



DEL MAR LAW GROUP, LLP

September 22, 2008

VIA CERTIFIED MAIL

DEL SOL, L.C.
280 W 10200 S
Sandy, Utah 84070

**Re: 60-DAY NOTICE OF VIOLATION PURSUANT TO
CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)**

This Notice is sent pursuant to Cal. Health & Safety Code § 25249.6 (“Proposition 65”).

I. INTRODUCTION

Please be advised that our office represents Christine Deubler, who is a citizen of the State of California acting in the interest of the general public. Ms. Deubler seeks to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to Del Sol, L.C. (“your company”) pursuant to the requirements of Proposition 65. The violations covered by this Notice consist of the product exposure, routes of exposures, and types of harm potentially resulting from exposure to the following toxic chemicals (“listed chemicals”):

- Product Exposure: See Section II at Exhibit A
- Listed Chemicals: Di-n-butyl phthalate (DBP) (aka dibutyl phthalate)
- Routes of Exposure: Dermal
- Types of Harm: Birth Defects and Other Reproductive Harm

On August 15, 2007, litigation was initiated in the Los Angeles County Superior Court, styled as *Christine Deubler v. Del Laboratories, Inc. et. al.*, Case No. BC 376033, against numerous nail polish manufacturers that allegedly manufactured nail polish products containing DBP in violation of Proposition 65. Your company was recently identified as manufacturing, distributing and/or selling nail polish containing DBP in violation of Proposition 65.

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type or types of products (hereafter the “products”) that are causing consumer and occupational exposures in violation of Proposition 65 (and that are covered by this Notice) are listed on Exhibit A in section V below. Your company’s sales of these

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GENERAL Executive Office

nail products have been occurring from unknown time period (estimated to be at least from December 2, 2006 to the present). As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemicals produced by the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemicals from reasonably foreseeable use of the products.

A. Consumer Product Exposure

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemicals - by way of example but not limitation, in its intended use as a nail polish. The application of nail polish will cause consumers to be exposed through dermal routes of exposure to a known toxin. People likely to be exposed include both children and adults.

The products identified in Exhibit A (Section V below) can be distinguished from other nail polishes for which no violation is alleged. Specifically, there are a number of consumer nail polishes available throughout the marketplace that state in the ingredient section "DBP Free" or something similar. Accordingly, our research and investigation indicates the products listed in Exhibit A, and other products yet to be identified, are currently in violation of Proposition 65. We reserve the right to supplement this Notice of Violation with other alleged violators as our research and investigation continue.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to the following address:

John H. Donboli
JL Sean Slattery
DEL MAR LAW GROUP, LLP
322 8th Street, Suite 105
Del Mar, CA 92014
Telephone: (858) 793.6244
Facsimile: (858) 793.6005

IV. PROPOSITION 65 INFORMATION

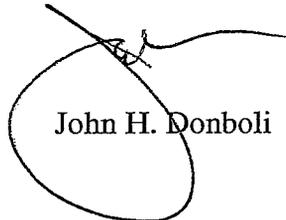
For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessments ("OEHHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHHA.

V. “EXHIBIT A”

<u>Name brand</u>	<u>Product</u>	<u>Manufacturer and/or Parent Company</u>	<u>Location</u>
Del Sol	Color changing nail polish	<i>Del Sol, L.C.</i>	280 W 10200 S Sandy, UT 84070

The specifically identified product subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product category listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under Products in Exhibit A. Further, it is our position that your company is obligated to continue to conduct a good faith investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, stored (or otherwise within the noticed recipient's control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

Very truly yours,



John H. Donboli

CERTIFICATE OF MERIT
Health and Safety Code Section 25249 7(d)

I, John H. Donboli, hereby declare:

1. This Certificate of Merit accompanies the attached sixty day notice in which it is alleged the party identified in the notice has violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warning.

2. I am the attorney for the noticing party.

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 exposure to the listed chemicals that are the subject of this action.

