SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code* § 25249.5, *et seq.*) ("Proposition 65")

December 16, 2010

Roger Penske, President or
Current President/ CEO
Penske Truck Leasing Co., L.P.
Rt. 10 Green Hills
Reading, PA 19607

Roger Penske, President or
Current President/ CEO
Penske Corporation
2555 Telegraph Road
Bloomfield Hills, MI 48302

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 concerning: (1) Second-Hand Tobacco Smoke / Environmental Tobacco Smoke exposures, and (2) Diesel Engine Exhaust exposures taking place in the business operations of "Penske Truck Rental."

Dear Mr. Penske, and to whom else this may concern:

Consumer Advocacy Group, Inc. ("CAG"), the noticing entity, serves this Notice of Violation ("Notice") upon **Penske Truck Leasing Co., L.P.** and **Penske Corporation,** dba "Penske Truck Rental" ("Violators") pursuant to and in compliance with Proposition 65. Violators may contact CAG concerning this Notice through its attorney, Reuben Yeroushalmi, Esq., 9100 Wilshire Blvd., Ste. 610 E, telephone no. (310) 623-1926, facsimile no. (310) 623-1930. This Notice satisfies a prerequisite for CAG to commence an action against Violators in any Superior Court of California to enforce Proposition 65. The violations addressed by this Notice occurred in each California county reflected in the district attorney addresses listed in the attached certificate of service. CAG is serving this Notice upon each person or entity responsible for the alleged violations, the California Attorney General, the district attorney for each county where alleged violations occurred, and the City Attorney for each city with a population (according to the most recent decennial census) of over 750,000 located within counties where the alleged violations occurred.

CAG is a registered corporation based in California. By sending this Notice, CAG is acting "in the public interest" pursuant to Proposition 65. CAG is an organization dedicated to protecting the environment, improving human health, and supporting environmentally sound practices.

This Notice concerns violations of the warning prong of Proposition 65, which states that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual . . ." *Cal. Health & Safety Code* § 25249.6.

As discussed in more detail below, this notice concerns two distinct violations of Proposition 65: exposure to tobacco smoke and exposure to truck engine exhaust, both of which substances various constituent chemicals known to the state of California to cause cancer, reproductive toxicity, or both.

1. Second Hand Tobacco Smoke

This notice concerns exposure to second hand tobacco smoke. CAG is informed and believes that Second-Hand Tobacco Smoke and Environmental Tobacco Smoke contain Tobacco Smoke, a chemical known to the State of California to cause Cancer and Reproductive Toxicity, developmental, male, female. *See Cal. Code Regs.* 27 § 27000(b), (c). On April 1, 1988, the Governor of California added Tobacco Smoke to the list of chemicals known to the State of California to cause Cancer and the list of chemicals known to the State of California to cause Reproductive Toxicity. *Cal. Code Regs.* 27 § 27000(b), (c). The Governor of California added Tobacco Smoke to these lists more than twenty (20) months prior to the date of this notice, and therefore as of the time of this notice, Tobacco Smoke is full subject to the warning and discharge prohibitions of Proposition 65. *See Cal. Health & Safety Code* §§ 25249.9, 25249.10.

CAG is also informed and believes that Second-Hand Tobacco Smoke and Environmental Tobacco Smoke also contain the following chemicals known to the State to cause Cancer or Reproductive Toxicity ("Constituent Chemicals"):

CARCINOGENS

Tobacco smoke	Acetaldehyde
Acetamide	Acrolein
Acrylonitrile	4-Aminobiphenyl
Aniline	o-Anisidine
Benz[a]anthracene	Benzene
Benzo[b]fluoranthene	Benzo[j]fluoranthene
Benzo[k]fluoranthene	Benzo[a]pyrene
1,3-Butadiene	Captan
Carbon disulfide	Carbon monoxide
Chrysene	DDT
Dibenz[a,h]acridine	Dibenz[a,j]acridine
Dibenz[a,h]anthracene	7H-Dibenzo[c,g]carbazole
Dibenzo[a,e]pyrene	Dibenzo[a,h]pyrene
Dibenzo[a,i]pyrene	Dibenzo[a,l]pyrene
1,1-Dimethylhydrazine	1-Naphthylamine
2-Naphthylamine	Nicotine
2-Nitropropane	N-Nitrosodi-n-butylamine
N-Nitrosodiethanolamine	N-Nitrosodiethylamine
N-Nitroso-n-methylethylamine	N'-Nitrosonornicotine
N-Nitrosopiperidine	N-Nitrosopyrrolidine
Styrene	Toluene
2-Toluidine	Urethane
Vinyl chloride	Arsenic
Cadmium	Chromium
Lead	Nickel

