

## 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

May 16, 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 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 and used by 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.
- Types of Products: The specific types of products causing this violation are shampoo and liquid soaps such as hand soap, body wash and bubble bath (the "Products"). Non-exclusive examples of these specific types of products 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. 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 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 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 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 Mark N. Todzo at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800. mtodzo at lexlawgroup.com.

**EXHIBIT 1**  
**May 16, 2014 Notice of Violation**  
**Cocamide DEA in Shampoo and Liquid Soaps**  
**Such as Hand Soap, Body Wash & Bubble Bath**

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	SKU or Further Description
<p><b>Charles Komar &amp; Sons, Inc.</b>            16 East 34th Street            New York, NY 10016</p>	<p>Skinny Girl Bath Collection            Shower Gel in Margarita</p>	<p>SKU No.            09-116-77437541-9</p>
<p><b>Classic Brand Inc.</b>            P.O. Box 581115            19020 North Indian Avenue, #5-D            North Palm Springs, CA            92258-1115</p>	<p>Mr. Taylor's Shaving Gel</p>	<p>Product Code No.            TB-SC-7-B</p>
<p><b>Concept Amenities, Inc.</b>            3230 S. Buffalo Drive            Suite 101            Las Vegas, NV 89117</p> <p><b>Concept Amenities Pty Ltd</b>            81-85 Malcolm Road            Braeside, VIC 3195            Australia</p>	<p>Eartherapy Shampoo</p>	<p>SKU No.            X000FQKEUV</p>
<p><b>Dr. Miracle's, Inc.</b>            183 Madison Avenue            Suite 405            New York, NY 10016</p>	<p>Dr. Miracle's            "Feel It" Formula            Neutralizing Shampoo</p>	<p>SKU No.            8-97127-00080-4</p>
<p><b>FragranceNet.com, Inc.</b>            900 Grand Blvd.            Deer Park, NY 11729</p>	<p>Big Sexy Hair            Big Volume Shampoo</p>	<p>SKU No.            6-46630-00369-3            Item No. 220665</p>

<p><b>Labo. DERMA</b> 17, Rue du Colisee 75008 Paris France</p> <p><b>Gapardis Health &amp; Beauty, Inc.</b> 1 SE 3<sup>rd</sup> Avenue Suite 1860 Miami, FL 33131</p> <p><b>Mitchell Group USA LLC</b> 1 SE 3<sup>rd</sup> Avenue Suite 1860 Miami, FL 33131</p>	<p>Paris Fair &amp; White So White! Shampooing Nutri-eclat</p>	<p>SKU No. 8-779170-001392</p>
<p><b>Mario Badescu Skin Care, Inc.</b> 320 East 52<sup>nd</sup> Street New York, NY 10022</p>	<p>Mario Badescu Skin Care Glycolic Foaming Cleanser</p>	<p>SKU No. 7-85364-01029-1 Item No. 176008</p>
<p><b>Sexy Hair Concepts, LLC</b> 21551 Prairie Street Chatsworth, CA 91311</p>	<p>Big Sexy Hair Big Volume Shampoo</p>	<p>SKU No. 6-46630-00369-3 Item No. 220665</p>
<p><b>Taylor of Old Bond Street Limited</b> 74 Jermyn Street London, SW1Y 6NP United Kingdom</p>	<p>Mr. Taylor's Shaving Gel</p>	<p>Product Code No. TB-SC-7-B</p>
<p><b>Victoria Albi Inc.</b> 1178 Broadway, Suite 5 New York, NY 10001</p> <p><b>Victoria Albi International Inc.</b> 1178 Broadway, 5<sup>th</sup> Floor New York, NY 10001</p>	<p>Makari de Suisse Clarifying Scrubbing Cream</p>	<p>SKU No. 3-760096-840092 Item No. 840092</p>

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

I, Mark N. Todzo, 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.

May 16, 2014



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Mark N. Todzo  
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 May 16, 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 1:42p .m. on May 16, 2014:

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Dije Ndreu, Deputy District Attorney  
Monterey County  
230 Church Street, Bldg. 2  
Salinas, CA 93901  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

Karyn Sinunu-Towery,  
Assistant District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
[epu@da.sccgov.org](mailto:epu@da.sccgov.org)

Gary Lieberstein, District Attorney  
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931 Parkway Mall  
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Stephan R. Passalacqua, District Attorney  
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600 Administration Drive, Rm. 212J  
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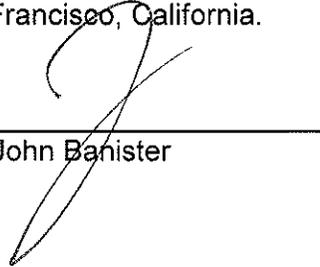
Gregory D. Totten, District Attorney Ventura  
County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

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 May 16, 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

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San Andreas, CA 95249

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Colusa, CA 95932

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San Diego, CA 92101

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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  
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Coordinator and Robert Thomas  
1515 Clay Street, Ste. 2000  
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Oakland, CA 94612-0550

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