

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Nicotine-Containing Liquid For Use With Electronic Cigarette Devices

February 5, 2015

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 identified in the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least February 5, 2012, and are continuing to this day.
- 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 nicotine. Exposures to nicotine occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing this violation is the nicotine-containing liquid for use with electronic cigarette devices. Non-exclusive examples of this specific type of product are identified in the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to nicotine. Use of the products identified in this Notice results in human exposures to nicotine. Nicotine is intentionally added as an ingredient to the liquid products, and the products are specifically marketed as containing nicotine. The primary routes of exposure for the violations are inhalation and direct ingestion when consumers inhale the aerosol emitted from electronic cigarette devices utilizing the nicotine-containing liquids. In addition, the products cause dermal and secondary ingestion exposures when the nicotine from the products is deposited in indoor environments where the products are used. These exposures occur in homes, workplaces and everywhere else throughout California where the products are used. No clear and reasonable warning is provided with these products regarding the reproductive hazards of nicotine.

**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; 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**  
**February 5, 2015 Notice of Violation**  
**Nicotine-Containing Liquid For Use With Electronic Cigarette Devices**

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products
<p style="text-align: center;"><b>Ballistic Vape Inc.</b> 4018 Lost Springs Agoura Hills, CA 91301</p> <p style="text-align: center;"><b>Steam Distribution, LLC</b> 199 South Los Robles Ave., #600 Pasadena, CA 91101</p>	<p style="text-align: center;">Ballistic Vape TruNic USA Liquid Nicotine in Praline Dream</p>
<p style="text-align: center;"><b>Beard Vape Co., Inc.</b> 10812 Washington Blvd. Culver City, CA 90232</p> <p style="text-align: center;"><b>Beard Vape Co., LLC</b> 10957 Venice Blvd. Los Angeles, CA 90034</p>	<p style="text-align: center;">Beard Vape Co. Juice No. 5</p>
<p style="text-align: center;"><b>Bodyrock Products, LLC</b> 1933 Davis Street, Ste. 213 San Leandro, CA 94577</p>	<p style="text-align: center;">Hard Cocktails E-Liquid in Angel's Share</p>
	<p style="text-align: center;">Totally Vaped Out E-Liquid in Weird Scientist</p>
<p style="text-align: center;"><b>The Daily Vapes, LLC</b> 931 Madison Street Albany, CA 94706</p>	<p style="text-align: center;">The Daily Vapes Juice in Bake Sales</p>
<p style="text-align: center;"><b>Exquisite E Liquid LLC</b> 1700 W. Imola Avenue Napa, CA 94559</p>	<p style="text-align: center;">Exquisite E-Liquid in Nature's Harvest</p>
<p style="text-align: center;"><b>Five Pawns</b> 17145 Von Karman Avenue Suite 105 Irvine, CA 92614</p>	<p style="text-align: center;">Five Pawns Signature Vapor Liquid Mixology Edition in Perpetual Check</p>

<p><b>Joyetech USA, Inc.</b> 16 Technology Drive, #118 Irvine, CA 92618</p> <p><b>Shenzhen Joyetech Co., Ltd.</b> 16 Technology Drive, #118 Irvine, CA 92618</p>	<p>Joyetech Cigar E-Liquid</p>
<p><b>Limitless Trading Co., LLC</b> 940 S. Alameda Street Los Angeles, CA 90021</p>	<p>Drip E-Liquid in Guava Nectar SKU No. 7-97698-81513-8</p>
	<p>Drip E-Liquid Sweetly in Shooting Star SKU No. 7-01142-68951-0</p>
<p><b>Nicopure Labs, LLC</b> 5909 NW 18<sup>th</sup> Drive Gainesville, FL 32653</p>	<p>EVO E-Liquid Evolved in Maraschino Tobacco</p>
<p><b>Smoke Tokes, LLC</b> 330 East 3<sup>rd</sup> Street Los Angeles, CA 90013</p>	<p>Lush Vapor Tobacco E-Liquid SKU No. 0-95225-54313-5</p>
<p><b>Tenacious 7 Vapor, LLC</b> 3949 Renate Drive Las Vegas, NV 89103</p>	<p>Tenacious 7 E-Juice in Peach Fuzz</p>
<p><b>Throttle Vapor LLC</b> 521 N. Santa Cruz Avenue Los Gatos, CA 95030</p>	<p>Throttle Vapor E-Juice in Slow Ride</p>
<p><b>USVC, Inc.</b> 1953 N. Ontario Street Burbank, CA 91505</p>	<p>US Vapor Co. Organic Premium Vape Juice in Nutty Chocolate</p>
<p><b>The Vape Kitchen</b> 1820 Ventura Blvd. Camarillo, CA 93010</p>	<p>The Vape Kitchen Epicurean E-Liquid in Thai Mango Sticky Rice SKU No. 0-02190-05471-9</p>
<p><b>Vaporall, LLC</b> 1009 E. Capital Expy, #119 San Jose, CA 95121</p>	<p>Vaporall Premium USA E-Liquid in Lusty Lychee</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.

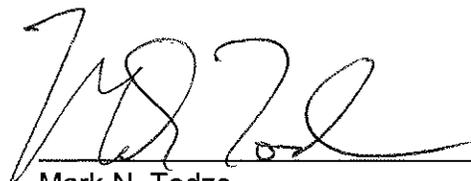
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

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.

