

60-DAY NOTICE OF VIOLATION

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

This 60-Day Notice of Violation Supplements the following 60-Day Notices of Violation:

1) AG#: 2016-00270

DATE: June 10, 2016

To: Arizona Tile Supply, Inc.; Stonepeak Ceramics, Inc.; Tierra y Fuego; Dal-tile Corp.; Dal-tile Group, Inc.; Mohawk Industries, Inc.; La Fuente LLC; Latin Accents, Inc.; Mulia, Inc.; BuildDirect Technologies Inc.; Stone Liquidators dba Stone Tile Mosaics; Native Trails, Inc.; Lowe's Companies, Inc.; Lowe's Home Centers, LLC
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorney's Office for Los Angeles, San Diego, San Jose and San Francisco.

From: Shefa LMV, Inc.

I. INTRODUCTION

We are a non-profit organization of the State of California acting in the interest of the general public. We seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve public health and safety by reducing the hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6, et seq. ("Proposition 65"). The violations alleged by this Notice consist of product exposures, routes of exposures, and types of harm that may potentially result from exposures to the toxic chemical ("listed chemical") identified below:

Product Exposure:	See Section VII, EXEMPLAR PRODUCTS
Listed Chemical:	Lead and lead compounds
Routes of Exposure:	Ingestion, Dermal, and Inhalation
Types of Harm:	Carcinogen, Causes Birth Defects and Other Reproductive Toxicity

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type(s) of product(s) causing consumer exposures in violation of Proposition 65, and which is the subject of this Notice, is listed under "Product Category/Type" in Section VII below. For purposes of this Notice, "consumer exposures" shall mean both exposures for individuals using the products personally, as well as individuals using the products in a

professional capacity. All products within the type covered by this Notice shall be referred to hereinafter as the “products.”

The sales of these products in California dating at least as far back as March 10, 2015 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and responsible warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from dermal, inhalation and ingestion exposure, California citizenry lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

Through the act of acquiring and installation of the products, citizens of California are exposed to the listed chemical in homes, workplaces and elsewhere throughout California where these products are installed. This is including, but not limited to, the use of the products in professional settings, such as the installation, maintenance, and replacement of the products. Specifically, in this matter, this Notice envisions several potential exposure routes with regard to the products:

- (1) The products contain lead or lead compounds (listed chemical).
- (2) When cutting the products, dust is produced and released.
- (3) When grinding the products, dust is produced and released.
- (4) This dust, containing the listed chemical, exposes individuals to the listed chemical.
- (5) Examples of exposure routes to the chemical, include, but are not limited to:
 - a. Handling the cut or ground product;
 - b. Touching floor or counter surfaces covered in product dust; or
 - c. Touching hair or clothing or skin covered with product dust.

Exposure may continue to occur for a significant period after the initial contact. These activities cause California citizens, including but not limited to, pregnant women, and women of child-bearing age to be exposed directly through dermal, and other migration pathways, including but not limited to, inhalation, incidental ingestion after one touch's the chemical and then touch's food or otherwise places his hands on or near his lips where his tongue can or will continue this pathway to ingestion exposure.

People likely to be exposed are women, men, infants and children. These violations and threatened violations pertain to Proposition 65 chemicals that are listed by the State of California as carcinogens and as reproductive toxins.

III. CONTACT INFORMATION

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

Daniel N. Greenbaum, Esq.
7120 Hayvenhurst Ave., Suite 320
Van Nuys CA 91406
Phone: (818) 809-2199
Fax: (424) 243-7689
Email: dgreenbaum@greenbaumlawfirm.com

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 (“OEHHA”) in the Proposition 65 Implementation Office at (916) 445-6900. For the alleged Violator(s), please see the attached copy of “Proposition 65 in Plain Language” prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, we intend to file a citizen enforcement lawsuit against the alleged Violator(s), 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 whom have received such products; and (2) provide clear and reasonable warnings for products sold in the future, or reformulate such products to eliminate the lead exposures.

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. It should be noted that neither my counsel nor we can: (1) finalize any settlement until after the 60-day Notice period elapses; nor (2) speak for the Attorney General or any District Attorney or City Attorney who received this Notice. Therefore, while reaching an agreement that will resolve my claims, such may not be approved by the Attorney General after referral to them, or by the Court as the last voice on settlements.

