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April 17, 2008

## **Sixty Day Notice of Intent to Sue Bosch Home Appliances, also known as BSH Home Appliances Corporation and All of Their Operating Affiliates Under Health & Safety Code §25249.6 served by Noticing Party Dr. Richard F. Sowinski**

Dr. Richard F. Sowinski, a California resident (hereinafter the "Noticing Party") hereby gives Notice of Intent to Sue Under Health & Safety Code Section 25249.5, *et seq* (the "Notice") to Bosch Home Appliances, also known as BSH Home Appliances Corporation and all of their operating affiliates (hereinafter referred to collectively as "BOSCH"), as well as the governmental entities on the attached proof of service. The Noticing Party, Dr. Sowinski, lives at 1457 Ramsey Circle, Walnut Creek, CA 94597, telephone number (925) 938-2693. Dr. Sowinski is represented by counsel and requests that he be contacted at the following address: Dr. Richard F. Sowinski, Attn: Anthony G. Graham, Graham & Martin LLP, 950 South Coast Drive, Ste. 220, Costa Mesa, CA 92626, telephone number (714) 850-9390, facsimile number (714) 850-9392.

This Notice is intended to inform BOSCH that it is in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with California Health & Safety Code Section 25249.5) (hereinafter "Proposition 65"), specifically Section 25249.6. Proposition 65 states that when a party, such as BOSCH, an entity with more than ten employees, has been or is knowingly and intentionally exposing its customers and users of products it sells to a detectable level of any chemical designated by the State of California to cause cancer or reproductive toxicity (the "Designated Chemical"), it has violated the statute unless, prior to such exposure, it provides clear and reasonable warning of the exposure to the potentially exposed persons (Health & Safety Code § 25249.6).

In October, 2003, Dr. Sowinski filed and served several 60-Day Notices with the violators as well as the Office of the California Attorney General against the gas utilities operating in California noting that, contrary to the assertions of the gas utilities, benzene is not destroyed in the appliance flame and thus the public was not being adequately warned that significant amounts of Benzene bypassed the gas appliance flame unchanged and was being inhaled. In May, 2004, the Office of the California Attorney General requested that Pacific Gas & Electric provide a Proposition 65 Warning which noted that burning natural gas produces chemicals known to the State to cause cancer, birth defects and/or reproductive harm. Within two months all of the utilities complied. Despite these facts, four years later, BOSCH, one of the leading natural gas dryer manufacturers, still fails to warn that burning natural gas in their appliances is known to produce a hazardous chemical known to the State to cause cancer and reproductive toxicity.

In the ordinary course of business, BOSCH, since at least April 11, 2004 through the present date, manufactures, sells and/or distributes throughout California natural gas clothes drying equipment listed on Exhibit A hereto ("the BOSCH Products"). The BOSCH Products produce, in the ordinary course of usage, hazardous emissions in significant amounts that poses a serious health risk to unsuspecting people. These gas dryers burn natural gas which produce benzene levels that exceed the allowable threshold exposure level set forth in California Health & Safety Code §25249.6. BOSCH

now and for at least the four years prior to this Notice has failed to provide its customers with a clear and reasonable warning of this potential exposure to benzene, a chemical known to the State to cause cancer, birth defects and/or reproductive harm.

BOSCH has been manufacturing, selling and/or distributing throughout California the natural gas clothes drying equipment listed on Exhibit A hereto as well as other models used throughout the years for at least four years prior to the date of this Notice. Each of these products, when used to dry clothes, emit vapors, gases and particles containing the following Designated Chemical: benzene, a chemical known to the State of California to cause cancer and reproductive toxicity. Persons using the BOSCH products will be exposed to this Designated Chemical primarily via inhalation, that is, by breathing in the chemical. BOSCH however has not placed on its products nor anywhere on its internet website, a clear and reasonable warning that use of any such BOSCH Product will expose the user to the Designated Chemical, Benzene. BOSCH is therefore violating Health & Safety Code Section 25249.6.

Proposition 65 requires that notice and intent to sue be given to BOSCH sixty days before a suit is filed. With this letter, Dr. Sowinski gives notice of the alleged violations to BOSCH and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to Dr. Sowinski from information now available to him. Dr. Sowinski reserves the right to amend this Notice to inform BOSCH of other violations and/or exposures as it gathers further information. With the copy of this notice submitted to BOSCH, a copy is provided of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary."

Dated: April 17, 2008

By:

  
\_\_\_\_\_  
Anthony G. Graham, Esq.

EXHIBIT A

LIST OF PRODUCTS:

Model Number:

WTMC1501UC, WTMC8521UC, WTMC6521UC, WTMC352..WH, WTMC852xUC,  
WTMC352

**CERTIFICATE OF MERIT**  
**Health and Safety Code Section 25249.7(d)**

I, Anthony G. Graham, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notice have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

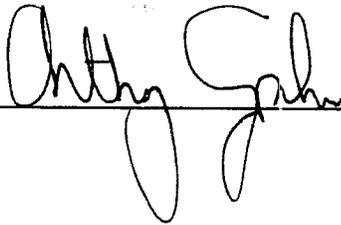
2. I am member of the State Bar of California, a partner of the law firm of Graham & Martin, LLP, and attorney for noticing party Dr. Richard F. Sowinski.

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 exposures to the listed chemicals that are 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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Costa Mesa, California on April 17, 2008.



A handwritten signature in black ink, appearing to read "Anthony Gallo", is written over a solid horizontal line. The signature is cursive and stylized.

**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 950 South Coast Drive, Suite 220, Costa Mesa, California 92626.

I SERVED THE FOLLOWING:

- 1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 24249.6;
- 2.) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (only sent to violators);
- 3.) Certificate of Merit (with supporting papers sent to Office of Attorney General only).

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:

Date of Mailing: April 17, 2008  
Place of Mailing: Costa Mesa, California

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

Franz Bosshard, President/CEO Bosch Home Appliances BSH Home Appliances Corporation 5551 McFadden Avenue Huntington Beach, CA 92649	
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And all entities on the attachment hereto

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

Dated: April 17, 2008

  
\_\_\_\_\_

## SERVICE LIST

### Public Enforcers:

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

The Honorable William Richmond  
Alpine County District Attorney  
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The Honorable Todd Riebe  
Amador County District Attorney  
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The Honorable Michael Ramsey  
Butte County District Attorney  
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Colusa, CA 95932

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Modoc County District Attorney  
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The Honorable Lawrence Allen  
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Sacramento, CA 95814

The Honorable Dennis J. Herrera  
City Attorney, San Francisco  
City Hall, Room 234  
San Francisco, CA 94102

The Honorable Richard Doyle  
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