REPRODUCTIVE TOXINS

Arsenic (inorganic oxides)	Cadmium
Carbon disulfide	Carbon monoxide
Lead	Nicotine
Toluene	Tobacco Smoke
Urethane	

The Governor of California added each of the above-listed Constituent Chemicals to the list of chemicals known to cause cancer or reproductive toxicity more than twenty (20) months prior to the date of this notice. *See Cal. Code Regs.* 27 § 27000(b), (c). Accordingly, each of the above-listed Constituent Chemicals is fully subject to Proposition 65 warning requirements and discharge prohibitions. *See Cal. Health & Safety Code* §§ 25249.9, 25249.10.

Environmental Exposure

This Notice addresses Environmental Exposures. "An 'environmental exposure' is an exposure which may foreseeably occur as the result of contact with an environmental medium, including, but not limited to, ambient air, indoor air, drinking water, standing water, running water, soil, vegetation, or manmade or natural substances, either through inhalation, ingestion, skin contact, or otherwise. Environmental exposures include all exposures which are not consumer products exposures, or occupational exposures." *Cal. Code Regs.* 27 § 25602(c).

Violators own and operate a truck rental company located in California, which does business as "Penske Truck Rental." During the period referenced below, Violators violated Proposition 65 by allowing persons to smoke cigarettes and other tobacco products in their vehicles, thereby facilitating the production of an environment in which Second-Hand Tobacco Smoke and Environmental Tobacco Smoke existed. Violators violated Proposition 65, during the period referenced below, by allowing and causing their employees and consumers, including the passengers of the vehicles they rented to their customers who smoked inside the rental trucks and vans, to inhale the ambient air in the vehicles, which contained the Tobacco Smoke and the Constituent Chemicals in concentrated levels, without first providing Proposition 65-compliant warnings to such exposed persons prior to such exposures. Violators thereby caused Environmental Exposures during the referenced period. The locations of exposure occurred inside the vehicles rented to the public by Violators. Environmental Exposures occurred beyond the real property owned or controlled by Violators, but inside the cars rented by Violators to the public. The locations of exposures are inside each vehicle rented from the locations listed in **Exhibit A** in which smoking occurred.

Occupational Exposure

This Notice also addresses Occupational Exposures. "Occupational exposure' means an exposure to any employee in his or her employer's workplace." *Cal. Code Regs.* 27 § 25602(f).

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 (a) the conduct of manufacturers occurring outside the State of California; and (b) employers with less than 10 employees. The approval also provides that an employer may use any means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement be 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.

Violators own and operate a truck rental company located in California, which does business as "Penske Truck Rental." During the period referenced below, Violators violated Proposition 65 by allowing persons to smoke cigarettes and other tobacco products in their trucks and vans, which were rented from its locations listed in **Exhibit A,** and then causing its employees to be exposed to Tobacco Smoke and the Constituent Chemicals of the Second-Hand Tobacco Smoke and Environmental Tobacco Smoke left in the vehicles, without providing clear and reasonable warnings in compliance with Proposition 65 prior to such exposures. Violators' employees were exposed to Tobacco Smoke and the Constituent Chemicals as they inhaled the ambient air containing the Constituent Chemicals in the process of cleaning, vacuuming, aerating, and otherwise preparing the vehicles for the next consumer. Since Violators were employers, and the vehicles were and are the property of Violators, Violators has caused an "Occupational Exposure" during the referenced period. The general locations of the unlawful occupational exposures occurred at the areas owned or controlled by Violators where Violators' employees tended to the task of cleaning vehicles in which smoking had occurred by Violators' customers.

