

60-DAY NOTICE OF VIOLATION

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

NOVEMBER 3, 2004

TO: Etienne Snollaerts, President – Smart & Final Inc.

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: Whitney R. Leeman

I. INTRODUCTION

My name is Whitney R. Leeman. I hold a Doctor of Philosophy degree in Environmental Engineering. I am a citizen of the State 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 violator, Smart & Final Inc. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure to the following toxic chemical or chemicals ("listed chemicals"):

<i>Listed Chemicals</i>	<i>Routes of Exposure</i>	<i>Types of Harm</i>	<i>Product Exposures</i>
Polychlorinated dibenzo- <i>p</i> -dioxins	Ingestion	Cancer	See Section VI. Exhibit A
Polychlorinated biphenyls	Ingestion	Cancer; Birth Defects and Other Reproductive Harm	See Section VI. Exhibit A

II. NATURE OF ALLEGED VIOLATION (CONSUMER PRODUCT EXPOSURE)

The product category exposing consumers to listed chemicals is *Ground Beef Products*. The specific type or types of products (hereafter the "products") that are causing consumer exposures in violation of Proposition 65 (and that are covered by this notice) are listed on Exhibit A in section VI below. The Violator's sales of these ground beef products have been occurring from at least November 3, 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 effect of exposure 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 from reasonably foreseeable use of the products.

California consumers, through the act of consuming the products, are exposed to the listed chemicals. By way of example but not limitation, exposures occur when California citizens eat, sample or otherwise consume the products. These acts cause consumers to be exposed through the routine consumption of the parts or portions of the products containing the listed chemicals. Additionally, exposure can occur through the routine consumption of other materials that are contaminated with the listed chemicals from the products as a result of these tasks. People likely to be exposed include both children and adults.

III. CONTACT INFORMATION

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

Clifford A. Chanler
 Stephen S. Sayad
 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 ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's 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 food products recently purchased and witnessed as being available for purchase or consumption in California. Based on publicly available information, the retailers, distributors and/or manufacturers of the products at issue are also provided below. Dr. 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 Violator (and other distributors and retailers of the manufacturer).

<i>Products</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributors</i>
Smart & Final Regular Ground Beef; 30% Fat, 3 LB Packaged (#4151200380)	Smart & Final Inc.	Smart & Final Inc.

VI. EXHIBIT A

<i>Products</i>	<i>Such As*</i>	<i>Toxins</i>
Ground Beef	Smart & Final Regular Ground Beef; 30% Fat, 3 LB Packaged (#4151200380)	Polychlorinated dibenzo- <i>p</i> -dioxins
Ground Beef	Smart & Final Regular Ground Beef; 30% Fat, 3 LB Packaged (#4151200380)	Polychlorinated biphenyls

*The specifically identified example of the type of food products subject to this Notice are for the benefit of each recipient 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 under Products in Exhibit A. Further, it is this citizen's position that the alleged violator is obligated to continue to conduct a good faith investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold or stored during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

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 November 3, 2004, I served the following document:

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

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

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

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

Etienne Snollaerts, President
Smart & Final Inc.
600 Citadel Drive
City of Commerce, CA 90040
Tel. (323) 589-4283

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 November 3, 2004, at Dublin, California.

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 party 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 plaintiff's 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: 11/3/04

Cliff

SERVICE LIST

The Honorable Tom Orloff
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
Alpine County District Attorney
P.O. Box 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street, #202
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive,
Administration Building
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
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725 Court Street, 4th Floor, Rm. 402
Martinez, CA 94553

The Honorable Michael Riese
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The Honorable Gary Lacy
El Dorado County District Attorney
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Placerville, CA 95667

The Honorable Elizabeth Egan
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2220 Tulare Street, #1000
Fresno, CA 93721

The Honorable Robert Holzapfel
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825 5th Street
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
939 West Main Street
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The Honorable Arthur Maillet
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Independence, CA 93526

The Honorable Edward R. Jagels
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1215 Truxtun Avenue
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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 Ernest LiCalsi
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Paula Camena
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

The Honorable Robert Brown
Mariposa County District Attorney
P.O. Box 730
Mariposa, CA 95338

The Honorable Norman Vroman
Mendocino County District Attorney
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Ukiah, CA 95482

The Honorable Gordon Spencer
Merced County District Attorney
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The Honorable Jordan Funk
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204 S. Court Street, Room 202
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The Honorable George Booth
Mono County District Attorney
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The Honorable Dean Flippo
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240 Church Street, #101
Salinas, CA 93901

The Honorable Gary Lieberstein
Napa County District Attorney
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Napa, CA 94559

The Honorable Michael Ferguson
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201 Church Street, Suite 8
Nevada City, CA 95959

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Orange County District Attorney
401 Civic Center Drive West
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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 Bernardino 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
880 Bryant Street, Room 325
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 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
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Santa Cruz, CA 95060

The Honorable Gerald Benito
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Sonoma County District Attorney
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Santa Rosa, CA 95403

The Honorable James Brazelton
Stanislaus County District Attorney
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Modesto, CA 95353

The Honorable Carl Adams
Sutter County District Attorney
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Yuba City, CA 95991

The Honorable Gregg Cohen
Tehama County District Attorney
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The Honorable Phillip Cline
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Visalia, CA 93291

The Honorable Donald Segerstrom, Jr.
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Ventura County District Attorney
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Ventura, CA 93009

The Honorable David C. Henderson
Yolo County District Attorney
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Woodland, CA 95695

The Honorable Patrick McGrath
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The Honorable Samuel Jackson
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