

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

ELLISON FOLK
Attorney
folk@smwlaw.com

March 27, 2014

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL
INFORMATION PER EVIDENCE CODE § 1040**

**REVISED NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.**

Dear Public Enforcement Agencies:

Shute, Mihaly & Weinberger LLP (“Firm”) represents As You Sow (“AYS”), a 501(c)(3) non-profit corporation dedicated to, among other causes, the protection of the environment, toxics reduction, the promotion of and improvement of human health, the improvement of worker and consumer rights, environmental education, and corporate accountability. As You Sow is based in Oakland, California and was incorporated in 1992 under the laws of the State of California.

This firm and AYS documented violations of California’s Safe Drinking Water & Toxic Enforcement Act of 1986 (“Proposition 65”), codified at Health & Safety Code § 25249.5 et seq with respect to the product identified below. On November 4, 2013, Shute, Mihaly & Weinberger LLP (“Firm”) on behalf of As You Sow served a Notice of Violation of California Health & Safety Code Section 25249.5 on California’s Attorney General and Public Enforcement Agencies. The notice letter contained a typographical error on Page 2.

The third bullet point on Page 2 of the November 4, 2013 notice letter erroneously identified L’Oreal USA, Inc., as the manufacturer, seller, and/or distributor of the product CVS Sunless Tan Mist Spray (Deep Color). The correct manufacturer, seller, and/or distributor of that product is CVS Corporation. The incorrect line in the November 4, 2013 notice letter read as follows:

CVS Sunless Tan Mist Spray (Deep Color), which is manufactured, sold, and/or distributed by L’Oreal USA, Inc. in California.

This line has been corrected in this revised notice letter to read as follows:

March 27, 2014

Page 2

CVS Sunless Tan Mist Spray (Deep Color), which is manufactured, sold, and/or distributed by CVS Corporation in California.

The November 4, 2103 notice letter to the violator correctly identified CVS was the party that manufactured, sold and/or distributed the product in California.

This letter serves to provide this Firm's and AYS' notification of these violations to the public enforcement agencies. Pursuant to § 25249.7(d) of the statute, this Firm intends to bring an enforcement action on behalf of AYS sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, was enclosed with the November 4, 2013 copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

Chemicals. These violations involve exposures to formaldehyde gas from the products listed below. On June 11, 2004, the State of California officially listed formaldehyde as a chemical known to cause cancer.

Alleged violator. The name of the violator covered by this revised notice is CVS Corporation.

Consumer products. The products that are the subject of this notice are:

- CVS Sunless Tan Mist Spray (Deep Color), which is manufactured, sold, and/or distributed by CVS Corporation in California.

Route of exposure. Use of the products identified in this notice results in human exposures to formaldehyde. The routes of exposure include inhalation when consumers breathe near the products during application or use of the products. No clear and reasonable warning is provided with this product regarding the carcinogenic hazards of formaldehyde.

Duration of violations. Each of these ongoing violations has occurred on every day since at least November 5, 2012, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

March 27, 2014
Page 3

Pursuant to Title 11, C.C.R. § 3100, a certificate of merit is attached hereto. This certificate of merit is based on the information submitted to the Attorney General with the November 4, 2013 notice letter.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with As You Sow to discuss an early resolution of this matter by contacting Danielle Fugere, President, 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612, (510) 735-8141. You may also contact AYS' counsel:

Ellison Folk
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102
PH: 415.552.7272; Fax: 415.552.5816
Email: folk@smwlaw.com

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

572834.1


CERTIFICATE OF MERIT

(Notice of Proposition 65 Violation on CVS Corporation)

I, Ellison Folk, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party in the notice has violated section 25249.6 of the Health and Safety Code by failing to provide clear and reasonable warnings.
2. I am an 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 exposure to the listed chemicals that are the subject of the 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 that the information did not prove that the alleged violator 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 the information identified in section 25249.7(h)(2) of the Health and Safety Code, 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: 11-4-2013



Ellison Folk

Enclosure (For Attorney General Copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is: 396 Hayes Street, San Francisco, CA 94102.

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

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit
- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Mark S. Cosby, President
Dan Nelson, President
CVS Corporation
1 CVS Drive
Woonsocket, RI 02895-6184

On March 27, 2014, I served the following document(s):

- Revised Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following party by electronic service of the Attorney General's Proposition 65 60 Day Notice Filing system.

On March 27, 2014, I served the following document(s):

- Revised Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit

on each of the parties on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on March 27, 2014, at San Francisco, California.



