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March 15, 2010

Re: Notice of Violation Against Kao Brands Company 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 Kao Brands Company 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 products which have exposed and continue 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 products. Additional exposures may occur through oral and inhalation exposure.

The Kao Brands Company is exposing people to 1,4 Dioxane from the following product: John Frieda Collection Root Awakening Strength Restoring Shampoo.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Kao Brands Company is in violation of Proposition 65 because the company 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 this chemical, 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,

A handwritten signature in black ink, consisting of the letters 'M' and 'F' 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 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 chemical that is the subject of the action. In particular, 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 facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice exposes persons to 1,4 Dioxane through dermal contact. There may be additional exposures through inhalation and oral exposure.
4. Based on my consultation with an experienced scientist in this field, the results of laboratory testing, as well as the published studies on 1,4-Dioxane, 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: March 15, 2010



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Michael Freund  
Attorney 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 March 15, 2010 I served the within:

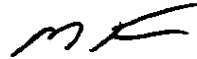
Notice of Violation and Certificate of Merit (Supporting documentation pursuant to 11 CCR section 3102 sent to Attorney General only)

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 March 15, 2010 at Berkeley, California.



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Michael Freund

## 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  
Martinez, CA 94553

District Attorney of Alpine County  
P.O. Box 248  
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District Attorney of Del Norte  
County  
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Crescent City, CA 95531

District Attorney of Amador County  
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District Attorney of Butte County  
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Oroville, CA 95965

District Attorney of El Dorado  
County  
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Placerville, CA 95667

District Attorney of Calaveras  
County  
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San Andreas, CA 95249

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District Attorney of Kings County  
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Hanford, CA 93230

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Lakeport, CA 95453

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County  
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Eureka, CA 95501

District Attorney of Imperial County  
939 Main Street  
El Centro, CA 92243

District Attorney of Lassen County  
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Susanville, CA 96130

District Attorney of Inyo County  
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Independence, CA 93526

District Attorney of Los Angeles  
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Los Angeles, CA 90012

District Attorney of Madera County  
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Madera, CA 93637

District Attorney of Kern County  
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201 Church St., Suite 8  
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District Attorney of Riverside  
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District Attorney of San Joaquin  
County  
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Stockton, CA 95201

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San Luis Obispo, CA 93408

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419 Fourth Street, 2<sup>nd</sup> Floor  
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District Attorney of San Mateo  
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County  
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Yuba City, CA 95991

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District Attorney of Tehama County  
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Woodland, CA 95695

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Marysville, CA 95901

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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

Bill Gentner  
President and CEO  
Kao Brands Company  
2535 Spring Grove Ave.  
Cincinnati, OH 45214