



November 10, 2014

Tom DiNicola
Eastern Sierra Whole Salers, Inc.
250 S. Main St.
Bishop, CA 93514

Re: NOTICE OF VIOLATION AGAINST EASTERN SIERRA WHOLE SALERS, INC., OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.6

To Whom It May Concern and to Public Prosecutors:

John Bonilla ("Bonilla") is a citizen of the state of California acting in the interest of the general public seeking to further, among other causes, the protection of the environment, toxics reduction, the promotion and improvement of human health, the improvement of workers and consumer rights, environmental education and corporate accountability. As described below, Mr. Bonilla has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65" or "Act"), codified at Cal. Health & Safety Code §25249.5 *et seq.* by Eastern Sierra Whole Salers, Inc., a California corporation (the "Violator"). This letter serves to provide Mr. Bonilla's notification of these violations to the Violator and elected prosecutors. Pursuant to §25249.7(d) of the statute, Mr. Bonilla intends to bring an enforcement action sixty (60) days or more after effective service of this notice unless the appropriate public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

The products which are causing an exposure without a warning in violation of Proposition 65, are alcoholic beverages manufactured, distributed, offered for sale, and/or served to California consumers by Violator ("Products"). The location of the violations include Village Café, 965 N. See Vee Lane, Bishop, CA 93514, where the Products were sold without a warning on or before November 6, 2014, and continuing thereafter.

A copy of the Proposition 65 summary prepared by the Office of Environmental Health Hazard Assessment is attached, to the copy of this letter served to the Violator.

Because of this lack of a warning, consumers were exposed to the following chemicals without the proper required Proposition 65 warnings: 1) Alcoholic beverages, when associated with alcohol abuse;

2) Ethyl alcohol in alcoholic beverages; and 3) Ethanol in alcoholic beverages.

Pursuant to Title 27, CCR § 25603.3(e)(7): “For alcoholic beverages, the placement and maintenance of the warning shall be the responsibility of the manufacturer or its distributor at no cost to the retailer, and any consequence for failure to do the same shall rest solely with the manufacturer or its distributor, provided that the retailer does not remove, deface, or obscure the requisite signs or notices, or obstruct, interfere with, or otherwise frustrate the manufacturer’s reasonable efforts to post, maintain, or periodically replace said materials.”

Mr. Bonilla intends to file a private enforcement action as provided for in the Act for the alleged violations by the Violator, unless Violator agrees in an enforceable written instrument to: (1) recall the listed products so as to eliminate further exposures to the identified chemicals; or (2) affix clear and reasonable Proposition 65 warning labels; and (3) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65, Mr. Bonilla is interested in seeking a constructive resolution to this matter, and invites violator, should it seek early resolution of this matter, to communicate directly with Bonilla’s attorneys. Such resolution will avoid further unwarned consumer exposures, as well as resource intensive litigation.

Please direct all questions concerning this notice to Mr. Bonilla’s attorneys, Vineet Dubey (dubey@cd-lawyers.com) or Miguel A. Custodio, Jr.(custodio@cd-lawyers.com), 766 E. Colorado Blvd., Ste 108, Pasadena, CA 91101, 213-785-2909.

Sincerely,



Vineet Dubey
Custodio & Dubey LLP

cc: see attached distribution list

Attachments:
Proposition 65 summary
Certificate of Merit
Certificate of Service

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

Re: John Bonilla's Notice of Proposition 65 Violations by Eastern Sierra Whole Salers, Inc.

I, Vineet Dubey, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 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, extensively reviewed Title 22, CCR §12601(b)(1)(D)(2), and have assembled evidence attached to the copy for the California Attorney General as Exhibit 1 to this Certificate of Merit regarding the lack of warnings for the listed chemical that is the subject of the notice.
4. Based on the information obtained; Title 22, CCR §12601(b)(1)(D)(2); 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 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 California Health & Safety Code §25249.7(h)(2).

Dated: November 10, 2014



Vineet Dubey, Attorney at Law

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 766 E. Colorado Blvd., Ste 108, Pasadena, CA 91101.

On the date shown below, I served the following:

- 1) 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6
- 2) Certificate of Merit; Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy); Factual information sufficient to establish the basis of the certificate of merit (*only sent to Attorney General*)
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); A Summary


on the alleged violator 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:

Tom DiNicola
Eastern Sierra Whole Salers, Inc.
250 S. Main St.
Bishop, CA 93514

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to the parties listed on the attached Distribution List.

I declare under penalty of perjury that under the laws of the State of California that the foregoing is true and correct.

