

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

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

August 17, 2010

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. Charlie Pizarro is the Associate 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 August 17, 2007, 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.
- Type of Product: The specific type of product causing these violations 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 through 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**  
**August 17, 2010 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><b>Audigier Brand Management Group, LLC #</b> 600 S. Muirfield Rd. Los Angeles, CA 90005</p> <p><b>Christian Audigier, Inc. #</b> 8680 Hayden Place Culver City, CA 90232</p> <p><b>Hardy Way, LLC #</b> 8680 Hayden Place Culver City, CA 90232</p> <p><b>Nervous Tattoo, Inc. #</b> 8680 Hayden Place Culver City, CA 90232</p>	<p>Ed Hardy West LA Heels – Yellow</p>	<p>SKU No. 8-84456-14915-1 Style No. 10SWL103W</p>
<p><b>Eddie Bauer of Delaware LLC #</b> 10401 NE 8th Street Suite 500 Bellevue, WA 98004</p> <p><b>Eddie Bauer, Inc. #</b> 10401 NE 8th Street Suite 500 Bellevue, WA 98004</p>	<p>Børn Roca Sandals – Yellow</p>	<p>SKU No. 000382341853-341 Item No. W32206012</p>
<p><b>Fashion Avenue, LLC #</b> 3530 Wilshire Blvd. #695 Los Angeles, CA 90010</p> <p><b>Fashion Avenue #</b> 2341 S. Bristol Street Santa Ana, CA 92704</p>	<p>Breckelle's Sandals – Yellow</p>	<p>SKU No. 48051508 Item No. IRMA10-YE</p>

<p><b>Ghanimian Enterprises, Inc. #</b> 9237 San Fernando Road Sun Valley, CA 91352</p>	<p>Two Lips Heels – Red</p>	<p>SKU No. 25-1100- 094604-001999-02-2</p>
<p><b>Golden West Footwear Inc. #</b> 16750 Chestnut Street City of Industry, CA 91748</p>	<p>Marichi Mani Heels – Purple</p>	<p>Style No. KALEA-10</p>
<p><b>G.O. Max International, Inc. #</b> 19395 East Walnut Drive City of Industry, CA 91748</p> <p><b>UFG America, Inc. #</b> 19395 East Walnut Drive City of Industry, CA 91748</p>	<p>Gomax Sandals – Yellow</p>	<p>Style No. ICON-66 SKU No. 1225-028646813 -01499-05-2</p>
<p><b>Marshalls of CA, LLC #</b> Corp Tax J5S 770 Cochituate Road Framingham, MA 01701</p> <p><b>Marshalls of MA, Inc. #</b> 770 Cochituate Road Framingham, MA 01701</p> <p><b>The TJX Companies, Inc. #</b> 770 Cochituate Road Framingham, MA 01701</p>	<p>Gomax Sandals – Yellow</p>	<p>Style No. ICON-66 SKU No. 1225-028646813 -01499-05-2</p>
<p><b>MIA Shoes, Inc.</b> 9985 NW 19th St. Miami, FL 33172</p>	<p>Mia Women's Jubilee Pointed Toe Flats – Patent Yellow</p>	<p>SKU No. 7-42282-82936-7 Item No. C15550</p>
<p><b>Olem Shoe Corp.</b> 800 NW 21st Street Miami, FL 33127</p>	<p>Pierre Dumas Heels – Yellow</p>	<p>Stock No. DANA-1 88748-194</p>
<p><b>Radiant Footwear, Inc. #</b> 17901 East Ajax Circle City of Industry, CA 91748</p>	<p>Styluxe Pumps – Red-Patent PU</p>	<p>Style No. LOWS</p>

<p><b>Restricted Footwear, Inc. #</b>  17950 Rowland Street  City of Industry, CA 91748</p>	<p>Restricted  Cheri Wedge  Heels – Yellow</p>	<p>SKU No.  8-46557-11688-3</p>
<p><b>Seattle Pacific Industries, Inc.</b>  1633 Westlake Avenue North  Suite 300  Seattle, WA 98109</p>	<p>Unionbay Trapeze  Flats – Yellow</p>	<p>SKU No.  8-83988-01139-4  Item No. 164075</p>
<p><b>Seychelles Imports LLC #</b>  815 North Sepulveda Blvd.  El Segundo, CA 90245</p>	<p>Seychelles Women's  Sophia Wedge  Pumps – Yellow</p>	<p>SKU No.  8-84633-09026-9  Style No. NB03410</p>
<p><b>Spot Footwear, Inc. #</b>  17448 Railroad Street  City of Industry, CA 91748</p>	<p>Damita K  Heels – Red</p>	<p>Style No. CARLY-01</p>
<p><b>T.J. Maxx of CA, LLC #</b>  770 Cochituate Road  Framingham, MA 01701</p> <p><b>The TJX Companies, Inc. #</b>  770 Cochituate Road  Framingham, MA 01701</p>	<p>Two Lips  Heels - Red</p>	<p>SKU No. 25-1100-  094604-001999-02-2</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.

August 17, 2010



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 and my electronic notification address is [pcarey@lexlawgroup.com](mailto:pcarey@lexlawgroup.com).

On August 17, 2010, 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 asterisk).**

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.*

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 11:57<sup>a</sup> p.m. on August 17, 2010:

Lon Wixson, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[lwixson@contracosta.org](mailto:lwixson@contracosta.org)

Birgit Fladager, District Attorney  
Stanislaus County  
832 12th Street, Ste. 300  
Modesto, CA 95354  
[Prop65@standa.org](mailto:Prop65@standa.org)

Dije Ndreu, Deputy District Attorney  
Monterey County  
230 Church Street, Bldg. 2  
Salinas, CA 93901  
[ndreud@co.monterey.ca.us](mailto:ndreud@co.monterey.ca.us)

District Attorney of Napa County  
931 Parkway Mall  
Napa, CA 94559  
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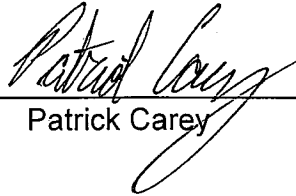
District Attorney of Sonoma County  
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[jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org)

District Attorney of Tulare County  
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Visalia, CA 93291  
[Prop65@tulare.ca.us](mailto:Prop65@tulare.ca.us)

District Attorney of Ventura County  
District Attorney of Ventura County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 17, 2010, at San Francisco, California.

Signed:   
Patrick Carey



## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Rm. 900  
Oakland, CA 94612

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708 Court Street, Ste. 202  
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25 County Center Drive  
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Downieville, CA 95936

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215 Fifth Street  
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200 N. Main Street, Rm. 800  
Los Angeles, CA 90012

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1200 Third Avenue, Ste. 1620  
San Diego, CA 92101

San Francisco City Attorney's Office  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
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, Ste. 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

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