

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Re: Lead in Hair Coloring Products

July 27, 2006

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 Michael Ruggie. Mr. Ruggie is a resident of the State of California and is acting in the public interest pursuant to California Health and Safety Code Section 25249.7(d).

#### Description of Violation:

- The names and addresses of the violators are attached hereto as Exhibit 1.
- The violations have been occurring since at least July 27, 2003 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, lead compounds, and lead acetate (collectively, "Lead"). Exposures to Lead occur from use of the products identified in this notice.
- The specific type of products causing these violations is hair coloring products that use Lead to return grey hair back to its natural color. A non-exclusive example of this specific type of products is EBL GreyBan (Item SKU #3535180214802).
- Description of Exposure: Use of the products identified in this notice results in human exposures to Lead. The hair dye uses lead acetate as an active ingredient to change the user's grey hair back to its natural color. The route of exposure for the violations is 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 apply the products to their hair. These exposures occur in homes and everywhere else throughout California where these products are touched, handled or used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

#### Resolution of Noticed Claims:

- Based on the allegations set forth in this Notice, Mr. Ruggie intends to file a citizen enforcement lawsuit unless each of the alleged violators agrees in a binding written instrument to remedy the violations alleged herein and to pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators is interested

in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact Mr. Ruggie through his counsel identified below. It should be noted that Mr. Ruggie cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with Mr. Ruggie will resolve his claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this notice to Michael Ruggie and his counsel Eric S. Somers at Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

**EXHIBIT 1: List of Violators**  
**60-Day Notice Letter**  
**Re: Lead In Hair Coloring Products**

Innodis - SA  
Rue Marcel Paul  
02100 St. Quentin  
France

Drugstore.com, Inc.  
411 108th Avenue NE, Suite 1400  
Bellevue, WA 98004

**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, Michael Ruggie.
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: July 27, 2006

  
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Howard Hirsch  
Attorney for MICHAEL RUGGIE

## 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 July 27, 2006, 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).

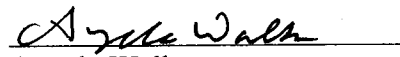
I placed a true copy of this paper in an envelope addressed to:

*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 July 27, 2006, 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 July 27, 2006, at San Francisco, California.

Signed:

  
Angela Walker

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Room 900  
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District Attorney of Colusa County  
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Markleeville, CA 96120

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Napa, CA 94559

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San Diego, CA 92112

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Riverside, CA 92501

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San Luis Obispo, CA 93408

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Hollister, CA 95023

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Redwood City, CA 94063

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Courthouse, P.O. Box 457  
Downieville, CA 95936

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Santa Barbara, CA 93101

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Yreka, CA 96097

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Santa Cruz, CA 95061

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Santa Rosa, CA 95403

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800 11<sup>th</sup> Street, Room 200  
Modesto, CA 95353

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Yuba City, CA 95991

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Woodland, CA 95695

District Attorney of Trinity County  
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Sonora, CA 95370

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San Jose, CA 95110

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Los Angeles, CA 90012

San Diego City Attorney's Office  
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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  
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