Period of Violations

CAG is informed and believes the violations discussed above occurred each day between **August 24, 2007** and **August 31, 2010**, that such vehicles were cleaned, vacuumed or otherwise prepared by Violators' employees and used by Violators' consumers, and have continued each day thereafter.

Route of Exposure

The routes of exposure for the violations were and are inhalation, dermal contact, and skin absorption when tobacco smoke condensates accumulate on various surfaces, including but not limited to upholstery, dashboard, armrest, fabric, and other surfaces in the vehicle. When affected persons breathed in the ambient air containing second-hand tobacco smoke or environmental tobacco smoke, they were exposed to Tobacco Smoke and its Constituent Chemicals via their mouths, throats, bronchi, esophagi, and lungs. Exposure of Tobacco Smoke and its Constituent Chemicals generates risks of cancer and reproductive toxicity to the affected persons.

2. Engine Exhaust From Trucks and Other Vehicles

This notice also concerns exposures to Exhaust from Gasoline and Truck Engine Vehicles, which contains the chemicals listed below and designated to cause cancer and/or reproductive toxicity ("Covered Chemicals"), without giving clear and reasonable warnings to the individuals exposed prior to the time of exposure in violation of Proposition 65 (*Health & Safety Code* § 25249.6). The Governor of California added the Covered Chemicals to the lists of chemicals known to the State to cause cancer and reproductive toxicity more than twenty (20) months prior to the date of this notice, and therefore as of the time of this notice, each of the Covered Chemicals is fully subject to the warning requirement and discharge prohibition of Proposition 65. *See Cal. Health & Safety Code* §§ 25249.9, 25249.10; *Cal. Code Regs.*, tit. 27 § 27000(b), (c).

Covered Chemicals

The Covered Chemicals are listed below:

CARCINOGENS

Acetaldehyde	Acrylonitrile
Arsenic (inorganic arsenic compounds)	Asbestos
Benza[a]anthracene	Benzene
Benzo[a]pyrene	Benzo[b]fluoranthene
Benzo[j]fluoranthene	Benzo[k]fluoranthene
Beryllium and Beryllium Compounds	Bitumens, extracts of steam-refined and air-refined
1,3 Butadiene	Cadmium and Cadmium compounds
Carbazole	Chromium (hexavalent compounds)
Chrysene	Cobalt sulfate heptahydrate
Dibenz[a,h]anthracene	Dibenz[a,h]acridine
Dibenz[a,j]acridine	7H–Dibenzo[c,g]carbazole
Dibenzo[a,e]pyrene	Dibenzo[a,h]pyrene
Dibenzo[a,i]pyrene	Dibenzo[a,l]pyrene
Dichloromethane (Methylene Chloride)	Diesel engine exhaust
1, 1–Dimethylhydrazine (UDMH)	Ethylbenzene
Formaldehyde (gas)	Hydrazine
Indeno[1,2,3,s–cd]pyrene	Lead and Lead Compounds
3–Methylcholanthrene	5–Methylchrysene
Naphthalene	Nickel and Certain Nickel Compounds
2–Nitropropane	N–Nitrosodiethanolamine
N–Nitrosodiethylamine	N–Nitrosodimethylamine
4–(N–Nitrosomethylamino)–1–(3–pyridyl)1–butanone	N–Nitrosomorpholine
N–Nitrosonornicotine	N–Nitrosopyrrolidine
Quinoline and its strong acid salts	Silica, Crystalline (airborne particles of respirable size)
Soots, tars and mineral oils (untreated and mildly treated oils and used engine oils)	Tetrachloroethylene (Perchloroethylene)
ortho–Toluidine	Trichloroethylene
Urethane (Ethyl carbamate)	

REPRODUCTIVE TOXINS

Arsenic (inorganic oxides)	Benzene
Cadmium	Carbon Disulfide
Carbon Monoxide	Lead
Mercury and Mercury Compounds	Methyl Chloride
Toluene	

The Governor of California added each of the above-listed Covered Chemicals to the list of chemicals known to cause cancer or reproductive toxicity more than twenty (20) months prior to the date of this notice. *See Cal. Code Regs.*, tit. 27 § 27000(b), (c). Accordingly, each of the above-listed Covered Chemicals is fully subject to Proposition 65 warning requirement and discharge prohibition. *See Cal.*

Health & Safety Code §§ 25249.9, 25249.10.

