

## **60-DAY NOTICE OF VIOLATION**

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

DATE: June 1, 2013

TO: Yong Hae Chong - Discount Club #5, Inc.; California Attorney General's Office;  
and District Attorney's Office for Los Angeles County.

FROM: Elise Novak

### I. INTRODUCTION

I, Elise Novak, am a citizen of the State of California acting in the interest of the general public. I am dedicated to protecting the environment, improving human health and the health of ecosystems, and supporting environmentally sound practices. 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 violator, **Discount Club #5, Inc.** (the "Violator").

### II. NATURE OF THE VIOLATION

- A. Violator: Discount Club #5, Inc., 845 Pacific Avenue, Long Beach, CA 90813.
- B. Time Period of Exposure: Violations have been occurring since at least June 1, 2010, and continue to occur to this day.
- C. Listed Chemical: Lead and lead compounds.
- D. Types of Harm: Cancer, birth defects and other reproductive harm.
- E. Types of Products: The specific type of products causing these violations is household goods, including children's toys. A non-exclusive example of this type of product is the Brain Fabricate Astronaut Space Explorer children's toy. All products within the type covered by this Notice shall be hereinafter referred to as the "products."
- F. Routes of Exposure: Ingestion and dermal contact.
- G. Description of Exposure: The sales of these products in California dating as far back as June 1, 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. California consumers, including children, through the act of buying, acquiring or using 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, play with, or otherwise handle the products. These actions 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.

### III. CONTACT INFORMATION

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

Lucas Novak, Esq.  
Law Offices of Lucas Novak  
8335 Sunset Blvd., Suite 217  
West Hollywood, CA 90069  
Tel: (323) 337-9015  
Email: lucas.nvk at gmail dot com

### IV. PROPOSITION 65 INFORMATION

For the Violator's reference, attached is a copy of "Proposition 65: A Summary" which has been prepared by Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at (916) 445-6900.

### V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, the noticing party intends to file a Private Enforcer lawsuit against the alleged Violator unless such Violator enters 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 expensive and time-consuming litigation, please feel free to contact counsel identified above. It should be noted that neither a Private Enforcer cannot: (1) finalize any settlement until after the 60-day notice period has expired; or (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.

## CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Lucas Novak, Esq. 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 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 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: June 1, 2013

  
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Lucas Novak, Esq.

**PROOF OF SERVICE**

I, Lucas Novak, Esq., declare under penalty of perjury:

I am an active member of the California State Bar, a citizen of the United States over the age of 18 years, and not a party to the within action; my business address is 8335 Sunset Blvd., Suite 217, West Hollywood, CA 90069.

On June 1, 2013, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**

**PROPOSITION 65: A SUMMARY (not sent to the public enforcement agencies);**

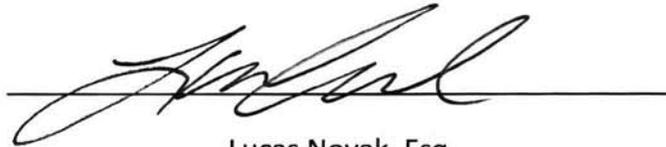
**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (served only on the Attorney General)**

by placing a true copy thereof enclosed in a sealed envelope with postage for first class mail thereon fully prepaid, in the United States mail addressed as follows:

The Honorable Jackie Lacey Los Angeles County District Attorney 210 West Temple Street, Ste 18000 Los Angeles, CA 90012	Office of the California Attorney General Proposition 65 Enforcement Reporting ATTN: Prop 65 Coordinator 1515 Clay Street, Suite 2000 P.O. Box 70550 Oakland, CA 94612-0550	Discount Club #5, Inc. Attn: Yong Hae Chong 845 Pacific Avenue Long Beach, CA 90813
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Executed on June 1, 2013, at West Hollywood, California.



Lucas Novak, Esq.