60-Day Notice of Violation

SENT IN COMPLIANCE WITH CALIFORNIA HELATH & SAFTEY CODE §25249.7(d)

DATE: **September 20, 2011**

TO: PB&J Design, Inc. (dba Bombed), through its agent Porter C. McKinnon
Spencer Gifts, LLC, through its agent CT Corporation System
Spencer Gifts, LLC, through its President Steven Silverstein
California Attorney General's Office;
District Attorney's Office for the 58 Counties of California; and
The City Attorney's Office for the cities of San Francisco, San Diego, San Jose, Sacramento and Los Angeles.

FROM: Michael DiPirro

I. Introduction

My name is Michael DiPirro. I am an environmentalist, and as a citizen of the State of California, I am 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, PB&J Design, Inc. and Spencer Gifts, LLC (the "Violators"). The violations covered by this 60-Day 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:	Alcoholic beverages, when associated with alcohol abuse
Routes of Exposure:	Ingestion
Types of Harm:	Cancer

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 September 21, 2010, 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. Through the normal, foreseeable, and intended use of the products, California citizens are exposed to the listed chemical at a level that far exceeds the minimum exposure rate causing carcinogenicity.

Proof of Service

I, Michele Hazlewood, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, not a party to the within action, and my business address is 755 Baywood Drive, 2nd Floor, Petaluma, CA, 94954.

On September 20, 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;

Certification of Merit; and

Certificate of Merit Attachments (served only on the Attorney General)

on the Violators(s) 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 Violators and providing each envelope to a United States Postal Service Representative:

1) Porter C. McKinnon, 273 Canal Street, Suite 222, Shelton, CT 06484
2) C T Corporation System (c0168406), The Corporation Trust Company, 820 Bear Tavern Rd., 3rd Floor, West Trenton, NJ 08628
3) Steven Silverstein, 6826 Black Horse Pike, Egg Harbor Township, NJ 08234

I also am providing a copy of the 60 Day Notice and Certificate of Merit to pubic enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

Via Express Saver Service by placing such envelope in a Federal Express Drop-Off Box:	The Attorney General of the State of California-This party was also served the Certificate of Merit Attachment.
By placing each envelope in a United States Postal Service mailbox, postage prepaid:	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.

I swear under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed on September 20, 2011 at Petaluma, California.

M. Hazlewood

Michele Hazlewood

III. Contact Information

Please direct all questions concerning this 60-Day Notice to me through my counsel's office at the following address:

David R. Bush
Law Offices of Bush & Chaput
755 Baywood Drive, 2nd Floor
Petaluma, CA 94954
Phone: 707-658-4444
Fax: 707-676-4301

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. As required, and to assist the Violators in understanding their violations, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. Resolution of Notice Claims

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for all products sold in the future; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violators is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my attorneys 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 expires; nor (2) speak for the Attorney General or any District Attorney or City Attorney who receives this 60-Day 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 60-Day Notice. Based on publicly available information, I also provide you with the name(s) of the retailers, distributors and/or manufacturers of the exemplar product within the category or type of product. I believe and allege the sale of the offending product(s) 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 or via a catalog, by the Violators and other distributors and retailers of the manufacturer.

*Product**	*Retailer(s)*	*Manufacturer(s)/Distributor(s)*
Bombed Beer Pong (Serial #00502070); 18 Pack of Beer Pong balls (Serial #00965509); Wash Your Balls Reusable Beer Pong Cups with Balls (Serial #02223972)	Spencersonline.com Sonoma County, CA	PB&J Design, Inc.

VII. Exhibit A

Product Category/Type	*Such As**	*Toxins*
Alcohol drinking games and novelties	Bombed Beer Pong (Serial #00502070); 18 Pack of Beer Pong balls (Serial #00965509); Wash Your Balls Reusable Beer Pong Cups with Balls (Serial #02223972)	Alcoholic beverages, when associated with alcohol abuse

*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 the alleged Violators is obligated to continue to conduct in good faith an investigation into other specific products within the type of 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 the requisite toxic warnings were and are provided to California citizens prior to purchase.

Certificate of Merit

Health & Safety Code Section §25249.7(d)

I, David R. Bush, hereby declare:

1. This Certificate of Merit accompanies the attached 60-Day Notice in which it is alleged the party identified has violated Health & Safety Code Section §25249.7(d) by failing to provide clear and reasonable warnings to toxic exposures;

2. I am the attorney of record 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 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 the information relied upon provides a credible basis so that all elements of the plaintiff's case can be established. Further, it demonstrates a reasonable belief the alleged Violators will not be able to establish any of the affirmative defenses set forth in the relevant statute;

5. The Certificate of Merit Attachment served on the Attorney General includes 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 person(s) consulted and relied upon by the certifier, and (2) the facts, studies, or other data reviewed).

Dated: September 20, 2011

David R. Bush
Attorney for Plaintiff Enforcer
MICHAEL DiPIRRO

Service List (Page 1 of 4)

District Attorney, Alameda County
1225 Fallon Street, Room 900
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District Attorney, Alpine County
P.O. Box 248
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708 Court Street, #202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive
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District Attorney, Calaveras County
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San Andreas, CA 95249

District Attorney, Colusa County
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Colusa, CA 95932

District Attorney, Contra Costa County
725 Court Street
Martinez, CA 94553

District Attorney, Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney, El Dorado County
515 Main Street
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District Attorney, Fresno County
2220 Tulare Street, #1000
Fresno, CA 93721

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District Attorney, Humboldt County
825 5th Street
Eureka, CA 95501

District Attorney, Imperial County
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District Attorney, Inyo County
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Independence, CA 93526

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1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
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District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Rm 345
Los Angeles, CA 90012

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209 West Yosemite Avenue
Madera, CA 93637

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401 Civic Center Drive West
Santa Ana, CA 92701

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11562 "B" Avenue, Dewitt Center
Auburn, CA 95603

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, Riverside County
4075 Main Street, 1st Floor
Riverside, CA 92501

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95814

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

District Attorney, San Diego County
330 West Broadway, Room 1320
San Diego, CA 92112

District Attorney, San Francisco County
850 Bryant Street, Room 325
San Francsico, CA 94103

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Service List (Page 3 of 4)

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701 Ocean Street, Room 200
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301 2nd Street
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215 Fifth Street
Marysville, CA 95901

Service List (Page 4 of 4)

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1200 3rd Avenue, 12th Floor
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

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