

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Coconut Oil Diethanolamine Condensate (Cocamide Diethanolamine)  
in Shampoo and Liquid Soaps Such as Hand Soap, Body Wash and Bubble Bath

July 26, 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:**

- Violators: 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 June 22, 2013, are continuing to this day and will continue to occur as long as the products subject to this Notice of Violation are sold to California consumers.
- 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 name of the listed chemical involved in these violations is coconut oil diethanolamine condensate (cocamide diethanolamine) (hereinafter, "cocamide DEA"). Exposures to cocamide DEA occur from use of the products identified in this Notice of Violation.
- Type of Products: The specific type of products causing this violation is shampoo and liquid soaps such as hand soap, body wash and bubble bath (the "Products"). 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 cocamide DEA. Use of the Products identified in this Notice results in human exposures to cocamide DEA. The Products contain cocamide DEA as an intentionally added ingredient. The routes of exposure for the violations include dermal absorption and ingestion by consumers (including children). These exposures occur through the reasonably foreseeable use of the Products when, for example, individuals apply the Products to their hair, scalp or skin. No clear and reasonable warning is provided with these Products regarding the exposures to cocamide DEA caused by ordinary use of the Products.

**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 instrument 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 cocamide DEA 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 Mark N. Todzo (mtodzo@lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

**EXHIBIT 1**  
**July 26, 2013 Notice of Violation**  
**Cocamide DEA in Shampoo and Liquid Soaps**  
**Such as Hand Soap, Body Wash and Bubble Bath**

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p align="center"><b>Aspire Brands</b>            2800 28th St. #308            Santa Monica, CA 90405</p> <p align="center"><b>Bonne Bell, LLC</b>            18519 Detroit Avenue            Lakewood, Ohio 44107</p>	<p align="center">Formula 10.0.6            Best Face Forward            Daily Foaming Cleanser            Passionfruit + Green Tea</p>	<p align="center">SKU No.            0-50051-00535-6</p>
<p align="center"><b>Australian Organics            Body Care Pty. Ltd.</b>            Suite 16, Level 8            100 Collins Street, Melbourne            Victoria 3000            Australia</p>	<p align="center">Australian Organics            Avocado Oil Moisturising            Shower Gel</p>	<p align="center">SKU No.            7-09974-06403-1</p>
<p align="center"><b>Kent Cosmetics Ltd.</b>            Kent House            Ashford Road            Harrietsham            Kent ME17 1BW            United Kingdom</p>		
<p align="center"><b>Bela Vida Holdings, LLC</b>            707 B Heinz Ave.            Berkeley, CA 94710</p>	<p align="center">Body Time Classics            Moisturizing Shampoo</p>	<p align="center">N/A</p>
<p align="center"><b>Lenda, Inc.</b>            710 Talbot Ave.            Albany, CA 94706</p>		

<p><b>Chic Cosmetic Industries Ltd.</b> 2 Haprat St. Yavne 81227 Israel</p>	<p>Mogador Restorative Shampoo Enriched with Argan Oil</p>	<p>SKU No. 7-296179-000979</p>
<p><b>Commonwealth Soap &amp; Toiletries, Inc.</b> 661 Quequechan Street Fall River, MA 02721</p>	<p>Eucalyptus Aloe Hand Soap</p>	<p>SKU No. 73-3304-505255- 000499-18-2</p>
<p><b>Dickens &amp; Hawthorne Australia Pty Ltd</b> 3 McCauley Street Alexandria, NSW 2015 Australia</p> <p><b>Fouress Pty Ltd</b> 433-451 Somerville Road West Footscray, VIC 3012 Australia</p>	<p>D&amp;H Australia Lemon Balm White Musk Hand Wash</p>	<p>SKU No. 73441822000699-18-8</p>
<p><b>Grace Cole Limited</b> Fremantle House 2 Oakwater Avenue Cheadle Royal Business Park Cheadle, Chesire SK8 3SR United Kingdom</p>	<p>Grace Cole Boutique Cleansing Hand Wash in White Nectarine &amp; Pear</p>	<p>SKU No. 5-060152-669734</p>
<p><b>HotHouse Partnerships Limited</b> Atlas Mill Atlas Mill Road Brighthouse HD6 1ES United Kingdom</p>	<p>Brown &amp; Harris England Lavender Conditioning Handwash</p>	<p>SKU No. 5060185370133</p>

