

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

Date: September 30, 2009

To: Steven K. Lauer, President – Topco Associates, LLC
Steven K. Lauer, President – Kingston Marketing Co.
William J. Coyne, President – Raley’s
California Attorney General’s Office;
District Attorney’s Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

From: Russell Brimer

I. INTRODUCTION

My name is Russell Brimer. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* (“Proposition 65”) and supplements the 60-Day Notice of Violation sent on December 23, 2008. As noted above, notice is also being provided to the violators, Topco Associates, LLC and Kingston Marketing Co. and Raley’s (the “Violators”). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure to the toxic chemicals (“listed chemicals”) identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemicals: Lead; Di(2-ethylhexyl)phthalate (“DEHP”)
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer and occupational exposures in violation of Proposition 65, and that are covered by this Notice, are listed under “Product Category/Type” in Exhibit A in Section VII below. All products within the types covered by this Notice shall be referred to hereinafter as the “products.” The sales of these products in California dating as far back as September 30, 2008 are subject to this notice. As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemicals, resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemicals from the reasonably foreseeable use of the products.

A. CONSUMER PRODUCT LEAD EXPOSURE

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, direct exposures occur when women of childbearing age and children place the product, or a portion thereof, into their mouth or otherwise chew, lick and/or bite the product thereby allowing the lead to leach out of the substrate. Also, the listed chemical can be directly ingested when small pieces of the vinyl coating are dislodged. Citizens can further be exposed to the listed chemical through the routine handling of the products through readily available amounts of the listed chemical on the surface of the product that will rub off on the user's fingers and hands, then ingested by way of subsequent hand-to-mouth activity.

B. CONSUMER PRODUCT DEHP EXPOSURE

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, exposures occur when infants and children place the product, or a portion thereof, into their mouth, or otherwise suck, lick, teethe and/or bite the product. In addition, exposures occur through direct dermal contact with the products, and may continue to occur for a significant period after dermal contact with the products stops. These activities cause infants and children to be exposed directly through migration of the listed chemical from the products. People likely to be exposed are infants and children.

C. OCCUPATIONAL EXPOSURE

Similarly, men and women in California use or otherwise handle the products as a part of their jobs and are, therefore, subject to occupational exposures to one of the listed chemicals. Employees are exposed at any California business locations of the apparent manufacturer, distributor and retailer (and their agents, assigns and divisions) as well as all other California locations where the products, or the component parts thereof that include one of the listed chemicals are, by way of example but not limitation, packed, unpacked, labeled, arranged, displayed, cleaned, stocked, stored or otherwise handled. These tasks cause employee exposure directly and/or indirectly to the listed chemicals through the routine handling of the products containing readily available amounts of a listed chemical on the surface and/or in the substrate. Additionally, exposure can occur through the routine chewing, licking or general handling of the products containing readily available amounts of one of the listed chemicals on the surface and/or in the substrate. These products are also used by sole proprietors and other persons in settings not covered by the Occupational Safety Health Act ("OSH Act"). This Notice alleges the violation of Proposition 65 with respect to occupational exposure governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California.

The approval also provides that an employer may use the means of compliance contained in the general hazard communication requirement to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the California Attorney General.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Russell Brimer
c/o Larry Haveson
Hirst & Charler LLP
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710
Telephone: (510) 848-8880

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter into a binding written agreement to: (1) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the exposures; and (2) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violators are interested in resolving this dispute without resort to time-consuming litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement as to new products covered by this Notice until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER TITLE 27 CAL. CODE REGS. §25903(b)(2)(A).

Identified below are specific examples of products recently purchased and witnessed as being available for purchase or use in California that are within the categories or types of offending products covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the examples within the categories or types of products are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violators and other distributors and retailers of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Academix 45 Giant Vinyl Coated Clips (#0 11225 03677 4)	Raley's Contra Costa County, Northern California	Topco Associates, LLC; Kingston Marketing Co.
Academix Clear View Vinyl Pencil Pouch (#0 11225 05879 0)	Bel Air; Raley's Sacramento County, Northern California	Topco Associates, LLC; Kingston Marketing Co.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Colored, Vinyl-Coated Paper Fasteners containing Lead	Academix 45 Giant Vinyl Coated Clips (#0 11225 03677 4)	Lead
Vinyl Pouches containing Di(2-ethylhexyl)phthalate	Academix Clear View Vinyl Pencil Pouch (#0 11225 05879 0)	Di(2ethylhexyl)phthalate

*The specifically identified examples of the types of products which are subject to this Notice are for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product categories/types listed in Exhibit A. It is important to note that these examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 2560 Ninth Street, Parker Plaza, Suite 214, Berkeley, CA 94710.

On September 30, 2009, I served the following documents:

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the Violators listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to each Violator and providing each envelope to a United States Postal Service Representative:

Steven K. Lauer, President
Topco Associates, LLC
7711 Gross Point Road
Skokie, IL 60077

Steven K. Lauer, President
Kingston Marketing Co.
7711 Gross Point Road
Skokie, IL 60077

William J. Coyne, President
Raley's
500 West Capitol Avenue
West Sacramento, CA 95605

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

A list of addresses for each of these recipients is attached.