Period of Violations

CAG is informed and believes the violations addressed within this notice occurred each day between **August 24, 2007** and **August 31, 2010,** in which Violators' Gasoline and Diesel Engine Rental Vehicles were operated on and off Violators' premises and in the course of Violators' business and produced exhaust. CAG is informed and believes that these violations are ongoing to the present and shall continue each day thereafter.

Environmental Exposure

This notice addresses Environmental Exposures. As mentioned above, an 'environmental exposure' is an exposure which may foreseeably occur as the result of contact with an environmental medium, including, but not limited to, ambient air, indoor air, drinking water, standing water, running water, soil, vegetation, or manmade or natural substances, either through inhalation, ingestion, skin contact, or otherwise. Environmental exposures include all exposures which are not consumer products exposures, or occupational exposures." *Cal. Code Regs.*, tit. 27 § 25602(c).

During the period referenced above, Violators violated Proposition 65 by exposing persons (including, but not limited to customers, prospective customers, Violators' employees, and employees of others who came on to Violators' rental truck locations for business and non-business purposes) to the Covered Chemicals in Exhaust from Gasoline and Diesel Engine Vehicles without first giving clear and reasonable warnings in compliance with Proposition 65. When Violators' Gasoline and Diesel Engine Rental Vehicles, especially the trucks, are driven, Exhaust from Gasoline and Diesel Engine Vehicles is expelled into the surrounding areas, including confined spaces such as the interior of the rental vehicle and nearby buildings, including but not limited to rental sales offices in immediate proximity to the areas where Gasoline and Diesel Rental Vehicles are driven/and or stored. Violators' customers, prospective customers, Violators' employees, and employees of others who came on to Violators' rental car locations for business and non-business purposes were and are exposed when they come into contact with and inhaled air containing Exhaust from Gasoline and Diesel Engine Vehicles, and thus containing the Covered Chemicals, that exists in the confined spaces within Violators' rental car fleet and rental car locations near where rental vehicles are driven/and or stored, such as those in parking lots or surrounded by the rental fleet. Exposed persons include Violators' customers, prospective customers, Violators' employees (including, but not limited to mechanics, maintenance workers, service technicians, sales office workers, rental fleet lot attendants, and drivers), and employees of others who came on to Violators' rental car locations for business and non-business purposes. The locations of exposure occurred inside the vehicles rented to the public by Violators and within structures near rental vehicle parking and driving areas at Violators' rental truck locations. Environmental Exposures also occurred beyond the real property owned or controlled by Violators, but inside the trucks and vans rented by Violators to the public.

Occupational Exposure

This notice addresses Occupational Exposures. "Occupational exposure' means an exposure to any employee in his or her employer's workplace." *Cal. Code Regs.*, tit. 27 § 25602(f).

This notice alleges violations 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 (a) the conduct of manufacturers occurring outside the State of California; and (b) employers with less than 10 employees. The approval also provides that an employer may use any means of compliance in the general hazard communication requirements to

comply with Proposition 65. It also requires that supplemental enforcement be 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.

