

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Lead in Gloves Made With Leather, Vinyl or Imitation Leather Materials

January 15, 2013

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, CA 94612, (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:

- Violator: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least January 11, 2010, and are continuing to this day.
- 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(s) Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is gloves made with leather, vinyl or imitation leather materials. Non-exclusive examples of this specific type of product are listed on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to Lead. Use of the products identified in this Notice results in human exposures to Lead. The routes of exposure for the violations are direct ingestion when consumers place their hands in their mouths while wearing the products or otherwise place the products in their mouths; ingestion via hand to mouth contact after consumers touch, wear, or handle the products or other items that have been in contact with the products; and dermal absorption directly through the skin when consumers wear, take on or off, touch, or handle the products. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

**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 violator agrees in a binding written agreement to: (1) recall products already sold; (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 and Safety Code Section 25249.7(b). If any of the alleged violators is interested in resolving this dispute without resort to expensive and time-consuming 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 Howard Hirsch (hhirsch at lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

**EXHIBIT 1**  
**January 15, 2013 Notice of Violation**  
**Lead in Gloves Made With Leather, Vinyl or Imitation Leather Materials**  
**Non-Exclusive Examples of the Products**

Names and Addresses of Responsible Party	Non-Exclusive Example of the Products	Item or SKU # or Further Description
<p><b>Aldo Group, Inc.</b>  2300 Emile-Belanger  Saint-Laurent, Quebec  H4R 3J, Canada</p> <p><b>Aldo U.S. Inc.</b>  2300 Emile-Belanger  Saint-Laurent, Quebec  H4R 3J, Canada</p>	<p>Aldo Veno  Gloves in Brown</p>	<p>SKU No. 90770649  Style No. 31-3-1, VENO-20</p>
<p><b>JC Penney Corporation, Inc.</b>  6501 Legacy Drive  Plano, TX 75024-3698</p>	<p>JCP Faux Fur-Cuff  Gloves in Yellow</p>	<p>SKU No. 105-1155-0609-08  Style No. ADHK116637</p>
<p><b>Marshalls of MA, Inc.</b>  770 Cochituate Rd  Framingham, MA 01701</p> <p><b>Marshalls of CA, LLC</b>  770 Cochituate Rd  Framingham, MA 01701</p>	<p>Marina Luna  Gloves in Orange</p>	<p>SKU No.  1274-030782404-002499-09-1</p>
<p><b>The Timberland Company</b>  200 Domain Drive  Stratham, NH 03885</p> <p><b>Timberland LLC</b>  200 Domain Drive  Stratham, NH 03885</p>	<p>Timberland Leather City  Gloves in Brown</p>	<p>SKU No. 886543624589  Style No. J1046</p>

**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 chemicals that are 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.

January 15, 2013



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Howard Hirsch  
Attorney for 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 [cfisher@lexlawgroup.com](mailto:cfisher@lexlawgroup.com).

On January 15, 2013, 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 2:16 p.m. on January 15, 2013:

Lon Wixson, Deputy District  
Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[lwixson@contracostada.org](mailto:lwixson@contracostada.org)

Karyn Sinunu-Towery,  
Assistant District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
[epu@da.sccgov.org](mailto:epu@da.sccgov.org)

Birgit Fladager, District Attorney  
Stanislaus County  
832 12<sup>th</sup> Street, Ste. 300  
Modesto, CA 95354  
[Prop65@standa.org](mailto:Prop65@standa.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

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Monterey County  
230 Church Street, Bldg. 2  
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Stephan R. Passalacqua, District Attorney  
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800 South Victoria Avenue  
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Paul E. Zellerbach, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto: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 January 15, 2013, at San Francisco, California.

Signed:   
Casey Fisher

### 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

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708 Court Street, Ste. 202  
Jackson, CA 95642

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Administration Building  
25 County Center Drive  
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891 Mountain Ranch Road  
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City Hall, Room 234  
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San Francisco, CA 94102

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200 East Santa Clara Street  
San Jose, CA 95113

California Attorney General's Office  
Attention: Proposition 65  
Coordinator and Robert Thomas  
1515 Clay Street, Ste. 2000  
P.O. Box 70550  
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