Executed on September 30, 2009, at Berkeley, California.



Caroline Liang

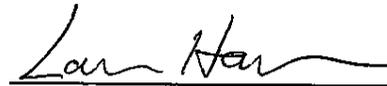
CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Larry Haveson, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health and Safety Code §25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. 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 *alleged* exposure to the listed chemicals that are the subject of this action.
4. Based on the information obtained through those consultations, and on all 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 this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and 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.)

Dated: 9/28/2009



Larry Haveson

SERVICE LIST

The Honorable Tom Orloff
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
255 County Center Drive
Oroville, CA 95965

The Honorable Jeffrey Tuttle
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95348

The Honorable John R. Poyner
Colusa County District Attorney
547 Market Street, Suite 102
Colusa, CA 95632

The Honorable Robert J. Kochly
Contra Costa County District Attorney
900 Ward Street
Martinez, CA 94553

The Honorable Michael Riese
Del Norte County District Attorney
450 H Street, Room 171
Crescent City, CA 95531

The Honorable Vernon Plerson
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667

The Honorable Elizabeth Egan
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721

The Honorable Robert Holzapfel
Glenn County District Attorney
P.O. Box 430
Willows, CA 95988

The Honorable Paul Gallegos
Humboldt County District Attorney
825 5th Street
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

The Honorable Arthur Maillet
Inyo County District Attorney
P.O. Drawer D
Independence, CA 93526

The Honorable Edward R. Jagels
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301

The Honorable Ronald Calhoun
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230

The Honorable Jon E. Hopkins
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

The Honorable Robert Burns
Lassen County District Attorney
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Steve Cooley
Los Angeles County District Attorney
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

The Honorable Ernest Licalsi
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Edward Berberian
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

The Honorable Robert Brown
Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338

The Honorable Meredith J. Lintoft
Mendocino County District Attorney
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Ukiah, CA 95482

The Honorable Larry Morse II
Merced County District Attorney
2222 M Street
Merced, CA 95340

The Honorable Gary Woolverton
Modoc County District Attorney
204 S. Court Street, Room 202
Alluras, CA 96101

The Honorable George Booth
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The Honorable Dean Filippo
Monterey County District Attorney
P.O. Box 1131
Salinas, CA 93902

The Honorable Gary Lieberstein
Napa County District Attorney
931 Parkway Mall
Napa, CA 94559

The Honorable Clifford Newell
Nevada County District Attorney
110 Union Street
Nevada City, CA 95959

The Honorable Tony Rackauckas
Orange County District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701

The Honorable Bradford Fenocchio
Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678

The Honorable Jeff Cunan
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971

The Honorable Rodric Pacheco
Riverside County District Attorney
4075 Main Street
Riverside, CA 92501

The Honorable Jan Scully
Sacramento County District Attorney
901 G Street
Sacramento, CA 95814

The Honorable Candice Hooper
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203

The Honorable Michael Ramos
San Bernardino County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415

The Honorable Bonnie Dumanis
San Diego County District Attorney
330 W. Broadway Street
San Diego, CA 92101

The Honorable Kamala Harris
San Francisco County District Attorney
850 Bryant Street, Room 322
San Francisco, CA 94103

The Honorable James Willett
San Joaquin County District Attorney
P.O. Box 980
Stockton, CA 95201

The Honorable Gerald Shea
San Luis Obispo County District Attorney
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

The Honorable James Fox
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Christie Stanley
Santa Barbara County District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101

The Honorable Dolores Carr
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Bob Lee
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Gerald Benito
Shasta County District Attorney
1525 Court Street, Third Floor
Redding, CA 96001

The Honorable Lawrence Allen
Sierra County District Attorney
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Downsville, CA 95936

The Honorable James Andrus
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The Honorable Stephan Passalacqua
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Stanislaus County District Attorney
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Modesto, CA 95354

The Honorable Carl Adams
Sutter County District Attorney
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Yuba City, CA 95991

The Honorable Gregg Cohen
Tehama County District Attorney
PO BOX 519
Red Bluff, CA 96080

The Honorable Michael B. Harper
Trinity County District Attorney
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Weaverville, CA 96093

The Honorable Phillip Cline
Tulare County District Attorney
221 South Mooney Boulevard, Suite 224
Visalia, CA 93291

The Honorable Donald Segerstrom, Jr
Tuolumne County District Attorney
423 North Washington Street
Sonora, CA 95370

The Honorable Gregory Totten
Ventura County District Attorney
800 South Victoria Avenue
Ventura, CA 93009

The Honorable Jeff Reisig
Yolo County District Attorney
301 Second Street
Woodland, CA 95695

The Honorable Patrick McGrath
Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901

The Honorable Rockard Delgadillo
Office of the City Attorney, Los Angeles
200 North Main Street
Los Angeles, CA 90012

The Honorable Jan Goldsmith
Office of the City Attorney, San Diego
1200 Third Avenue, Suite 1620
San Diego, CA 92101

The Honorable Eileen M. Teichert
Office of the City Attorney, Sacramento
P.O. Box 1948
Sacramento, CA 95812

The Honorable Dennis J. Herrera
Office of the City Attorney, San Francisco
City Hall, Room 234
San Francisco, CA 94102

The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550