

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Re: Lead In Jewelry

March 28, 2005

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health. The Center for Environmental Health is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices.

Description of Violation:

- The names and addresses of the violators are attached hereto as Exhibit 1.
- The violations have been occurring since at least February 27, 1988 and are continuing to this day.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this notice.
- The category of products causing these violations is jewelry. A non-exclusive list of examples of these products is attached hereto as Exhibit 2. The Lead is contained in these products.
- Description of Violations: Use of the products identified in this notice results in human exposures to Lead. Lead is contained in both the metallic and non-metallic parts of the jewelry. For example, the non-metallic cords of bracelets and necklaces contain Lead, and the metallic components such as beads, pendants, clasps, posts and other components of the jewelry contain Lead. The route of exposure for the violations is direct ingestion when consumers place the products in their mouths, ingestion via hand to mouth contact after consumers touch or handle the products, and dermal absorption directly through the skin when consumers touch, handle, or wear the products. These exposures occur in homes, workplaces and everywhere else throughout California where this jewelry is worn or handled. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

Please direct any inquiries regarding this notice to counsel for the Center for Environmental Health: Eric Somers, Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

**EXHIBIT 1: List of Violators
(March 28, 2005 60-Day Notice Letter
By Center for Environmental Health
re: Lead In Jewelry)**

Target Corporation
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

Kmart Corporation
3100 W. Big Beaver Road
Troy, MI 48084

Jordache Enterprises, Inc.
226 West 37th Street
New York, NY 10018

Hot Topic, Inc.
18305 E. San Jose Ave.
City of Industry, CA 91748

Claire's Boutiques, Inc.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

Claire's Stores, Inc.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

CBI Distributing Corp.
3 S.W. 129th Ave.
Pembroke Pines, FL 33207

CBI Distributing Corp.
2400 West Central Road
Hoffman Estates, IL 60195-1930

Longs Drug Stores California, Inc.
P.O. Box 5222
Walnut Creek, CA 94596

Longs Drug Stores Corporation
P.O. Box 5222
Walnut Creek, CA 94596

The Gerson Company
1450 South Lone Elm Road
Olathe, KS 66061

Joe Boxer Company, LLC
1599 Post Road East
Westport, CT 06880

Windsong Allegiance Group, LLC
1599 Post Road East
Westport, CT 06880

Macy's West, Inc.
7 West Seventh Street
Cincinnati, OH 45202

Macy's Department Stores, Inc.
7 West Seventh Street
Cincinnati, OH 45202

Federated Department Stores, Inc.
7 West Seventh Street
Cincinnati, OH 45202

Forever 21 Retail, Inc.
2001 South Alameda Street
Los Angeles, CA 90058

Forever 21, Inc.
2001 South Alameda Street
Los Angeles, CA 90058

Styles For Less, Inc.
12728 S. Shoemaker Ave.
Santa Fe Springs, CA 90670

The New 5-7-9 and Beyond, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Rainbow Apparel of America, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Rainbow Apparel Distribution Center Corp.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

A.I.J.J. Enterprises, Inc.
1000 Pennsylvania Ave.
Brooklyn, NY 11207

Burlington Coat Factory Warehouse Corporation
1830 Rt. 130
Burlington, NJ 08016

Mervyn's
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

J.C. Penney Company, Inc.
6501 Legacy Drive, Mail Code 1106
Plano, TX 75024

J.C. Penney Corporation, Inc.
6501 Legacy Drive, Mail Stop 1205
Plano, TX 75024

Sears Roebuck & Co.
3333 Beverly Road
Hoffman Estates, IL 60179

Wal-Mart Stores, Inc.
702 S.W. 8th Street, Suite 0555
Bentonville, AR 72716-0555

The Buckle, Inc.
2407 West 24th Street
Kearney, NE 68845

The Wet Seal, Inc.
26972 Burbank
Foothill Ranch, CA 92610

The Wet Seal Retail, Inc.
26972 Burbank
Foothill Ranch, CA 92610

Hub Distributing, Inc.
2501 East Guasti Road
Ontario, CA 91761

American Retail Group, Inc.
1114 Avenue of the Americas
New York, NY 10036

American Retail Group, Inc.
6251 Crooked Creek Rd.
Norcross, GA 30092

Lerner New York, Inc.
450 W. 33rd Street
New York, NY 10001

Charming Shoppes, Inc.
450 Winks Lane
Bensalem, PA 19020

Lane Bryant, Inc.
450 Winks Lane
Bensalem, PA 19020

Nordstrom, Inc.
1700 Seventh Avenue
Seattle, WA 98101

Zumiez, Inc.
1420 80th Street, S.W., Suite A
Everett, WA 98203

Too, Inc.
8323 Walton Parkway
New Albany, OH 43054

Limited Too Store Planning, Inc.
8323 Walton Parkway
New Albany, OH 43054

Cornerstone Apparel, Inc.
1101 E. 14th Street
Los Angeles, CA 90021

**EXHIBIT 2: Non-Exclusive Examples of the Products
(March 28, 2005 60-Day Notice Letter
By Center for Environmental Health
re: Lead In Jewelry)**

