

## NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Lead in Picture Frames

Longs Drug Stores Corporation

October 3, 2008

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 302, Oakland, CA 94612-3017, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Michael Green is the Executive Director of and a responsible individual within CEH.

### Description of Violation:

- Violators: The name and address of the violator is Longs Drug Stores Corporation, 141 North Civic Drive, Walnut Creek, CA 94596.
- Time Period of Exposure: The violations have been occurring since at least October 3, 2005, and are ongoing.
- Provision of Proposition 65: This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemicals Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing this violation is picture frames. The picture frames subject to this Notice are made of and contain Lead. A non-exclusive example of this specific type of product is the Glory Land Enterprise Picture Frame, SKU 6-00509-78070-2.
- Description of Exposures: The picture frames that are the subject of this Notice contain Lead. Lead is used in various components of the picture frames. For example, the products use uncoated coming or solder to hold metal parts of the picture frames together. Use of these picture frames result in consumer exposures to Lead. The route of exposure for the violations is ingestion via hand to mouth contact, dermal absorption directly through the skin, and inhalation of dust containing Lead. These exposures take place when consumers use, install, clean, service or otherwise touch or handle the products. These exposures occur in homes, schools, workplaces and everywhere else in California where these products are used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

### **Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against the violator named herein unless such alleged violator enters into a binding written agreement to remedy the violations alleged herein by: (1) recalling products already sold; (2) reformulating such products to eliminate the Lead exposure; and (3) paying an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the alleged violator is interested in resolving this dispute without resort to litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this notice to CEH and its counsel Mark N. Todzo at Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111, [mtodzo@lexlawgroup.com](mailto:mtodzo@lexlawgroup.com).

**CERTIFICATE OF MERIT**  
**Health & Safety Code §25249.7(d)**

I, Mark N. Todzo, hereby declare:

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

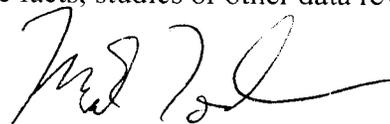
2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health (“CEH”).

3. Members of my firm and 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 exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on 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 plaintiff’s 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 the 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 & 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.

October 3, 2008



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Mark N. Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving Street, San Francisco, California 94122.

On October 3, 2008, I served true copies of the following documents:

**NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**CERTIFICATE OF MERIT;** and

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an asterisks).

I placed a true copy of this paper in an envelope addressed to:

*See Attached Service List.*

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I placed the envelope containing the above-mentioned documents for collection and mailing on October 3, 2008, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 3, 2008, at San Francisco, California.

Signed:

\_\_\_\_\_  
Jennie Romer

## SERVICE LIST

|   |  |   |
|---|--|---|
| District Attorney of Alameda County<br>1225 Fallon Street, Room 900<br>Oakland, CA 94612  | District Attorney of Imperial County<br>939 Main Street<br>El Centro, CA 92243                     | District Attorney of Nevada County<br>201 Church St., Suite 8<br>Nevada City, CA 95959                |
| District Attorney of Colusa County<br>547 Market Street<br>Colusa CA 95932                | District Attorney of Lassen County<br>220 S. Lassen St., Ste 8<br>Susanville, CA 96130             | District Attorney of Orange County<br>401 Civic Ctr Drive West<br>Santa Ana, CA 92701                 |
| District Attorney of Contra Costa County<br>627 Ferry Street<br>Martinez, CA 94553        | District Attorney of Inyo County<br>P.O. Drawer D<br>Independence, CA 93526                        | District Attorney of Modoc County<br>204 S Court Street<br>Alturas, CA 96101-4020                     |
| District Attorney of Alpine County<br>P.O. Box 248<br>Markleeville, CA 96120              | District Attorney of Los Angeles County<br>210 W. Temple Street, Room 345<br>Los Angeles, CA 90012 | District Attorney of Placer County<br>11562 "B" Avenue<br>Auburn, CA 95603                            |
| District Attorney of Del Norte County<br>450 F Street, Ste 171<br>Crescent City, CA 95531 | District Attorney of Madera County<br>209 West Yosemite Avenue<br>Madera, CA 93637                 | District Attorney of San Bernardino County<br>316 N. Mountain View Avenue<br>San Bernardino, CA 92415 |
| District Attorney of Amador County<br>708 Court Street, #202<br>Jackson, CA 95642         | District Attorney of Kern County<br>1215 Truxtun Avenue<br>Bakersfield, CA 93301                   | District Attorney of Plumas County<br>520 Main Street, Room 404<br>Quincy, CA 95971                   |
| District Attorney of Butte County<br>25 County Center Drive<br>Oroville, CA 95965         | District Attorney of Marin County<br>3501 Civic Center Dr., Room 130<br>San Rafael, CA 94903       | District Attorney of San Diego County<br>330 West Broadway, Suite 1320<br>San Diego, CA 92101         |
| District Attorney of El Dorado County<br>515 Main Street<br>Placerville, CA 95667         | District Attorney of Mono County<br>P.O. Box 617<br>Bridgeport, CA 93517                           | District Attorney of Riverside County<br>4075 Main Street<br>Riverside, CA 92501                      |
| District Attorney of Calaveras County<br>891 Mountain Ranch Road<br>San Andreas, CA 95249 | District Attorney of Mariposa County<br>P.O. Box 730<br>Mariposa, CA 95338                         | District Attorney of San Francisco County<br>850 Bryant Street, Rm 325<br>San Francisco, CA 94103     |
| District Attorney of Fresno County<br>2220 Tulare Street, #1000<br>Fresno CA 93721        | District Attorney of Monterey County<br>230 Church Street, Bldg. 2<br>Salinas, CA 93901            | District Attorney of Sacramento County<br>901 "G" Street<br>Sacramento, CA 95814                      |
| District Attorney of Glenn County<br>P.O. Box 430<br>Willows, CA 95988                    | District Attorney of Mendocino County<br>P.O. Box 1000<br>Ukiah, CA 95482                          | District Attorney of San Joaquin County<br>P.O. Box 990<br>Stockton, CA 95201                         |
| District Attorney of Kings County<br>1400 West Lacey<br>Hanford, CA 93230                 | District Attorney of Napa County<br>931 Parkway Mall<br>Napa, CA 94559                             |   |
| District Attorney of Lake County<br>255 N. Forbes Street<br>Lakeport, CA 95453            | District Attorney of Merced County<br>2222 "M" Street<br>Merced, CA 95340                          |   |
| District Attorney of Humboldt County<br>325 5th Street<br>Eureka, CA 95501                |  |   |

District Attorney of San Luis Obispo County  
1050 Monterey St, Room 450  
San Luis Obispo, CA 93408

District Attorney of San Benito County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

District Attorney of San Mateo County  
400 County Ctr, 3<sup>rd</sup> Fl  
Redwood City, CA 94063

District Attorney of Sierra County  
Courthouse, P.O. Box 457  
Downieville, CA 95936

District Attorney of Santa Barbara County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney of Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

District Attorney of Solano County  
675 Texas Street, Suite 4500  
Fairfield, CA 94533

District Attorney of Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110

District Attorney of Santa Cruz County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney of Sonoma County  
600 Administration Drive, Room 212J  
Santa Rosa, CA 95403

District Attorney of Shasta County  
1525 Court Street, Third Floor  
Redding, CA 96001-1632

District Attorney of Stanislaus County  
800 11<sup>th</sup> Street, Room 200  
PO BOX 442  
Modesto, CA 95353

District Attorney of Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney of Ventura County  
800 South Victoria Ave  
Ventura, CA 93009

District Attorney of Tehama County  
P.O. Box 519  
Red Bluff, CA 96080

District Attorney of Yolo County  
301 Second Street  
Woodland, CA 95695

District Attorney of Trinity County  
P.O. Box 310  
11 Court St.  
Weaverville, CA 96093

District Attorney of Yuba County  
215 Fifth Street  
Marysville, CA 95901

District Attorney of Tulare County  
221 S. Mooney Ave, Room 224  
Visalia, CA 93291

District Attorney of Tuolumne County  
423 No. Washington Street  
Sonora, CA 95370

San Jose City Attorney's Office  
200 East Santa Clara Street  
San Jose, CA 95113

Los Angeles City Attorney's Office  
800 City Hall East  
200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3rd Avenue #1620  
San Diego, CA 92101

San Francisco City Attorney's Office  
City Hall, Room 234  
San Francisco, CA 94102

California Attorney General's Office  
Attention: Proposition 65  
Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612

Warren F. Bryant,  
CEO & President\*  
Longs Drug Stores Corporation  
141 North Civic Drive  
Walnut Creek, CA 94596