

60-Day Notice of Violation

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

Date: October 26, 2011

To: KAMRAN MACCABI – KM Lighting, Inc.
YONG HAE CHONG – Discount Club #5, 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: Sunmin Lee

I. INTRODUCTION

My name is Sunmin Lee. 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, KM Lighting, Inc. and Discount Club #5, Inc. (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposures, 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: Lead

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 V 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 exposures 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.

A. CONSUMER PRODUCT EXPOSURE

California consumers, 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 California citizens use, display, clean, repair, pack, unpack, arrange, store or otherwise handle the products. These tasks cause consumers to be exposed directly or indirectly through the routine touching of the parts or portions of the products containing readily available surface amounts of the listed chemical. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. People likely to be exposed include both children and adults.

B. OCCUPATIONAL EXPOSURE

Similarly, men and women in California use or otherwise handle the products as a part of their jobs and are, therefore, subject to occupational exposures to the listed chemical. Employees are exposed at any California business locations of the apparent manufacturer, distributor and retailer (and their agents, assigns and divisions) as well as all other California locations where the products, or the component parts thereof that include the listed chemical are, by way of example but not limitation, used, packed, unpacked, labeled, arranged, displayed, cleaned, stocked, stored, repaired or otherwise handled. These tasks cause employee exposure directly and/or indirectly to the listed chemical through the routine touching of the parts or portions of the products containing readily available amounts of the listed chemical on the surface. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. These products are also used by sole proprietors and other

persons in settings not covered by the Occupational Safety Health Act ("OSHA Act"). This Notice alleges the violation of Proposition 65 with respect to occupational exposure governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance contained in the general hazard communication requirement to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the California Attorney General.

III. CONTACT INFORMATION

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

Sunmin Lee
c/o Will Helvestine, Esq.
Law Office of Will Helvestine
3424 Wilshire Boulevard, Suite 1200
Los Angeles, CA 90010

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. RESOLUTION OF NOTICED 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 enter 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 lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violators are interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section in 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

THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER TITLE 27 CAL CODE REGS, §25903(b)(2)(A).

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 Violators.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer/Distributor</i>
K-M Lighting Auto Bulb 1157 Amber (#6 00589 3044 9)	Discount Club #5, Inc., Los Angeles County, California	KM Lighting, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
K-M Lighting Auto Bulb containing Lead	K-M Lighting Auto Bulb 1157 Amber (#6 00589 3044 9)	Lead

*The specifically identified example of the type of product which is subject to this Notice is for the recipients' benefit to assist in their 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 Violators are 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 recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings 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 3424 Wilshire Boulevard, Suite 1200, Los Angeles, CA 90010.

On *Nov. 3*, 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 Violators 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 each Violator and providing each envelope to a United States Postal Service Representative:

Kamran Maccabi KMLighting, Inc. 2815 South La Cienega Ave. Los Angeles, CA 90034	Yong Hae Chong Discount Club #5, Inc. 845 Pacific Ave Long Beach, CA 90813
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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, first class 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 *Nov. 3*, 2011, at Los Angeles, California.


 Will Helvestine

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Will Helvestine, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged 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 plaintiffs 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: _____

10 / 27 / 11



Will Helvestine

SERVICE LIST

The Honorable Nancy C. Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street Jackson,
CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive
Oroville, CA 95965

The Honorable Jeffrey Tuttle
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable John R. Poyner
Colusa County District Attorney
547 Market Street, Suite 102
Colusa, CA 95932

The Honorable Robert J. Kochry
Contra Costa County District Attorney
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The Honorable Michael Riese
Del Norte County District Attorney
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Crescent City, CA 95531

The Honorable Vernon Pierson
El Dorado County District Attorney
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The Honorable Paul Gallegos
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The Honorable Gilbert Otero
Imperial County District Attorney
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El Centro, CA 92243

The Honorable Arthur Maillet
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The Honorable Steve Cooley
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The Honorable Edward Berberian
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The Honorable Tony Rackauckas
Orange County District Attorney
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The Honorable Rodric Pacheco
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419 4th Street, Second Floor
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330 W. Broadway Street
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The Honorable Kamala Harris
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San Francisco, CA 94103

The Honorable James Willett
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The Honorable Gerald Shea
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San Luis Obispo, CA 93408

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The Honorable Lawrence Allen
Sierra County District Attorney
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The Honorable Dennis J. Kerrera
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San Francisco, CA 94102

The Honorable Richard Doyle
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San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
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Oakland, CA 94612-0550