

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### 1,4-Dioxane in Shampoo

August 11, 2017

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 on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least August 11, 2014, 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 1,4-Dioxane. Exposures to 1,4-Dioxane occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is shampoo. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1. With respect to Ulta Salon, Cosmetics & Fragrance, Inc., the type of product causing these violations is limited to shampoo sold by Ouidad Holdings, LLC, Ouidad Products LLC, Philosophy, Inc., or Zotos International, Inc.
- Description of Exposure: This Notice addresses consumer exposures to 1,4-Dioxane. Use of the products subject to this Notice results in human exposures to 1,4-Dioxane. The products contain 1,4-Dioxane. The routes of exposure for the violations include dermal absorption, inhalation, and ingestion by consumers. These exposures occur through the reasonably foreseeable use of the shampoo.

when, for example, individuals apply the shampoo to their hair, scalp, or skin. These exposures occur in homes, workplaces and everywhere else throughout California where the shampoo is used. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards of 1,4-Dioxane.

#### **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 or reformulate such products to eliminate the 1,4-Dioxane exposures; 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.

#### **Preservation of Relevant Evidence:**

This Notice also serves as a demand that each alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of 1,4-Dioxane in shampoo; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of 1,4-Dioxane in such products; and representative exemplars of each lot of each variety of any such product sold by each alleged violator since one year prior to the date of this Notice through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to CEH's counsel Lucas Williams at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, lwilliams at lexlawgroup.com.

**EXHIBIT 1**  
**August 11, 2017 Notice of Violation**  
**1,4 Dioxane in Shampoo**

Names and Addresses of Responsible Parties	Product Type	Non-Exclusive Examples of the Products
<p><b>Ouidad Holdings, LLC</b>  475 Park Avenue South  30<sup>th</sup> Floor  New York, NY 10016</p> <p><b>Ouidad Products LLC</b>  475 Park Avenue South  30<sup>th</sup> Floor  New York, NY 10016</p>	Shampoo	<p>Ouidad The Curl Experts  Vitalcurl Clear  &amp; Gentle Shampoo  SKU No.  8-92532-00155-2</p>
<p><b>Philosophy, Inc.</b>  3809 E. Watkins Street  Phoenix, AZ 85034</p>	Shampoo	<p>Philosophy Pink Frosted  Animal Cracker Shampoo,  Shower Gel &amp; Bubble Bath  SKU No.  6-04079-08758-2</p>
<p><b>Ulta Salon, Cosmetics  &amp; Fragrance, Inc.</b>  1000 Remington Blvd.  Suite 120  Bolingbrook, IL 60440</p>	<p>Shampoo sold by  Ouidad Holdings, LLC,  Ouidad Products LLC,  Philosophy, Inc., or  Zotos International, Inc.</p>	<p>Joico K-Pak Shampoo  SKU No.  0-74469-49424-3</p>
		<p>Ouidad The Curl Experts  Vitalcurl Clear  &amp; Gentle Shampoo  SKU No.  8-92532-00155-2</p>
		<p>Philosophy Pink Frosted  Animal Cracker Shampoo,  Shower Gel &amp; Bubble Bath  SKU No.  6-04079-08758-2</p>
<p><b>Zotos International, Inc.</b>  100 Tokeneke Road  Darien, CT 06820</p>	Shampoo	<p>Joico K-Pak Shampoo  SKU No.  0-74469-49424-3</p>

**CERTIFICATE OF MERIT**  
**Health & Safety Code § 25249.7(d)**

I, Lucas Williams, 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.

August 11, 2017



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Lucas Williams  
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 medgar@lexlawgroup.com.

On August 11, 2017, 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 2:37 P.m. on August 11, 2017:

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
[mlatimer@co.lassen.ca.us](mailto:mlatimer@co.lassen.ca.us)

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

Allison Haley, District Attorney  
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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  
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221 S. Mooney Avenue, Rm. 224  
Visalia, CA 93291  
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Paul E. Zellerbach, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
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Ventura, CA 93009  
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301 Second Street  
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Gregory Alker, Assistant District Attorney  
San Francisco County  
732 Brannan Street  
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1200 Aguajito Road  
Monterey, CA 93940  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

Anne Marie Schubert, District Attorney  
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901 G Street  
Sacramento, CA 95814  
[Prop65@sacda.org](mailto:Prop65@sacda.org)

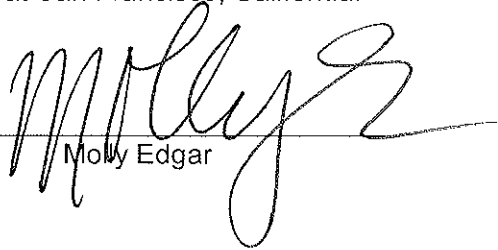
Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
[DAConsumer.Environmental@sjcda.org](mailto:DAConsumer.Environmental@sjcda.org)

Eric J. Dobroth, Deputy District Attorney  
San Luis Obispo County  
County Government Center Annex, 4th Floor  
San Luis Obispo, CA 93408  
[edobroth@co.slo.ca.us](mailto:edobroth@co.slo.ca.us)

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 11, 2017, at San Francisco, California.

Signed:



Molly Edgar

## 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  
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25 County Center Drive  
Oroville, CA 95965

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Colusa, CA 95932

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Ukiah, CA 95482

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Merced, CA 95340

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Alturas, CA 96101-4020

District Attorney of Mono County  
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Hollister, CA 95023

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San Bernardino, CA 92415

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San Diego, CA 92101

District Attorney of San Mateo  
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Santa Cruz, CA 95060

District Attorney of Santa  
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Santa Barbara, CA 93101

District Attorney of Shasta  
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District Attorney of Sierra County  
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District Attorney of Siskiyou  
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District Attorney of Solano County 675 Texas Street, Ste. 4500 Fairfield, CA 94533	President* Ouidad Holdings, LLC 475 Park Avenue South 30 <sup>th</sup> Floor New York, NY 10016
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District Attorney of Sutter County 446 Second Street Yuba City, CA 95991	President* Ouidad Products LLC 475 Park Avenue South 30 <sup>th</sup> Floor New York, NY 10016
District Attorney of Tehama County P.O. Box 519 Red Bluff, CA 96080	President* Ouidad Products LLC c/o Corporation Service Company 251 Little Falls Drive Wilmington, CA 19808
District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	President* Philosophy, Inc. 3809 E. Watkins Street Phoenix, AZ 85034
District Attorney of Tuolumne County 423 N. Washington Street Sonora, CA 95370	Mary N. Dillon, CEO* Ulta Salon, Cosmetics & Fragrance, Inc. 1000 Remington Blvd. Suite 120 Bolingbrook, IL 60440
District Attorney of Yuba County 215 Fifth Street Marysville, CA 95901	Nancy Bernardini, President* Zotos International, Inc. 100 Tokeneke Road Darien, CT 06820
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 1200 Third Avenue, Ste. 1620 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 95113	
California Attorney General's Office Attention: Proposition 65 Coordinator and Robert Thomas 1515 Clay Street, Ste. 2000 P.O. Box 70550 Oakland, CA 94612-0550	