

60-DAY NOTICE OF VIOLATION

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

DATE: July 11, 2014

TO: Richard Ross, President – Ross Acquisition Co.
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: Laurence Vinocur

I. INTRODUCTION

My name is Laurence Vinocur. 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"). As noted above, notice is also being provided to the alleged violator, Ross Acquisition Co. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposure, and type 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: Lead
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the category covered by this Notice shall be referred to hereinafter as the "products." Exposures to the listed chemical from the use of the products have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as July 11, 2011. Without proper warnings regarding the toxic effects of exposures 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 listed chemical from the reasonably foreseeable use of the products.

A. CONSUMER PRODUCT EXPOSURE

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, exposures occur when California citizens use, display, clean, repair, pack, unpack, arrange, store or otherwise handle the products. These tasks cause consumers to be exposed directly or indirectly through the routine touching of the parts or portions of the products containing readily available surface amounts of the listed chemical. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. People likely to be exposed include children and adults.

B. OCCUPATIONAL EXPOSURE

Similarly, men and women in California use or otherwise handle the products as a part of their jobs and are, therefore, subject to occupational exposures to the listed chemical. Employees are exposed at any California business locations of the apparent manufacturer, distributor and retailer (and their agents, assigns and divisions) as well as all other California locations where the products, or the component parts thereof that include the listed chemical are, by way of example but not limitation, used as a drinking vessel, packed, unpacked, labeled, arranged, displayed, cleaned, stocked, stored, or otherwise handled. These tasks cause employee exposure directly and/or indirectly to the listed chemical through the routine touching of the parts or portions of the products containing readily available amounts of the listed chemical on the surface. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. These products are also used by sole proprietors and other persons in settings not covered by the federal Occupational Safety Health Act ("OSHA"). This Notice alleges the violation of Proposition 65 with respect to occupational exposure governed by the California State Plan for Occupational Safety and Health (the "State Plan"). The State Plan incorporates the provisions of Proposition 65, as approved by OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance contained in the general hazard communication requirement to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the California Attorney General.

III. CONTACT INFORMATION

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

Laurence Vinocur
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 Violator's 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 Violator unless such Violator enters 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 exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violator is 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 is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product 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 warning" 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 Violator and other retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Galerie Sock Monkey Holiday Cocoa Set, #871345170, UPC #7 68395 46639 8	Kmart Contra Costa County, Northern California	Ross Acquisition Co.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Mugs with Exterior Designs containing Lead	Galerie Sock Monkey Holiday Cocoa Set, #871345170, UPC #7 68395 46639 8	Lead

*The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's 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 July 11, 2014, I served the following documents:

**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 entity 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 entity listed below and providing such envelope to a United States Postal Service Representative:

Richard Ross, President
Ross Acquisition Co.
3380 Langley Drive
Hebron, KY 41048

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:</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 July 11, 2014, at Berkeley, California.


Caroline Pak

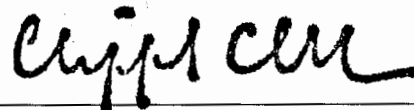
CERTIFICATE OF MERIT

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 party identified in the notice has 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 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 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: July 11, 2014



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
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Martinez, CA 94553

The Honorable Jon Alexander
Del Norte County District Attorney
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Fresno, CA 93721

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

The Honorable Arthur Maillet
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The Honorable Lisa Green
Kern County District Attorney
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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
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Los Angeles, CA 90012

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209 West Yosemite Avenue
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San Rafael, CA 94903

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Quincy, CA 95971

The Honorable Paul Zellerbach
Riverside County District Attorney
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The Honorable Jan Scully
Sacramento County District Attorney
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Sacramento, CA 95814

The Honorable Candice Hooper
San Benito County District Attorney
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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
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The Honorable George Gascon
San Joaquin County District Attorney
850 Bryant Street, Room 322
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San Luis Obispo County District Attorney
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San Luis Obispo, CA 93408

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Santa Cruz, CA 95060

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Ventura, CA 93009

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Sacramento, CA 95814

The Honorable Dennis J. Herrera
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City Hall, Room 234
San Francisco, CA 94102

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
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550