NOTICE OF VIOLATION

California Safe Drinking Water
and Toxic Enforcement Act

September 28, 2013

Listed chemicals: coconut oil diethanolamine condensate (cocamide diethanolamine) (hereinafter DEA).

This notice of violation is provided pursuant to California Health and Safety Code § 25249.7(d). The provider of this notice is ProtectConsumers, LLC, a limited liability corporation of the State of California, acting in the interest of the general public. This corporation is dedicated to protecting the environment, improving human health and supporting environmentally sound practices.

Attached with this Notice is a Summary of the Safe Drinking Water and Toxic Enforcement Act (Prop 65) provided by the California EPA.

DESCRIPTION OF VIOLATION

Violators are Farouk Systems, Inc., manufacturer and distributor of shampoos containing DEA, and Rite Aid Corporation, a retail distributor of the mentioned products.

The violations have been occurring since at least June 22, 2013, are continuing and will continue to occur as long as the products subject to this notice continue to be sold to California consumers.

This notice of violation covers the "warning provision" of Proposition 65, California Health and Safety Code §§ 25249.6 et seq.

The chemicals are coconut oil diethanolamine condensate (cocamide diethanolamine) (hereinafter DEA). Products containing these chemicals are shampoo, soaps and salon products, including but not limited to Farouk Biosilk Hydrating Shampoo.

Consumer exposure to the listed chemicals includes dermal absorption and ingestion by consumers through reasonably foreseeable use of the products. Consumers may be exposed when involved products are applied to hair, scalp or skin, or used for bathing and grooming. The Proposition 65 chemicals included in these products are listed as carcinogens.

RESOLUTION OF NOTICE TO CLAIMS

Based on the allegations contained in this notice, ProtectConsumers, LLC intends to file a citizen enforcement lawsuit against each of the alleged violators unless such violator agrees in an enforceable and 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 DEA exposures, and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code § 25249.7(b).

If any of the alleged violators are interested in resolving this dispute before engaging in expensive and time-consuming litigation, please feel free to contact ProtectConsumers, LLC through its counsel listed below.

It should be noted that ProtectConsumers, LLC 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 this notice. Therefore, while reaching agreement with ProtectConsumers, LLC will resolve its claims, such an agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this notice to the attorney for ProtectConsumers, LLC, Charles Schoemaker, Jr., 78-365 Highway 111, #441, La Quinta, CA 92253. Telephone: (818) 300-0311. Email: chaslawla@earthlink.net.

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

I, Charles Schoemaker, Jr., 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 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 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.

September 28, 2013

Charles Schoemaker, Jr.
Attorney for ProtectConsumers, LLC

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute is available online at: http://oehha.ca.gov/prop65/law/P65law72003.html. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.[1] These implementing regulations are available online at: http://oehha.ca.gov/prop65law/P65Regs.html.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. This means that chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies; for example, when exposures are sufficiently low (see below). The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Some exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less

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[1] All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: http://www.oehha.ca.gov/prop65/law/index.html.

than 20 months after the listing of a chemical.

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify chemical-specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in a Food. Certain exposures to chemicals that occur in foods naturally (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant[2] it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of the regulations and in Title 11, sections 3100-3103. A private party may not pursue an enforcement action under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to $2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900. Or via email at P65Public.Comments@oehha.ca.gov

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[2]See Section 25501(a)(4)

PROOF OF SERVICE OF DOCUMENT

I declare that:

I am over the age of 18 and not a party to this action. My business address is 78-365 Highway 111, #441, La Quinta California 92253.

On September 28, 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

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:

Farouk Systems, Inc.
250 Pennbright Drive
Houston, TX 77090

Rite Aid Corporation
30 Hunter Lane
Camp Hill, PA 17011

Please see attached service list for additional service.

Also on this date, I uploaded a true and correct copy of the above documents as a PDF file at the Attorney General's website. No error message was received.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Charles Schoemaker, Jr.

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