Patricia Spencer

THE HONORABLE NANCY E. O'MALLEY
ALAMEDA COUNTY DISTRICT ATTORNEY
1225 FALLON ST RM 900
OAKLAND CA 94612

THE HONORABLE ROBERT J. MALONEY
GLENN COUNTY DISTRICT ATTORNEY
PO BOX 430
540 WEST SYCAMORE STREET
WILLOWS CA 95988

THE HONORABLE EDWARD BERBERI
MARIN COUNTY DISTRICT ATTORNEY
3501 CIVIC CTR DR RM 130
SAN RAFAEL CA 94903-4164

THE HONORABLE TERESE DRABEC
ALPINE COUNTY DISTRICT ATTORNEY
PO BOX 248
MARKLEEVILLE CA 96120

THE HONORABLE PAUL GALLEGOS
HUMBOLDT COUNTY DISTRICT ATTORNEY
825 FIFTH ST, 4TH FLOOR
EUREKA CA 95501

THE HONORABLE THOMAS K. COOK
MARIPOSA COUNTY DISTRICT ATTO
PO BOX 730
5101 JONES STREET
MARIPOSA CA 95338

THE HONORABLE TODD D RIEBE
AMADOR COUNTY DISTRICT ATTORNEY
708 COURT ST STE 202
JACKSON CA 95642

THE HONORABLE GILBERT OTERO
IMPERIAL COUNTY DISTRICT ATTORNEY
939 W MAIN ST, SUITE 102
EL CENTRO CA 92243

THE HONORABLE C. DAVID EYSTER
MENDOCINO COUNTY DISTRICT AT
100 NORTH STATE STREET
PO BOX 1000
UKIAH CA 95482

THE HONORABLE MICHAEL RAMSEY
BUTTE COUNTY DISTRICT ATTORNEY
25 COUNTY CTR DR #245
OROVILLE CA 95965-3370

THE HONORABLE ARTHUR MAILLET
INYO COUNTY DISTRICT ATTORNEY
P.O. DRAWER U
INDEPENDENCE CA 93525-0604

THE HONORABLE LARRY MORSE II
MERCED COUNTY DISTRICT ATTOR
550 W. 20TH STREET
MERCED CA 95340

THE HONORABLE BARBARA YOOK
CALAVERAS COUNTY DISTRICT ATTORNEY
891 MTN RANCH RD
SAN ANDREAS CA 95249

THE HONORABLE LISA GREEN
KERN COUNTY DISTRICT ATTORNEY
1215 TRUXTUN AVE
BAKERSFIELD CA 93301

THE HONORABLE CHRIS BROOKE
MODOC COUNTY DISTRICT ATTOR
204 S COURT ST RM 202
ALTURAS CA 96101-4020

THE HONORABLE JOHN POYNER
COLUSA COUNTY DISTRICT ATTORNEY
346 5TH STREET
COLUSA CA 95932

THE HONORABLE GREG STRICKLAND
KINGS COUNTY DISTRICT ATTORNEY
1400 W LACEY BLVD
HANFORD CA 93230

THE HONORABLE TIM KENDALL
MONO COUNTY DISTRICT ATTORNE
PO BOX 617
BRIDGEPORT CA 93517

THE HONORABLE MARK A. PETERSON
CONTRA COSTA COUNTY DIST. ATTORNEY
900 WARD STREET
MARTINEZ CA 94553

THE HONORABLE DON A. ANDERSON
LAKE COUNTY DISTRICT ATTORNEY
255 N FORBES ST
LAKEPORT CA 95453

THE HONORABLE DEAN FLIPPO
MONTEREY COUNTY DISTRICT AT
PO BOX 1131
SALINAS CA 93902

THE HONORABLE JON ALEXANDER
DEL NORTE COUNTY DISTRICT ATTORNEY
450 H ST STE 171
CRESCENT CITY CA 95531

THE HONORABLE ROBERT BURNS
LASSEN COUNTY DISTRICT ATTORNEY
220 S LASSEN ST STE 8
SUSANVILLE CA 96130

THE HONORABLE GARY LIEBERST
NAPA COUNTY DISTRICT ATTORNE
931 PARKWAY MALL
NAPA CA 94559

THE HONORABLE VERN PIERSON
EL DORADO COUNTY DISTRICT ATTORNEY
515 MAIN ST
PLACERVILLE CA 95667

THE HONORABLE JACKIE LACEY
LA COUNTY DISTRICT ATTORNEY
210 W TEMPLE ST ROOM 18-709
LOS ANGELES CA 90012

THE HONORABLE CLIFFORD NEW
NEVADA COUNTY DISTRICT ATTC
110 UNION STREET
NEVADA CITY CA 95959

THE HONORABLE ELIZABETH EGAN
FRESNO COUNTY DISTRICT ATTORNEY
2220 TULARE ST STE 1000
FRESNO CA 93721

THE HONORABLE R. SCOTT OWENS
PLACER COUNTY DISTRICT ATTORNEY
10810 JUSTICE CENTER DRIVE, #240
ROSEVILLE CA 95678

THE HONORABLE DAVID HOLLISTER
PLUMAS COUNTY DISTRICT ATTORNEY
520 MAIN ST RM 404
QUINCY CA 95971

PAUL ZELLERBACH
RIVERSIDE COUNTY DISTRICT ATTORNEY
3972 ORANGE STREET