Violators are truck rental companies operating in California. During the period referenced above, Violators violated Proposition 65 by exposing its employees (including, but not limited mechanics, maintenance workers, service technicians, sales office workers, rental fleet lot attendants, and drivers at Violators' rental car locations) to the Covered Chemicals motor vehicle and car exhaust without first giving clear and reasonable warnings in compliance with Proposition 65 of such. Violators' employees were exposed to the Covered Chemicals contained in motor vehicle and car exhaust as they came into contact and inhaled air containing Exhaust from Gasoline and Diesel Engine Vehicles, and thus containing the Covered Chemicals, that exists in the confined spaces within Violators' truck rental fleet and truck rental locations near where rental vehicles are driven/and or stored, such as those in parking lots or surrounded by the rental fleet, in the process of cleaning, vacuuming, aerating, and otherwise preparing the vehicles for the next consumer, and in the process of driving vehicles from one location to another, and inspecting and showing vehicles to consumers prior to rental and upon return. Since Violators were and are employers, and the vehicles were and are the property of Violators, Violators have caused and are causing "Occupational Exposure[s]" during the referenced period. The general locations of the unlawful occupational exposures occurred at the areas owned or controlled by Violators where Violators' employees tended to the task of cleaning vehicles, inspecting vehicles, driving vehicles, and being near vehicles, as well as within the Gasoline and Diesel Engine Rental Vehicles owned by Violators.

Route of Exposure

The routes of exposure for the violations were and are inhalation, dermal contact, and skin absorption when the Exhaust from Gasoline and Diesel Engine Vehicles containing the Covered Chemicals is released into the air and becomes available for inhalation and dermal contact (especially as it accumulates in the confined spaces set out above), as well as when the residual Exhaust from Gasoline and Diesel Engine Vehicles containing the Covered Chemicals then accumulates on various surfaces inside the vehicle, including but not limited to upholstery, dashboard, armrest, and fabric, or on the individual exposed, or in structures near to the areas where the rental vehicles are driven/and or stored. When affected persons breathed in the air containing Exhaust from Gasoline and Diesel Engine Vehicles, they were exposed to the Covered Chemicals via their mouths, throats, bronchi, esophagi, and lungs. Exposure of the Covered Chemicals generates risks of cancer and reproductive toxicity to the affected persons.

For further clarification, below is a summary of all the Violations of Proposition 65 addressed by this notice:

- Second Hand Smoke (or Environmental Tobacco Smoke) contains several chemicals known to the State of California to cause cancer, reproductive toxicity or both.
- By allowing persons to smoke cigarettes and other tobacco products in their vehicles, rented from locations listed in Exhibited A, without providing clear and reasonable warnings to exposed persons, violators caused Environmental Exposure as well as Occupational Exposure.
- Persons sustained exposure to Second Hand Smoke through inhalation, dermal contact, and skin absorption when tobacco smoke condensates accumulated on various surfaces, including but not limited to upholstery, dashboard, armrest, fabric, and other surfaces in the vehicles.

- Diesel Engine Exhaust also contains several chemicals known to the State of California to cause cancer, reproductive toxicity, or both.
- When Violators' Gasoline and Diesel Engine Rental Vehicles, especially the trucks, are driven, Exhaust from Gasoline and Diesel Engine Vehicles is expelled into the surrounding areas, including confined spaces such as the interior of the rental vehicle and nearby buildings, including but not limited to rental sales offices in immediate proximity to the areas where Gasoline and Diesel Rental Vehicles are driven/and or stored.
- By exposing persons to the Covered Chemicals in Exhaust from Gasoline and Diesel Engine Vehicles without first giving clear and reasonable warnings, Violators caused Environmental Exposure as well as Occupational Exposure.
- Persons sustained exposure to Diesel Engine Exhaust by inhalation, dermal contact, and skin absorption when the Exhaust from Gasoline and Diesel Engine Vehicles containing the Covered Chemicals was released into the air and become available for inhalation and dermal contact, (especially as it accumulates in the confined spaces set out above), as well as when the residual Exhaust from Gasoline and Diesel Engine Vehicles containing the Covered Chemicals then accumulated on various surfaces inside the vehicle.
- The locations where these exposures took place included, without limitation, the "Penske Truck" locations specified in the attached Exhibit A.
- The period of Violations was and is August 24, 2007, through August 31, 2010, and continuing thereafter.

