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MONICA D. BATANERO  
TRACY K. SMITH

June 14, 2005

**VIA CERTIFIED MAIL & U.S. MAIL**

William J. Prezzano, Chairman  
David V. Singer, President, Director, and Chief Executive Officer  
Lance Inc.  
8600 South Blvd.  
Charlotte, NC 28273

CC: *care of* Agent for Service of Process  
CT Corporation  
818 West Seventh St.  
Los Angeles, CA 90017

CC: Cape Cod Potato Chip Co. Inc.  
(*a subsidiary of Lance Inc.*)  
100 Breed's Hill Rd.  
Hyannis MA 02601

Dear Mr. Prezanno and Mr. Singer:

The Environmental Law Foundation ("ELF") is a California non-profit organization dedicated to the preservation and enhancement of human health and the environment. ELF has a long-standing interest in reducing health hazards to the public posed by toxic chemicals and protecting the public from harmful substances.

This letter constitutes notice that the entity listed below has violated and continues to violate provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code §§ 25249.5 *et seq.* Specifically, this entity has violated and continues to violate the warning requirement at § 25249.6 of the California Health and Safety Code, which provides, "No person in the course of doing business shall knowingly and intentionally expose any individual to

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(562) 436-4696 • FAX (562) 436-6157

3633 E. INLAND EMPIRE BLVD., SUITE 400  
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(909) 944-1711 • FAX (909) 944-1722

15910 VENTURA BOULEVARD, 18TH FLOOR  
ENCINO, CALIFORNIA 91436-2819  
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1290 CENTER COURT DRIVE  
COVINA, CALIFORNIA 91724  
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(714) 937-9205 • FAX (714) 937-9218

5740 RALSTON STREET, SUITE 301  
VENTURA, CALIFORNIA 93003-6043  
(805) 642-7101 • FAX (805) 642-9627

555 WEST BEECH STREET, SUITE 205  
SAN DIEGO, CALIFORNIA 92101-2938  
(619) 234-3621 • FAX (619) 234-0649

827 STATE STREET, SUITE 10  
SANTA BARBARA, CALIFORNIA 93101  
(805) 564-4226 • FAX (805) 642-9627





a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..."

Alleged Violator: Lance Inc.

Lance Inc. produces numerous products used worldwide. Specifically, Lance Inc. makes the snack product, Cape Cod Potato Chips through its subsidiary, Cape Cod Potato Chip Co. Inc. These products are available in various types and flavors and may be readily purchased by consumers. Several of these varieties contain the chemical Acrylamide, known to the state to cause cancer. These varieties include Cape Cod Classic Chips and Cape Cod Robust Russet. At all relevant times and continuing to the present time, this entity has exposed and continues to expose all consumers of the Cape Cod Potato Chip Co. products, within the state of California, to high levels of Acrylamide, a carcinogen. Exposure has occurred through ingestion of the product by consumers.

Because Acrylamide is a chemical listed in Proposition 65 as a cancer-causing chemical, pursuant to Health and Safety Code § 25249.6 this entity was, and is, required to provide clear and reasonable warnings to all consumers of its product. The warnings must state that products contain a chemical known by the State of California to cause cancer. Pursuant to Health and Safety Code § 25249.7(d), ELF intends to bring suit in the public interest against the above named entity sixty days hereafter to correct the violation occasioned by the failure to warn all consumers to the exposure of Acrylamide.

Pursuant to 22 California Code of Regulations § 12903(b)(1), attached is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Pursuant to Health and Safety Code § 25249.7(d)(1), the undersigned hereby include the attached Certificate of Merit, to wit, that the undersigned have consulted with one or more persons with relevant and appropriate experience or expertise who has or have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of this notice, and that, based on that information, the undersigned believe there is a reasonable and meritorious case. Factual information sufficient to establish the basis of this Certificate of Merit is included with the notice that is served on the Attorney General and is provided to that office in confidence and is not to be disclosed except according to law.

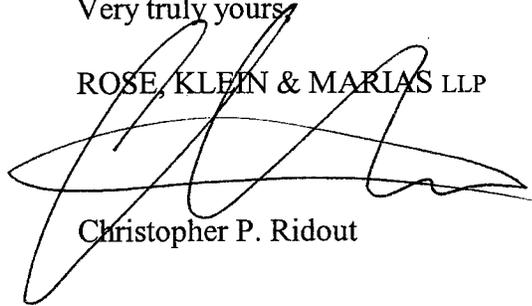
LAW OFFICES OF  
**ROSE, KLEIN & MARIAS LLP**



ELF is located at: 1736 Franklin, 9<sup>th</sup> Floor, Oakland, California 94612, telephone (510) 208-4555. ELF is represented in this matter by the law firm of Rose Klein and Marias LLP: 801 S. Grand Ave., 18<sup>th</sup> Floor, Los Angeles, CA 90017-4645. All communications concerning this matter should be directed to Christopher P. Ridout.

Very truly yours,

ROSE, KLEIN & MARIAS LLP



Christopher P. Ridout

CPR:laa

cc: See attached list

The Honorable Thomas Orloff  
District Attorney  
ALAMEDA COUNTY  
1225 Fallon Street, Room 900  
Oakland, CA 94612

The Honorable William Richmond  
District Attorney  
ALPINE COUNTY  
P.O. Box 248  
Markdeeville, CA 96120

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708 Court Street, #202  
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P.O. Drawer D  
Independence, CA 93526

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District Attorney  
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Santa Barbara, CA 93101

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District Attorney  
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Courthouse  
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Downieville, CA 95936

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District Attorney  
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Yreka, CA 96097

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District Attorney  
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District Attorney  
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District Attorney  
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The Honorable Dennis Herrera  
City Attorney  
CITY OF SAN FRANCISCO  
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San Francisco, CA 94102

The Honorable Richard Doyle  
City Attorney  
CITY OF SAN JOSE  
151 W. Mission St.  
San Jose, CA 95110

Attorney General of California  
Prop. 65 Enforcement Reporting  
Attention: Prop. 65 Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, California 94612-0550

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

I, Christopher P. Ridout, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice 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.

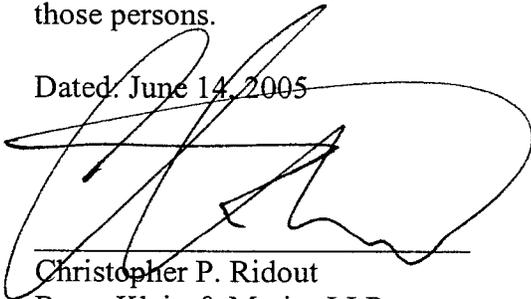
(2) I am an attorney for the Environmental Law Foundation.

(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: June 14, 2005



Christopher P. Ridout  
Rose, Klein & Marias LLP.  
801 South Grand Avenue 18<sup>th</sup> Floor  
Los Angeles, CA 90017- 4645  
Attorney on behalf of the Environmental Law Foundation