

SECOND SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

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

DATE: October 4, 2013

TO: Kenneth Spett, President – GF Health Products, Inc.
Jeffrey Bezos, President – Amazon.com, Inc.
California Attorney General’s Office;
District Attorney’s Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Peter Englander

I. INTRODUCTION

My name is Peter Englander. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”) and supplements the 60-Day Notices of Violation sent on May 24, 2012 and on April 19, 2013. As noted above, notice is also being provided to the alleged violators, GF Health Products, Inc. and Amazon.com, Inc. (the “Violators”). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemical (“listed chemical”) identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemical: Di(2-ethylhexyl)phthalate (“DEHP”)
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer and occupational exposures in violation of Proposition 65, and that are covered by this Notice, are listed under “Product Category/Type” in Exhibit A in Section VII below. All products within the types covered by this Notice shall be referred to hereinafter as the “products.” The sales of these products in California dating as far back as October 4, 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 exposure 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 citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. Women of childbearing age ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. Women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products.

III. CONTACT INFORMATION

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

Peter Englander
c/o Josh Voorhees
The Chanler Group
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710
Telephone: (510) 848-8880

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter 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 DEHP 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 time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (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 an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below are specific examples of products recently purchased and witnessed as being available for purchase or use in California that are within the categories or types of offending products covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the examples within the categories or types of products are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warnings” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violators and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Lumiscop Self Taking Blood Pressure Kit, Model 100-021, TYL309MS (#0 38673 00021 8)	Wise Buys Sacramento County, Northern California	GF Health Products, Inc.
Grafco Specialist Bag, #1541-12, L10	Amazon.com, Inc.; GF Health Products, Inc. (http://www.amazon.com)	GF Health Products, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Blood Pressure Kits	Lumiscop Self Taking Blood Pressure Kit, Model 100-021, TYL309MS (#0 38673 00021 8)	Di(2-ethylhexyl)phthalate
Vinyl/PVC Bags	Grafco Specialist Bag, #1541-12, L10	Di(2-ethylhexyl)phthalate
Stethoscopes		Di(2-ethylhexyl)phthalate

*The specifically identified examples of the types of products that are subject to this Notice are for the recipients’ benefit to assist in their investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product categories/types listed in Exhibit A. It is important to note that these examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under “Product Category/Type” in Exhibit A. Further, it is this citizen’s position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients’ custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On October 4, 2013, I served the following documents:

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

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the entities listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entities listed below and providing each envelope to a United States Postal Service Representative:

Kenneth Spett, President
GF Health Products, Inc.
2935 Northeast Parkway
Atlanta, GA 30360


Jeffrey Bezos, President
Amazon.com, Inc.
410 Terry Avenue North
Seattle, WA 98109

as well as by providing copies of the above documents electronically uploaded to the public enforcers according to directions from their respective offices, and/or by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Electronically Uploaded to the Attorney General's website, and sent 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento

A list of addresses for each of these recipients is attached.

Executed on October 4, 2013, at Berkeley, California.


Caroline Liang

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, 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 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: October 4, 2013



Clifford A. Chanler

SERVICE LIST

The Honorable Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable Terese Drabec
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive
Oroville, CA 95965

The Honorable Barbara Yook
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable John R. Poyner
Colusa County District Attorney
346 Fifth Street
Colusa, CA 95932

The Honorable Mark Peterson
Contra Costa County District Attorney
900 Ward Street
Martinez, CA 94553

The Honorable Jon Alexander
Del Norte County District Attorney
450 H Street, Room 171
Crescent City, CA 95531

The Honorable Vernon Pierson
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667

The Honorable Elizabeth Egan
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721

The Honorable Robert Maloney
Glenn County District Attorney
P.O. Box 430
Willows, CA 95988

The Honorable Paul Gallegos
Humboldt County District Attorney
825 5th Street
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

The Honorable Arthur Maillet
Inyo County District Attorney
P.O. Drawer D
Independence, CA 93526

The Honorable Lisa Green
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301

The Honorable Greg Strickland
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230

The Honorable Donald Anderson
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

The Honorable Robert Burns
Lassen County District Attorney
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Steve Cooley
Los Angeles County District Attorney
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

The Honorable Michael Keitz
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Edward Berberian
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

The Honorable Robert Brown
Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338

The Honorable C. David Eyster
Mendocino County District Attorney
P.O. Box 1000
Ukiah, CA 95482

The Honorable Larry Morse II
Merced County District Attorney
550 W. Main Street
Merced, CA 95340

The Honorable Gary Woolverton
Modoc County District Attorney
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The Honorable George Booth
Mono County District Attorney
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The Honorable Dean Flippo
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Salinas, CA 93902

The Honorable Gary Lieberstein
Napa County District Attorney
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Napa, CA 94559

The Honorable Clifford Newell
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110 Union Street
Nevada City, CA 95959

The Honorable Tony Rackauckas
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Roseville, CA 95678

The Honorable David Hollister
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520 Main Street, Room 404
Quincy, CA 95971

The Honorable Paul Zellerbach
Riverside County District Attorney
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Riverside, CA 92501

The Honorable Jan Scully
Sacramento County District Attorney
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Sacramento, CA 95814

The Honorable Candice Hooper
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203

The Honorable Michael Ramos
San Bernardino County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415

The Honorable Bonnie Dumanis
San Diego County District Attorney
330 W. Broadway Street
San Diego, CA 92101

The Honorable George Gascon
San Francisco County District Attorney
850 Bryant Street, Room 322
San Francisco, CA 94103

The Honorable James Willett
San Joaquin County District Attorney
P.O. Box 990
Stockton, CA 95201

The Honorable Gerald Shea
San Luis Obispo County District Attorney
1035 Palm Street
San Luis Obispo, CA 93408

The Honorable Stephen Wagstaffe
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Joyce Dudley
Santa Barbara County District Attorney
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Santa Barbara, CA 93101

The Honorable Jeffrey Rosen
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Bob Lee
Santa Cruz County District Attorney
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Santa Cruz, CA 95060

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The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
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Oakland, CA 94612-0550