Sixty-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986(Cal. Health & Saf. Code, §§ 25249.5 et seq.) ("Proposition 65")

Sunny Sassoon, CEO
International Coffee & Tea, LLC
1945 S. La Cienega Blvd.
Los Angeles, CA 90034

and the public prosecutors listed on the attached certificate of service.

Re: Violations of Proposition 65 concerning second-hand tobacco smoke or environmental tobacco smoke exposures

February 8, 2008

Dear Mr. Sassoon:

Consumer Advocacy Group, Inc. ("CAG"), the noticing entity, serves this Notice of Violation ("Notice") upon International Coffee & Tea, LLC ("Violator") pursuant to and in compliance with Proposition 65. Violator may contact CAG concerning this Notice through its designated person within the entity, its attorney, Reuben Yeroushalmi, Esq., 3700 Wilshire Boulevard, Suite 480, Los Angeles, CA 90010, telephone no. 213-382-3183, facsimile no. 213-382-3430. This Notice satisfies a prerequisite for CAG to commence an action against Violator in Superior Court of California to enforce Proposition 65. The violations addressed by this Notice occurred in each California county reflected in the district attorney addresses listed in the attached certificate of service. CAG is serving this Notice upon each person or entity responsible for the alleged violations, the California Attorney General, the district attorney for each county where alleged violations occurred, and the City Attorney for each city with a population (according to the most recent decennial census) of over 750,000 located within counties where the alleged violations occurred.

CAG is a registered corporation based in California. By sending this Notice, CAG is acting "in the public interest" pursuant to Proposition 65. CAG is a nonprofit entity dedicated to protecting the environment, improving human health, and supporting environmentally sound practices.

This Notice concerns violations of the warning prong of Proposition 65, which states that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual . . ." (Cal. Health & Saf. Code, § 25249.6.)

The chemical known to the State to cause Cancer relevant to this Notice is Tobacco Smoke. On April 1, 1988, the Governor of California added Tobacco Smoke to the list of chemicals known to the State to cause Cancer, which was more than twenty months before CAG served this Notice.

Tobacco Smoke also contains the following chemicals known to the State to cause Cancer or Reproductive Toxicity (Constituent Chemicals"):

Carbon disulfide	Arsenic (inorganic arsenic compounds)	Dibenz[a,h]anthracene	N-Nitrosodiethylamine
1, 1 -Dimethylhydrazine (UDMH)	Benz[a]anthracene	Dibenz[a,j]acridine	N-Nitrosodi-n-butylamine
1,3-Butadiene	Benzene	Dibenzo[a,e]pyrene	N-Nitrosomethylethylamine
1-Naphthylamine	Benzo[a]pyrene	Dibenzo[a,h]pyrene	N-Nitrosomorpholine
2-Naphthylamine	Benzo[b]fluoranthene	Dibenzo[a,i]pyrene	N-Nitrosononicotine

2-Nitropropane	Benzo[j]fluoranthene	Dibenzo[a,l]pyrene	N-Nitrosopiperidine
4-Aminobiphenyl (4-amino-diphenyl)	Benzo[k]fluoranthene	Dichlorodiphenyltrichloroethane (DDT)	N-Nitrosopyrrolidine
7H-Dibenzo[c,g]carbazole	Cadmium	Formaldehyde (gas)	Ortho-Anisidine
Acetaldehyde	Captan	Hydrazine	Ortho-Toluidine
Acetamide	Chromium (hexavalent compounds)	Lead and lead compounds	Urethane (Ethyl carbamate)
Acrylonitrile	Chrysene	Nickel and certain nickel compounds	Carbon monoxide
Aniline	Dibenz[a,h]acridine	N-Nitrosodiethanolamine	Nicotine
Urethane	Lead	Toluene	

This Notice addresses environmental exposure. "An 'environmental exposure' is an exposure which may foreseeably occur as the result of contact with an environmental medium, including, but not limited to, ambient air, indoor air, drinking water, standing water, running water, soil, vegetation, or manmade or natural substances, either through inhalation, ingestion, skin contact or otherwise. Environmental exposures include all exposures which are not consumer products exposures, or occupational exposures." (Cal. Code Regs., tit. 22, § 12601, subd.(d).) This Notice also addresses Occupational Exposures. "An 'occupational exposure' is an exposure, in the workplace of the employer causing the exposure, to any employee." (Cal. Code Regs., tit. 22, § 12601, subd. (c).)

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.

Violator has exposed, knowingly and intentionally, persons to tobacco smoke and Constituent Chemicals without first making a clear and reasonable warning available to the affected persons prior to exposure in violation of Proposition 65.

As to both occupational and environmental exposures, Violator failed to provide adequate warnings.

The locations of exposure did not occur beyond the property owned or controlled by the alleged violator. The employees of Violator affected held various occupations, including Baristas (the Barista is responsible for serving all products with friendly, individualized attention towards each customer), Bussers (the busser's primary responsibility is to maintain the cleanliness and appearance of the store), Lead Baristas (the Lead Barista is responsible for serving all products with friendly, individualized attention towards each customer), and Shift Supervisors (the Shift Supervisor is responsible for the supervision of the Baristas in maintaining the quality of service and product).

