



March 24, 2016

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL
INFORMATION PER EVIDENCE CODE § 1040**

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.**

Dear Public Enforcement Agencies:

As You Sow (“AYS”) is a 501(c)(3) non-profit corporation dedicated to, among other causes, toxics reduction, the promotion of and improvement of human health, the improvement of worker and consumer rights, environmental education and the protection of the environment, and corporate accountability. AYS is based in Oakland, California, and was incorporated in 1992 under the laws of the State of California.

AYS has documented violations of California’s Safe Drinking Water & Toxic Enforcement Act of 1986 (“Proposition 65”), codified at Health & Safety Code section 25249.5 et seq. This letter serves to provide AYS’ notification of these violations to the public enforcement agencies. Pursuant to section 25249.7(d) of the statute, AYS intends to bring an enforcement action sixty days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the notices served upon the violators. The specific details of the violations that are the subject of this notice are provided below.

Alleged violator. The name of the violators covered by this notice are:

- Alfred Ritter Gmbh & Co. KG
- Creative Natural Products, Inc.
- Endangered Species Chocolate, LLC
- Ghirardelli Chocolate Company
- Godiva Chocolatier, Inc.
- Hershey Company
- Kraft Foods Global, Inc.
- Mars, Incorporated
- Moonstruck Chocolate Co.
- Taza Chocolate

Chemicals. These violations involve exposures to lead and/or cadmium from the products listed below. The State of California has officially listed lead as a chemical known to cause cancer. The State of California has also officially listed both lead and cadmium as chemicals known to cause birth defects or reproductive harm. *See* Chemicals Known to the State to Cause Cancer or Reproductive Toxicity, available at http://oehha.ca.gov/prop65/prop65_list/Newlist.html.

Consumer products. The products that are the subject of this notice are:

- Ritter Sport 73% Cocoa Fine Extra Dark Chocolate with Fine Cocoa from Ecuador (Bar), which is manufactured, distributed, and/or sold in California by Alfred Ritter GmbH & Co. Kg. [lead and cadmium]
- Cadbury Mini Eggs Royal Dark Chocolate With A Crisp Sugar Shell (Eggs), which is manufactured, distributed, and/or sold in California by Cadbury UK Ltd. [lead only]
- Cadbury Royal Dark Chocolate Indulgent Semi-Sweet (Bar), which is manufactured, distributed, and/or sold in California by Cadbury UK Ltd. [lead only]
- Chocolove Extra Strong Dark Chocolate- 77% Cocoa Content (Bar), which is manufactured, distributed, and/or sold in California by Creative Natural Products, Inc. [lead only]
- Chocolove Strong Dark Chocolate Bar 70% Cocoa Content (Bar), which is manufactured, distributed, and/or sold in California by Creative Natural Products, Inc. [lead only]
- Endangered Species Chocolate Natural Dark Chocolate (72% Cocoa) (Bar), which is manufactured, distributed, and/or sold in California by Endangered Species Chocolate, LLC. [lead only]
- Endangered Species Chocolate Natural Dark Chocolate with 88% Cocoa (Bar), which is manufactured, distributed, and/or sold in California by Endangered Species Chocolate, LLC. [lead and cadmium]
- Ghirardelli Chocolate Intense Dark Twilight Delight (72% Cacao) (Bar), which is manufactured, distributed, and/or sold in California by Ghirardelli Chocolate Company [cadmium only]
- Godiva Chocolatier 50% Cacao Dark Chocolate Sea Salt (Bar), which is manufactured, distributed, and/or sold in California by Godiva Chocolatier, Inc. [lead only]
- Godiva Chocolatier 72% Cacao Dark Chocolate (Bar), which is manufactured, distributed, and/or sold in California by Godiva Chocolatier, Inc. [lead and cadmium]
- Dagoba Organic Chocolate Eclipse Extra Strong Dark Chocolate (87% Cacao) (Bar), which is manufactured, distributed, and/or sold in California by Hershey Company [lead and cadmium]

- Hershey's Special Dark Mildly Sweet Chocolate (Bar), which is manufactured, distributed, and/or sold in California by Hershey Company [lead only]
- Cote D'Or 86% Noir Brut Belgian Dark Chocolate Confection (Bar), which is manufactured, distributed, and/or sold in California by Kraft Foods Global, Inc. [lead and cadmium]
- Dove Eggs Dark Chocolate Silky Smooth (Eggs), which is manufactured, distributed, and/or sold in California by Mars, Incorporated [lead and cadmium]
- Moonstruck Solid Dark Chocolate Hand-Painted Calico Bunny (Bunny), which is manufactured, distributed, and/or sold in California by Moonstruck Chocolate Co. [lead only]
- Taza Wicked Dark 95% Stone Ground Organic Chocolate (Bar), which is manufactured, distributed, and/or sold in California by Taza Chocolate [cadmium only]
- Taza Mexicano Super Dark Direct Trade 85% Dark (Bar), which is manufactured, distributed, and/or sold in California by Taza Chocolate [lead and cadmium]

Route of exposure. Use of the products identified in this notice result in human exposures to lead and cadmium. The route of exposure is ingestion, when consumers consume these products as directed on their labels. No clear and reasonable warning is provided with the products regarding the cancer-causing effects / reproductive hazards of lead or cadmium.