<p><b>The International Toiletry Company, Inc.</b> 20283 State Road 7, Suite 300 Boca Raton, FL 33498</p>		
<p><b>The Somerset Toiletry Company Limited</b> Clutton Hill Farm Estate Clutton, North Somerset BS39 5QQ, United Kingdom</p>	<p>Asquith &amp; Somerset English Rose Moisturising Hand Wash</p>	<p>SKU No. 6-39136-81429-0</p>
<p><b>Perfect Plus, Inc.</b> 9595 Wilshire Blvd., Suite 601 Beverly Hills, CA 90212</p>	<p>Nick Chavez Beverly Hills Advanced Volume Shampoo with Expansion Technology</p>	<p>SKU No. 6-70720-55321-8</p>
<p><b>pH Beauty Labs, Inc.</b> 1964 Westwood Blvd., Suite 300 Los Angeles, CA 90025</p>	<p>C. Booth Triple Action Bath, Shower &amp; Hair Wash Revitalizing Rosemary Mint</p>	<p>SKU No. 0-72151-80102-7</p>
<p><b>Pharmaca Integrative Pharmacy, Inc.</b> 4940 Pearl East Circle, Suite 301 Boulder, CO 80301</p>	<p>Pharmaca Ylang Ylang &amp; Ginger Body Wash</p>	<p>SKU No. 4-00333-30157-5</p>
<p><b>Renwood Andronico Lending 1, LLC</b> 2101 Cedar Springs Road Suite 1600 Dallas, TX 75201</p>	<p>ShiKai All Natural Moisturizing Shower Gel Yuzu</p>	<p>SKU No. 0-81738-36305-6</p>
<p><b>Trans-India Products, Inc. dba ShiKai Products</b> 3330 Coffey Lane Santa Rosa, CA 95403</p>		

<p><b>Scottish Fine Soaps Limited</b>  North Main Street  Carronshore  Falkirk FK2 8HT  Scotland, United Kingdom</p>	<p>The Scottish Fine Soaps  Company Honey B Creme  Handwash</p>	<p>SKU No.  5-016365-001014</p>
<p><b>Sephora USA, Inc.</b>  First Market Tower  525 Market Street, 32nd Floor  San Francisco, CA 94105</p>	<p>Soap &amp; Glory  Calm One Calm All  Stress-Battling Softening  Bubble Bath</p>	<p>SKU No.  5-000167-132571</p>
<p><b>Soap &amp; Glory USA LLC</b>  1728 Whitley Avenue  Los Angeles, CA 90028</p> <p><b>Soap &amp; Glory Limited</b>  3 Logan Place  London, W8 6QN  United Kingdom</p>		
<p><b>T.J. Maxx of CA, LLC</b>  770 Cochituate Road  Framingham, MA 01701</p> <p><b>The TJX Companies, Inc.</b>  770 Cochituate Road  Framingham, MA 01701</p>	<p>Australian Organics  Avocado Oil Moisturising  Shower Gel</p>	<p>SKU No.  7-09974-06403-1</p>
	<p>D&amp;H Australia  Lemon Balm White Musk  Hand Wash</p>	<p>SKU No.  73441822000699-18-8</p>
	<p>Eucalyptus Aloe  Hand Soap</p>	<p>SKU No.  73-3304-505255-  000499-18-2</p>
	<p>The Scottish Fine Soaps  Company Honey B Creme  Handwash</p>	<p>SKU No.  5-016365-001014</p>

