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(415) 421-7151  
FAX (415) 362-8064  
www.altshulerberzon.com

*Via First Class Certified Mail  
Return Receipt Requested*

December 21, 2012

Oldcastle, Inc.  
CT Corporation System  
818 W. Seventh Street  
Los Angeles, CA 90017

Mark Towe, CEO  
Oldcastle, Inc.  
375 Northridge Road, Suite 350  
Atlanta, GA 30350

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

To Whom It May Concern:

Altshuler Berzon LLP ("Firm") represents As You Sow, a 501(c)(3) non-profit corporation dedicated to, among other causes, the protection of the environment, toxics reduction, the promotion of and improvement of human health, the improvement of worker and consumer rights, environmental education, and corporate accountability. As You Sow is based in Oakland, California and was incorporated in 1992 under the laws of the State of California.

As You Sow has documented violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety Code §25249.5 *et seq.*, by Oldcastle, Inc. (the "Company"). This letter constitutes notice by As You Sow and the Firm to the Company of these violations. Specifically, the Company has violated and is violating Section 25249.6, which provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual . . . ."

Pursuant to Section 25249.7(d) of the statute, this Firm intends to bring an enforcement action on behalf of As You Sow sixty (60) days after effective service of this notice unless the

public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

Alleged Violator: The name of the alleged violator covered by this notice is Oldcastle, Inc.

Listed Chemicals: These violations involve exposures to arsenic (inorganic compounds, including inorganic oxides) and chromium (hexavalent compounds) from the products listed below. On February 27, 1987, the State of California officially listed arsenic (inorganic arsenic compounds) as a chemical known to the State cause cancer; and on May 1, 1997, listed arsenic (inorganic oxides) as a chemical known to the State to cause reproductive toxicity. The State of California listed chromium (hexavalent compounds) as a chemical known to the State to cause cancer on February 27, 1987, and listed it as a chemical known to the State to cause reproductive toxicity on December 19, 2008.

Consumer Products: The products that are the subject of this notice are Sakrete Surface Bonding Cement, Sakrete Fast Setting Ultra-High Strength Concrete Mix, Sakrete 5000 Plus High Strength Concrete Mix, Sakrete Maximizer Multi-Project Concrete Mix, Sakrete One-Coat Fibered Stucco Mix, Sakrete Type S Masonry Mortar, Sakrete Fence Post Concrete, and Sakrete Top 'n Bond Concrete Patcher, which are produced, sold, and/or distributed by Oldcastle Inc., and/or over which Oldcastle Inc. exercises control or could exercise control with respect to consumers' exposure to the chemicals contained in these products.

Violations: The alleged violator knowingly and intentionally has exposed and continues knowingly and intentionally to expose consumers within the State of California to arsenic (inorganic compounds, including inorganic oxides) and chromium (hexavalent compounds). Specifically:

- Sakrete Surface Bonding Cement does not provide any warning of the carcinogenic and reproductive hazards associated with the chromium (hexavalent compounds) contained in the product;
- Sakrete Fast Setting Ultra-High Strength Concrete Mix does not provide any warning of the carcinogenic and reproductive hazards associated with the arsenic (inorganic oxides) and/or chromium (hexavalent compounds) contained in the product;
- Sakrete 5000 Plus High Strength Concrete Mix does not provide any warning of the carcinogenic and reproductive hazards associated with the arsenic (inorganic oxides) and/or chromium (hexavalent compounds) contained in the product;
- Sakrete Maximizer Multi-Project Concrete Mix does not provide a clear and reasonable warning of the carcinogenic and reproductive hazards associated with the arsenic (inorganic oxides) and/or chromium (hexavalent compounds) contained in the product;

- Sakrete One-Coat Fibered Stucco Mix does not provide any warning of the carcinogenic and reproductive hazards associated with the chromium (hexavalent compounds) contained in the product;
- Sakrete Type S Masonry Mortar does not provide any warning of the carcinogenic and reproductive hazards associated with the chromium (hexavalent compounds) contained in the product;
- Sakrete Fence Post Concrete does not provide any warning of the carcinogenic and reproductive hazards associated with the arsenic (inorganic oxides) and/or chromium (hexavalent compounds) contained in the product; and
- Sakrete Top 'n Bond Concrete Patcher does not provide any warning of the carcinogenic and reproductive hazards associated with the arsenic (inorganic oxides) and/or chromium (hexavalent compounds) contained in the product.

Route of Exposure: Use of the products identified in this notice results in human exposures to arsenic (inorganic compounds, including inorganic oxides) and/or chromium (hexavalent compounds). The routes of exposure include: inhalation when consumers breathe near the products, including when the products are transferred from their packaging into containers and then mixed with water, and when the products are used by persons indoors and/or outdoors; and ingestion, including but not limited to as a result of swallowing dust particles.

Duration of Violations: Each of these ongoing violations has occurred on every day since at least December 21, 2011; as well as every day since the products were introduced in the California marketplace and following the one-year anniversary date of the listings at issue; and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" is also enclosed.