EXAMPLE ITEM DESCRIPTION	EXAMPLE ITEM/SKU #	RESPONSIBLE PARTIES
xhilation multi-stranded necklace with cross pendant	215002443	Target Corporation
xhilation necklace with oval pendant	215002544	Target Corporation
Thalia charm bracelet	1242131606	Kmart Corporation
Jordache necklace	7952260335	Jordache Enterprises, Inc.
Hot Topic bracelets	209236000	Hot Topic, Inc.
Claire's bracelets	48981	Claire's Stores, Inc.; Claire's Boutiques, Inc.
Icing By Claire's 5-stranded necklace	540906	Claire's Stores, Inc.; Claire's Boutiques, Inc.
Success Access Stories necklace with moon stone pendant	8375500800	Longs Drug Stores California, Inc.; Longs Drug Stores Corporation
Gerson necklace with round pendant and blue dangling ornaments	3791633799	The Gerson Company; Longs Drug Stores California, Inc.; Longs Drug Stores Corporation
Joe Boxer necklace with surfboard-style pendant	80931008827	Joe Boxer Company, LLC; Windsong Allegiance Group, LLC; Kmart Corporation
Macy's 6-stranded necklace	97986455016	Macy's West, Inc.; Macy's Department Stores, Inc.; Federated Department Stores, Inc.
Forever 21 necklace with pink rhinestones	10457054011	Forever 21 Retail, Inc.; Forever 21, Inc.
Fashion Jewelry necklace with cross	412086590007	Styles for Less, Inc.

EXAMPLE ITEM DESCRIPTION	EXAMPLE ITEM/SKU #	RESPONSIBLE PARTIES
5-7-9 bracelets	9046889	The New 5-7-9 and Beyond, Inc.; Rainbow Apparel of America, Inc.; Rainbow Apparel Distribution Center Corp.; A.I.J.J. Enterprises, Inc.
Orion necklace with trapezoidal pendant	36184676489	Burlington Coat Factory Warehouse Corporation
French Laundry necklace with square pendant	499480201210	Mervyn's
Worthington necklace	132 8181 0104 01	J.C. Penney Company, Inc.; J.C. Penney Corporation, Inc.
Mainframe 3-stranded necklace with round pendant	426046199	Sears Roebuck & Co.
Mainframe 6-stranded bracelet with round pendant	426047199	Sears Roebuck & Co.
Mainframe necklace with 3 round pendants	465576199	Sears Roebuck & Co.
No Boundaries necklace with cross pendants	73204163747	Wal-Mart Stores, Inc.
"Claw Tight" jelly bracelets	9595200000	The Buckle, Inc.
Anchor Blue jelly bracelets	11320	Hub Distributing, Inc.; American Retail Group, Inc.
Zutopia double-stranded "Best friends" heart necklace	336522600009	The Wet Seal, Inc.; The Wet Seal Retail, Inc.
New York & Company necklace with silver heart pendant	85104507	Lerner New York, Inc.
Lane Bryant 3-strand necklace with round black pendant	92229967	Charming Shoppes, Inc; Lane Bryant, Inc.
Etienne V. necklace with letter "D" silver pendant	1612-67033114	Nordstrom, Inc.

Nadri necklace with butterfly pendant	0284-66429303	Nordstrom, Inc.
Zumiez necklace with silver surfboard pendant	7822400070018	Zumiez, Inc.
Limited Too necklace with multi-colored pendant	66049649	Too, Inc.; Limited Too Store Planning, Inc.
Papaya "Fashion Jewelry" two-strand necklace with rectangular pendants	CRYN0098	Cornerstone Apparel, Inc.

CERTIFICATE OF MERIT

Health & Safety Code §25249.7(d)

I, Howard Hirsch, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health (“CEH”).

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 exposures 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 plaintiff’s case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the 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 & 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: March 28, 2005



Howard Hirsch
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

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Riverside, CA 92501

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Sonora, CA 95370

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San Jose, CA 95110

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Michael J. Osborn*
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President*
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Terry Lundgren*
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Federated Department Stores, Inc.
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President*
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2001 South Alameda Street
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Michael De Angelo*
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Joseph Chehebar*
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Joseph Chehebar*
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1000 Pennsylvania Ave.
Brooklyn, NY 11207

Monroe G. Millstein*
President and CEO
Burlington Coat Factory Warehouse
Corporation
1830 Rt. 130
Burlington, NJ 08016

Diane L. Neal*
President
Mervyn's
1000 Nicollet Mall TPN-0945
Minneapolis, MN 55403

Allen Questrom*
CEO
J.C. Penney Company, Inc.
6501 Legacy Drive, Mail Code 1106
Plano, TX 75024

President*
J.C. Penney Corporation, Inc.
6501 Legacy Drive, Mail Stop 1205
Plano, TX 75024

Alan Lacy*
President/CEO
Sears Roebuck & Co.
3333 Beverly Road
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H. Lee Scott, Jr.*
President and CEO
Wal-Mart Stores, Inc.
702 S.W. 8th Street, Suite 0555
Bentonville, AR 72716-0555

Dennis Nelson*
President and CEO
The Buckle, Inc.
2407 West 24th Street
Kearney, NE 68845

Peter D. Whitford*
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Foothill Ranch, CA 92610

President*
The Wet Seal Retail, Inc.
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Charming Shoppes, Inc.
450 Winks Lane
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President*
Lane Bryant, Inc.
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1700 Seventh Avenue
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Zumiez, Inc.
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Michael W. Rayden*
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Too, Inc.
8323 Walton Parkway
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President*
Limited Too Store Planning, Inc.
8323 Walton Parkway
New Albany, OH 43054

President*
Cornerstone Apparel, Inc.
1101 E. 14th Street
Los Angeles, CA 90021

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving Street, San Francisco, California 94122.

On March 28, 2005, I served true copies of the following documents:

NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

CERTIFICATE OF MERIT; and

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those on service list marked with an asterisks).


I placed a true copy of this paper in an envelope addressed to:

See Attached Service List.

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I placed the envelope containing the above-mentioned documents for collection and mailing on March 28, 2005, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 28, 2005, at San Francisco, California.

Signed:



Emily Morgan