4. Based on the information obtained through those consultants and on all other information, in my opinion, 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 information identified in Health and Safety Code §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: September 22, 2008

DEL MAR LAW GROUP, LLP

By: _____

John H. Donboli, Esq.
DEL MAR LAW GROUP, LLP
Attorneys for Plaintiff Christine Deubler

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Section 25249.7, Health and Safety Code.

APPENDIX A

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 25000 through 27001.

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 735 chemical listings have been included as of November 16, 2001. 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 27, California Code of Regulations, Section 25903). 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.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 322 8th Street, Suite 101, Del Mar, CA 92014.

On September 22, 2008, I served the following document:

- (1) **60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**
- (2) **PROPOSITION 65: A SUMMARY;**
- (3) **CERTIFICATE OF MERIT; AND**
- (4) **CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)**

served on the company listed below via U.S. mail by placing a true and correct copy in a sealed envelope, addressed to said company and depositing such envelope with the United States Postal Service this same day in the ordinary course of business pursuant to Code of Civil Procedure §1013a.:

**Del Sol, L.C.
280 W 10200 S
Sandy, UT 84070**

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in sealed envelope, addressed to each party listed below.

Thomas J. Orloff Alameda County District Attorney 1225 Fallon Street #900 Oakland, CA 94612	William A. Richmond Alpine County District Attorney 14777 State Route 89 Markleeville, CA 96120
Todd Riebe Amador County District Attorney 708 Court Street Jackson, CA 95642	Michael Ramsey Butte County District Attorney 25 County Center Drive Oroville, CA 95965
Jeffrey Tuttle Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	John Poyner Colusa County District Attorney 547 Market Street Colusa, CA 95932

<p>Robert J. Kochly Contra Costa County District Attorney 100 37th Street Richmond, CA 94805</p>	<p>Mike Riese Del Norte County District Attorney 450 H Street Crescent City, CA 95531</p>
<p>Ron Calhoun Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230</p>	<p>Erni Li Calsi Madera County District Attorney 14227 Road 28 Madera, CA 93638</p>
<p>Larry D. Morse, II Merced County District Attorney 2222 M Street Merced, CA 95340</p>	<p>Gary Lacy El Dorado County District Attorney 515 Main Street Placerville, CA 95667</p>
<p>Elizabeth A. Egan Fresno County District Attorney 2220 Tulare Street Fresno, CA 93721</p>	<p>Robert S. Holzapfel Glenn County District Attorney 540 West Sycamore Street Willows, CA 95988</p>
<p>Paul Gallegos Humboldt County District Attorney 825-5th Street Eureka, CA 95501</p>	<p>Gilbert Otero Imperial County District Attorney 939 West Main Street El Centro, CA 92243</p>
<p>Arthur Maillet INYO County District Attorney P.O. Box Drawer D 386 West Line Street Bishop, CA 93514</p>	<p>Edward Jagels Kern County District Attorney 1215 Truxton Avenue Bakersfield, CA 93301</p>
<p>Gerhard Luck Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453</p>	<p>Robert Brown Mariposa County District Attorney P.O. Box 730 5088 Bullion Street Mariposa, CA 95338</p>
<p>Keith Faulder Mendocino County District Attorney P.O. Box 1000 100 North State Street Ukiah, CA 95482</p>	<p>Jordan Funk Modoc County District Attorney 204 South Court Street, Room 202 Alturas, CA 96101</p>
<p>Steve Cooley Los Angeles County District Attorney 210 West Temple Street Los Angeles, CA 90012</p>	<p>Edward Berberian Marin County District Attorney 3501 Civic Center Drive #130 San Rafael, CA 94903</p>

