

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

August 13, 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
August 13, 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 style="text-align: center;">Banzai Living, Inc. 70-42 48th Avenue Woodside, NY 11377</p> | <p style="text-align: center;">Walnut Body Scrub</p> | <p style="text-align: center;">SKU No. 8-809237-072369</p> |
| <p style="text-align: center;">Dermstore LLC 2301 Rosecrans Avenue Suite 2100 El Segundo, CA 90245</p> | <p style="text-align: center;">Dr. Michelle Copeland Skincare Bath / Shower Gelee with Green Tea & Aloe</p> | <p style="text-align: center;">SKU No. 8-51996-00107 Item No. 683129</p> |
| | <p style="text-align: center;">Elizabeth W Lavender Shower Gel with Cucumber, Arnica & Aloe Vera</p> | <p style="text-align: center;">Item No. 843814</p> |
| <p style="text-align: center;">E. Wightman & Co. 1226 Pacific Avenue San Francisco, CA 94109</p> | <p style="text-align: center;">Elizabeth W Lavender Shower Gel with Cucumber, Arnica & Aloe Vera</p> | <p style="text-align: center;">Item No. 843814</p> |
| <p style="text-align: center;">Ichiban Kan, Inc. 161 Starlite Street, Unit B So. San Francisco, CA 94080</p> | <p style="text-align: center;">Walnut Body Scrub</p> | <p style="text-align: center;">SKU No. 8-809237-072369</p> |
| | <p style="text-align: center;">Aroma Resort Body Soap in Clear Lemon & Mint</p> | <p style="text-align: center;">SKU No. 4-901417-174420</p> |
| <p style="text-align: center;">Michelle Copeland Skin Care, Inc. 1001 Fifth Avenue New York, NY 10028</p> | <p style="text-align: center;">Dr. Michelle Copeland Skincare Bath / Shower Gelee with Green Tea & Aloe</p> | <p style="text-align: center;">SKU No. 8-51996-00107 Item No. 683129</p> |

| | | |
|--|---|------------------------------------|
| <p>Pacific Marketing Alliance, Inc. dba PMAI 1700 W. Walnut Parkway Compton, CA 90220</p> | <p>Aroma Resort Body Soap in Clear Lemon & Mint</p> | <p>SKU No. 4-901417-174420</p> |
| <p>Saks Incorporated 12 East 49th Street New York, NY 10017</p> <p>Saks & Company 12 East 49th Street New York, NY 10017</p> | <p>American Crew Classic Daily Shampoo</p> | <p>SKU No. 0-90174-07201-9</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.

August 13, 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.

On August 13, 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 11:56 a.m. on August 13, 2013:

Lon Wixson, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
lwixson@contracostada.org

Dije Ndreu, Deputy District Attorney
Monterey County
230 Church Street, Bldg. 2
Salinas, CA 93901
Prop65DA@co.monterey.ca.us

Karyn Sinunu-Towery,
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Santa Clara County
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San Jose, CA 95110
epu@da.sccgov.org

Gary Lieberstein, District Attorney
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931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Drive, Rm. 212J
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221 S. Mooney Avenue, Rm. 224
Visalia, CA 93291
Prop65@co.tulare.ca.us

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4075 Main Street
Riverside, CA 92501
Prop65@rivcoda.org

Gregory D. Totten, District Attorney Ventura
County
800 South Victoria Avenue
Ventura, CA 93009
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 August 13, 2013, at San Francisco, California.

Signed: _____

John Banister

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

District Attorney of Amador County
708 Court Street, Ste. 202
Jackson, CA 95642

District Attorney of Butte County
Administration Building
25 County Center Drive
Oroville, CA 95965

District Attorney of Calaveras
County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Colusa County
547 Market Street, Ste. 102
Colusa, CA 95932

District Attorney of Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney of El Dorado
County
515 Main Street
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District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
Fresno, CA 93721

District Attorney of Glenn County
P.O. Box 430
Willows, CA 95988

District Attorney of Humboldt County
825 5th Street
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District Attorney of Imperial County
939 Main Street, Ste. 102
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P.O. Drawer D
Independence, CA 93526

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Lassen County
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney of Los Angeles
County
210 W. Temple Street, Ste. 1800
Los Angeles, CA 90012-3210

District Attorney of Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney of Marin County
3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

District Attorney of Mariposa
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P.O. Box 730
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County
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Ukiah, CA 95482

District Attorney of Merced County
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Merced, CA 95340

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

District Attorney of Mono County
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District Attorney of Nevada County
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Nevada City, CA 95959

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County
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney of Placer County
10810 Justice Center Drive, Ste.
240
Roseville, CA 95678

District Attorney of Plumas
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Quincy, CA 95971

District Attorney of Sacramento
County
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330 West Broadway, Ste. 1300
San Diego, CA 92101

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850 Bryant Street, Rm. 325
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Stockton, CA 95202

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Obispo County
1050 Monterey Street, Rm. 450
San Luis Obispo, CA 93408

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Santa Cruz, CA 95060

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Santa Maria, CA 93454

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Fairfield, CA 94533

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Modesto, CA 95354

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Yuba City, CA 95991

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District Attorney of Trinity County
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11 Court Street
Weaverville, CA 96093

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Sonora, CA 95370

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Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
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

Sung Yong Ra, President *
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Counsel
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