

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Cadmium in Jewelry

June 22, 2011

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, California, (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:

Banana Republic, LLC
2 Folsom St.
San Francisco, CA 94105

The Gap, Inc.
2 Folsom Street
San Francisco, CA 94105

Outlet Division Management Co., Inc.
450 Winks Lane
Bensalem, PA 19020

- Time Period of Exposure: The violations have been occurring since at least June 22, 2008, and are ongoing.
- 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 Involved: The name of the listed chemical involved in these violations is cadmium. Exposures to cadmium occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is jewelry.
- Description of Exposure: Use of the products identified in this Notice results in human exposures to cadmium. The jewelry is made of materials and components that contain cadmium. For example, the metallic components such as beads, pendants, clasps, posts and other parts of the jewelry contain cadmium. The routes of exposure for the violations are ingestion via hand-to-mouth contact after consumers touch or handle the products; direct ingestion when consumers place the products in their

mouths; and dermal absorption directly through the skin when consumers touch, handle or wear the products. These exposures occur in homes, workplaces and everywhere else throughout California where these products are worn, handled or used. No clear and reasonable warning is provided with these products regarding the reproductive hazards of cadmium. CEH has issued thirteen other Notices of Violation regarding cadmium in jewelry, and those notices, which may be found on the California Attorney General's web site at <http://proposition65.doj.ca.gov/>, are incorporated herein by reference.

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 alleged violator enters into a binding written agreement to remedy the violations alleged herein by: (1) recalling products already sold; (2) reformulating such products to eliminate the cadmium exposure or taking appropriate measures to otherwise comply with Proposition 65; and (3) paying 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 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, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

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.

June 22, 2011



Howard Hirsch
Attorney for the CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. 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.

On June 22, 2011, 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 11:20 a.m. on June 22, 2011:

Lon Wixson, Deputy District
Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
lwixson@contracostada.org

Karyn Sinunu-Towery,
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Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Birgit Fladager, District Attorney
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832 12th Street, Ste. 300
Modesto, CA 95354
Prop65@standa.org

Gary Lieberstein, District Attorney
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931 Parkway Mall
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CEPD@countyofnapa.org

Dije Ndreu, Deputy District Attorney
Monterey County
230 Church Street, Bldg. 2
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Prop65DA@co.monterey.ca.us

Stephan R. Passalacqua, District Attorney
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600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403
jbarnes@sonoma-county.org

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Visalia, CA 93291
Prop65@co.tulare.ca.us


Gregory D. Totten, District Attorney Ventura
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800 South Victoria Avenue
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daspecialops@ventura.org

Rod Pacheco, District Attorney
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4075 Main Street
Riverside, CA 92501
Prop65@rivcoda.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 June 22, 2011, at San Francisco, California.

Signed: _____


Patrick Carey

SERVICE LIST

District Attorney of Alameda
County
1225 Fallon Street, Rm. 900
Oakland, CA 94612

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador
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708 Court Street, Ste. 202
Jackson, CA 95642

District Attorney of Butte County
Administration Building
25 County Center Drive
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District Attorney of Calaveras
County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Colusa
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547 Market Street, Ste. 102
Colusa, CA 95932

District Attorney of Del Norte
County
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Crescent City, CA 95531

District Attorney of El Dorado
County
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California Attorney General's
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Attention: Proposition 65
Coordinator and Robert
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