<p>George Booth Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517</p>	<p>Dean Flippo Monterey County District Attorney 240 Church Street #101 Salinas, CA 93901</p>
<p>Gary Lieberstein Napa County District Attorney 931 Parkway Mall Napa, CA 95959</p>	<p>Michael Ferguson Nevada County District Attorney 201 Church Street #8 Nevada City, CA 95959</p>
<p>Tony Rackauckas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701</p>	<p>Bradford Fenocchio Placer County District Attorney 11562 B Avenue Auburn, CA 95603</p>
<p>Jeff Cunan Plumas County District Attorney 520 Main Street #404 Quincy, CA 95971</p>	<p>Grover Trask, II Riverside County District Attorney 4075 Main Street Riverside, CA 92501</p>
<p>Jan Scully Sacramento County District Attorney 901 G Street Sacramento, CA 95814</p>	<p>Michael Ramos San Bernardino District Attorney 316 N. Mountain View Avenue San Bernardino, CA 92415</p>
<p>Bonnie Dumanis San Diego County District Attorney 330 West Broadway #1300 San Diego, CA 92101</p>	<p>James Willett San Joaquin County District Attorney P.O. Box 990 Stockton, CA 95201</p>
<p>Gerald Shea San Luis Obispo District Attorney 1050 Monterey Street #450 San Luis Obispo, CA 93408</p>	<p>James Fox San Mateo District Attorney 400 County Center, Third Floor Redwood City, CA 94063</p>
<p>Thomas Sneddon, Jr. Santa Barbara District Attorney 1105 Santa Barbara Street Santa Barbara, CA 93101</p>	<p>George Kennedy Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110</p>
<p>Bob Lee Santa Cruz District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060</p>	<p>Gerald Benito Shasta County District Attorney 1525 Court Street, Third Floor Redding, CA 96001</p>

<p>Lawrence Allen Sierra County District Attorney P.O. Box 457 100 Courthouse Square Downieville, CA 95936</p>	<p>James Andrews Siskiyou County District Attorney 311 4th Street Yreka, CA 96097</p>
<p>David Paulson Solano County District Attorney 675 Texas Street Fairfield, CA 94533</p>	<p>Stephan Passa Lacqua Sonoma County District Attorney 600 Administration Drive #212J Santa Rosa, CA 95403</p>
<p>Birgit Fladager Stanislaus County District Attorney P.O. Box 442 800 11th Street, Room 200 Modesto, CA 95354</p>	<p>Carl Adams Sutter County District Attorney 446 2nd Street Yuba, CA 95991</p>
<p>Gregg Cohen Tehama County District Attorney P.O. Box 519 444 Oak Street Red Bluff, CA 96080</p>	<p>David Cross Trinity County District Attorney P.O. Box 1310 101 Court Street FL 2 Weaverville, CA 96093</p>
<p>Phillip Cline Tulare County District Attorney 221 So. Mooney Blvd., Ste. 224 Visalia, CA 93291</p>	<p>Donald Segerstrom, Jr. Tuolumne County District Attorney 423 No. Washington Street Sonora, CA 95370</p>
<p>Gregory Totten Ventura County District Attorney 800 So. Victoria Avenue Ventura, CA 93009</p>	<p>David Henderson Yolo County District Attorney 301 Second Street Woodland, CA 95695</p>
<p>Patrick McGrath Yuba County District Attorney 215 5th Street Marysville, CA 95901</p>	<p>Robert Burns Lassen County District Attorney 221 S. Roop St., Suite 4 Susanville, CA 96130</p>
<p>Kamala D. Harris San Francisco County District Attorney Hall of Justice 850 Bryant Street, Room 325 San Francisco, CA 94103</p>	<p>John Sarsfield San Benito County District Attorney 419 4th Street Hollister, CA 95023-3801</p>

Dennis J. Herrera City Attorney for San Francisco Office of the City Attorney City Hall, Room 234 San Francisco, CA 94102	Rocky Delgadillo City Attorney for Los Angeles 800 City Hall East 200 No. Main Street Los Angeles, CA 90012
Michael Aguirre City Attorney for San Diego 1200 Third Avenue, #1620 San Diego, CA 92101	Richard Doyle Office of the City Attorney 200 East Santa Clara Street San Jose, CA 95113
Eileen M. Teichert Office of the City Attorney 980 9 th Street, 10 th Floor Sacramento, CA 95814	Bill Lockyer Office of the Attorney General 1300 "I" Street Sacramento, CA 94244-2550 Via Federal Express

Executed on September 22, 2008, at Del Mar, California.



Patricia Flynn
Del Mar Law Group, LLP