VI. ADDITIONAL INFORMATION

<u>Product</u>	<u>Retailer(s)</u>	<u>Manufacturer(s)/Distributor(s)</u>
Tiles	Arizona Tile Supply Inc.;	Arizona Tile Supply Inc.;
	Stonepeak Ceramics, Inc.;	Stonepeak Ceramics, Inc.;
	Tierra y Fuego;	Tierra y Fuego;
	Dal-tile Corp.;	Dal-tile Corp.;
	Dal-tile Group, Inc.;	Dal-tile Group, Inc.;
	Mohawk Industries, Inc.;	Mohawk Industries, Inc.;
	La Fuente LLC;	La Fuente LLC;

Latin Accents, Inc.;
Mulia, Inc.;
BuildDirect Technologies Inc.;
Stone Liquidators dba Stone Tile
Mosaics;
Native Trails, Inc.;
Lowe's Companies, Inc.;
Lowe's Home Centers, LLC

Latin Accents, Inc.;
Mulia, Inc.;
BuildDirect Technologies Inc.;
Stone Liquidators dba Stone Tile
Mosaics;
Native Trails, Inc.;
Lowe's Companies, Inc.;
Lowe's Home Centers, LLC

Identified above are products, which contain the alleged chemicals at issue, and this reference is supportive of the material facts that are a part of our counsels Certificate of Merit that is attached hereto 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.

We believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" 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 catalog by the alleged Violator(s) and other distributors and retailers of the product.

VII. EXEMPLAR PRODUCTS

Product Category/Type	Specific Product	UPC or SKU	Sold by	Manufacturer	Toxins
Tiles	H-Line Pumice 3"x6"	H-Line Pumice	Arizona Tile Supply Inc.	Arizona Tile Supply Inc.	Lead
Tiles	Aspen Sunset 12"x12"	UPC 843674074423	Lowe's	Stonepeak Ceramics, Inc.	Lead
Tiles	Mono Azul-Amarillo 6"x6"	SKU 10178-6	Tierra y Fuego	Tierra y Fuego	Lead
Tiles	Libro Talavera Tile	SKU 10304	Tierra y Fuego	Tierra y Fuego	Lead
Tiles	Rittenhouse Square, White 3"x6"	SKU K10154639MOD1P2	Dal-tile Corp.	Dal-tile Corp.	Lead
Tiles	Fiesta Azul 6"x6"	SKU TIL238K	La Fuente Imports	La Fuente LLC	Lead
Tiles	Brilliant Blue 6"x6"	SKU TIL231K	La Fuente Imports	La Fuente LLC	Lead
Tiles	Classic 14-4" Clay	SKU Classic 14-4"	Latin Accents, Inc.	Latin Accents, Inc.	Lead
Tiles	Mulia White Subway Tile Glossy	SKU D8A-01906-JX	Mulia, Inc.	Mulia, Inc.	Lead
Tiles	Hammersmith Subway Tile white 4"x16"	SKU 100878651	Stone Tile Mosaics/ Stone Liquidators	BuildDirect Technologies Inc.	Lead

Tiles	Talavera Asters Native Trails	SKU TVR0336	Native Trails, Inc.	Native Trails, Inc.	Lead
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The specific example identified above is of the type of product that is the subject of this Notice. We are identifying it herein for all recipients' benefit to assist in investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Section VII. It is important to note that this example does **not** represent an exhaustive or comprehensive identification of any, or all, specific products of the type listed under "Product Category/Type" in Section VII. Further, it is this organization's position that the alleged Violator(s) are 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 alleged Violator(s)' custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this case or action. My business address is:

7120 Hayvenhurst Ave., Suite 320, Van Nuys CA 91406

A True and Correct copy of the documents entitled 60 DAY NOTICE OF VIOLATION; CERTIFICATE OF MERIT; THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY will be served or was served in the manner stated below:

I. Interested Parties (Served via Certified Mail): On June 10, 2016, I served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the United States Mail, postage prepaid, and addressed as follows:

Arizona Tile Supply Inc.	ATTN: CEO or President	8829 South Priest Drive, Tempe, AZ 85284
Arizona Tile Supply, Inc.	c/o CSC	2338 W ROYAL PALM RD., SUITE J, PHOENIX, AZ 85021-9339
Nixon Peabody LLP c/o Stonepeak Ceramics	ATTN: Lauren Michals, Esq.	One Embarcadero Center, 18 th Floor, San Francisco CA 94111
Lowe's Companies, Inc.	ATTN: CEO or President	1000 LOWE'S BLVD., MOORESVILLE, NC 28117
Lowe's Home Centers, LLC	ATTN: CEO or President	1000 LOWE'S BLVD., MOORESVILLE, NC 28117
Tierra y Fuego	ATTN: CEO or President	8785 Dead Stick Rd, San Diego, CA 92154
Tierra y Fuego	ATTN: CEO or President	1001 HAWTHORNE CREEK DR., CHULA VISTA CA 91914
Dal-tile Corp.	ATTN: CEO or President	7834 C F Hawn Freeway, Dallas, TX 75217
Dal-tile Corp.	ATTN: CEO or President	PO BOX 12069 160 SOUTH INDUSTRIAL BLVD., CALHOUN, GA 30703
Dal-tile Corp.	c/o CSC	211 E. 7th Street, Suite 620, Austin, TX 78701 USA
Mohawk Industries, Inc.	ATTN: CEO or President	160 S Industrial Blvd, Calhoun, GA 30701-3030
Corp. Service Company	c/o Mohawk Industries	40 Technology Pkwy S., #300, Gwinnett, Norcross GA 30092
La Fuente LLC	ATTN: CEO or President	3350 Chelton Loop North, Colorado Springs, CO 80909
La Fuente LLC	ATTN: CEO or President	11 E. Bijou Street, Colorado Springs CO 80903
La Fuente LLC	c/o Jerry Huson	445C E. Cheyenne Mt. Blvd. #425, COLORADO SPRINGS, CO 80906
Latin Accents, Inc.	ATTN: Fred Fisher	406 Preston Court, Livermore, CA 94551
Payne & Fears LLP Mulia, Inc.	ATTN: David Grant, Esq.	4 Park Plaza, Suite 1100, Irvine CA 92614
Toledo Law Corp c/o Build Direct Technologies	ATTN: Peg Toledo, Esq.	3001 Douglas Blvd., Suite 340, Roseville CA 95661
Stone Tile Mosaics/ Stone Liquidators	ATTN: CEO or President	460 US Highway 46 Ste 2, South Hackensack, NJ 07606-1746
Stone Liquidators LLC	ATTN: CEO or President	501 Broad Ave. Ridgefield NJ 07657
Stone Liquidators Corp.	ATTN: CEO or President	116 Otis Street, West Babylon NY 11704
Stone Liquidators Corp.	ATTN: CEO or President	10 Garden Lane, Commack NY 11725
Native Trails, Inc.	ATTN: CEO or President	2980 South Higuera St., San Luis Obispo, CA 93401
Native Trails, Inc.	ATTN: Naomi Howard	2980 S. HIGUERA STREET, SAN LUIS OBISPO CA 93401

II. California Attorney General (via website Portal): On June 10, 2016, I uploaded a true and correct copy thereof as a PDF file via the California Attorney General's website.

III. District and City Attorneys (via U.S. Mail): On June 10, 2016, I served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and addressed as follows

SEE ATTACHED PAGES FOR FULL SERVICE LIST

IV. District and City Attorneys (via email): On June 10, 2016, I served the following persons and/or entities at the last known electronic addresses via email. The transmission was reported as sent without error.

cfepd@yolocounty.org; sgrassini@contracosta.org; Prop65DA@co.monterey.ca.us; epu@da.sccgov.org;
CEPD@countyofnapa.org; jbarnes@sonoma-county.org; Prop65@co.tulare.ca.us;

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

June 10, 2016

Date

Nathan Ford

Name



Signature

District Attorney
ALAMEDA COUNTY
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney
ALPINE COUNTY
PO Box 248
Markleeville, CA 96120

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AMADOR COUNTY
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Jackson, CA 95642

District Attorney
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25 County Center Drive —
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District Attorney
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891 Mountain Ranch Road
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Colusa, CA 95932

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Independence, CA 93526

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Bakersfield, CA 93301

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San Rafael, CA 94903

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Ukiah, CA 95482

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Merced, CA 95340

District Attorney
MODOC COUNTY
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Alturas, CA 96101

District Attorney
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PO BOX 2053
Mammoth Lakes, CA 93546

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Nevada City, CA 95959

District Attorney
ORANGE COUNTY
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney
PLACER COUNTY
10810 Justice Center Drive
Roseville, CA 95678

District Attorney
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Quincy, CA 95971

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Sacramento, CA 95812

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Hollister, CA 95023

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San Bernardino, CA 92415

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San Diego, CA 92101

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San Francisco, CA 94103

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District Attorney
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Courthouse Annex, 4th Floor
San Luis Obispo, CA 93408

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400 County Center, Third Floor
Redwood City, CA 94063

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Santa Barbara, CA 93101

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1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

CERTIFICATE OF MERIT

I, Daniel N. Greenbaum, 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.

June 10, 2016

Date

Daniel N. Greenbaum

Name



Signature