

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Lead in Licorice Flavored Candy

April 1, 2014

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 identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least April 1, 2011, and are continuing to this day.
- 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 names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from consumption of the products identified in this Notice.
- Type of Product: The specific type of product causing this violation is licorice flavored candy. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to Lead. Consumption of the products identified in this Notice results in human exposures to Lead. The products are made with ingredients that contain Lead. One of the primary Lead-containing ingredients in the products is molasses (or similar sweeteners such as treacle). Other Lead-containing ingredients include licorice flavoring, licorice extract and licorice root. The primary route of exposure for the violations is direct ingestion when consumers eat the licorice flavored candy. These exposures occur in homes, workplaces and everywhere else throughout California where the products are consumed. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against the alleged violator 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 Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the alleged violator 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's counsel Eric S. Somers at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, esomers at lexlawgroup.com.

EXHIBIT 1
April 1, 2014 Notice of Violation
Lead in Licorice Flavored Candy

Responsible Parties	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p>Buisson, Inc. 169 Camino Dorado Napa, CA 94558</p> <p>John Sommer, Inc. 1460 Cader Lane C Petaluma, CA 94954</p>	<p>Venco Engelse Drop English Liquorice</p>	<p>SKU No. 8-714200-208037</p>
<p>CVS Pharmacy, Inc. One CVS Drive Woonsocket, RI 02895</p>	<p>Good & Plenty Licorice Candy</p>	<p>SKU No. 0-10700-08813-0</p>
<p>Ercus Group 1851 Bassett Street Denver, CO 80202</p> <p>Grupo Ercus, S.A. de C.V. Av. San Isidro 211 Col. San Antonio, Azcapotzalco Ciudad de Mexico, D.F. 02760 Mexico</p>	<p>Trader Joe's Candy-Coated Licorice</p>	<p>SKU No. 0094-7657</p>
<p>The Hershey Company 100 Crystal A Drive Hershey, PA 17033</p>	<p>Good & Plenty Licorice Candy</p>	<p>SKU No. 0-10700-08813-0</p>
<p>Licorice International, Inc. 803 Q Street, Suite 300 Lincoln, NE 68508</p>	<p>Henry Goode's Soft Eating Liquorice</p>	<p>SKU No. 5-010511-470808 Item No. EL06P</p>
	<p>Taveners Proper Sweets English Liquorice Allsorts</p>	<p>SKU No. 0-86232-44009-8 Item No. EL08P</p>

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

I, Eric S. Somers, 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.

April 1, 2014



Eric S. Somers
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 April 1, 2014, 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 12:05 p.m. on April 1, 2014:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@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,
Assistant District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
eju@da.sccgov.org

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

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S. Mooney Avenue, Rm. 224
Visalia, CA 93291
Prop65@co.tulare.ca.us

Paul E. Zellerbach, District Attorney
Riverside County
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 April 1, 2014, 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
Placerville, CA 95667

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
Eureka, CA 95501

District Attorney of Imperial County
939 Main Street, Ste. 102
El Centro, CA 92243

District Attorney of Inyo County
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
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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
Mariposa, CA 95338

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Ukiah, CA 95482

District Attorney of Merced County
2222 "M" Street
Merced, CA 95340

District Attorney of Modoc County
204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93546

District Attorney of Nevada County
201 Commercial Street
Nevada City, CA 95959

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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
County
520 Main Street, Rm. 404
Quincy, CA 95971

District Attorney of Sacramento
County
901 "G" Street
Sacramento, CA 95814

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419 Fourth Street, 2nd Fl.
Hollister, CA 95023

District Attorney of San
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316 N. Mountain View Avenue
San Bernardino, CA 92415

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

District Attorney of San
Francisco County
850 Bryant Street, Rm. 325
San Francisco, CA 94103

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P.O. Box 990
Stockton, CA 95202

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

District Attorney of San Mateo
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District Attorney of Santa Cruz
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701 Ocean Street, Rm. 200
Santa Cruz, CA 95060

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

Ardith L. Stuertz, President *
Licorice International, Inc.
803 Q Street, Suite 300
Lincoln, NE 68508

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San Francisco, CA 94102

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Downieville, CA 95936

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

District Attorney of Siskiyou County
P.O. Box 986
Yreka, CA 96097

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

District Attorney of Solano County
675 Texas Street, Ste. 4500
Fairfield, CA 94533

Richard Buisson, President *
Buisson, Inc.

District Attorney of Stanislaus County
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Modesto, CA 95354

169 Camino Dorado
Napa, CA 94558

District Attorney of Sutter County
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