

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Lead in Wallets, Handbags, Purses, Clutches, and Totes Made of Vinyl or Imitation Leather June 16, 2009

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:

- Violator: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least June 16, 2006, and are continuing to this day.
- 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.
- Chemical(s) 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.
- Types of Product: The specific types of product causing this violation are vinyl and faux leather wallets, handbags, purses, clutches and totes. These products are made of materials and components that contain Lead. Non-exclusive examples of these specific types of products are listed on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to Lead. Use of the products identified in this Notice results in human exposures to Lead. Lead is found in the vinyl or imitation leather fabric used to make the products both as a stabilizer and as a chemical ingredient in some of the dyes, paints and other coloring agents. Lead is also found in the metallic components such as zippers and zipper pulls used on the products. The route of exposure for the violations is direct ingestion when consumers (including children) place the products or items that have been stored in the products in their mouths; ingestion via hand to mouth contact after consumers touch or handle the products or items that have been stored in the products; and dermal absorption directly through the skin when consumers touch or handle the products or items that have been stored in the products. No clear and reasonable warning is

provided with these products regarding the carcinogenic or reproductive hazards of Lead. CEH has issued three other Notices of Violation regarding Lead in these specific types of products, which may be found on the California Attorney General's web site at <http://proposition65.doj.ca.gov/default.asp>, and 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 alleged violators unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators is interested in resolving this dispute without resort to expensive and time-consuming 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 (esomers at [lexlawgroup.com](http://lexlawgroup.com)) or Howard Hirsch (hhirsch at [lexlawgroup.com](http://lexlawgroup.com)) at Lexington Law Group, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

**EXHIBIT 1**  
**June 16, 2009 Notice of Violation**  
**Lead in Wallets, Handbags, Purses, Clutches, and Totes**  
**Made of Vinyl or Imitation Leather**

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<b>Accessory Exchange LLC</b> 1 E. 33 <sup>rd</sup> Street, Floor 6 New York, NY 10016	No Boundaries Pink Tote Bag	SKU No. 0-47417-17685-0 Item No. 31000376
<b>Bag Bazaar, Ltd.</b> 1 E. 33 <sup>rd</sup> Street, Floor 6 New York, NY 10016	No Boundaries "I Love Boys" Bitsy Bag	SKU No. 0-47417-22670-8 Item No. 31000021
<b>The Haddad Apparel Group, Ltd.</b> 90 East 5th Street Bayonne, NJ 07002	Mighty Mac Sports NBA Detroit Pistons Bi-Fold Wallet	SKU No. 6-78634-24407-9 Item No. PIWL-Z
<b>Kmart Corporation</b> 3333 Beverly Road Hoffman Estates, IL 60179	Attention Hobo Bag	SKU No. 7-62670-67633-5 KSN No. 0-09334111-3
	Piper & Blue Hobo Bag	SKU No. 8-84536-00203-1 KSN No. 0-13898911-6
<b>Mrs. Gooch's Natural Food Markets, Inc.</b> 550 Bowie Street Austin, TX 78703	Red Tango by Tokyo Bay Cosmetic Clutch	SKU No. 7-86380-70001-2
<b>With You, Inc.</b> 200 West 57 <sup>th</sup> Street, #1101 New York, NY 10019	Jessica Simpson Lemon Bag	SKU No. 639470-209158 Style ID No. JS2131 Retailer SKU No. 4-04100-07314-6

**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 § 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group 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 § 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.

June 16, 2009



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

On June 16, 2009, 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).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

***Please see attached service list.***

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on June 16, 2009, 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  
627 Ferry Street  
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District Attorney of Alpine County  
P.O. Box 248  
Markleeville, CA 96120

District Attorney of Del Norte County  
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District Attorney of Amador County  
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District Attorney of El Dorado  
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County  
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Ukiah, CA 95482

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Napa, CA 94559

District Attorney of Merced  
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Merced, CA 95340

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

District Attorney of Orange  
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San Bernardino, CA 92415

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Riverside, CA 92501

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San Luis Obispo, CA 93408

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District Attorney of Santa Barbara County  
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District Attorney of Siskiyou County  
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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 Office  
Attention: Proposition 65 Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612

Sam Sutton, President \*  
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