

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Re: Lead In Soft Food and Beverage Containers

September 20, 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 soft food and beverage containers, including but not limited to lunch boxes, lunch bags and coolers. 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. The soft food and beverage containers contain Lead. The route of exposure for the violations is direct ingestion when consumers (especially children) place items that have been stored in the products in their mouths, ingestion via hand to mouth contact after consumers touch or handle the products or items that have been stored in the products, and dermal absorption directly through the skin when consumers touch or handle the products or items that have been stored in the products. These exposures occur in homes, schools, workplaces and everywhere else throughout California where these products are touched 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: Mark N. Todzo, Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

EXHIBIT 1

**EXHIBIT 1: List of Violators
(September 20, 2005 60-Day Notice Letter
By Center for Environmental Health
re: Lead In Soft Food and Beverage Containers)**

Accessory Network Group, Inc.
350 5th Avenue, 4th Floor
New York, New York 10118

Betesh Group Holding Corporation
(Generation Sports)
1 E. 33rd Street, Floor 10
New York, NY 10016

JC Penney Co, Inc.
6501 Legacy Drive, Mail Code 1106
Plano, TX 75024 - 3698

Lisa Frank, Inc.
6760 S. Lisa Frank Avenue
Tucson, AZ 85706-5087

Marvel Entertainment Group, Inc.
417 5th Avenue, 12th Floor
New York, NY 10016

Mervyn's, LLC
22301 Foothill Blvd., Mail Stop 2115,
Hayward, CA 94541

Sanford LP
(a division of Newell Rubbermaid)
2707 Butterfield Rd.
Oakbrook, IL 60523

Target Corporation
1000 Nicollet Mall
Minneapolis, MN 55403

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

EXHIBIT 2

EXHIBIT 2: Non-Exclusive Examples of the Products
(September 20, 2005 60-Day Notice Letter
By Center for Environmental Health
Re: Lead In Soft Food and Beverage Containers)

Noticed Parties	NON-EXCLUSIVE EXAMPLES OF PRODUCTS	Package SKU #
Accessory Network Group, Inc.	Power Rangers lunchbox with black plastic and red canvas	093177 778650
Betesh Group Holding Corporation (Generation Sports)	Hamtaro lunchbox with pink and black vinyl, by Generation Sports	
JC Penney Co, Inc.	Arizonia Jean lunchbox with pink and black nylon and a gem on front	24038 04007
	Total Girl pink plastic lunchbox with large rainbow colored flower and sequins	47417 20451
Lisa Frank, Inc.	Angel Kitty lunchbox with purple glitter	5252840410
Marvel Entertainment Group, Inc.	Spiderman lunchbox with red and blue canvas and plastic sides	84 071 60 26884
Mervyn's, LLC	Power Rangers lunchbox with black plastic and red canvas	093177 778650
Sanford LP (a division of Newell Rubbermaid)	Batman Begins "Space Maker" lunchbox	3040273570
Target Corporation	Spiderman lunchbox with red and blue canvas and plastic sides	84 071 60 26884
Wal-Mart Stores, Inc.	Batman Begins "Space Maker" lunchbox	3040273570
	Angel Kitty lunchbox with purple glitter	5252840410

CERTIFICATE OF MERIT

Health & Safety Code §25249.7(d)

I, Mark N. Todzo, 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. Members of my firm and 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 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: September 20, 2005

A handwritten signature in black ink, appearing to read 'M. Todzo', written over a horizontal line.

Mark N. Todzo
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

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 September 20, 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).

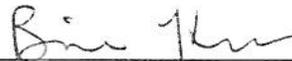
I placed a true copy of this paper in an envelope addressed to:

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 September 20, 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 September 20, 2005, at San Francisco, California.

Signed:


Baine Kerr

SERVICE LIST

District Attorney of Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney of Colusa County
547 Market Street
Colusa, CA 95932

District Attorney of Contra Costa
County
725 Court Street, Room 402
Martinez, CA 94553

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Del Norte
County
450 H Street, Ste 171
Crescent City, CA 95531

District Attorney of Amador County
708 Court Street, #202
Jackson, CA 95642

District Attorney of Butte County
25 County Center Drive
Oroville, CA 95965

District Attorney of El Dorado
County
515 Main Street
Placerville, CA 95667

District Attorney of Calaveras
County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Fresno County
2220 Tulare Street, #1000
Fresno, CA 93721

District Attorney of Glenn County
P.O. Box 430
Willows, CA 95988

District Attorney of Kings County
1400 West Lacey
Hanford, CA 93230

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Humboldt
County
825 5th Street
Eureka, CA 95501

