

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Lead in Footwear Made With Leather, Vinyl or Imitation Leather Materials

December 21, 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:

- Violators: 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 December 21, 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 type of product causing this violation is footwear made with leather, vinyl or imitation leather materials. Non-exclusive examples of this specific type of product are listed on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to Lead as to all of the alleged violators listed on the attached Exhibit 1 and occupational exposures to Lead as to the alleged violators marked with a pound symbol (#) on the attached Exhibit 1. Use of the products identified in this Notice results in human exposures to Lead. Lead is found in the products as a stabilizer in the vinyl or imitation leather materials, as a chemical ingredient in some of the dyes, paints and other coloring agents used in the products and in the chemicals used in the leather tanning process. The route of exposure for the violations is ingestion via hand to mouth contact and dermal absorption directly through the skin. Consumer exposures to Lead from the products occur when consumers wear, take on or off, or otherwise touch or handle the products. Occupational exposures to Lead from the products occur throughout the State of California when workers manufacture, assemble, display, sell, store, assist consumers

trying on, or otherwise touch or handle the products. Persons exposed include workers in factories, warehouses, and distribution centers and clerks in retail stores that come into contact with the products. This Notice only applies to occupational exposures that occur in the State of California. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

- Statement Re: Occupational Exposures: As set forth above, this Notice alleges violations of both consumer and, as to those alleged violators marked with a pound symbol (#) on the attached Exhibit 1, occupational exposures to Lead. The following statement concerns procedures and requirements that are specific to occupational exposures. "This notice alleges the violation of Proposition 65 with respect to occupational exposures 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 in the general hazard communication requirements 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 Attorney General." 8 Cal. Code Regs. § 338(b).

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) or Howard Hirsch (hhirsch at lexlawgroup.com) at Lexington Law Group, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

EXHIBIT 1
December 21, 2009 Notice of Violation
Lead in Footwear Made With Leather, Vinyl or Imitation Leather Materials
Non-Exclusive Examples of the Products

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p>BBC Apparel Group, LLC 1345 Avenue of the Americas New York, NY 10105</p>	<p>Dollhouse Black Snake Peep Toe Shoes</p>	<p>SKU No. 400044350398 Style No. D1017 C833</p>
<p>Brown Shoe Company, Inc. # 8300 Maryland Ave. St Louis, MO 63105</p>	<p>Franco Sarto Women's Victor Shoes - Lemon Fantasy</p>	<p>SKU No. 7-27688-73063-9 Item No. L -VICTOR-LEMON-FNTSY</p>
	<p>Etienne Aigner Women's Tolan Shoes - Yellow</p>	<p>SKU No. 7-36708-23170-4 Item No. E-TOLAN-YLW ACTN PAT</p>
<p>Charles Albert, Inc. 927 NW 31st Avenue Pompano Beach, FL 33069</p>	<p>Charles Albert Debra Shoe - Red</p>	<p>Item No. 9396293750</p>
<p>Cole Haan # 1 Cole Haan Dr. Yarmouth, ME 04096</p> <p>Cole Haan Company Store # 1 Cole Haan Dr. Yarmouth, ME 04096</p>	<p>Shelby II Spicy Shoes</p>	<p>Item No. D26966</p>
<p>DSW Shoe Warehouse, Inc. # 3241 Westerville Road Columbus, OH 43224</p>	<p>Steve Madden P-Heaven Shoes - Mustard PA</p>	<p>SKU No. 8-84902-27080-4</p>

<p>Gotham Licensing Group, LLC 1345 Avenue of the Americas New York, NY 10105</p>	<p>Dollhouse Black Snake Peep Toe Shoes</p>	<p>SKU No. 400044350398 Style No. D1017 C833</p>
<p>HSN, Inc. 1 HSN Drive St Petersburg, FL 33729</p>	<p>AJ Valenci Patent Peep-Toe Raffia Wedge Sandals - Orange</p>	<p>SKU No. 381835801070006 Item No. 381-835</p>
<p>J.P. Original Corporation 3100 47th Avenue 5th Floor Long Island City, NY 11101</p>	<p>Dollhouse Black Snake Peep Toe Shoes</p>	<p>SKU No. 400044350398 Style No. D1017 C833</p>
<p>Orly Shoe Corp. 350 5th Avenue Room 6721 New York, NY 10118</p>	<p>Charles Albert Debra Shoes - Red</p>	<p>Item No. 9396293750</p>
<p>Ross Stores, Inc. # 4440 Rosewood Drive Building 4 Pleasanton, CA 94588-3050</p>	<p>Dollhouse Black Snake Peep Toe Shoes</p>	<p>SKU No. 400044350398 Style No. D1017 C833</p>
<p>Steven Madden Ltd. # 52-16 Barnett Avenue Long Island City, NY 11104</p> <p>Steven Madden Retail, Inc. # 52-16 Barnett Avenue Long Island City, NY 11104</p>	<p>Steve Madden P-Heaven Shoes - Mustard PA</p>	<p>SKU No. 8-84902-27080-4</p>
<p>The Buckle, Inc. # 2407 W 24th St. Kearny, NE 68847</p>	<p>Charles Albert Debra Shoes - Red</p>	<p>Item No. 9396293750</p>

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

I, Howard Hirsch, 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.

December 21, 2009



Howard Hirsch
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 December 21, 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 December 21, 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 Alpine County
P.O. Box 248
Markleeville, CA 96120

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

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

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

District Attorney of Colusa County
547 Market Street, Ste. 102
Colusa, CA 95932

District Attorney of Contra Costa
County
900 Ward Street
Martinez, CA 94553

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

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

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

District Attorney of Glenn County
P.O. Box 430
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District Attorney of Humboldt County
825 5th Street
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Woodland, CA 95695

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City Hall East
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Los Angeles, CA 90012

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1200 3rd Avenue, Ste. 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65
Coordinator and Robert Thomas
1515 Clay Street, Suite 2000
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