The Carrick Law Group P.C.
350 South Grand Avenue, Suite 2930
Los Angeles, California 90071

February 1, 2011

NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(California Health and Safety Code § 25249.5 *et seq.*)

First Class Mail-Proof of Service Attached

Circle City Marketing and Distribution of Indianapolis
dba Candy Dynamics
Current President/CEO/General Counsel
PO Box 78541
Indianapolis, IN 46278

Re: Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

Dear Sir or Madam:

This firm represents Vicky Hamilton (the "Noticing Party") in connection with this notice of violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986, codified at Health & Safety Code ("H&S Code") § 25249.5 *et seq.* (also referred to as "Proposition 65").

Attached as Exhibit A to this Notice is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary." The attached Summary was prepared by the California Environmental Protection Agency and provides general information about the Safe Drinking Water and Toxic Enforcement Act of 1986. Copies of the Summary are not required to be, and are not being, provided to the public enforcement agencies.

A description of the Noticing Party, the Alleged Violator, and the Alleged Violations Addressed by this Notice follows:

- This Notice is provided by Vicky Hamilton. Ms. Hamilton is an individual who resides in Los Angeles County in California. Ms. Hamilton is acting in the public interest pursuant to H&S Code § 25249.7(d), and is acting to protect the environment, improve human health, and support environmentally sound practices.
- The Noticed Company's name and address is:

  Circle City Marketing and Distribution of Indianapolis dba Candy Dynamics
  Current President/CEO/General Counsel
  PO Box 78541
  Indianapolis, IN 46278

- The violations addressed by this Notice began on or after May 1, 2009, have occurred on numerous occasions each and every day since May 1, 2009, and are ongoing and continuing.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at H&S Code § 25249.6.

- **Listed Chemicals.** The names of each chemical that is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 involved in the violations addressed by this Notice are Lead (listed as a Proposition 65 reproductive toxin on February 27, 1987); and Lead and Lead compounds (listed as a Proposition 65 carcinogen on October 1, 1992) (the "Listed Chemicals"). The Listed Chemicals are listed (and have been so listed for more than twelve months) by the Governor of the State of California as being a chemical known to the State of California to cause cancer and/or reproductive toxicity.

- **Route of Exposure.** The routes of exposure for the violations addressed by this Notice result from the purchase, acquisition, handling and recommended use of these products by consumers. Accordingly, consumer exposures have occurred and continue to occur primarily through the ingestion route of exposure, but also may occur through the inhalation and/or dermal contact routes of exposure.

  These exposures are ongoing and continuing, with some continuing from May 1, 2009. The Noticing Party believes and so alleges that CIRCLE CITY MARKETING AND DISTRIBUTION OF INDIANAPOLIS DBA CANDY DYNAMICS (hereafter "CANDY DYNAMICS") tolled any applicable statute of limitations by failing at any time in the past to disclose the presence of the Listed Chemical in their Product(s) to those individuals to whom the Noticing Party owed a warning when those individuals purchased the Product(s) in retail stores or over the Internet where the Company's Products are sold for consumer use in California. The labels on these Product(s) do not include any warning that would meet the definition of a warning, or otherwise comply with, Title 27 CCR §§ 25601 to 25603.3, inclusive.

- **Consumer Products.** The type of consumer products causing the exposures addressed by this Notice are consumer food products ("Products") manufactured and/or distributed by the Noticed Company, including but not limited to the following illustrative Product(s):

  Toxic Waste® Nuclear Sludge® Cherry Chew Bar (UPC 0 89894 81430 6), Toxic Waste® Nuclear Sludge® Sour Apple Chew Bar (UPC 0 10684 81410 7), and Toxic Waste® Nuclear Sludge® Blue Raspberry Chew Bar (UPC 0 89894 81420 7). Each chew bar has a net wt. of 0.7 oz (20 g)

  Toxic Waste® Nuclear Sludge® Cherry (UPC 0 89894 81901 1), Toxic Waste® Nuclear Sludge® Green Apple (UPC 0 89894 81701 7), and Toxic Waste® Nuclear Sludge® Blue Raspberry (UPC 0 89894 81801 4). Each individual piece has a net wt. of 0.3 oz (8 g) and were sold individually, as part of a 'Party Bag' or Membership kit, and packed in 30 ct., 80 ct., and 120 ct. bags and a 120 ct. fishbowl.

