

LAW OFFICE OF GREGORY P. BROCK

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April 19, 2005

Bill Lockyer, Attorney General
Edward Weil, Supervising Deputy Attorney General
Office of the Attorney General, Department of Justice
State of California
1515 Clay Street, Suite 2000
Oakland, CA 94612

Thomas J. Orloff, District Attorney
Alameda County District Attorney's Office
1225 Fallon Street, Room 900
Oakland, CA 94612

Re: Notice of Violation of Proposition 65 By Wal-Mart Stores, Inc.

Gentlepeople:

I have been retained by Steven Schwartzberg, a California resident concerned with childhood lead exposure, to initiate an action against Wal-Mart Stores, Inc. for violations of Proposition 65. This letter will serve as formal notice that Wal-Mart Stores, Inc., a Delaware corporation doing business in California, with a principal place of business of 702 SW 8th ST MS #0555, Bentonville, Arizona 72716-0555, has violated the warning requirements of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (Health & Safety Code Section 25249.5 and following).

Wal-Mart has exposed numerous individuals within the State of California to lead, a chemical added to the Proposition 65 list as a carcinogen on October 1, 1992, and as a source of developmental toxicity on February 27, 1987. The time period of the violations that are the subject of this notice commenced more than one year after the listed dates above. The general geographic location of the unlawful exposure has been at approximately 100 retail stores operated by Wal-Mart Stores, Inc. in the State of California. The means of exposure and/or threatened exposure has been by selling and offering for sale at Wal-Mart stores in California a Nu-Tronix Karaoke Cassette Player/Recorder that contains excessive levels of lead paint that pose a lead-poisoning hazard to young children, the intended consumers of the product. The route of

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exposure has been primarily through dermal contact with the chemical; however additional exposures may arise through ingestion of this chemical. We consider that a separate violation of Proposition 65 took place at each of Wal-Mart's retail locations on each day that the product was offered for sale.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. This company is in violation of Proposition 65 because it failed to provide a warning to persons shopping at its stores that the product had exposed, and would continue to expose, people in California to hazardous levels of lead. (22 C.C.R. Section 12601.) In the course of doing business in California, the company knowingly and intentionally has exposed and continues to expose people to these chemicals, without first providing clear and reasonable warning. (Health and Safety Code Section 25249.6.) Based on the exposures involved, we believe the method of warning should have been a "warning that appears on a product's label or other labeling." (22 C.C.R. Section 12601(b)(1)(A).)

Proposition 65 requires that notice and intent to sue be given to a violator 60 days before the suit is filed. With this letter, Mr. Schwartzberg gives notice of the alleged violations to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to Mr. Schwartzberg from information now available to us. Investigation may lead to information concerning further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, attached hereto as Exhibit A, has been provided to the noticed party.

Do not hesitate to contact me with any concerns or questions.

Sincerely,



Gregory P. Brock

GPB:
Enclosures

cc: Steven Schwartzberg

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Gregory P. Brock, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have 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 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: April 19, 2005



Gregory P. Brock

1 PROOF OF SERVICE

2 I, GREGORY P. BROCK, declare:

3 I am a citizen of the United States, over 18 years of age, and employed in the
4 County of Alameda; my business address is 918 Parker Street, Second Floor, Berkeley,
California.

5 That on the date listed below, I served a copy of the following documents:

6 **Notice of Violation of Proposition 65 By Wal-Mart Stores, Inc.; Certificate of Merit;**
7 **Attachment To Certificate of Merit (Attorney General Copy: Contains Official**
8 **Information Pursuant to Evidence Code Section 1040)**

9 On the following persons by placing a true copy thereof enclosed in a sealed envelope
addressed as follows:

10 Bill Lockyer, Attorney General H. Lee Scott, President
11 Edward Weil, Supervising Deputy Attorney General Wal-Mart Stores, Inc.
12 Office of the Attorney General, Department of 702 SW 8th ST MS #0555
Justice Bentonville, Arizona 72716-0555
13 State of California (without Attachment to Certificate
14 1515 Clay Street, Suite 2000 of Merit)
Oakland, CA 94612

15 Thomas J. Orloff, District Attorney Wal-Mart Stores, Inc.
16 Alameda County District Attorney's Office c/o C T Corporation System
17 1225 Fallon Street, Room 900 818 West Seventh Street
Oakland, CA 94612 Los Angeles, California 90017
(without Attachment to Certificate
of Merit)

18 x **BY MAIL:** I deposited each document into envelope(s) with postage thereon fully
19 prepaid to be placed in the United States mail at Berkeley, California.

20 — **BY FEDERAL EXPRESS:** I deposited each document into envelope(s), with
21 postage thereon fully prepaid, and placed in a Federal Express mail box to be
delivered to the offices of the addressee(s).

22 — **BY PERSONAL SERVICE:** I served each envelope(s) by hand to the offices of
the addressee(s).

23 — **BY FACSIMILE:** I transmitted each document by facsimile machine.

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

26 Executed on April 19, 2005, at Berkeley, California.

27 
28 _____
GREGORY P. BROCK