

LAW OFFICES OF BRIAN GAFFNEY

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June 23, 2008

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 June 23, 2005, 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 spray, apply, use, pour, handle, touch, ingest and/or inhale paints which contain ethylbenzene at levels which pose a significant risk assuming lifetime exposure.¹ Examples of particular paints manufactured, sold, distributed and/or marketed by the violators are attached as Attachment B.

Paints sold by these businesses expose consumers and workers to ethylbenzene via the inhalation, dermal, ingestion and subcutaneous routes. When people spray, apply, handle, pour, touch or otherwise use these paints for the purposes intended, the ethylbenzene in the paints is inhaled in the normal course of use. When people spray these paints for the purposes intended, ethylbenzene that is in the paints comes off on their hands. This ethylbenzene is then ingested through hand-to-mouth behavior. When people spray these paints 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.

In addition, exposures in the environmental context occur in the homes, businesses and public locations where the paints 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 paints 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 paints, that the paints 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.

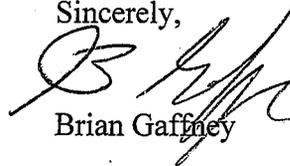
These violations and threatened violations will continue to occur everyday until these businesses either provide clear and reasonable warnings, reformulate their paints so as not to contain ethylbenzene, or stop selling these paints in California. These violations occur in all of California's 58 counties,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

A handwritten signature in black ink, appearing to read "B. Gaffney", is written over the typed name.

Brian Gaffney

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

Attachment A

Sheffield Bronze Paint Corporation
Attn: Mel Hart, CEO/President
17814 S. Waterloo Road
Cleveland, Ohio 44119

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

Do-It Best Corporation
Attn: Bob Taylor, CEO/President
6502 Nelson Road
Fort Wayne, IN 46803

Attachment B

<u>Proposition 65 Violators</u>	<u>Products Manufactured, Sold, Distributed and/or Marketed</u>	<u>Prop 65 Chemical</u>
Sheffield Bronze Paint Corporation True Value Company	Porcelain Touch Up - 1 oz.	Ethylbenzene
Sheffield Bronze Paint Corporation Do-It Best Corporation	Gold Leaf Finish - Statutory Bronze 2 oz.	Ethylbenzene
Sheffield Bronze Paint Corporation True Value Company	Gold Leaf Finish - Copper 2 oz.	Ethylbenzene
Sheffield Bronze Paint Corporation Do-It Best Corporation	Gold Leaf Finish - Antique 2 oz.	Ethylbenzene
Sheffield Bronze Paint Corporation Do-It Best Corporation	Gold Leaf Finish - Superlite 2 oz.	Ethylbenzene
Sheffield Bronze Paint Corporation Do-It Best Corporation	Gold Leaf Finish - Pale 4 oz.	Ethylbenzene
Sheffield Bronze Paint Corporation Do-It Best Corporation	Gold Leaf Finish - Pale 8 oz.	Ethylbenzene

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 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: (1) 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.

Discharges 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 listed 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

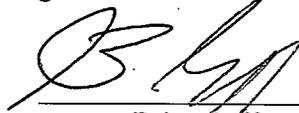
Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

Last Updated May 14, 1997

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 June 23, 2008, 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 June 23, 2008, at San Francisco, California.



Brian Gaffney

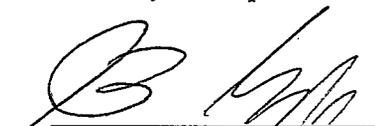
This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporated the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed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

June 23, 2008



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 SAN DIEGO 202 C ST. FLOOR 3 SAN DIEGO, CA 92101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LAKE 255 N. FORBES ST # 424 LAKEPORT, CA 95453	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN BENITO 419 4TH ST HOLLISTER, CA 95023	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TUOLUMNE 2 S. GREEN ST. SONORA, CA 95370
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ALAMEDA 225 FALLON ST. #9 OAKLAND, CA 94612	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LASSEN 220 S. LASSEN STREET, SUITE 2 SUSANVILLE, CA 96130	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN BERNARDINO 316 MT. VIEW AVE. SAN BERNARDINO, CA 92415-0004	VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE 5720 RALSTON ST #300 VENTURA CA 93003-6008
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ALPINE P.O. BOX 248 MARKLEEVILLE, CA 96120	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LOS ANGELES 18000 CRIMINAL COURTS BUILDING 210 W. TEMPLE ST. LOS ANGELES, CA 90012	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN DIEGO 330 W. BROADWAY SAN DIEGO, CA 92101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF YOLO 301 2 ND STREET WOODLAND, CA 95695
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF AMADOR 708 COURT STREET JACKSON, CA 95642	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MADERA 209 W. YOSEMITE AVE. MADERA, CA 93637	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN FRANCISCO 850 BRYANT ST #322 SAN FRANCISCO, CA 94103	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF YUBA 215 5TH ST. MARYSVILLE, CA 95901
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF BUTTE 25 COUNTY CENTER DR. OROVILLE, CA 95965	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIPOSA P.O. BOX 730 MARIPOSA, CA 95338-0730	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN JOAQUIN 222 E. WEBER AVE #202 STOCKTON, CA 95202	SHEFFIELD BRONZE PAINT CORPORATION ATTN: MEL HART 17814 S. WATERLOO ROAD CLEVELAND, OHIO 44119
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	TRUE VALUE COMPANY ATTN: LYLE G. HEIDERMANN 8600 W BRYN MAWR CHICAGO, IL. 60631
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF COLUSA 547 MARKET ST. COLUSA, CA 95932	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIPOSA P.O. BOX 730 MARIPOSA, CA 95338-0730	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN MATEO HALL OF JUSTICE AND RECORDS REDWOOD CITY, CA 94063	DO-IT BEST CORPORATION ATTN: BOB TAYLOR, CEO/PRESIDENT 6502 NELSON ROAD FORT WAYNE, IN 46803
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	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF DEL NORTE 450 H ST #171 CRESCENT CITY, CA 95531	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MENDOCINO P.O. BOX 1000 UKIAH, CA 95482	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA CLARA 70 W. HEDDING ST. SAN JOSE, CA 95110	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF EL DORADO 515 MAIN ST. PLACERVILLE, CA 95667	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MODOC 204 SOUTH COURT STREET ALTURAS, CA 96101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA CRUZ 701 OCEAN ST. #200 SANTA CRUZ, CA 95060	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF FRESNO 2220 TULARE ST #1000 FRESNO, CA 93721	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONO P.O. BOX 617 BRIDGEPORT, CA 93517	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SHASTA 1525 COURT ST. REDDING, CA 96001	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF GLENN P.O. BOX 430 WILLOWS, CA 95988	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONTEREY 230 CHURCH STREET, BLDG. 3 SALINAS, CA 93901	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SIERRA P.O. BOX 457 DOWNIEVILLE, CA 95936	
	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF NAPA 931 PARKWAY MALL P.O. BOX 720 NAPA, CA 94559-0720	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SOLANO 600 UNION AVE FAIRFIELD, CA 94533	