

60-DAY NOTICE OF VIOLATION

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

DATE: February 24, 2011

TO: Mark Fishman, President – Fishman and Tobin Inc.
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. 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 violator, Fishman and Tobin Inc. (the "Violator"). 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 VII. Exhibit A
Listed Chemical: Di(2-ethylhexyl)phthalate ("DEHP")
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the type covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating as far back as February 24, 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. By way of example but not limitation, exposures occur when infants and children 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. These activities cause infants and children to be exposed directly through migration of the listed chemical from the products. In addition, exposures occur through direct dermal contact with the products, and may continue to occur for a significant period after dermal contact with the products stops. People likely to be dermally exposed are children and women of childbearing age.

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 Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the DEHP exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violator is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (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 this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator and other distributors and retailers of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Nautica Flip Flops, #20B32X, HT1623 (#0 48283 15614 4)	Nautica Santa Clara County, Northern California	Fishman and Tobin Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Footwear containing Di(2-ethylhexyl)phthalate	Nautica Flip Flops, #20B32X, HT1623 (#0 48283 15614 4)	Di(2-ethylhexyl)phthalate

*The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

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 February 24, 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 each envelope to a United States Postal Service Representative:

Mark Fishman, President
Fishman and Tobin Inc.
4000 Chemical Road, Suite 500
Plymouth Meeting, PA 19462

Mark Fishman, President
Fishman and Tobin Inc.
625 West Ridge Pike, Suite E320
Conshohocken, PA 19428

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:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and 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 February 24, 2011 at Berkeley, California.



Eleanor Chen-Ranstrom

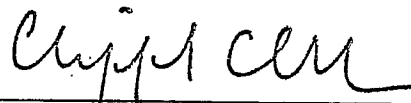
CERTIFICATE OF MERIT

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 party identified in the notice has 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 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 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: February 24, 2011



Clifford A. Chanler

SERVICE LIST

- The Honorable Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612
- The Honorable Robert Burns
Lassen County District Attorney
220 S. Lassen Street, Ste. 8
Susanville, CA 96130
- The Honorable Candice Hooper-Mancino
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203
- The Honorable Gregg Cohen
Tehama County District Attorney
PO BOX 519
Red Bluff, CA 96080
- The Honorable Terese Drabec
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120
- The Honorable Steve Cooley
Los Angeles County District Attorney
210 West Temple Street, Suite 18000
Los Angeles, CA 90012
- The Honorable Michael Ramos
San Bernardino County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415
- The Honorable Michael B. Harper
Trinity County District Attorney
PO Box 310
Weaverville, CA 96093
- The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642
- The Honorable Michael Keitz
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637
- The Honorable Bonnie Dumanis
San Diego County District Attorney
330 W. Broadway Street
San Diego, CA 92101
- The Honorable Phillip Cline
Tulare County District Attorney
423 South Mooney Boulevard, Suite 224
Visalia, CA 93291
- The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive
Oroville, CA 95965
- The Honorable Edward Berberian
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903
- The Honorable George Gascon
San Francisco County District Attorney
850 Bryant Street, Room 322
San Francisco, CA 94103
- The Honorable Donald Segerstrom, Jr
Tuolumne County District Attorney
221 North Washington Street
Sonora, CA 95370
- The Honorable Barbara Yook
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249
- The Honorable Robert Brown
Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338
- The Honorable James Willett
San Joaquin County District Attorney
P.O. Box 990
Stockton, CA 95201
- The Honorable Gregory Totten
Ventura County District Attorney
800 South Victoria Avenue
Ventura, CA 93009
- The Honorable John R. Poyner
Colusa County District Attorney
547 Market Street, Suite 102
Colusa, CA 95932
- The Honorable C. David Eyster
Mendocino County District Attorney
P.O. Box 1000
Ukiah, CA 95482
- The Honorable Gerald Shea
San Luis Obispo County District Attorney
1035 Palm Street
San Luis Obispo, CA 93408
- The Honorable Jeff Reising
Yolo County District Attorney
301 Second Street
Woodland, CA 95955
- The Honorable Mark Peterson
Contra Costa County District Attorney
725 Court Street, Fourth Floor
Martinez, CA 94553
- The Honorable Larry Morse II
Merced County District Attorney
2222 M Street
Merced, CA 95340
- The Honorable Stephen Wagstaffe
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063
- The Honorable Patrick McGrath
Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901
- The Honorable Jon Alexander
Del Norte County District Attorney
450 H Street, Room 171
Crescent City, CA 95531
- The Honorable Christopher Brooke
Modoc County District Attorney
204 S. Court Street, Room 202
Alturas, CA 96101
- The Honorable Joyce Dudley
Santa Barbara County District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101
- The Honorable Carmen Trutanich
Office of the City Attorney, Los Angeles
200 North Main Street
Los Angeles, CA 90012
- The Honorable Vernon Pierson
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667
- The Honorable George Booth
Mono County District Attorney
P.O. Box 617
Bridgeport, CA 93517
- The Honorable Jeffrey Rosen
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110
- The Honorable Jan Goldsmith
Office of the City Attorney, San Diego
1200 Third Avenue, Suite 1620
San Diego, CA 92101
- The Honorable Elizabeth Egan
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721
- The Honorable Dean Filippo
Monterey County District Attorney
P.O. Box 1131
Salinas, CA 93902
- The Honorable Bob Lee
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060
- The Honorable Eileen M. Teichert
Sacramento, CA 95812
- The Honorable Robert Maloney
Glenn County District Attorney
P.O. Box 430
Willows, CA 95988
- The Honorable Gary Lieberstein
Napa County District Attorney
P.O. Box 720
Napa, CA 94559
- The Honorable Stephen Carlton
Shasta County District Attorney
1525 Court Street, Third Floor
Redding, CA 96001
- The Honorable Dennis J. Herrera
Office of the City Attorney, San Francisco
City Hall, Room 234
San Francisco, CA 94102
- The Honorable Paul Gallegos
Humboldt County District Attorney
825 5th Street
Eureka, CA 95501
- The Honorable Clifford Newell
Nevada County District Attorney
110 Union Street
Nevada City, CA 95959
- The Honorable Lawrence Allen
Sierra County District Attorney
100 Courthouse Square, Second Floor
Downieville, CA 95936
- The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113
- The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243
- The Honorable Tony Rackauckas
Orange County District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701
- The Honorable James Kirk Andrus
Siskiyou County District Attorney
P.O. Box 986
Yreka, CA 96097
- The Honorable Arthur Maillet
Inyo County District Attorney
P.O. Drawer D
Independence, CA 93526
- The Honorable Ronald Owens
Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678
- The Honorable David Paulson
Solano County District Attorney
675 Texas Street, Suite 4500
Fairfield, CA 94533
- The Honorable Lisa Green
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301
- The Honorable David Hollister
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971
- The Honorable Jill Ravitch
Sonoma County District Attorney
600 Administration Drive, Room 2122
Santa Rosa, CA 95403
- The Honorable Greg Strickland
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230
- The Honorable Paul Zellerbach
Riverside County District Attorney
3660 Orange Street
Riverside, CA 92501
- The Honorable Birgit Fladager
Stanislaus County District Attorney
832 12th Street, Suite 300
Modesto, CA 95354
- The Honorable Donald Anderson
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453
- The Honorable Jan Scully
Sacramento County District Attorney
901 G Street
Sacramento, CA 95814
- The Honorable Carl Adams
Sutter County District Attorney
446 Second Street
Yuba City, CA 95991