

LAW OFFICES OF BRIAN GAFFNEY
605 Market Street, Suite 505, San Francisco, CA 94105
(415) 442- 0711 Phone (415) 442-0713 Fax

July 20, 2007

Attorney General Copy: Contains Official Information Pursuant to Evidence Code § 1040

By Certified Mail, Return Receipt Requested to Violators
By First Class U.S. Mail to Public Enforcement Agencies

Dear Public Enforcement Agencies / Violators:

This office and As You Sow ("AYS") gives you notice that, since at least July 18, 2004, the businesses listed on Attachment A have been, and continue to be, in violation of California Health & Safety Code §25249.6. AYS is a private enforcer of Proposition 65 which may be contacted at the above listed address and telephone number, and I am a responsible individual with both AYS and this office.

The above referenced violations occur when California residents apply, use, pour, handle, touch, ingest and/or inhale cleaning products which contain ethylbenzene at levels which pose a significant risk assuming lifetime exposure.¹ Examples of particular cleaning products manufactured, sold, distributed and/or marketed by the violators are attached as Attachment B.

Cleaning products sold by these businesses expose consumers and workers to ethylbenzene via the dermal, ingestion, inhalation and subcutaneous routes. When people apply, handle, pour, touch or otherwise use these cleaning products for the purposes intended, ethylbenzene that is in the cleaning products comes off on their hands. This ethylbenzene is then ingested through hand-to-mouth, hand-to-food-to-mouth, and hand-to-cigarette-to-mouth-to-lungs behavior. When people apply, handle, pour, touch or otherwise use these cleaning products for the purposes intended, ethylbenzene is also absorbed through the skin, enters the body via cuts and abrasions, and through mucous membranes when people with ethylbenzene on their hands touch these mucous membranes. When people apply, handle, pour, touch or otherwise use these cleaning products for the purposes intended, the ethylbenzene in the cleaning products is also inhaled in the normal course of use.

In addition, exposures in the environmental context occur in the homes, businesses and public locations where the cleaning products are used. The environmental exposure for which a warning is required occurs beyond the property owned or controlled by the violators. Exposures to ethylbenzene occur within the consumer, environmental, and occupational contexts. AYS does not, however, allege occupational exposures as to cleaning products manufactured outside of California, except as to the workplaces that these businesses maintain in California.

The businesses listed on Attachment A do not provide clear and reasonable warnings to people who apply, use, pour, handle, touch, ingest and/or inhale the cleaning products, that the cleaning products will expose them to chemicals known to cause cancer.

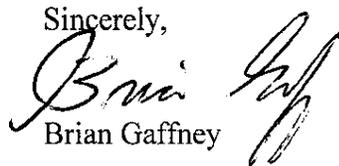
¹ On June 11, 2004, Ethylbenzene was listed under the statute as a chemical known to the State of California to cause cancer.

These violations and threatened violations will continue to occur everyday until these businesses either provide clear and reasonable warnings, reformulate their cleaning products so as not to contain ethylbenzene, or stop selling these cleaning products. These violations occur in all of California's 58 counties, both on and off of these businesses' properties.

As You Sow ("AYS") is a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education. AYS is located at 311 California Street, Suite 510, San Francisco, CA 94104.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to AYS' counsel in this matter:

Brian Gaffney
LAW OFFICES OF BRIAN GAFFNEY
605 Market Street, Suite 505
San Francisco, CA 94105
(415) 442 - 0711 Phone / (415) 442 - 0713 Fax

Sincerely,

Brian Gaffney

Enclosure to Violators "The Safe Drinking Water and Toxic Enforcement Act of 1986: A Summary"

Attachment A

The Valspar Corporation
W.L. Mansfield, CEO
1101 S. Third Street
Minneapolis, MN. 55415

Lilly Industries (U.S.A.), Inc.,
Indiana Lilly Industries (U.S.A.), Inc.
R Engh, CEO
1101 S. Third Street
Minneapolis, MN. 55415

True Value Company
Lyle G. Heidermann, CEO
8600 W Bryn Mawr
Chicago, IL. 60631

Ace Hardware Corporation
Ray A. Griffith, CEO
2200 Kensington Court
Oak Brook, IL. 60523

Drugstore.com, Inc.
Dawn G. Lapore, CEO
411 108th Ave. NE, ste. 1400
Bellevue, WA. 98004

Home Depot U.S.A., Inc.
Francis S. Blake, CEO
2455 Paces Ferry Rd.
Atlanta, GA. 30339

Kelly-Moore Paint Co., Inc.
Steven W. Devoe, CEO
987 Commercial Street
San Carlos, CA. 94070

Attachment B

<u>Proposition 65 Violators</u>	<u>Products Manufactured, Sold, Distributed and/or Marketed</u>	<u>Prop 65 Chemical</u>
The Valspar Corporation Ace Hardware Lilly Industries Drugstore.com Home Depot True Value Kelly Moore	Goof Off 4.5 fl. oz. products	Ethylbenzene

CERTIFICATE OF SERVICE

I, Brian Gaffney, declare:

If so called, I could and would testify as follows: I am over eighteen. My business address is 605 Market St., Suite 505, San Francisco, CA 94105. On July 20, 2007, I caused the attached 60-DAY NOTICE LETTER, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by Certified Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 20, 2007, at San Francisco, California.



