin Red Illusion SUYR 100** is a consumer product which contains, in the watch band, the chemical **Lead**, designated under §12306 and thus known to the State of California to cause cancer and reproductive toxicity. The reasonably foreseeable use and or misuse of the **Swatch Skin Red Illusion SUYR 100** will result in exposure to **Lead**, a chemical known to the State of California to cause cancer and reproductive toxicity, through dermal contact and dermal absorption. Per the natural use of this "watch" product, consumers will wrap the watch band around their wrist while attempting to attach the watch to their body. As they wrap the band around the skin of their wrist, the lead allegedly contained inside the watch band comes in contact with their skin, causing exposure to a chemical that causes cancer and reproductive toxicity through dermal contact. Furthermore, as consumers come in contact with human sweat or water while wearing the watch band around their skin, the moisture from sweat or water causes exposure to **Lead** through dermal absorption, as the sweat or water facilitates the absorption of **Lead** into consumer's skin.

Therefore, the route of exposure for consumer product exposures to **Lead**, a chemical known to the State of California to cause cancer and reproductive toxicity, has been through dermal contact and dermal absorption.

Proposition 65 requires that a notice of violation and intent to sue be given to the Violator 60 days before commencing a private enforcement lawsuit pursuant to Health & Safety Code section 25249.6, subsection (d). With this letter, Consumer Advocacy Group, Inc. gives notice of the alleged violations to Violator, the Attorney General, and the District Attorney and City Attorney of cities with populations of over 750,000, in each county and city where violations are alleged to have occurred.

Along with this notice, a copy of *The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary* has been sent to Violator.

Dated: October 19, 2004 YEROUSHALMI & ASSOCIATES

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By:

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Reuben Yeroushalmi, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) 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 at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure 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 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 the information identified in Health and Safety Code section 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: 10-19-04

By:

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3700 Wilshire Boulevard, Suite 480, Los Angeles, CA 90010.

I SERVED THE FOLLOWING:

- 1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6
- 2.) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (only sent to violator(s))

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.

Date of Mailing: 10/19/04
Place of Mailing: Los Angeles, CA

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

Yann Gamard
The Swatch Group (U.S.) Inc
1200 Harbor Blvd.
Weehawken, NJ 07087

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See also attached hereto entities and addresses listed in Exhibit A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 10/19/04

EXHIBIT A

Alameda County District Attorney
1225 Fallon St, Room 900
Oakland, CA 94612

Los Angeles County District Attorney
210 W Temple St, 18th Floor
Los Angeles, CA 90012

Mono County District Attorney
PO Box 617
Bridgeport, CA 93517

Alpine County District Attorney
PO Box 248
Markleeville, CA 96120

Madera County District Attorney
209 W Yosemite Ave
Madera, CA 93637

San Joaquin County District Attorney
PO Box 990
Stockton, CA 95201-0990

Amador County District Attorney
708 Court, Suite 202
Jackson, CA 95642

Mariposa County District Attorney
P.O. Box 730
Mariposa, CA 95338

San Francisco County District Attorney
850 Bryant St, Rm 322
San Francisco, CA 94103

Butte County District Attorney
25 County Center Dr.
Oroville, CA 95965-3385

Marin County District Attorney
3501 Civic Center Drive, #130
San Rafael, CA 94903

San Diego County District Attorney
330 W. Broadway, Ste 1300
San Diego, CA 92101-3803

Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

Mendocino County District Attorney
P.O. Box 1000
Ukiah, CA 95482

San Bernardino County District Attorney
316 N Mountain View Ave
San Bernardino, CA 92415-0004

Office of the Attorney General
P.O. Box 70550
Oakland, CA 94612-0550

Los Angeles City Attorney
200 N Main St Ste 1800
Los Angeles CA 90012

San Francisco City Attorney
1 Dr. Carlton B. Goodlett Place, Suite 234
San Francisco, CA 94102

Colusa County District Attorney
Courthouse, 547 Market St.
Colusa, CA 95932

Inyo County District Attorney
P.O. Drawer D
Independence, CA 93526

Placer County District Attorney
11562 "B" Ave
Auburn, CA 95603-2687

Contra Costa County District Attorney
725 Court St., Room 402
Martinez, CA 94553

Orange County District Attorney
PO Box 808
Santa Ana, CA 92702

Merced County District Attorney
2222 "M" St.
Merced, CA 95340

Del Norte County District Attorney
450 "H" St.
Crescent City, CA 95531

Nevada County District Attorney
201 Church St, Suite 8
Nevada City, CA 95959-2504

Napa County District Attorney
PO Box 720
Napa, CA 94559-0720

El Dorado County District Attorney
515 Main St.
Placerville, CA 95667-5697

Plumas County District Attorney
520 Main Street, Rm 404
Quincy, CA 95971

Riverside County District Attorney
4075 Main St
Riverside, CA 92501

Fresno County District Attorney
2220 Tulare St, Ste. 1000
Fresno, CA 93721

Sacramento County District Attorney
901 G Street
Sacramento, CA 95814

San Benito County District Attorney
419 4th St
Hollister, CA 95023

Glenn County District Attorney
PO Box 430
Willows, CA 95988

San Luis Obispo County District Attorney
County Government Center, Rm 450
San Luis Obispo, CA 93408

Siskiyou County District Attorney
PO Box 986
Yreka, CA 96097

Humboldt County District Attorney
825 5th St., 4th Floor
Eureka, CA 95501

San Mateo County District Attorney
400 County Center
Redwood City, CA 94063

Solano County District Attorney
600 Union Ave
Fairfield, CA 94533

Imperial County District Attorney
939 W. Main St., 2nd Floor
El Centro, CA 92243-2860

Santa Barbara County District Attorney
1105 Santa Barbara St.
Santa Barbara, CA 93101

Sonoma County District Attorney
600 Administration Dr.,
Rm 212-J
Santa Rosa, CA 95403

Kern County District Attorney
1215 Truxtun Ave.
Bakersfield, CA 93301

Santa Clara County District Attorney
70 W Hedding St.
San Jose, CA 95110

Shasta County District Attorney
1525 Court St, 3rd Floor
Redding, CA 96001-1632

Kings County District Attorney
Gov't Ctr, 1400 W Lacey Blvd
Hanford, CA 93230

Santa Cruz County District Attorney
PO Box 1159
Santa Cruz, CA 95061

Sierra County District Attorney
PO Box 457
Downieville, CA 95936-0457

Lake County District Attorney
255 N Forbes St
Lakeport, CA 95453-4790

Stanislaus County District Attorney
PO Box 442
Modesto, CA 95353

Trinity County District Attorney
PO Box 310
Weaverville, CA 96093

Modoc County District Attorney
204 S. Court Street
Alturas, CA 96101-4020

Sutter County District Attorney
446 Second Street
Yuba City, CA 95991

Yuba County District Attorney
215 5th St
Marysville, CA 95901

San Diego City Attorney
City Center Plaza
1200 3rd Ave # 1100
San Diego, CA 92101

Lassen County District Attorney
200 S Lassen St, Suite 8
Susanville, CA 96130

Monterey County District Attorney
PO Box 1131
Salinas, CA 93902

Tuolumne County District Attorney
2 S Green St
Sonora, CA 95370

Tulare County District Attorney
County Civic Center, Rm 224
Visalia, CA 93291

Yolo County District Attorney
310 Second St
Woodland, CA 95695

Ventura County District Attorney
800 S Victoria Ave
Ventura, CA 93009

Tehama County District Attorney
P.O. Box 519
Red Bluff, CA 96080

San Jose City Attorney
151 W. Mission St.
San Jose, CA 95110