

Proposition 65 Notices

(re: Asphalt Roofing)

Submitted by:

Yeroushalmi & Associates
3700 Wilshire Blvd., Suite 480
Los Angeles, CA 90010
(On behalf of Consumer Advocacy Group, Inc.)

December 28, 2004

The employees exposed to said chemicals include roofing contractors, drivers, roofing installers, and workers otherwise involved in the installation, repair, and replacement of roofs. Exposures occurred in storage facilities/garage areas at Violators' places of business, where Violators prepared and heated *Asphalt* and stored "cold" asphalt emulsions and adhesives, asphalt shingles, and inter-ply layers of asphalt or coal tar. Exposures also occurred where Violators performed roofing installations, and along the routes by which Violators transported *Asphalt* from said places of business to where Violators performed *roofing* work. Exposures were created by heated *Asphalt*, including hot asphalt, *Asphalt* smoke, and associated fumes, and particulate matter and other airborne constituents, including gaseous emissions, released from "cold" asphalt emulsions and adhesives, asphalt shingles, and inter-ply layers of asphalt or coal tar by removing these products from packaging and tearing out said products from old roofing in preparation of re-roofing. The exposed persons breathed in these materials via the ambient air (which was a direct result of participating in applying *Asphalt* to roofing surfaces, handling roofing materials for storage, application, and transportation, or being near where hot asphalt was mixed, heated, or transported) causing a route of exposure of inhalation contact with their mouths, throats, esophagi, and lungs.

Consumer Advocacy Group, Inc. alleges that Violators caused a route of exposure of dermal contact due to employees touching *Asphalt*, while mixing, heating, transporting, and then applying *Asphalt*, including hot asphalt, "cold" asphalt emulsions and adhesives, asphalt shingles, and inter-ply layers of asphalt or coal tar, to surfaces at work locations, and by allowing work gloves, which had touched the asphalt, to touch their skin. Employees also sustained dermal contact when moving asphalt products in and out of the storage facilities/garage areas at Violators' places of business, as referenced above. Exposures took place in the counties whose district attorneys received copies of this notice as listed in the attached certificate of service.

The roofing products used by Violators' employees that contain or result in exposure to asphalt or coal tar, and any equipment used in the storage, installation, repair, removal, and transportation of such products whose use may cause persons to be exposed to asphalt or coal tar, include: binders, felts, base sheets, cap sheets, surfacing materials, membrane systems, insulation materials, substrates, shingles, roll roofing, felt underlayments, flashings, coatings, mastics, cements, adhesives, caulking compounds, roofing kettles, tank trucks, vehicles used to tow roofing kettles to, from, and within job sites, torches, hot-air welders, other heating equipment, spreaders, felt-laying machines, roof removal equipment, including roof cutters, and hand tools.

This notice alleges the violation of Proposition 65 with respect to occupational exposures 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 (a.) the conduct of manufacturers occurring outside the State of California; and (b.) employers with less than 10 employees. The approval also provides that an employer may use any means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement be 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 California Attorney General. (Cal. Code Regs., tit. 8, § 338, subd. (b).)

For each such type and means of exposure, Violators have exposed and are exposing the exposed persons to:

CARCINOGENS



Benz[a]anthracene	Chrysene	Toluene diisocyanate	Formaldehyde (gas)
5-Methylchrysene	Nickel and Nickel Compounds	Dichloromethane (Methylene Chloride)	Benzene
Lead and lead compounds	Benzo[b]flouranthene	Benzo[k]flouranthene	Benzo[a]pyrene
Indeno[1,2,3-cd]pyrene	Acetaldehyde	Beryllium and Beryllium compounds	Arsenic (inorganic arsenic compounds)

Cadmium and Cadmium compounds	Chromium (hexavalent compounds)	Tetrachloroethylene (Perchloroethylene)	Trichloroethylene
Formaldehyde (gas)	Chrysene	Dibenz[a,h]anthracene	1, 3-butadiene
Carbazole	dibenz[a,j]acridine	Dibenz[a,h]anthracene	dibenzo[a,e]pyrene
dibenzo[a,h]pyrene	dibenzo[a,i]pyrene	dibenzo[a,l]pyrene	Silica, Crystalline (airborne particles of respirable size)

REPRODUCTIVE TOXINS

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Toluene	Carbon Disulfide	Benzene	Lead
Mercury and Mercury compounds	Arsenic (inorganic oxides)	Cadmium	

Proposition 65 (Health & Saf. Code, § 25249.7) requires that notice and intent to sue be given to the violator(s) 60 days before the suit is filed. With this letter, **Consumer Advocacy Group, Inc.** gives notice of the alleged violations to Violators and appropriate governmental authorities. In absence of any action by the appropriate governmental authorities within 60 days of the sending of this notice, **Consumer Advocacy Group, Inc.** may file suit. This notice covers all violations of Proposition 65 that **Consumer Advocacy Group, Inc.** currently knows of from information now available to it. With the copy of this notice submitted to the violators, a copy of the following is attached: *The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.*

Note: Consumer Advocacy Group, Inc., in the interest of the public, is determined to resolve this matter in the least costly manner and one that would benefit all parties involved. In order to encourage the expeditious and proper resolution of this matter, Consumer Advocacy Group, Inc. is prepared to forgo all monetary recovery including attorney fees and costs, penalties, and restitution in exchange for a complete elimination of the exposures listed above through the possible reformulation of your products and/or modification of your business practices.

Dated: 12/28/04

By: _____

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Ben 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: *December 28/09*

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) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit: Health and Safety Code Section 25249.7(d) *Attorney General Copy (only sent to Attorney General)*
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

by enclosing a true copy of the same in a sealed envelope, along with an unsigned copy of this declaration, addressed to each person shown below and depositing the envelope in the United States mail with the postage fully prepaid. Place of Mailing: Los Angeles, CA

Name And Address Of Each Violator To Whom Documents Were Mailed:

First	Last	Company	Address	City	State	Zip
Grant	Grafius	Bulldog Sheet Metal & Roofing Inc.	1101 Endeavor Drive	Upland	CA	91786
Jay	Todesco	California Roofing Services, Inc.	P.O. Box 415	Concord	CA	94522
Trina	Mahle	California Single Ply, Inc.	P.O. Box 2799	Rocklin	CA	95677
Carl	Slater	Colonial Roofing Inc.	7255 Atoll Avenue, Suite C	North Hollywood	CA	91605
Helen	Landreth	Landreth Roofing Co., Inc.	25770 Mohler Road	Ripon	CA	95366

Name And Address Of Each Public Prosecutor To Whom Documents Were Mailed:

Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550	Los Angeles County District Attorney 210 W Temple St, 18th Floor Los Angeles, CA 90012	Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012
San Joaquin County District Attorney PO Box 990 Stockton, CA 95201-0990	Placer County District Attorney 11562 "B" Ave Auburn, CA 95603-2687	San Bernardino County District Attorney 316 N Mountain View Ave San Bernardino, CA 92415-0004
Contra Costa County District Attorney 725 Court St., Room 402 Martinez, CA 94553		

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

Dated: December 28, 2004

By: _____