Duration of violation. These ongoing violations have occurred on every day since at least March 24, 2015, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, Cal. Code Regs. section 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify this ongoing violation of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with AYS to discuss an early resolution of this matter by contacting me, Danielle Fugere, President, 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612, (510) 735-8158, DFugere@asyousow.org.

Sincerely,



Danielle Fugere

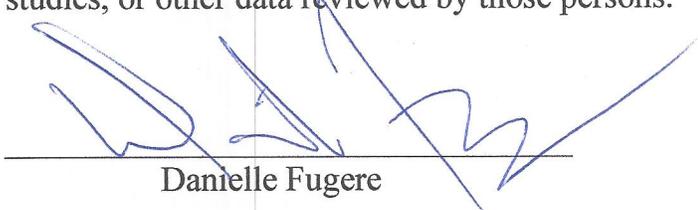
CERTIFICATE OF MERIT

(for As You Sow's Notice of Proposition 65 Violation on Alfred Ritter GmbH & Co. KG; Creative Natural Products, Inc.; Endangered Species Chocolate, LLC; Ghirardelli Chocolate Company; Godiva Chocolatier, Inc.; Hershey Company; Kraft Foods Global, Inc.; Mars, Incorporated; Moonstruck Chocolate Co.; Taza Chocolate)

I, Danielle Fugere, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties in the notice have violated section 25249.6 of the Health and Safety Code by failing to provide clear and reasonable warnings.
2. I am the attorney and President of 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 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 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 has attached to it to it factual information sufficient to establish the basis for this certificate, including the information identified in section 25249.7(h)(2) of the Health and Safety Code, 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: March 24, 2016



Danielle Fugere

Enclosure (For Attorney General Copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years. My business address is: 1611 Telegraph Ave., Ste. 1450, Oakland, CA 94612.

On March 24, 2016, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit
- “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Mr. Alfred T. Ritter
Owner and Chairman of the Advisory Board
Alfred Ritter GmbH & Co Kg
P.O. Box 12 40
71108 Waldenbuch
Germany

Mr. Timothy May
President and Chief Executive Officer
Creative Natural Products, Inc.
1898 South Flatiron Court, Suite 110
Boulder, CO 80301

Mr. Curt Vander Meer
Chief Executive Officer
Endangered Species Chocolate, LLC
5846 West 73rd. Street
Indianapolis, IN 46278

Mr. Martin Thompson
Chief Executive Officer
Ghirardelli Chocolate Company
1111 139th Avenue
San Leandro, CA 94578

Mr. Mohamed Elsarky
Chief Executive Officer
Godiva Chocolatier, Inc.
333 West 34th Street, Floor 6
New York, New York 10001-2566

Mr. John P. Bilbrey
Chairman, Chief Executive Officer, and President
Hershey Company
100 Crystal A Drive
Hershey, PA 17033

Mr. Paulo Luiz Araujo Basílio
Chief Executive Officer, Chief Financial Officer, and Director
Kraft Foods Global, Inc.
Three Lakes Drive
Northfield, IL 60093

Mr. Grant F. Reid
President
Mars, Incorporated
6885 Elm Street
McLean, VA 22101

Mr. Dan Hossley
Chief Executive Officer
Moonstruck Chocolate Co.
6600 North Baltimore Avenue
Portland, OR 97203

Mr. Alex Whitmore
Founder and Chief Executive Officer
Taza Chocolate
561 Windsor Street
Somerville, MA 02143

On March 24, 2016, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the Attorney General of the State of California by electronic service of the Attorney General's Proposition 65 60 Day Notice Filing system.

On March 24, 2016, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit

on each of the parties on the service list attached hereto either (1) via email, or (2) by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on March 24, 2016, at Oakland, California.



Thea Graybill

THE HONORABLE NANCY E. O'MALLEY
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1225 FALLON ST., ROOM 900
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Up-to-date roster of DAs: <http://www.cdaa.org/district-attorney-roster> .

Prop 65 website: <http://oag.ca.gov/prop65>

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