# 60-DAY NOTICE OF VIOLATION

*SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)*

**DATE:** January 19, 2011

**TO:** Stephen Ascik, Vice President – Stylemark, Inc.
Stephen Ascik, Vice President – Riviera Trading
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

**FROM:** Anthony E. Held, Ph.D., P.E.

## I. INTRODUCTION

My name is Anthony E. Held, Ph.D., P.E. I hold a Doctor of Philosophy degree in Environmental Engineering and I am a registered professional engineer in the State of California. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the violators, Stylemark, Inc. and Riviera Trading (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

| | |
|---|---|
| Product Exposure: | See Section V. Exhibit A |
| Listed Chemical: | Di(2-ethylhexyl)phthalate ("DEHP") |
| Routes of Exposure: | Ingestion, Dermal, Inhalation |
| Types of Harm: | Birth Defects and Other Reproductive Harm |

## II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer and occupational exposures in violation of Proposition 65, and that are covered by this Notice, are listed under "Product Category/Type" in Exhibit A in Section V below. All products within the types covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating as far back as January 19, 2008 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposure to the listed chemical, resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. Infants, children and/or women of childbearing age ingest the listed chemical when they, among other activities, place the product, or a portion thereof, into their mouth, or otherwise suck, lick, teethe and/or bite the product thereby allowing the listed chemical to leach out of the substrate directly into their mouths. Infants, children and/or women of childbearing age ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. Infants, children and/or women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products. Infants, children and/or women of childbearing age inhale the listed chemical when, among other activities, they breathe indoor air with airborne particles that are released from the products containing the listed chemical.

## III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Anthony E. Held, Ph.D., P.E.
c/o Clifford A. Chanler
The Chanler Group
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710
Telephone: (510) 848-8880

## IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

## V. EXHIBIT A

| *Product Category/Type* | *Such As* | *Toxins* |
|---|---|---|
| Wallets and other coin or bill holders containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |
| Belts containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |
| Footwear containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |

## V. EXHIBIT A (continued)

| *Product Category/Type* | *Such As* | *Toxins* |
|---|---|---|
| Apparel, including gloves and headwear (and excluding sauna suits) containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |
| Jewelry containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |
| Key holders, keychains and key caps containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |
| Bag charms and zipper pulls containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |
| Eyeglass cases containing Di(2-ethylhexyl)phthalate | | Di(2-ethylhexyl)phthalate |

# PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On January 19, 2011, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**

**PROPOSITION 65: A SUMMARY;**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)**

on the Violator listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to such Violator and providing such envelope to a United States Postal Service Representative:

Stephen Ascik, Vice President
Stylemark, Inc./Riviera Trading
180 Madison Avenue, Floor 21
New York, NY 10016

on counsel for such Violator listed below via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to such person and providing such envelope to a United States Postal Service Representative:

James R. Maxwell
Rogers Joseph O'Donnell
311 California Street, 10th Floor
San Francisco, CA 94104

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

| | |
|---|---|
| *Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:* | The Attorney General of the State of California; |
| *By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:* | The District Attorney for Each of the 58 counties in California; and<br><br>The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento |

*A list of addresses for each of these recipients is attached.*

Executed on January 19, 2011, at Berkeley, California.

Eleanor Chen-Ranstrom

# CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, 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 and Safety Code §25249.6 by failing to provide clear and reasonable warnings;

2. I am the attorney for the noticing party;

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 this 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 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 this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and 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).

Dated: January 19, 2011

Clifford A. Chanler

# Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040