<p><b>T.J. Maxx of CA, LLC</b> 770 Cochituate Road Framingham, MA 01701</p> <p><b>The TJX Companies, Inc.</b> 770 Cochituate Road Framingham, MA 01701</p>	<p>Mogador Restorative Shampoo Enriched with Argan Oil</p>	<p>SKU No. 7-296179- 000979</p>
	<p>Grace Cole Boutique Cleansing Hand Wash in White Nectarine &amp; Pear</p>	<p>SKU No. 5-060152- 669734</p>
	<p>Brown &amp; Harris England Lavender Conditioning Handwash</p>	<p>SKU No. 5060185370133</p>
	<p>Asquith &amp; Somerset English Rose Moisturising Hand Wash</p>	<p>SKU No. 6-39136-81429-0</p>
<p><b>Toys 'R' Us-Delaware, Inc.</b> 1 Geoffrey Way Wayne, NJ 07470</p>	<p>Toys 'R' Us 2 in 1 Shampoo and Conditioner</p>	<p>SKU No. 7-17851-20129-5</p>
<p><b>Trader Joe's Company</b> 800 S. Shamrock Avenue Monrovia, CA 91016</p>	<p>Trader Joe's Next to Godliness Lemon Kitchen Hand Soap</p>	<p>SKU No. 0097-8477</p>

<p><b>Ulta Salon, Cosmetics &amp; Fragrance, Inc.</b>  1000 Remington Boulevard, #120  Bolingbrook, IL 60440</p>	<p>Formula 10.0.6  Best Face Forward  Daily Foaming Cleanser  Passionfruit + Green Tea</p>	<p>SKU No.  0-50051-00535-6</p>
	<p>C. Booth Triple Action  Bath, Shower &amp; Hair Wash  Revitalizing Rosemary Mint</p>	<p>SKU No.  0-72151-80102-7</p>
	<p>Nick Chavez Beverly Hills  Advanced Volume Shampoo  with Expansion Technology</p>	<p>SKU No.  6-70720-55321-8</p>

CERTIFICATE OF MERIT  
Health & Safety Code § 25249.7(d)

I, Victoria Hartanto, 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 chemical that is 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.

July 26, 2013

  
\_\_\_\_\_  
Victoria Hartanto  
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 [jbanister@lexlawgroup.com](mailto:jbanister@lexlawgroup.com).

On July 26, 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 2:21 p.m. on July 26, 2013:

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

Dije Ndreu, Deputy District Attorney  
Monterey County  
230 Church Street, Bldg. 2  
Salinas, CA 93901  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

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)

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

Stephan R. Passalacqua, District Attorney  
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[jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org)

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221 S. Mooney Avenue, Rm. 224  
Visalia, CA 93291  
[Prop65@co.tulare.ca.us](mailto:Prop65@co.tulare.ca.us)

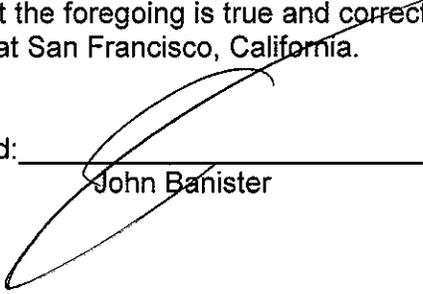
Paul E. Zellerbach, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

Gregory D. Totten, District Attorney Ventura  
County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.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 July 26, 2013, at San Francisco, California.

Signed: \_\_\_\_\_

  
John Banister

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Rm. 900  
Oakland, CA 94612

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25 County Center Drive  
Oroville, CA 95965

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Colusa, CA 95932

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Los Angeles, CA 90012-3210

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County  
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Ukiah, CA 95482

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2222 "M" Street  
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204 S. Court Street, Rm. 202  
Alturas, CA 96101-4020

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240  
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Sacramento, CA 95814

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Stockton, CA 95202

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San Luis Obispo, CA 93408

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Redwood City, CA 94063

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District Attorney of Shasta County  
1355 West Street  
Redding, CA 96001

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200 N. Main Street, Rm. 800  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 Third Avenue, Ste. 1620  
San Diego, CA 92101

San Francisco City Attorney's  
Office  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

San Jose City Attorney's Office  
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  
Oakland, CA 94612-0550

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President or CEO\*  
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Gerald Storch, CEO\*  
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Dan Bane, CEO\*  
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