- **Duration of Violations.** There are numerous sources of the exposures addressed in this Notice. On information and belief, these exposures occur in homes, the workplace, and everywhere else in California where these Products are used. These exposures occur principally off the property of the Noticed Company.

- In the course of doing business, CANDY DYNAMICS knowingly and intentionally has exposed, and continues to expose, individuals to the Listed Chemicals in the Products. No clear and reasonable warning is or has been provided by CANDY DYNAMICS to individuals regarding exposure to the Listed Chemicals or regarding the fact that the Listed Chemicals are substances known to the State of California to cause cancer or reproductive toxicity.

Please direct any inquiries regarding this notice or any communication for the noticing party, Vicky Hamilton to:

Roger Lane Carrick, Esq.
The Carrick Law Group, P.C.
350 S. Grand Avenue, Suite 2930
Los Angeles, CA 90071
Tel.: (213) 346-7930
Fax: (213) 346-7931
E-mail: roger@carricklawgroup.com

CERTIFICATE OF MERIT

HEALTH AND SAFETY CODE SECTION 25249.7(d)

I, Roger Lane Carrick, on behalf of Vicky Hamilton hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged that the party identified in the notice have violated California 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 one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical(s) that is the subject of this action.

4. Based upon the information obtained through those consultations, and 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 private action" means that the information provides a credible basis that all the elements of the plaintiffs' 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 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 24249.7(h)(2), *i.e.*, (1) the identity of the person consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: February 1, 2011

ROGER LANE CARRICK
THE CARRICK LAW GROUP, P.C.
ATTORNEYS FOR VICKY HAMILTON

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 350 S. Grand Avenue, Suite 2930, Los Angeles, CA 90071-3406.

On February 1, 2011, I served copies of the documents listed immediately hereafter by first class mail by placing same in sealed envelopes, fully preparing postage thereon, and depositing said envelopes in the U.S. Mail at Los Angeles, California. Said envelopes were addressed as follows:

Circle City Marketing and Distribution of
Indianapolis dba Candy Dynamics
Current President/CEO/General Counsel
PO Box 78541
Indianapolis, IN 46278

Documents mailed:

1. **NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (California Health and Safety Code § 25249.5 et seq.)**

2. **EXHIBIT A - THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (Government Entities excluded)**

3. **CERTIFICATE OF MERIT – (attachments only sent to California Attorney General's Office)**

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed on February 1, 2011, at Los Angeles, California.

Kimberly A.K. Burgo

DISTRIBUTION LIST – GOVERNMENT ENTITIES
***VIA FIRST CLASS U.S. MAIL* – Documents on CD-Rom Mailed:**
(1) 60-Day Notice of Violation; (2) Certificate of Merit (w/atts. AG's office only); and (3) Certificate of Service

	CALIFORNIA ATTORNEY GENERAL CA Department of Justice **PROP. 65 ENFORCEMENT REPORTING** Attn: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Post Office Box 70550 Oakland, CA 94612-0550	
Los Angeles City Attorney's Office 800 City Hall East 200 North Main Street Los Angeles, CA 90012	San Diego City Attorney's Office Civic Center Plaza 1200 Third Avenue, 3rd Floor San Diego, CA 92101	San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Calton B. Goodlett Place San Francisco, CA 94102-4682
San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113-1905	Office of the District Attorney of Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	Office of the District Attorney of Alpine County P.O. Box 248 Markleeville, CA 96120
Office of the District Attorney of Amador County 708 Court Street, Room 202 Jackson, CA 95642	Office of the District Attorney of Butte County Administration Building 25 County Center Drive Oroville, CA 95965	Office of the District Attorney of Calaveras County County Government Center 891 Mountain Ranch Road San Andreas, CA 95249
Office of the District Attorney of Colusa County 346 5th Street, Suite 101 Colusa, CA 95932	Office of the District Attorney of Contra Costa County 900 Ward Street Martinez, CA 94553	Office of the District Attorney of Del Norte County County Courthouse 450 H Street, Suite 171 Crescent City, CA 95531
Office of the District Attorney of El Dorado County 515 Main Street Placerville, CA 95667	Office of the District Attorney of Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	Office of the District Attorney of Glenn County P.O. Box 430 Willows, CA 95988
Office of the District Attorney of Humboldt County 825 Fifth Street Eureka, CA 95501	Office of the District Attorney of Imperial County 940 West Main Street, Suite 102 El Centro, CA 92243	Office of the District Attorney of Inyo County P.O. Drawer D Independence, CA 93526
Office of the District Attorney of Kern County 1215 Truxtun Avenue, 4th Floor Bakersfield, CA 93301	Office of the District Attorney of Kings County Government Center 1400 West Lacey Boulevard Hanford, CA 93230	Office of the District Attorney of Lake County 255 North Forbes Street, Suite 424 Lakeport, CA 95453

