# 60-DAY NOTICE OF VIOLATION

*SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)*

**DATE:** June 26, 2007

**TO:** Steven Pomerantz, President – Regent Baby Products Corp.
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

**FROM:** Anthony E. Held, Ph.D., P.E.

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## I. INTRODUCTION

My name is Anthony E. Held. I hold a Doctor of Philosophy degree in Environmental Engineering and I am a registered professional engineer in the state of California. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65"). As noted above, notice is being provided to the violator, Regent Baby Products Corp. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

| | |
|---|---|
| Product Exposure: | See Section VI. Exhibit A |
| Listed Chemical: | Di(2-ethylhexyl)phthalate |
| Routes of Exposure: | Ingestion |
| Types of Harm: | Birth Defects and Other Reproductive Harm |

## II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VI below. All products within the type covered by this Notice shall be referred to hereinafter as the "products." The Violator's sales of these products have been occurring from at least June 26, 2006, to the present. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, exposures occur when infants and children place the product, or a portion thereof, into their mouth, suck, lick, teethe, bite and/or otherwise mouth the products. These tasks cause infants and children to be exposed directly through migration of the listed chemical from the products. People likely to be exposed are infants and children.

## III. CONTACT INFORMATION

Please direct all questions concerning this notice to me at the following address:

Anthony E. Held, Ph.D., P.E.
c/o Christopher Martin
Hirst & Chanler LLP
Hinsdale Square
23 N. Lincoln, Suite 204
Chicago, IL 60521
Telephone: (630) 789-6998

## IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

## V. ADDITIONAL NOTICE INFORMATION

*THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 §12903(b)(4).*

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at other locations and via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator and other distributors and retailers of the manufacturer.

| *Product** | *Retailer(s)* | *Manufacturer(s)/Distributor(s)* |
|---|---|---|
| Baby King 3 Squeeze Ducks, #BK10 (#0 94606 00010 6) | Dollar Country<br>Alameda County, Northern California | Regent Baby Products Corp. |

## VI. EXHIBIT A

| *Product Category/Type* | *Such As** | *Toxins* |
|---|---|---|
| Rubber Ducks (containing Di(2-ethylhexyl)phthalate) | Baby King 3 Squeeze Ducks, #BK10 (#0 94606 00010 6) | Di(2-ethylhexyl)phthalate |

*The specifically identified example of the type of product which is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

# PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 2560 Ninth Street, Parker Plaza, Suite 214, Berkeley, CA 94710.

On June 26, 2007, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**

**PROPOSITION 65: A SUMMARY;**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)**

on the Violator at the addresses listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the Violator and providing the envelope to a United States Postal Service Representative:

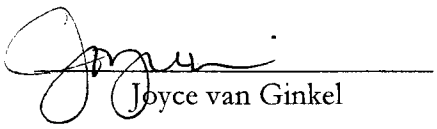
Steven Pomerantz, President
Regent Baby Products Corp.
182-20 Liberty Avenue
Jamaica, NY 11412

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

| | |
|---|---|
| *Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:* | The Attorney General of the State of California; |
| *By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:* | The District Attorney for Each of the 58 counties in California; and<br><br>The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento; |

*A list of addresses for each of these recipients is attached.*

Executed on June 26, 2007, at Berkeley, California.



Joyce van Ginkel

# CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Christopher Martin, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice has violated Health and Safety Code §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 this 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 plaintiff's 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 information identified in Health and 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: June 26, 2007

Christopher Martin

# SERVICE LIST

The Honorable Tom Orloff
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street, #202
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The Honorable Michael Ramsey
Butte County District Attorney
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The Honorable Jeffrey Tuttle
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The Honorable John R. Poyner
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Colusa, CA 95932

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The Honorable Gilbert Otero
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939 West Main Street
El Centro, CA 92243

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The Honorable Ronald Calhoun
Kings County District Attorney
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The Honorable Gerhard Luck
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

The Honorable Robert Burns
Lassen County District Attorney
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Steve Cooley
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Los Angeles, CA 90012

The Honorable Ernest LiCalsi
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The Honorable Edward Berberian
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The Honorable Norman Vroman
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Ukiah, CA 95482

The Honorable Gordon Spencer
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Merced, CA 95340

The Honorable Jordan Funk
Modoc County District Attorney
204 S. Court Street, Room 202
Alturas, CA 96101

The Honorable George Booth
Mono County District Attorney
Old Court House, Main Street
Bridgeport, CA 93517

The Honorable Dean Flippo
Monterey County District Attorney
240 Church Street, #101
Salinas, CA 93901

The Honorable Gary Lieberstein
Napa County District Attorney
931 Parkway Mall
Napa, CA 94559

The Honorable Michael Ferguson
Nevada County District Attorney
201 Church Street, Suite 8
Nevada City, CA 95959

The Honorable Tony Rackauckas
Orange County District Attorney
401 Civic Center Drive West
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The Honorable Bradford Fenocchio
Placer County District Attorney
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Auburn, CA 95603

The Honorable Jeff Cunan
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971

The Honorable Grover Trask II
Riverside County District Attorney
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Riverside, CA 92501

The Honorable Jan Scully
Sacramento County District Attorney
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Sacramento, CA 95814

The Honorable John Sarsfield
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203

The Honorable Michael Ramos
San Bernardino County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415

The Honorable Bonnie Dumanis
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San Diego, CA 92101

The Honorable Kamala Harris
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Stockton, CA 95201

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San Luis Obispo County District Attorney
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San Luis Obispo, CA 93408

The Honorable James Fox
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San Jose, CA 95110

The Honorable Bob Lee
Santa Cruz County District Attorney
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Santa Cruz, CA 95060

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Shasta County District Attorney
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The Honorable Lawrence Allen
Sierra County District Attorney
100 Courthouse Square, Second Floor
Downieville, CA 95936

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Sonoma County District Attorney
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Stanislaus County District Attorney
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Modesto, CA 95353

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Sutter County District Attorney
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Yuba City, CA 95991

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Tehama County District Attorney
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The Honorable Michael B. Harper
Trinity County District Attorney
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Ventura County District Attorney
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The Honorable David C. Henderson
Yolo County District Attorney
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Woodland, CA 95695

The Honorable Patrick McGrath
Yuba County District Attorney
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The Honorable Dennis J. Herrera
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San Francisco, CA 94102

The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550