

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Re: Lead in Infant Accessory Bags

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, (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:

- The names and addresses of the violators are provided in Exhibit 1.
- The violations have been occurring since at least October 3, 2005 and are continuing to this day.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- The names of the listed chemicals involved in this violation are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this notice.
- The specific types of products causing this violation are infant accessory bags, including but not limited to diaper bags, stroller bags, and baby bottle bags. The infant accessory bags are made with and contain Lead. Non-exclusive examples of these specific types of products are provided in Exhibit 2.
- Description of Exposure: Use of the products identified in this notice results in human exposures to Lead. Lead is contained in the infant accessory bags, including but not limited to the changing pads included with the infant accessory bags. The routes of exposure for the violation include direct ingestion when consumers (especially infants) place items that have been stored in or placed on the products in their mouths, ingestion via hand to mouth contact after consumers (especially infants) touch or handle the products, and dermal absorption directly through the skin when consumers (especially infants) touch, handle, or otherwise come into contact with the products. These exposures occur in homes, workplaces and everywhere else throughout California where the products are handled or used. No clear and reasonable warning is provided with this product 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 the alleged violator enters into a binding written agreement to remedy the violations alleged herein by: (1) recalling products already sold; (2) providing a clear and reasonable warning for products sold in the future or 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).

**EXHIBIT 1: List of Violators  
60-Day Notice Letter  
Lead In Infant Accessory Bags**

Cuddle Accessories, LLC  
1 E 35rd St Fl 6  
New York, NY 10016

Cuddle Accessories, Inc.  
1 E 35rd St  
New York, NY 10016

Intantino, LLC  
4920 Carroll Canyon Road, Suite 200  
San Diego, CA 92121

The Kalencom Corporation  
740 Clouet St.  
New Orleans, LA 70117

The Step2 Company, LLC  
10010 Aurora-Hudson Road  
Streetsboro, Ohio 44241

**EXHIBIT 2: Non-Exclusive Examples of the Products  
60-Day Notice Letter  
Lead In Infant Accessory Bags**

<b>NAMES OF RESPONSIBLE PARTIES</b>	<b>EXAMPLE ITEM DESCRIPTIONS</b>	<b>EXAMPLE ITEM NUMBERS</b>
Cudlie Accessories, LLC Cudlie Accessories, Inc.	Baby Necessities Stroller Bag	Item No. 65815
Infantino, LLC The Step2 Company, LLC	3 in 1 Diaper Changing Bag	UPC No. 7-73554-51570-1
The Kalencom Corporation	Light Brown & Black Stripe Diaper Bag	UPC No. 0-88161-60375-9 Style No. 6083 Item No. 0289

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

1. Mark Todzo, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have 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.

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 any of the alleged violators 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. 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.

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**

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF  
1986 (PROPOSITION 65): A SUMMARY**

I placed true copies of these documents in an envelope addressed to:

*See Attached Service List.*

I placed the envelopes 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  
1225 Fallon Street, Room 900  
Oakland, CA 94612

District Attorney of Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney of Contra Costa  
County  
725 Court Street, Room 402  
Martinez, CA 94553

District Attorney of Alpine County  
P.O. Box 248  
Markleeville, CA 96120

District Attorney of Del Norte  
County  
450 H Street, Ste 171  
Crescent City, CA 95531

District Attorney of Amador County  
708 Court Street, #202  
Jackson, CA 95642

District Attorney of Butte County  
25 County Center Drive  
Oroville, CA 95965

District Attorney of El Dorado  
County  
515 Main Street  
Placerville, CA 95667

District Attorney of Calaveras  
County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney of Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney of Glenn County  
P.O. Box 430  
Willows, CA 95988

District Attorney of Kings County  
1400 West Lacey  
Hanford, CA 93230

District Attorney of Lake County  
255 N. Forbes Street  
Lakeport, CA 95453

District Attorney of Humboldt  
County  
825 5th Street  
Eureka, CA 95501

District Attorney of Imperial County  
939 Main Street  
El Centro, CA 92243

District Attorney of Lassen County  
220 S. Lassen St., Ste 8  
Susanville, CA 96130

District Attorney of Inyo County  
P.O. Drawer D  
Independence, CA 93526

District Attorney of Los Angeles  
County  
210 W. Temple Street, Room 345  
Los Angeles, CA 90012

District Attorney of Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney of Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney of Marin County  
3501 Civic Center Dr., Room 183  
San Rafael, CA 94903

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93517

District Attorney of Mariposa  
County  
P.O. Box 730  
Mariposa, CA 95338

District Attorney of Monterey  
County  
PO Box 1131  
Salinas, CA 93901

District Attorney of Mendocino  
County  
P.O. Box 1000  
Ukiah, CA 95482

District Attorney of Napa County  
931 Parkway Mall  
Napa, CA 94559

District Attorney of Merced County  
2222 "M" Street  
Merced, CA 95340

District Attorney of Nevada County  
201 Church St., Suite 8  
Nevada City, CA 95959

District Attorney of Orange  
County  
401 Civic Ctr Drive West  
Santa Ana, CA 92701

District Attorney of Modoc  
County  
204 S Court Street  
Alturas, CA 96101-4020

District Attorney of Placer  
County  
11562 "B" Avenue  
Auburn, CA 95603

District Attorney of San  
Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

District Attorney of Plumas  
County  
520 Main Street, Room 404  
Quincy, CA 95971

District Attorney of San Diego  
County  
330 West Broadway, Suite 1320  
San Diego, CA 92112

District Attorney of Riverside  
County  
4075 Main Street, 1st Floor  
Riverside, CA 92501

District Attorney of San  
Francisco County  
850 Bryant Street, Rm 325  
San Francisco, CA 94103

District Attorney of Sacramento  
County  
901 "G" Street  
Sacramento, CA 95814

District Attorney of San Joaquin  
County  
P.O. Box 990  
Stockton, CA 95201

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  
600 Union Avenue  
Fairfield, CA 94533

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

District Attorney of Santa Cruz  
County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95061

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  
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  
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Weaverville, CA 96093

District Attorney of Yuba County  
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Marysville, CA 95901

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Visalia, CA 93291

District Attorney of Tuolumne  
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Sonora, CA 95370

San Jose City Attorney's Office  
151 West Mission Street  
San Jose, CA 95110

Los Angeles City Attorney's Office  
Room 1800, City Hall East  
200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3<sup>rd</sup> Avenue, 12<sup>th</sup> Floor  
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 7550  
Oakland, CA 94612

Paul Sutton, President\*  
Cudlie Accessories, Inc.  
1 E 33<sup>rd</sup> St  
New York, NY 10016-5099

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