RIVERSIDE CA 92501

THE HONORABLE JAN SCULLY
SACRAMENTO COUNTY DIST. ATTORNEY
901 G ST
SACRAMENTO CA 95814

THE HONORABLE CANDICE HOOPER
SAN BENITO COUNTY DISTRICT ATTORNEY
419 FOURTH ST
HOLLISTER CA 95023

THE HONORABLE MICHAEL RAMOS
SAN BERNARDINO COUNTY
DISTRICT ATTORNEY
316 N MTN VIEW AVE
SAN BERNARDINO CA 92415-0004

THE HONORABLE BONNIE DUMANIS
SAN DIEGO COUNTY DISTRICT ATTORNEY
330 W BROADWAY, SUITE 1300
SAN DIEGO CA 92101

THE HONORABLE GEORGE GASCÓN
SAN FRANCISCO COUNTY
DISTRICT ATTORNEY
850 BRYANT ST RM 322
SAN FRANCISCO CA 94103

THE HONORABLE MICHAEL R. KEITZ
MADERA COUNTY DISTRICT ATTORNEY
209 W YOSEMITE AVE
MADERA CA 93637

THE HONORABLE STEPHEN M. WAGSTAFFE
SAN MATEO COUNTY DISTRICT ATTORNEY
400 COUNTY CTR FL 3
REDWOOD CITY CA 94063

THE HONORABLE JOYCE E. DUDLEY
SANTA BARBARA COUNTY DIST. ATTORNEY
1112 SANTA BARBARA ST
SANTA BARBARA CA 93101

THE HONORABLE JEFFREY F. ROSEN
SANTA CLARA COUNTY DIST. ATTORNEY
70 W HEDDING ST WEST WING
SAN JOSE CA 95110

THE HONORABLE BOB LEE
SANTA CRUZ COUNTY DIST. ATTORNEY
701 OCEAN ST RM 200
SANTA CRUZ CA 95060

THE HONORABLE STEPHEN S. CARLTON
SHASTA COUNTY DISTRICT ATTORNEY
1355 WEST STREET
REDDING, CA 96001

THE HONORABLE LAWRENCE ALLEN
SIERRA COUNTY DISTRICT ATTORNEY
PO BOX 457
DOWNIEVILLE CA 95936

THE HONORABLE J. KIRK ANDRUS
SISKIYOU COUNTY DISTRICT ATTORNEY
PO BOX 986
YREKA CA 96097

THE HONORABLE DONALD A. DU BAIN
SOLANO COUNTY DISTRICT ATTORNEY
675 TEXAS ST STE 4500
FAIRFIELD CA 94533

THE HONORABLE TONY RACKAU
ORANGE COUNTY DISTRICT ATTORNEY
401 CIVIC CTR DR WEST
SANTA ANA CA 92701

THE HONORABLE CARL V ADAMS
SUTTER COUNTY DISTRICT ATTORNEY
446 SECOND ST, #102
YUBA CITY CA 95991

THE HONORABLE GREGG COHEN
TEHAMA COUNTY DISTRICT ATTORNEY
PO BOX 519
RED BLUFF CA 96080

THE HONORABLE MICHAEL HARPE
TRINITY COUNTY DISTRICT ATTORNEY
PO BOX 310
WEAVERVILLE CA 96093

THE HONORABLE TIM WARD
TULARE COUNTY DISTRICT ATTORNEY
221 S MOONEY BLVD RM 224
VISALIA CA 93291

THE HON. MICHAEL L. KNOWLES
TUOLUMNE COUNTY DIST. ATTORNEY
423 N WASHINGTON ST
SONORA CA 95370

THE HONORABLE GREG TOTTEN
VENTURA COUNTY DISTRICT ATTORNEY
800 S VICTORIA AVE
VENTURA CA 93009

THE HONORABLE JEFF REISIG
YOLO COUNTY DISTRICT ATTORNEY
301 SECOND ST
WOODLAND CA 95695

THE HONORABLE PATRICK MCGR
YUBA COUNTY DISTRICT ATTORNEY
215 FIFTH ST, #152
MARYSVILLE CA 95901

THE HONORABLE JAMES WILLETT
SAN JOAQUIN COUNTY DIST. ATTORNEY
PO BOX 990
STOCKTON CA 95201-0990

THE HONORABLE JILL RAVITCH
SONOMA COUNTY DISTRICT ATTORNEY
600 ADMINISTRATION DR RM 212-J
SANTA ROSA CA 95403

LOS ANGELES CITY ATTORNEY'S OFFICE
200 N MAIN ST, FLOOR 8
LOS ANGELES CA 90012

THE HONORABLE GERALD T SHEA
SAN LUIS OBISPO COUNTY
DISTRICT ATTORNEY
COURTHOUSE ANNEX 4TH FLOOR
SAN LUIS OBISPO CA 93408

THE HONORABLE BIRGIT FLADAGER
STANISLAUS COUNTY DISTRICT ATTORNEY
832 12TH STREET, SUITE 300
MODESTO CA 95354

SAN DIEGO CITY ATTORNEY'S OFFICE
CIVIC CENTER PLAZA
1200 THIRD AVE STE 1620
SAN DIEGO CA 92101

SAN JOSE CITY ATTORNEY'S OFFICE
200 E SANTA CLARA ST
SAN JOSE CA 95113

SAN FRANCISCO CITY ATTORNEY'S OFFICE
CITY HALL RM 234
SAN FRANCISCO, CA 94102