February 5, 2015



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 cfisher@lexlawgroup.com.

On February 5, 2015, 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 11:41 A.m. on February 5, 2015:

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)

Yeng Dang  
Supervising Deputy District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
[ydang@da.sccgov.org](mailto:ydang@da.sccgov.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Drive, Rm. 212J  
Santa Rosa, CA 95403  
[jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org)

Phillip J. Cline, District Attorney  
Tulare County  
221 S. Mooney Avenue, Rm. 224  
Visalia, CA 93291  
[Prop65@co.tulare.ca.us](mailto:Prop65@co.tulare.ca.us)

Paul E. Zellerbach, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

Gregory D. Totten, District Attorney Ventura  
County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

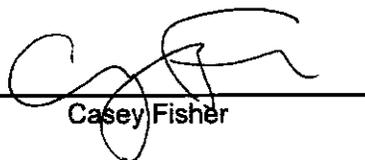
The transmission was reported as complete and without error.

On this date, pursuant to Code of Civil Procedure 1011, I caused the above-mentioned documents to be delivered by hand to the following individual, at the addresses listed below:

Proposition 65 Coordinator  
Proposition 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
PO Box 70550  
Oakland, CA 94612-0550

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 5, 2015, at San Francisco, California.

Signed: \_\_\_\_\_



Casey Fisher

## 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

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 1000  
Ukiah, CA 95482

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

District Attorney of Modoc County  
204 S. Court Street, Rm. 202  
Alturas, CA 96101-4020

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93546

District Attorney of Nevada County  
201 Commercial Street  
Nevada City, CA 95959

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

District Attorney of Placer County  
10810 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  
419 Fourth Street, 2<sup>nd</sup> Fl.  
Hollister, CA 95023

District Attorney of San  
Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415

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  
1050 Monterey Street, Rm. 450  
San Luis Obispo, CA 93408

District Attorney of San Mateo  
County  
400 County Center, 3<sup>rd</sup> Fl.  
Redwood City, CA 94063

District Attorney of Santa Cruz County 701 Ocean Street, Rm. 200 Santa Cruz, CA 95060	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm. 800 Los Angeles, CA 90012	President * Joyetech USA, Inc. 16 Technology Drive, #118 Irvine, CA 92618
District Attorney of Santa Barbara County Attn: Jerry Lule-Jian 312-D E. Cook Street Santa Maria, CA 93454	San Diego City Attorney's Office 1200 Third Avenue, Ste. 1620 San Diego, CA 92101	President * Shenzhen Joyetech Co., Ltd. 16 Technology Drive, #118 Irvine, CA 92618
District Attorney of Shasta County 1355 West Street Redding, CA 96001	San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	President * Limitless Trading Co., LLC 940 S. Alameda Street Los Angeles, CA 90021
District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2 <sup>nd</sup> Fl. Downieville, CA 95936	San Jose City Attorney's Office 200 East Santa Clara Street San Jose, CA 95113	President * Nicopure Labs, LLC 5909 NW 18th Drive Gainesville, FL 32653
District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097	President * Ballistic Vape Inc. 4018 Lost Springs Agoura Hills, CA 91301	President * Nicopure Labs, LLC 7916 Evolutions Way Suite 200 Trinity, FL 34655
District Attorney of Solano County 675 Texas Street, Ste. 4500 Fairfield, CA 94533	President * Beard Vape Co., Inc. 10812 Washington Blvd. Culver City, CA 90232	President * Smoke Tokes, LLC 330 East 3 <sup>rd</sup> Street Los Angeles, CA 90013
District Attorney of Stanislaus County 832 12th Street, Ste. 300 Modesto, CA 95354	President * Beard Vape Co., LLC 10957 Venice Blvd. Los Angeles, CA 90034	President * Steam Distribution, LLC 199 South Los Robles Ave., #600 Pasadena, CA 91101
District Attorney of Sutter County 446 Second Street Yuba City, CA 95991	President * Bodyrock Products, LLC 1933 Davis Street, Ste. 213 San Leandro, CA 94577	President * Steam Distribution, LLC 3671 Walnut Avenue Chino, CA 91710
District Attorney of Tehama County P.O. Box 519 Red Bluff, CA 96080	President * The Daily Vapes, LLC 931 Madison Street Albany, CA 94706	President * Tenacious 7 Vapor, LLC 3949 Renate Drive Las Vegas, NV 89103
District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	President * Exquisite E Liquid LLC 1700 W. Imola Avenue Napa, CA 94559	President * Throttle Vapor LLC 521 N. Santa Cruz Avenue Los Gatos, CA 95030
District Attorney of Tuolumne County 423 N. Washington Street Sonora, CA 95370	Rodney Jerabek, President * Five Pawns 17145 Von Karman Ave., #105 Irvine, CA 92614	President * USVC, Inc. 1953 N. Ontario Street Burbank, CA 91505
District Attorney of Yolo County 301 Second Street Woodland, CA 95695		
District Attorney of Yuba County 215 Fifth Street Marysville, CA 95901		

President \*  
The Vape Kitchen  
1820 Ventura Blvd.  
Camarillo, CA 93010

Tony Doan, Owner \*  
Vaporall, LLC  
1009 E. Capital Expy, #119  
San Jose, CA 95121