The sources of exposures are numerous. The locations of exposures are in and around the outdoor seating areas located at each Coffee Bean & Tea Leaf® store listed on the attached Exhibit A and at other Coffee Bean & Tea Leaf® stores with characteristics common to those listed on Exhibit A,

namely, having outdoor seating areas for which Violator facilitates patron smoking of tobacco, e.g. by providing ashtrays. Smokers are allowed to smoke cigarette and tobacco products, thereby exposing customers, the members of the public, visitors and vendors (referring to environmental exposure) and Violator's employees (referring to occupational exposure) to tobacco smoke. Violator has exclusive control over the relevant outdoor seating areas, as these areas constitute a portion of the property Violator owns or leases for use as a store. (Therefore Violator possesses sufficient control over the relevant outdoor seating areas to prohibit or allow smoking or to post Proposition 65-complaint warnings. Furthermore, Violator possesses sufficient control over the relevant outdoor seating areas to control the quality of ambient air entering the relevant outdoor seating areas.) Violator permits persons (including but not limited to customers, visitors and vendors) to smoke tobacco in these outdoor seating areas and often facilitates the smoking of tobacco by providing ashtrays for the convenience of those persons who smoke at these locations. When persons, including customers and employees of Violator, loiter in, walk through, or traverse zones adjacent to these outdoor seating areas, they suffer exposure to Tobacco Smoke and Constituent Chemicals present in the ambient air. CAG investigations show that infants, as well as pregnant women are often among the affected persons. Persons also suffer exposure when entrance doors to Coffee Bean & Tea Leaf® stores are open and Tobacco Smoke and its Constituent Chemicals enter the stores, the premises of which are otherwise non-smoking areas. Employees suffered additional exposures when they emptied ashtrays or otherwise cleaned or serviced the relevant outdoor seating areas. Because of the foregoing, employees of violator suffered exposures of significant duration on a regular basis without receiving warnings.

These violations occurred each day between February 8, 2005, and February 8, 2008, that such stores operated, and continuing thereafter.

The route of exposure for the violations is inhalation contact caused by affected persons breathing in the ambient air containing Tobacco Smoke, causing exposure of Tobacco Smoke and Constituent Chemicals to the mouth, throat, bronchi, esophagi, and lungs. Exposure of Tobacco Smoke and Constituent Chemicals generates risks of cancer and reproductive toxicity to the affected persons.

Proposition 65 requires that notice and intent to sue be given to the violator(s) 60 days before the suit is filed. With this letter, CAG gives notice of the alleged violations to Violator and the appropriate governmental authorities. In absence of any action by the appropriate governmental authorities within 60 calendar days of the sending of this notice (plus five calendar days because both the place of mailing and the place of address are within the State of California) CAG may file suit.

This notice covers all violations of Proposition 65 that are currently known to ***Consumer Advocacy Group, Inc.*** 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.*

CAG would forego monetary recovery for penalties, restitution, and attorney's fees, should the Violator agree to prohibit permanently smoking at each of its stores.

Dated: February 8, 2008

By: _____
REUBEN YEROUSHALMI
Attorney for Consumer Advocacy Group, Inc.

EXHIBIT A

EXAMPLES OF LOCATIONS OF SOURCES OF EXPOSURES

2201 Fillmore Street, San Francisco, CA 94115
773 Market Street, San Francisco, CA 94103
1000 Universal Centre Drive No.146 Universal City Walk, CA 91608
5979 W. Third Street Los Angeles, CA 90036
6255 W. Sunset Blvd. Suite 170 Los Angeles, CA 90028
8793 Beverly Blvd., West Hollywood, CA 90048

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations(see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must:(l) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees.. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the

exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply If the discharger is able to demonstrate that a "significant amount" of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys(those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations(Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to $2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's
Proposition 65 Implementation Office at (916) 445-6900.

§14000. Chemicals Required by State or Federal Law to Have been Tested for Potential to Cause Cancer or Reproductive Toxicity, but Which Have Not Been Adequately Tested As Required.

(a) The Safe Drinking Water and Toxic Enforcement Act of 1986 requires the Governor to publish a list of chemicals formally required by state or federal agencies to have testing for carcinogenicity or reproductive toxicity, but that the state's qualified experts have not found to have been adequately tested as required [Health and Safety Code 25249.8)c)].

Readers should note a chemical that already has been designated as known to the state to cause cancer or reproductive toxicity is not included in the following listing as requiring additional testing for that particular toxicological endpoint. However, the "data gap" may continue to exist, for purposes of the state or federal agency's requirements. Additional information on the requirements for testing may be obtained from the specific agency identified below.

(b) Chemicals required to be tested by the California Department of Pesticide Regulation.

The Birth Defect Prevention Act of 1984(SB 950) mandates that the California Department of Pesticide Regulation (CDPR) review chronic toxicology studies supporting the registration of pesticidal active ingredients.

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: February 8, 2008

By: REUBEN YEROUSHALMI

CERTIFICATE OF SERVICE

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. My 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) Exhibit A: List of Alleged Violators' Names and Locations
3) Certificate of Merit: Health and Safety Code Section 25249.7(d)
4) Certificate of Merit: Health and Safety Code Section 25249.7(d) *Attorney General Copy (only sent to Attorney General's Office)*
5) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.

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

By:

Brian Keith Andrews

Date of Mailing: 2-8-2008 Place of Mailing: Los Angeles, CA

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

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Alleged Violators

Sunny Sassoon, CEO International Coffee & Tea, LLC 1945 S. La Cienega Blvd. Los Angeles, CA 90034		

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Government Agencies

Office of the Attorney General P.O. BOX 70550 Oakland, CA 94612-0550	Los Angeles County District Attorney 210 W Temple St, 18th Floor Los Angeles, CA 90012	Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012
San Francisco County District Attorney 850 Bryant St, Rm 322 San Francisco, CA 94103	San Francisco City Attorney # 1 Dr. Carlton B. Goodlett Place, Suite 234 San Francisco, CA 94102	