Proposition 65 requires that notice and intent to sue be given to the violators(s) sixty (60) days before the suit is filed. *Cal. Health & Safety Code* § 252549.7(d)(1). With this letter, CAG gives notice of the alleged violations to Violators and the appropriate governmental authorities. In absence of any action by the appropriate governmental authorities within sixty (60) calendar days of the sending of this notice (plus five (5) calendar days because the place of address and the place of mailing is within the State of California OR plus ten (10) calendar days because the place of address is outside the State of California but within the United States), CAG may file suit. *See Cal. Health & Safety Code* § 25249.7(d)(1); *Cal. Code Regs.* 27 § 25903(d)(1); and *Cal. Code Civ. Proc.* § 1013.

This notice covers all violations of Proposition 65 currently known to Consumer Advocacy Group, Inc. from information now available to it. With the copy of this notice submitted to the Violators, a copy of the following is attached: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.

YEROUSHALMI & ASSOCIATES

Dated: 12/16/10

By:

Reuben Yeroushalmi,
Attorney for Consumer Advocacy Group, Inc.

Exhibit A

"Penske Truck Rental" Locations Where the Violations Took Place

1. "Penske Truck Rental," 15050 Northam St., La Mirada, CA 90638
2. "Penske Truck Rental," 19664 S. Figueroa St., Carson, CA 90745
3. "Penske Truck Rental," 1500 S. Greenwood Ave., Montebello, CA 90640

Consumer Advocacy Group, Inc. is informed and believes that these are only some of the locations where these violations have taken place. The list is not exhaustive.

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION
AGENCY

THE SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACTION 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violators of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations(see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, Sections 25000 through 27000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 735 chemicals listings have been included as of November 1, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must:(1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other

reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply If the discharger is able to demonstrate that a "significant amount" of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys(those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations(Title 27, California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to $2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's
Proposition 65 Implementation Office at (916) 445-6900.

§27000. Chemicals Required by State or Federal Law to Have been Tested for Potential to Cause Cancer or Reproductive Toxicity, but Which Have Not Been Adequately Tested As Required.

(a) The Safe Drinking Water and Toxic Enforcement Act of 1986 requires the Governor to publish a list of chemicals formally required by state or federal agencies to have testing for carcinogenicity or reproductive toxicity, but that the state's qualified experts have not found to have been adequately tested as required [Health and Safety Code 25249.8)c)].

Readers should note a chemical that already has been designated as known to the state to cause cancer or reproductive toxicity is not included in the following listing as requiring additional testing for that particular toxicological endpoint. However, the "data gap" may continue to exist, for purposes of the state or federal agency's requirements. Additional information on the requirements for testing may be obtained from the specific agency identified below.

(b) Chemicals required to be tested by the California Department of Pesticide Regulation.

The Birth Defect Prevention Act of 1984(SB 950) mandates that the California Department of Pesticide Regulation (CDPR) review chronic toxicology studies supporting the registration of pesticidal active ingredients.

Violations of Proposition 65 concerning: (1) Second-Hand Tobacco Smoke / Environmental Tobacco Smoke exposures, and (2) Diesel Engine Exhaust exposures taking place in the business operations of "Penske Truck Rental," owned and operated by Penske Truck Leasing Co., L.P. a wholly owned subsidiary of Penske Corporation

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Reuben Yeroushalmi, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) 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.

3. I have consulted with at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the 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 plaintiffs' 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 the information identified in Health and 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: 12/16/10

By: REUBEN YEROUSHALMI

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 9100 Wilshire Blvd., Ste. 610 E, Beverly Hills, CA 90212.

On the date below, I SERVED THE FOLLOWING:

1) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6
2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
3) Certificate of Merit (Attorney General Copy): Factual information sufficient to establish the basis of the certificate of merit (*only sent to Attorney General*)
4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

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Alleged Violators

Roger Penske, President or
Current President/ CEO
Penske Truck Leasing Co., L.P.
Rt. 10 Green Hills
Reading, PA 19607

Roger Penske, President or
Current President/ CEO
Penske Corporation
2555 Telegraph Road
Bloomfield Hills, MI 48302

And the public prosecutors listed on the Distribution List, below.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By: _____
Alan J. Cooper

Date of Mailing: 12-27-2010 Place of Mailing: Beverly Hills, CA

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