*VIA U.S. MAIL*

**60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6**

**Consumer Advocacy Group, Inc.,** who gives this notice, must be contacted through **Reuben Yeroushalmi, Esq., Yeroushalmi & Associates;** 3700 Wilshire Blvd. Ste. 480, Los Angeles, CA 90010; 213-382-3183. This letter constitutes notification that Consumer Advocacy Group, Inc. believes that the following entities ("Violators") have violated *The Safe Drinking Water and Toxic Enforcement Act* (Health & Saf. Code, § 25249.5, et seq. and Cal. Code Regs., tit. 22, § 12601 ("Proposition 65") during the period referenced below:

PERIOD OF VIOLATION

From: **February 09,2004** Through June 27, 2006 and continuing thereafter.

**Environmental Exposures**

While in the course of doing business at, but not limited to:

Petersen-Dean Commercial Inc
James Patrick Petersen
7980 Enterprise Dr
Newark, CA 94560

during the period referenced above, Violators installed, repaired, removed, and replaced roofs. Violators have been and are knowingly and intentionally exposing foreseeable members of the public, including neighbors and residents, passersby, motorists, and inspectors not employed by Violators and found within a 50 foot radius of where Violators performed ***roofing*** work, to products containing ***Asphalt***, including hot asphalt, and its constituent chemicals as listed below and designated to cause **cancer** and **reproductive toxicity,** pursuant Cal. Code Regs., tit. 22, § 12000, without first giving clear and reasonable warning of such to the exposed persons (Proposition 65). The source of exposures is ***Asphalt***, including hot asphalt, and its constituent chemicals. The locations of exposures include areas within a 50-foot radius of Violators' places of business, as referenced above, where Violators heated and mixed ***Asphalt***, and along and within 50 feet of the route Violators traveled between said places of business and where Violators stored ***roofing*** materials and performed ***roofing*** work. The locations of exposures also occurred within a 50-foot radius where Violators performed ***roofing*** work. Because of these activities, members of the public breathed in via the ambient air, and caused contact with their mouths, throats, esophagi, and lungs, ***Asphalt***, including hot asphalt, associated fumes, and its constituent chemicals. The route of exposure for Environmental exposures to the chemicals listed below has been the inhalation contact described above. Said exposures took place in the counties whose district attorneys received copies of this notice as listed in the attached certificate of service. Some of the exposures for which a warning is allegedly required occurred beyond the property owned or controlled by Violators.

**Occupational Exposures**

While in the course of doing business at, but not limited to:

Petersen-Dean Commercial Inc
James Patrick Petersen
7980 Enterprise Dr
Newark, CA 94560

during the period referenced above, Violators have been and are knowingly and intentionally exposing Violators' employees to ***Asphalt***, including hot asphalt, "cold" asphalt emulsions and adhesives, asphalt shingles, and inter-

ply layers of asphalt or coal tar, and its constituent chemicals as listed below and designated to cause cancer and reproductive toxicity, pursuant Cal. Code Regs., tit. 22, § 12000, without first giving clear and reasonable warning of such to the exposed persons (Proposition 65). The source of exposures is ***Asphalt***, including hot asphalt, "cold" asphalt emulsions and adhesives, asphalt shingles, and inter-ply layers of asphalt or coal tar, and its constituent chemicals as listed below.

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 or modification of your business practices.**

Dated: June 27, 2006

By: _____

REUBEN YEROUSHALMI
Attorney for
**Consumer Advocacy Group, Inc.**

## CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Reuben 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: **June 27, 2006**

By: REUBEN YEROUSHALMI

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. M 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 copies 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 U.S mail with the postage fully prepaid. Place of Mailing: Los Angeles, CA

**Name and address of each violator to whom documents were mailed:**

Petersen-Dean Commercial Inc
James Patrick Petersen
7980 Enterprise Dr
Newark, CA 94560

**Name and address of each public prosecutor to whom documents were mailed:**

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|---|---|---|
| Office of the Attorney General<br>P.O. Box 70550<br>Oakland, CA 94612-0550 | Alameda County District Attorney<br>1225 Fallon St, Room 900<br>Oakland, CA 94612 | San Mateo County District Attorney<br>400 County Center<br>Redwood City, CA 94063 |
| Santa Clara County District Attorney<br>70 W Hedding St.<br>San Jose, CA 95110 | San Francisco City Attorney<br># 1 Dr. Carlton B. Goodlett Place, Suite 234<br>San Francisco, CA 94102 | San Francisco County District Attorney<br>850 Bryant St, Rm 322<br>San Francisco, CA 94103 |
| San Jose City Attorney<br>151 W. Mission St.<br>San Jose, CA 95110 | | |

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

Dated: June 27, 2006

By: _____
Eroz Ahdut