

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

August 31, 2007

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

By Certified Mail Return Receipt Requested to Violators  
By First Class Mail to Public Enforcement Agencies

Dear Public Enforcement Agencies / Violators:

This office and You Sow ("AYS") gives you notice that, since at least August 31, 2004, the businesses listed in Attachment A have been, and continue to be, in violation of California Health & Safety Code 249.6. 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.<sup>1</sup> Examples of particular cleaning products manufactured, sold, distributed and 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 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 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 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.

---

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

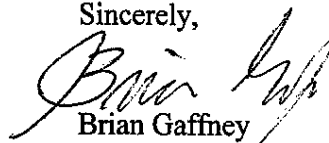
These violations and threatened violations will continue to occur everyday until these businesses either provide clear and reasonable warnings, reformulate their cleaning products so as not to contain ethylbenzene, or stop selling these cleaning products in California. These violations occur in all of 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 Victims "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. 554

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

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

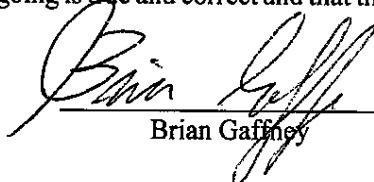
**Attachment B**

<u>Proposition 65 Violator</u>		<u>Products Manufactured, Sold, Distributed and/or Marketed</u>	<u>Prop 65 Chemical</u>
The Valspar Corporation Lilly Industries Home Depot True Value Company Kelly Moore Paint Company, Inc.		Goof Off 16 fl. oz. products	Ethylbenzene
The Valspar Corporation Lilly Industries Home Depot True Value Company		Goof Off 12 oz. aerosol products	Ethylbenzene
The Valspar Corporation Lilly Industries Home Depot True Value Company Kelly Moore Paint Company, Inc.		Goof Off 1 gallon products	Ethylbenzene

**CERTIFICATE OF SERVICE**

I, Brian Gaffney, declare:

If so called, I could and will testify as follows: I am over eighteen. My business address is 605 Market St., Suite 505, San Francisco, CA 94105. On August 31, 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 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 August 31, 2007, at San Francisco, California.

  
\_\_\_\_\_  
Brian Gaffney

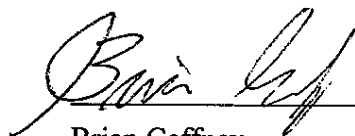
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporated the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. The approval specifically placed 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 with 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 readable 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 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.

August 31, 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 CITY ATTORNEY  
CITY OF SAN FRANCISCO  
CITY HALL ROOM 206  
400 VAN NESS  
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY  
CITY OF SACRAMENTO  
980 9<sup>th</sup> Street, 10<sup>th</sup> Floor  
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN JOSE  
151 W. MISSION ST.  
SAN JOSE, CA 95110

OFFICE OF THE CITY ATTORNEY  
CITY OF LOS ANGELES  
200 N. MAIN ST.  
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN DIEGO  
202 C ST. FLOOR 3  
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF ALAMEDA  
225 FALLON ST. #9  
OAKLAND, CA 94612

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF ALPINE  
P.O. BOX 248  
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF AMADOR  
708 COURT STREET  
JACKSON, CA 95642

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF BUTTE  
25 COUNTY CENTER DR.  
OROVILLE, CA 95965

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 COLUSA  
547 MARKET ST.  
COLUSA, CA 95932

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF CONTRA COSTA  
P.O. BOX 670  
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF DEL NORTE  
450 H ST #171  
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF EL DORADO  
515 MAIN ST.  
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF FRESNO  
2220 TULARE ST #1000  
FRESNO, CA 93721

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF GLENN  
P.O. BOX 430  
WILLOWS, CA 95988

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF HUMBOLDT  
1000 11<sup>th</sup> ST.  
EUREKA, CA 95501

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF IMPERIAL  
COURTHOUSE, FLOOR 2  
100 W. MAIN ST  
CENTRO, CA 92243

