

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Lead in Wallets, Handbags, Purses, and Clutches 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.
- Types of Product: The specific types of product causing this violation are wallets, handbags, purses, and clutches made with leather, vinyl or imitation leather materials. 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 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. 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.

**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 Wallets, Handbags, Purses, and Clutches**  
**Non-Exclusive Examples of the Products**

Names and Addresses of Responsible Party	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p style="text-align: center;"><b>Amuse</b>            8443 Van Nuys Blvd, #44            Panorama City, CA 91402</p>	<p style="text-align: center;">J C Fashion            Purse – Yellow</p>	<p style="text-align: center;">Item No. 4673            YELLOW</p>
<p style="text-align: center;"><b>Banana Republic, LLC</b>            2 Folsom Street            San Francisco, CA 94105</p>	<p style="text-align: center;">Banana Republic            Wallet – Yellow</p>	<p style="text-align: center;">SKU No.            1-10136-30000-1</p>
<p style="text-align: center;"><b>The California Bag, LLC</b>            433 S. Spring St., #1100            Los Angeles, CA 90013</p>	<p style="text-align: center;">Ed Hardy            City Slicker Setty            7829 Melrose            Handbag</p>	<p style="text-align: center;">SKU No.            8-44179-01092-3            Item No. SLSET3302</p>
<p style="text-align: center;"><b>CR MIZ Handbags Inc.</b>            67 34th Street            Brooklyn, NY 11232</p>	<p style="text-align: center;">Perlina Deco            Folded Clutch            – Yellow</p>	<p style="text-align: center;">SKU No.            7-09752-15169-4            Item No. 80259-YLW</p>
<p style="text-align: center;"><b>Dolce &amp; Gabbana USA Inc.</b>            148 Lafayette Street            New York, NY 10013</p>	<p style="text-align: center;">D&amp;G Denim Wallet            – Multicolor</p>	<p style="text-align: center;">SKU No.            8-034064-268818            Style No.            DP0389-E7669</p>
<p style="text-align: center;"><b>Espe</b>            110 West Beaver Creek Road            Unit 19-20            Richmond Hill L4B 1J9            Ontario, Canada</p>	<p style="text-align: center;">Espe Handbag            – Orange</p>	<p style="text-align: center;">Model No. 1910 JESS</p>
<p style="text-align: center;"><b>Hardy Way, LLC</b>            8680 Hayden Place            Culver City, CA 90232</p> <p style="text-align: center;"><b>Nervous Tattoo, Inc.</b>            8680 Hayden Place            Culver City, CA 90232</p>	<p style="text-align: center;">Ed Hardy            City Slicker Setty            7829 Melrose            Handbag</p>	<p style="text-align: center;">SKU No.            8-44179-01092-3            Item No. SLSET3302</p>

<p><b>La Jolla Group, Inc.</b> 14350 Myford Road Irvine, CA 92606</p> <p><b>O'Neill Europe B.V.</b> Oosteinde 32 2361 HE Warmond Netherlands</p>	<p>O'Neill Hot Gossip Shoulder Handbag - Deep Lake</p>	<p>SKU No. 6-59811-21564-8 Item No. 39495112</p>
<p><b>M. London, Inc.</b> 629 Grove Street, Floor 8 Jersey City, NJ 07310</p>	<p>RocaWear Carry Me Quilted Tote Handbag - Yellow</p>	<p>SKU No. 8-41590-10939-7 Style No. RB4350</p>
<p><b>The Neiman-Marcus Group, Inc.</b> 1618 Main St. Dallas, TX 75201</p>	<p>Neiman Marcus Small Leather Wallet - Red</p>	<p>SKU No. 0470-4045</p>
<p><b>S.P.S. LLC</b> <b>dba S.P.S. Fashion</b> c/o Timothy W. Schiffer 784 Park Avenue New York, NY 10021</p>	<p>Jill Stuart Dorothea Handbag - Lemon</p>	<p>SKU No. 8-42902-03440-6 Style No. 7321M</p>
<p><b>Toss Designs, Inc.</b> 3060 Kerner Blvd., Unit A San Rafael, CA 94901</p>	<p>Toss Designs Handbag</p>	<p>SKU No. 8-77571-00125-0 Style No. SN-BQ-011250 Item No. 1612</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.

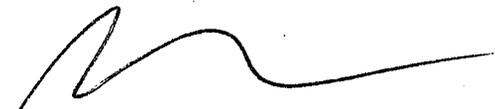
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

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 a.m. on August 17, 2010:

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

Birgit Fladager, District Attorney  
Stanislaus County  
832 12<sup>th</sup> 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)

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Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

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600 Administration Drive, Rm. 212J  
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[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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P.O. Box 248  
Markleeville, CA 96120

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Alturas, CA 96101-4020

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San Diego, CA 92101

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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  
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Oakland, CA 94612-0550

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