Office of the District Attorney of Lassen County County Courthouse 220 South Lassen Street, Suite 8 Susanville, CA 96130	Office of the District Attorney of Los Angeles County 18000 Criminal Courts Building 210 West Temple Street Los Angeles, CA 90012	Office of the District Attorney of Madera County 209 West Yosemite Avenue Madera, CA 93637
Office of the District Attorney of Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	Office of the District Attorney of Mariposa County P.O. Box 730 Mariposa, CA 95338	Office of the District Attorney of Mendocino County County Courthouse P.O. Box 1000 Ukiah, CA 95482
Office of the District Attorney of Merced County 2222 "M" Street Merced, CA 95340	Office of the District Attorney of Modoc County County Courthouse 204 South Court Street, Room 202 Alturas, CA 96101	Office of the District Attorney of Mono County County Courthouse P.O. Box 617 Bridgeport, CA 93546
Office of the District Attorney of Monterey County PO Box 1131 Salinas, CA 93902	Office of the District Attorney of Napa County PO Box 720 Napa, CA 94559	Office of the District Attorney of Nevada County Courthouse Annex 110 Union Street Nevada City, CA 95959
Office of the District Attorney of Orange County 401 Civic Center Drive West Santa Ana, CA 92701	Office of the District Attorney of Placer County 10810 Justice Center Drive Roseville, CA 95678	Office of the District Attorney of Plumas County 520 Main Street, Room 404 Quincy, CA 95971
Office of the District Attorney of Riverside County 3660 Orange Street Riverside, CA 92501	Office of the District Attorney of Sacramento County 901 "G" Street Sacramento, CA 95812	Office of the District Attorney of San Benito County 419 4th Street, 2nd Floor Hollister, CA 95023-3801
Office of the District Attorney of San Bernardino County 303 W. Third Street San Bernardino, CA 92415	Office of the District Attorney of San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	Office of the District Attorney of San Francisco County Hall of Justice 880 Bryant Street, Room 325 San Francisco, CA 94103
Office of the District Attorney of San Joaquin County P.O. Box 990 Stockton, CA 95202	Office of the District Attorney of San Luis Obispo County County Government Center, 4th Floor San Luis Obispo, CA 93408	Office of the District Attorney of San Mateo County 400 County Center, 3rd Floor Redwood City, CA 94063
Office of the District Attorney of Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	Office of the District Attorney of Santa Clara County 70 West Hedding Street, West Wing San Jose, CA 95110	Office of the District Attorney of Santa Cruz County 701 Ocean Street, Suite 200 Santa Cruz, CA 95060
Office of the District Attorney of Shasta County 1355 West Street Redding, CA 96001	Office of the District Attorney of Sierra County County Courthouse 100 Courthouse Square Downieville, CA 95936	Office of the District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097

Office of the District Attorney of Solano County 675 Texas Street, Suite 4500 Fairfield, CA 94533	Office of the District Attorney of Sonoma County Hall of Justice 600 Administration Drive, Room 212-J Santa Rosa, CA 95403	Office of the District Attorney of Stanislaus County 832 12th Street, Suite 300 Modesto, CA 95354
Office of the District Attorney of Sutter County 446 Second Street Yuba City, CA 95992	Office of the District Attorney of Tehama County County Courthouse P.O. Box 519 Red Bluff, CA 96080-0519	Office of the District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093
Office of the District Attorney of Tulare County County Civic Center 221 S. Mooney Boulevard, Room 224 Visalia, CA 93291	Office of the District Attorney of Tuolumne County 423 North Washington Street Sonora, CA 95370	Office of the District Attorney of Ventura County 800 South Victoria Avenue, Rm. 314 Ventura, CA 93009
Office of the District Attorney of Yolo County 301 Second Street Woodland, CA 95695	Office of the District Attorney of Yuba County County Courthouse 215 Fifth Street, Suite 152 Marysville, CA 95901	