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF INYO  
DRAWER D  
DUNDEN, CA 93526

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF KERN  
1000 TRUXTUN AVE. FLOOR 4  
WHEELERSFIELD, CA 93301

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF KINGS  
100 W. LACEY BLVD.  
FORD, CA 93230

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF LAKE  
100 FORBES ST # 424  
REPORT, CA 95453

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF LASSEN  
COUNTY ADMINISTRATION  
BUILDING  
1000 NEVADA ST.  
DUNSMITHVILLE, CA 96130

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF LOS ANGELES  
CRIMINAL COURTS  
BUILDING  
100 W. TEMPLE ST.  
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MADERA  
1000 YOSEMITE AVE.  
MADERA, CA 93637

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MARIPOSA  
1000 W. MARIN  
1000 W. OF JUSTICE #183  
RAFAEL, CA 94903

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MARIPOSA  
P.O. BOX 748  
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MENDOCINO  
1000 STATE ST.  
MENDOCINO, CA 95482

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MERCED  
1000 M ST.  
MERCED, CA 95340

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MODOC  
1000 BOX 1171  
MARIPOSA, CA 96101

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MONO  
1000 BOX 617  
REPORT, CA 93517

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF MONTEREY  
1000 BOX 180  
MONTEREY, CA 93902

OFFICE OF THE DISTRICT  
ATTORNEY  
COUNTY OF NAPA  
1000 PARKWAY MALL  
1000 BOX 720  
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF NEVADA  
COURTHOUSE ANNEX  
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF ORANGE  
700 CIVIC CENTER DR WEST #A-200  
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF PLACER  
11562 B AVE  
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF PLUMAS  
P.O. BOX 10716  
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF RIVERSIDE  
4075 MAIN ST.  
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SACRAMENTO  
P.O. BOX 749  
SACRAMENTO, CA 95804

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN BENITO  
419 4TH ST  
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN BERNARDINO  
316 MT. VIEW AVE.  
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN DIEGO  
101 W. BROADWAY #1440  
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN FRANCISCO  
850 BRYANT ST #322  
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN JOAQUIN  
222 E. WEBER AVE #202  
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN LUIS OBISPO  
COUNTY GOVERNMENT CENTER #450  
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN MATEO  
HALL OF JUSTICE AND RECORDS  
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SANTA BARBARA  
1105 SANTA BARBARA ST.  
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SANTA CLARA  
70 W. HEDDING ST.  
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SANTA CRUZ  
701 OCEAN ST. #200  
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SHASTA  
1525 COURT ST.  
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SIERRA  
P.O. BOX 457  
DOWNTOWNVILLE, CA 95936

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SISKIYOU  
P.O. BOX 986  
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SOLANO  
600 UNION AVE  
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SONOMA  
600 ADMINISTRATION DR. #212J  
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF STANISLAUS  
1100 I ST. #200  
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SUTTER  
1160 CIVIC CENTER BLVD. #A  
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF TEHAMA  
P.O. BOX 519  
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF TRINITY  
P.O. BOX 310  
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF TULARE  
COURTHOUSE #224  
VISALIA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF TUOLUMNE  
2 S. GREEN ST.  
SONORA, CA 95370

VENTURA COUNTY DISTRICT  
ATTORNEY'S OFFICE  
c/o GREGORY BROSE D.D.A.  
4245 MARKET ST. #205  
VENTURA, CA 93003

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF YOLO  
204 4TH ST  
P.O. BOX 1247  
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF YUBA  
215 5TH ST.  
MARYSVILLE, CA 95901

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

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. HEIDERMAN, CEO  
8600 W BRYN MAWR  
CHICAGO, IL. 60631

THE VALSPAR CORPORATION  
W.L. MANSFIELD, CEO  
1101 S. THIRD STREET  
MINNEAPOLIS, MN. 55415