District Attorney of Imperial County
939 Main Street
El Centro, CA 92243

District Attorney of Lassen County
220 S. Lassen St., Ste 8
Susanville, CA 96130

District Attorney of Inyo County
P.O. Drawer D
Independence, CA 93526

District Attorney of Los Angeles
County
210 W. Temple Street, Room 345
Los Angeles, CA 90012

District Attorney of Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Marin County
3501 Civic Center Dr., Room 183
San Rafael, CA 94903

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93517

District Attorney of Mariposa
County
P.O. Box 730
Mariposa, CA 95338

District Attorney of Monterey
County
PO Box 1131
Salinas, CA 93901

District Attorney of Mendocino
County
P.O. Box 1000
Ukiah, CA 95482

District Attorney of Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney of Merced
County
2222 "M" Street
Merced, CA 95340

District Attorney of Nevada
County
201 Church St., Suite 8
Nevada City, CA 95959

District Attorney of Orange
County
401 Civic Ctr Drive West
Santa Ana, CA 92701

District Attorney of Modoc
County
204 S Court Street
Alturas, CA 96101-4020

District Attorney of Placer
County
11562 "B" Avenue
Auburn, CA 95603

District Attorney of San
Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

District Attorney of Plumas
County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney of San Diego
County
330 West Broadway, Suite 1320
San Diego, CA 92112

District Attorney of Riverside
County
4075 Main Street, 1st Floor
Riverside, CA 92501

District Attorney of San
Francisco County
880 Bryant Street, Rm 325
San Francisco, CA 94103

District Attorney of Sacramento
County
901 "G" Street
Sacramento, CA 95814

District Attorney of San Joaquin County
P.O. Box 990
Stockton, CA 95201

District Attorney of San Luis Obispo County
1050 Monterey St, Room 450
San Luis Obispo, CA 93408

District Attorney of San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney of San Mateo County
400 County Ctr, 3rd Fl
Redwood City, CA 94063

District Attorney of Sierra County
Courthouse, P.O. Box 457
Downieville, CA 95936

District Attorney of Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney of Siskiyou County
P.O. Box 986
Yreka, CA 96097

District Attorney of Solano County
600 Union Avenue
Fairfield, CA 94533

District Attorney of Santa Clara County
70 West Hedding Street
San Jose, CA 95110

District Attorney of Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95061

District Attorney of Sonoma County
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

District Attorney of Shasta County
1525 Court Street, Third Floor
Redding, CA 96001-1632

District Attorney of Stanislaus County
800 11th Street, Room 200
Modesto, CA 95353

District Attorney of Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney of Ventura County
800 South Victoria Ave
Ventura, CA 93009

District Attorney of Tehama County
P.O. Box 519
Red Bluff, CA 96080

District Attorney of Yolo County
301 Second Street
Woodland, CA 95695

District Attorney of Trinity County
P.O. Box 1310
Weaverville, CA 96093

District Attorney of Yuba County
215 Fifth Street
Marysville, CA 95901

District Attorney of Tulare County
221 S. Mooney Ave, Room 224
Visalia, CA 93291

District Attorney of Tuolumne County
2 South Green
Sonora, CA 95370

San Jose City Attorney's Office
151 West Mission Street
San Jose, CA 95110

Los Angeles City Attorney's Office
Room 1800, City Hall East
200 N. Main Street
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 3rd Avenue, 12th Floor
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

Ed Weil, Deputy Attorney General
California Attorney General's Office
1515 Clay Street
Oakland, CA 94612

*Abe Chehebar, CEO
Accessory Network Group, Inc.
350 5th Avenue, 4th Floor
New York, New York 10118

*Sol Betesh
Betesh Group Holding Corporation
(Generation Sports)
1 E. 33rd Street, Floor 10
New York, NY 10016
with a copy to:
Aaron Locker, Esq.
Locker Greenberg & Brainin, P.C.
420 Fifth Avenue
New York, NY 10018

*Myron E. Ullman III, CEO
JC Penney Co, Inc.
6501 Legacy Drive
Plano, TX 75024 - 3698

*James Green, President
Lisa Frank, Inc.
6760 S. Lisa Frank Avenue
Tucson, AZ 85706-5087

*Isaac Perlmutter, CEO
Marvel Entertainment Group, Inc.
417 5th Avenue, 12th Floor
New York, NY 10016

*Richard B. Leto, President
Mervyn's, LLC
22301 Foothill Blvd.,
Mail Stop 2115,
Hayward, CA 94541

*Rory Leyden, President
Sanford, LP
(a division of Newell Rubbermaid)
2707 Butterfield Rd.
Oakbrook, IL 60523

*Bob Ulrich, CEO
Target Corporation
1000 Nicollet Mall
Minneapolis, MN 55403

*H. Lee Scott, Jr., President
Wal-Mart Stores, Inc.
702 S.W. 8th Street
Bentonville, AR 72716