Brian Gaffney

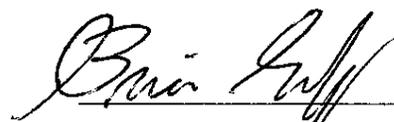
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporated the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is 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 Attorney General.

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Brian Gaffney, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) 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. I am the attorney for the noticing party. 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. 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. 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.

July 20, 2007



Brian Gaffney

SERVICE LIST

EDWARD WEIL SUPERVISING DEPUTY ATTORNEY GENERAL OFFICE OF THE ATTORNEY GENERAL P.O. BOX 70550 OAKLAND, CA 94612-0550	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF HUMBOLDT 825 5TH ST. EUREKA, CA 95501	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF NEVADA COURTHOUSE ANNEX NEVADA CITY, CA 95959	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SONOMA 600 ADMINISTRATION DR. #212J SANTA ROSA, CA 95403
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OFFICE OF THE CITY ATTORNEY CITY OF LOS ANGELES 200 N. MAIN ST. LOS ANGELES, CA 90012	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF KINGS 1400 W. LACEY BLVD. HANFORD, CA 93230	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SACRAMENTO P.O. BOX 749 SACRAMENTO, CA 95804	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TRINITY P.O. BOX 310 WEAVERVILLE, CA 96093
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OFFICE OF THE DISTRICT ATTORNEY COUNTY OF BUTTE 25 COUNTY CENTER DR. OROVILLE, CA 95965	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MADERA 209 W. YOSEMITE AVE. MADERA, CA 93637	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN JOAQUIN 222 E. WEBER AVE #202 STOCKTON, CA 95202	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF YUBA 215 5TH ST MARYSVILLE, CA 95901
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF CALAVERAS GOVERNMENT CENTER 891 MOUNTAIN RANCH ROAD SAN ANDREAS, CA 95249	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIN HALL OF JUSTICE #183 SAN RAFAEL, CA 94903	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN LUIS OBISPO COUNTY GOVERNMENT CENTER #450 SAN LUIS OBISPO, CA 93408	ACE HARDWARE CORPORATION RAY A. GRIFFITH, CEO 2200 KENSINGTON COURT OAK BROOK, IL 60523
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF COLUSA 547 MARKET ST. COLUSA, CA 95932	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MENDOCINO 301 S. STATE ST. UKIAH, CA 95482	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN MATEO HALL OF JUSTICE AND RECORDS REDWOOD CITY, CA 94063	DRUGSTORE.COM, INC. DAWN G. LAPORE, CEO 411 108TH AVE. NE, STE. 1400 BELLEVUE, WA 98004
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF CONTRA COSTA P.O. BOX 670 MARTINEZ, CA 94553	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MERCED 2222 M ST. MERCED, CA 95340	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA BARBARA 1105 SANTA BARBARA ST. SANTA BARBARA, CA 93101	HOME DEPOT U.S.A., INC. FRANCIS S. BLAKE, CEO 2455 PACES FERRY RD. ATLANTA, GA 30339
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF DEL NORTE 450 H ST #171 CRESCENT CITY, CA 95531	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MODOC P.O. Box 1171 ALTURAS, CA 96101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA CLARA 70 W. HEDDING ST. SAN JOSE, CA 95110	KELLY-MOORE PAINT CO., INC. STEVEN W. DEVOE, CEO 987 COMMERCIAL STREET SAN CARLOS, CA 94070
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF EL DORADO 515 MAIN ST. PLACERVILLE, CA 95667	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONO P.O. BOX 617 BRIDGEPORT, CA 95317	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SHASTA 1525 COURT ST. REDDING, CA 96001	LILLY INDUSTRIES (U.S.A.), INC. INDIANA LILLY INDUSTRIES (U.S.A.), INC. R ENGH, CEO 1101 S. THIRD STREET MINNEAPOLIS, MN 55415
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF FRESNO 2220 TULARE ST #1000 FRESNO, CA 93721	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONTEREY P.O. BOX 180 SALINAS, CA 93902	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SIERRA P.O. BOX 457 DOWNIEVILLE, CA 95936	TRUE VALUE COMPANY LYLE G. HEIDERMAN, CEO 8600 W BRYN MAWR CHICAGO, IL 60631
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF GLENN P.O. BOX 430 WILLOWS, CA 95988	COUNTY OF NAPA 931 PARKWAY MALL P.O. BOX 720 NAPA, CA 94559-0720	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SISKIYOU P.O. BOX 986 YREKA, CA 96097	THE VALSPAR CORPORATION W.L. MANSFIELD, CEO 1101 S. THIRD STREET MINNEAPOLIS, MN 55415
		OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SOLANO 600 UNION AVE FAIRFIELD, CA 94533	