

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Lead in Jewelry

November 20, 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, California, (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:

- Violator: The names and addresses of the violators are attached hereto as Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least November 20, 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 jewelry. The jewelry subject to this notice is made of and contains Lead. Non-exclusive examples of this specific type of product are attached hereto as Exhibit 1.
- Description of Exposure: Use of the products identified in this notice result in human exposures to Lead. The jewelry is made of materials and components that contain Lead. For example, the non-metallic cords of bracelets and necklaces contain Lead, as does the pearl coating on imitation pearls and the metallic components such as beads, pendants, clasps, posts and other parts of the jewelry. The route of exposure for the violation is ingestion via hand to mouth contact after consumers touch or handle the products, direct ingestion when consumers place the products in their mouths, and dermal absorption directly through the skin when consumers touch, handle or wear the products. These exposures occur in homes, workplaces and everywhere else throughout California where these products are worn, handled or used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead. CEH has issued 23 other Notices of Violation regarding Lead in Jewelry, and those notices, which may be found on the California Attorney General's web site at <http://proposition65.doj.ca.gov/default.asp>, are incorporated herein by reference.

**Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each of the violators 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 Eric S. Somers at Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111, esomers at [lexlawgroup.com](http://lexlawgroup.com).

**EXHIBIT 1**  
**November 20, 2008 Notice of Violation**  
**Re: Lead in Jewelry**

<b>Name and Address of Responsible Parties</b>	<b>Non-Exclusive Examples of the Products</b>	<b>Item or SKU # or Further Description</b>
<p><b>Forum Novelties, Inc.</b>            1770 Walt Whitman Rd.            Melville, NY 11747</p> <p><b>Rubie's Costume Company, Inc.</b>            1 Ruby Plaza            Richmond Hill, NY 11418</p>	<p>Asp Snake Necklace</p>	<p>Item No. 54673            SKU No. 7-21773-54673-0</p>
<p><b>H.E.R. Accessories, LLC</b>            15 West 37<sup>th</sup> Street, 5<sup>th</sup> Floor            Elmsford, NY 10523</p>	<p>Strawberry Shortcake            Charm Bracelet</p>	<p>Item No. 26712            SKU No. 79522 26712</p>
<p><b>ICU Eyewear</b>            625 Du Bois Street, Suite H            San Rafael, CA 94901</p>	<p>Necklace with            Pendant</p>	<p>SKU No. 40834 00047</p>
<p><b>Volume Distributors, Inc.</b>            4199 Bandini Blvd.            Vernon, CA 90023</p>	<p>V Accessories            Necklace</p>	<p>Item No. CHN-5461            SKU No. 7-49732-05461-4</p>

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

I, Eric S. Somers, 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 Section 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 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 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.

November 20, 2008



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Eric S. Somers  
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 November 20, 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 mailed envelopes containing the above-referenced documents to the following individuals:

*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 November 20, 2008, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that these envelopes were fully prepaid, sealed, and deposited in the mail on this date, on November 20, 2008, at San Francisco.

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  
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Martinez, CA 94553

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Markleeville, CA 96120

District Attorney of Del Norte  
County  
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Crescent City, CA 95531

District Attorney of Amador County  
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Jackson, CA 95642

District Attorney of Butte County  
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District Attorney of Lassen County  
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Los Angeles, CA 90012

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Madera, CA 93637

District Attorney of Kern County  
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District Attorney of Mariposa  
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District Attorney of Monterey  
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230 Church Street, Bldg. 2  
Salinas, CA 93901

District Attorney of Mendocino  
County  
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Ukiah, CA 95482

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

District Attorney of Merced County  
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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  
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Alturas, CA 96101-4020

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

District Attorney of San  
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San Bernardino, CA 92415

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Quincy, CA 95971

District Attorney of San Diego  
County  
330 West Broadway, Suite 1320  
San Diego, CA 92101

District Attorney of Riverside  
County  
4075 Main Street  
Riverside, CA 92501

District Attorney of San  
Francisco County  
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San Francisco, CA 94103

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Sacramento, CA 95814

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County  
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San Luis Obispo, CA 93408

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Hollister, CA 95023

District Attorney of San Mateo  
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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  
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Santa Barbara, CA 93101

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San Jose, CA 95113

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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  
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Attention: Proposition 65  
Coordinator  
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