

60-DAY NOTICE OF VIOLATION

(Pursuant to California Health & Safety Code, § 2549.7(d))

Re: 4-methylimidazole (4-MEI) Found in Carbonated Drinks with Caramel Coloring

Date: September 2, 2014

To: Michael Levin, President of M. Levin & Company, Inc.
California Attorney General's Office;
Each California District Attorney's Office (see service list below)
Los Angeles, San Diego, San Jose, and San Francisco City Attorneys' Offices

From: Rudy Cantoran

I, Rudy Cantoran, provide this Notice of Violation to you pursuant to and in compliance with California Health and Safety Code section 25249.7, subsection d. I am a citizen of the State of California acting in the interest of the general public. I seek to increase the public's awareness and the safety regarding products sold for consumption in California that expose the public to unsafe levels of carcinogens. I can be reached at 15072 Christina Ct., Lake Elsinore, CA 92530, (310) 701-3053. The violations covered by this Notice consist of the products' exposures, routes of exposure, and type of harm potentially resulting from exposure to the toxic chemical identified below, as follows:

Description of Violation:

- Violators:
M. Levin & Company, Inc.
6700 Essington Ave
Unit H2-H5
Philadelphia, PA 19153
- Time Period of Exposure: The violations have been occurring since at least January 7, 2012, and are ongoing.
- Proposition 65 Provision Violated: This Notice of Violation involves violation of California Health and Safety Code section 25249.6 for failure to provide a "warning provision" required by Proposition 65.
- Listed Chemical Involved: 4-methylimidazol ("4-MEI"), a carcinogen.

- Description of Exposure: Consumers ingest the products identified by this Notice, which contain 4-MEI. No clear and reasonable warning is provided with these products identified by this Notice regarding carcinogen hazards associated with 4-MEI exposure.
- Type of Product: Carbonated beverages containing caramel coloring. Non-exclusive example is: Malta India

Resolution of Notice Claims:

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged violator 60 days after effective service unless such alleged violator enters into a binding written agreement to remedy the violations alleged herein by:

- (1) Recalling products already sold;
- (2) Reformulating such products to eliminate the 4-MEI exposure or taking appropriate measures to otherwise comply with Proposition 65; and
- (3) Paying an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b).

If any of the alleged violators is interested in resolving this dispute without resort to litigation, please feel free to contact me through my counsel identified below. It should be noted that I and my counsel may not: (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 my 60-day Notice. Therefore, while reaching an agreement with myself will resolve my claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Notice to my counsel: Wade Miller at 235 E. Broadway, Ste. 424, Long Beach, CA 90802, (562) 437-6300, wmillers@wademillerlaw.com.


CERTIFICATE OF MERIT

Health & Safety Code § 25249.7(d)

I, Wade Miller, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 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 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 plaintiffs' 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 the information identified in Health and Safety Code section 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: September 4, 2014



Wade Miller

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in Long Beach, California; my business address is 235 E. Broadway, Ste. 424, Long Beach, CA 90802. I am over the age of 18 years and not a party to the within cause and my electronic notification address is hpassano@wademillerlaw.com.

On September 4, 2014, I served true copies of the following documents:

60-DAY NOTICE OF VIOLATION PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 2549.7(d);

CERTIFICATE OF MERIT;

CERTIFICATE OF MERIT SUPPORTING DOCUMENTS (only served on Attorney General)

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only served on M. Levin & Company, Inc.)

On this date, I transmitted the above documents via electronic mail to the electronic mail addresses set forth below at 11:20 AM on September 4, 2014:

Stacey Grassini, Deputy District Attorney
Contra Costa County
sgrassini@contracostada.org

Karyn Sinunu-Towery, Asst. District Attorney
Santa Clara County
epu@da.sccgov.org

Dije Ndreu, Deputy District Attorney
Monterey County
Prop65DA@co.monterey.ca.us

Stephan R. Passalacqua, District Attorney
Sonoma County
jbarnes@sonoma-county.org

Gary Lieberstein, District Attorney
Napa County
CEPD@countyofnapa.org

Phillip J. Cline, District Attorney
Tulare County
Prop65@co.tulare.ca.us

Paul E. Zellerbach, District Attorney
Riverside County
Prop65@rivcoda.org

Gregory D. Totten, District Attorney
Ventura County
daspecialops@ventura.org

The transmission was reported as complete and without error.

On September 4, 2014, I deposited fully prepaid and sealed envelopes containing the above mentioned documents with the United States Postal Service, addressed to the individuals in the attached service list.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on September 4, 2014, at Long Beach, California.

Dated: September 4, 2014


Hannah Passano

SERVICE LIST

District Attorney of Alameda County
1 225 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 County
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 County
P.O. Box 730
Mariposa, CA 95338

District Attorney of Mendocino County
P.O. Box 1 000
Ukiah, CA 95482

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

District Attorney of Modoc County
204 S. Court Street, Ste. 202
Alturas, CA 96101

District Attorney of Mono County
P.O. Box 61 7
Bridgeport, CA 93546

District Attorney of Nevada County
1 1 0 Union Street
Nevada City, CA 95959

District Attorney of Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney of Placer County
1 0810 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

District Attorney of San Benito County
41 9 Fourth Street, 2nd Fl.
Hollister, CA 95023

District Attorney of San Bernardino County
31 6 N. Mountain View Avenue
San Bernardino, CA 924 15

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

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

District Attorney of San Joaquin County
P.O. Box 990
Stockton, CA 95202

District Attorney of San Luis Obispo County
1 050 Monterey Street, Rm. 450
San Luis Obispo, CA 93408

District Attorney of San Mateo County
400 County Center, 3'd Fl.
Redwood City, CA 94063

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

District Attorney of Santa Barbara County
Attn: Jerry Lule-Jian
3 1 2-D E. Cook Street
Santa Maria, CA 93454

District Attorney of Shasta County
1355 West Street
Redding, CA 96001

District Attorney of Sierra County Courthouse
1 00 Courthouse Sq., 2nd Fl.
Downieville, CA 95936

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

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

District Attorney of Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney of Tehama County
P.O. Box 519
Red Bluff, CA 96080

District Attorney of Trinity County
P.O. Box 310, 11 Court Street
Weaverville, CA 96093

District Attorney of Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney of Yolo County
301 Second Street
Woodland, CA 95695

District Attorney of Yuba County
21 5 Fifth Street
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm. 800
Los Angeles, CA 90012

San Diego City Attorney's Office
1 200 Third Avenue, Ste. 1 620
San Diego, CA 92101

San Francisco City Attorney's Office
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 951 1 3

District Attorney of Stanislaus County
832 12th Street, Suite 300
Modesto, California 95354

Michael Levin
President of M. Levin & Company, Inc.
6700 Essington Ave.
Unit H2-H5
Philadelphia, PA 19153