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December 15, 2008

Re: Notice of Violation Against Cosmetic Essence, Inc. for Violation of California Health & Safety Code Section 25249.6

Dear Prosecutors:

I represent David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include *Diet for a Poisoned Planet* (1990, 2007); *The Safe Shopper's Bible* (1995); *Living Healthy in a Toxic World* (1996); and *Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown* (2007). Through this Notice of Violation, Mr. Steinman seeks to reduce exposure to 1,4 Dioxane.

This letter constitutes notification that Cosmetic Essence, Inc. has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code).

In particular, this company has manufactured and distributed a product which has exposed and continues to expose numerous individuals within California to 1,4 Dioxane. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on January 1, 1988. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been through dermal contact with the product. Additional exposures may occur through oral exposure.

Cosmetic Essence, Inc. is exposing people to 1,4 Dioxane from the following product: Hello Kitty Bubble Bath (Kid Care).

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Cosmetic Essence, Inc. is in violation of Proposition 65 because it failed to provide a warning to persons using their products that they are being exposed to 1,4 Dioxane. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to these chemicals, without first providing clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A).

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, David Steinman gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to Mr. Steinman from information now available to us. Mr. Steinman is continuing his investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and

referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,

Handwritten signature of Michael Freund, consisting of the letters 'MF' in a stylized, cursive font.

Michael Freund

cc: David Steinman

## CERTIFICATE OF MERIT

### Health and Safety Code Section 25249.7 (d)

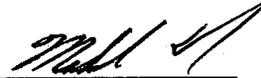
I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party David Steinman. Mr. Steinman is a committed environmentalist, journalist, consumer health advocate, publisher and author. The Notice of Violation alleges that the party identified has exposed persons in California to 1,4 Dioxane from its consumer product. Please refer to the Notice of Violation for additional details regarding the alleged violations.
3. I have consulted with the primary chemist who conducted the laboratory testing for 1,4 Dioxane of this consumer product and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These consultants have reviewed facts, studies or other data regarding the exposure to the listed chemical that is the subject of this action. These facts, studies or other data overwhelmingly demonstrate that the party identified in the Notice exposes persons to 1,4 Dioxane through dermal contact. There may be additional exposures through oral exposure.
4. Based on my consultation with experienced scientists in this field and especially the results of laboratory testing, it is clear that there is sufficient evidence that human exposures exist from exposure to the products from the noticed party. Furthermore, as a result of the above, I have concluded that 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 this Certificate of Merit served on the California 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.

Dated: December 15, 2008



Michael Freund  
Attorney for Center for David Steinman

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On December 15, 2008 I served the within:

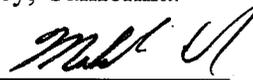
Notice of Violation and Certificate of Merit (Supporting documentation pursuant to 11 CCR section 3102 sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Oakland, California to said parties addressed as follows:

See Attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on December 15, 2008 at Berkeley, California.



Michael Freund

## SERVICE LIST

District Attorney of Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney of Imperial County 939 Main Street El Centro, CA 92243	District Attorney of Orange County 401 Civic Ctr Drive West Santa Ana, CA 92701
District Attorney of Colusa County 547 Market Street Colusa, CA 95932	District Attorney of Lassen County 220 S. Lassen St., Ste 8 Susanville, CA 96130	District Attorney of Modoc County 204 S Court Street Alturas, CA 96101-4020
District Attorney of Contra Costa County 627 Ferry Street Martinez, CA 94553	District Attorney of Inyo County P.O. Drawer D Independence, CA 93526	District Attorney of Placer County 11562 "B" Avenue Auburn, CA 95603
District Attorney of Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney of Los Angeles County 210 W. Temple Street, Room 345 Los Angeles, CA 90012	District Attorney of San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415
District Attorney of Del Norte County 450 H Street, Ste 171 Crescent City, CA 95531	District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney of Plumas County 520 Main Street, Room 404 Quincy, CA 95971
District Attorney of Amador County 708 Court Street, #202 Jackson, CA 95642	District Attorney of Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney of San Diego County 330 West Broadway, Suite 1320 San Diego, CA 92101
District Attorney of Butte County 25 County Center Drive Oroville, CA 95965	District Attorney of Marin County 3501 Civic Center Dr., Room 130 San Rafael, CA 94903	District Attorney of Riverside County 4075 Main Street Riverside, CA 92501
District Attorney of El Dorado County 515 Main Street Placerville, CA 95667	District Attorney of Mono County P.O. Box 617 Bridgeport, CA 93517	District Attorney of San Francisco County 850 Bryant Street, Rm 325 San Francisco, CA 94103
District Attorney of Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney of Mariposa County P.O. Box 730 Mariposa, CA 95338	District Attorney of Sacramento County 901 "G" Street Sacramento, CA 95814
District Attorney of Fresno County 2220 Tulare Street, #1000 Fresno, CA 93721	District Attorney of Monterey County 230 Church Street, Bldg. 2 Salinas, CA 93901	District Attorney of San Joaquin County P.O. Box 990 Stockton, CA 95201
District Attorney of Glenn County P.O. Box 430 Willows, CA 95988	District Attorney of Mendocino County P.O. Box 1000 Ukiah, CA 95482	District Attorney of San Luis Obispo County 1050 Monterey St, Room 450 San Luis Obispo, CA 93408
District Attorney of Kings County 1400 West Lacey Hanford, CA 93230	District Attorney of Napa County 931 Parkway Mall Napa, CA 94559	District Attorney of San Benito County 419 Fourth Street, 2 <sup>nd</sup> Floor Hollister, CA 95023
District Attorney of Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney of Merced County 2222 "M" Street Merced, CA 95340	
District Attorney of Humboldt County 825 5th Street Eureka, CA 95501	District Attorney of Nevada County 201 Church St., Suite 8 Nevada City, CA 95959	

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

John F. Croddick, CEO  
Cosmetic Essence Inc.  
Holmdel Corporate Headquarters  
2182 Rt. 35  
South Holmdel, New Jersey, 07733