November 10, 2014



Vineet Dubey

Distribution List

| | | |
|---|---|--|
| Alameda County District Attorney 1225 Fallon St. Room 900 Oakland. CA 94612 | Los Angeles County District Attorney 210 W Temple St. 18th Floor Los Angeles. CA 90012 | Mono County District Attorney PO Box 617 Bridgeport. CA 93517 |
| Alpine County District Attorney PO Box 248 Markleeville. CA 96120 | Madera County District Attorney 209 W Yosemite Ave Madera. CA 93637 | San Joaquin County District Attorney PO Box 990 Stockton. CA 95201-0990 |
| Amador County District Attorney 708 Court. Suite 202 Jackson. CA 95642 | Mariposa County District Attorney P.O. Box 730 Mariposa. CA 95338 | San Francisco County District Attorney 850 Bryant St, Rm 322 San Francisco. CA 94103 |
| Butte County District Attorney 25 County Center Dr. Oroville. CA 95965-3385 | Marin County District Attorney 3501 Civic Center Drive. #130 San Rafael. CA 94903 | San Diego County District Attorney 220 W Broadway, Ste 1200 San Diego, CA 92101-3803 |
| Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249 | Mendocino County District Attorney P.O. Box 1000 Ukiah. CA 95482 | San Bernardino County District Attorney 316 N Mountain View Ave San Bernardino. CA 92415-0004 |
| Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550 | Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012 | San Francisco City Attorney # 1 Dr. Carlton B. Goodlett Place, Suite 234 San Francisco. CA 94102 |
| Colusa County District Attorney Courthouse. 547 Market St Colusa. CA 95932 | Inyo County District Attorney P.O. Drawer D Independence. CA 93526 | Placer County District Attorney 10810 Justice Center Drive Suite 240 Roseville, CA 95678-6231 |
| Contra Costa County District Attorney 725 Court St., Room 402 Martinez, CA 94553 | Orange County District Attorney PO Box 808 Santa Ana. CA 92702 | Merced County District Attorney 550 W. Main St. Merced. CA 95340 |
| Del Norte County District Attorney 450 "H" St. Crescent City, CA 95531 | Nevada County District Attorney 10075 Levon Ave. Truckee. CA 96161 | Napa County District Attorney PO Box 720 Napa. CA 94559-0720 |
| El Dorado County District Attorney 515 Main St. Placerville. CA 95667-5697 | Plumas County District Attorney 520 Main Street. Rm 404 Quincy. CA 95971 | Riverside County District Attorney 3960 Orange Street, Suite 6 Riverside. CA 92501 |
| Fresno County District Attorney 2220 Tulare St, Ste. 1000 Fresno. CA 93721 | Sacramento County District Attorney 901 G Street Sacramento. CA 95814 | San Benito County District Attorney 419 4th St Hollister, CA 95023 |
| Glenn County District Attorney PO Box 430 Willows. CA 95988 | San Luis Obispo County District Attorney County Government Center. Rm 450 San Luis Obispo. CA 93408 | Siskiyou County District Attorney PO Box 986 Yreka. CA 96097 |
| Humboldt County District Attorney 825 5th St., 4th Floor Eureka. CA 95501 | San Mateo County District Attorney 400 County Center Redwood City. CA 94063 | Solano County District Attorney 600 Union Ave Fairfield. CA 94533 |
| Imperial County District Attorney 939 W. Main St., 2nd Floor El Centro. CA 92243-2860 | Santa Barbara County District Attorney 1112 Santa Barbara St. Santa Barbara. CA 93101 | Sonoma County District Attorney 600 Administration Dr. Rm 212-J Santa Rosa, CA 95403 |
| Kern County District Attorney 1215 Truxtun Ave. Bakersfield. CA 93301 | Santa Clara County District Attorney 70 W Hedding St. San Jose, CA 95110 | Shasta County District Attorney 1355 West St. Redding. CA 96001-1632 |
| Kings County District Attorney Gov't Ctr. 1400 W Lacey Blvd Hanford, CA 93230 | Santa Cruz County District Attorney 701 Ocean St., Room 200 Santa Cruz. CA 95060 | Sierra County District Attorney PO Box 457 Downieville. CA 95936-0457 |
| Lake County District Attorney 255 N Forbes St Lakeport, CA 95453-4790 | Stanislaus County District Attorney PO Box 442 Modesto. CA 95353 | Trinity County District Attorney PO Box 310 Weaverville, CA 96093 |
| Modoc County District Attorney 204 S. Court Street Alturas, CA 96101-4020 | Sutter County District Attorney 446 Second Street Yuba City. CA 95991 | Yuba County District Attorney 215 5th St Marysville. CA 95901 |
| San Diego City Attorney City Center Plaza 1200 3rd Ave # 1100 San Diego, CA 92101 | Lassen County District Attorney 200 S Lassen St. Suite 8 Susanville, CA 96130 | Monterey County District Attorney PO Box 1131 Salinas. CA 93902 |
| Tuolumne County District Attorney 2 S Green St Sonora. CA 95370 | Tulare County District Attorney County Civic Center, Rm 224 Visalia, CA 93291 | Yolo County District Attorney 310 Second St Woodland, CA 95695 |
| Ventura County District Attorney 800 S Victoria Ave Ventura. CA 93009 | Tehama County District Attorney P.O. Box 519 Red Bluff; CA 96080 | San Jose City Attorney 200 E. Santa Clara St 16th Floor San Jose, CA 95110 |