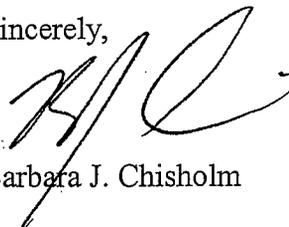
In keeping with its public interest mission and to rectify expeditiously these ongoing violations of California law, As You Sow is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with As You Sow by contacting Danielle Fugere, President and Chief Counsel, at: 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612, telephone: 510-735-8158. If you wish to contact me, my contact information is below:

Barbara J. Chisholm  
Altshuler Berzon LLP  
177 Post Street, Suite 300  
San Francisco, CA 94108  
Telephone: 415-421-7151

Oldcastle, Inc.  
December 21, 2012  
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Facsimile: 415-362-8064  
E-mail: bchisholm@altber.com

Sincerely,



Barbara J. Chisholm

Enclosures

cc: Attorney General (without "Proposition 65: A Summary" attachment) (with additional confidential factual information supporting Certificate of Merit)

District Attorneys for California's 58 Counties (see list attached to Certificate of Service) (without "Proposition 65: A Summary" attachment)

City Attorneys for the Cities of Los Angeles, San Diego, San Francisco, and San Jose (see list attached to Certificate of Service) (without "Proposition 65: A Summary" attachment)

**CERTIFICATE OF MERIT**  
Health and Safety Code Section 25249.7(d)

I, Barbara J. Chisholm, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

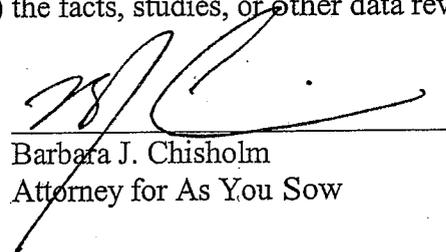
(2) I am the attorney for the noticing party, As You Sow.

(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 chemicals that are the subject of the 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 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 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: December 21, 2012

  
Barbara J. Chisholm  
Attorney for As You Sow

**CERTIFICATE OF SERVICE**

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within action; my business address is 177 Post Street, San Francisco, California 94108.

On December 21, 2012, I served the following document(s):

**Notice of Violation of California Health & Safety Code §25249.5, et seq. (regarding exposure to arsenic and chromium without adequate warning), including attachment "Proposition 65: A Summary"; and Certificate of Merit.**

on the entity listed below and the individuals identified in the list attached hereto as Appendix A, by placing true copies thereof in sealed envelopes addressed as indicated below and in Appendix A for service by enclosing them in an envelope and placing the envelope for collection and mailing by United States Mail following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is planned for collection and mailing it is deposited in the ordinary course of business with the U.S. Postal Service in a sealed envelope with postage fully paid.

**ADDRESSEES**

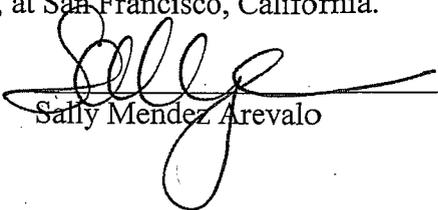
Oldcastle, Inc.  
CT Corporation System  
818 W. Seventh Street  
Los Angeles, CA 90017

Mark Towe, CEO  
Oldcastle, Inc.  
375 Northridge Road, Suite 350  
Atlanta, GA 30350

and

• **Individuals identified in list attached as Appendix A (without attachment "Proposition 65: A Summary").**

I declare under penalty of perjury under laws of the State of California that the foregoing is true and correct. Executed December 21, 2012, at San Francisco, California.

  
Sally Mendez Arevalo

**APPENDIX A  
SERVICE LIST**

Kamala D. Harris  
Attorney General for the State of California  
PO Box 944255  
Sacramento, CA 94244

The Honorable Arthur Maillet, District  
Attorney  
INYO COUNTY  
PO Box D  
Independence, CA 93526

The Honorable Birgit Fladager, District  
Attorney  
STANISLAUS COUNTY  
832 12th Street, Suite 300  
Modesto, CA 95354

The Honorable Bob Lee, District Attorney  
SANTA CRUZ COUNTY  
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Santa Cruz, CA 95060

The Honorable Bonnie Dumanis, District  
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SAN DIEGO COUNTY  
Hall of Justice, 330 W. Broadway  
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The Honorable Ronald Scott Owens,  
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PLACER COUNTY  
10810 Justice Center Drive Suite #240  
Roseville, CA 95678

The Honorable Candice Hooper-Mancino,  
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419 4th Street  
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The Honorable Carl Adams, District  
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1112 Santa Barbara Street  
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The Honorable Clifford Newell, District  
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NEVADA COUNTY  
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Nevada City, CA 95959

The Honorable Donald A. du Bain, District  
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The Honorable Dean Flippo, District  
Attorney  
MONTEREY COUNTY  
PO BOX 1131  
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The Honorable Dennis J. Herrera, Office of  
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SAN FRANCISCO COUNTY  
City Hall, Room 234, 1 Dr. Carlton B.  
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San Francisco, CA 94102

The Honorable Jeffrey F. Rosen, District  
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San Jose, CA 95110

The Honorable Michael Knowles, Acting  
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Lakeport, CA 95453

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Ukiah,, CA 95482.

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Quincy, CA 95971

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**APPENDIX A  
SERVICE LIST**

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