

Melvin B. Pearlston
Senior Counsel



Of Counsel
Robert B. Hancock

September 19, 2017

**60-DAY NOTICE OF VIOLATIONS OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET. SEQ.
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Erika McCartney in this matter. Ms. McCartney has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et. seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with the identified products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Ms. McCartney intends to file a private enforcement action in the public interest 60 days after effective service of the is notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

United States Nutrition, Inc.

Amazon.com, Inc.

Consumer Products and Listed Chemical. The product that is the subject of this notice and the chemical in that product identified as exceeding allowable levels is:

Pure Protein Chocolate Deluxe Bar – 50 grams -- Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that Ms. McCartney may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least September 19, 2016, as well as every day since the products were introduced into 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 either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, Ms. McCartney is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement may satisfy the claims alleged herein, such agreement may not be satisfactory to public prosecutors.

Ms. McCartney has retained me as legal counsel in connection with this matter. Her address is 1341 58th Ave. #11, Oakland, California, 94621. Her telephone number is 707.502.8635. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Robert B. Hancock
rbh@lawyer.com

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Violators only)
Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Notice of Proposition 65 Violations

Robert B. Hancock declares:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties 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 or expertise who have reviewed facts, studies, or other data regarding the exposures to the listed chemicals that are the subject of the action.
4. Based on the information obtained through those consultants, 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. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California 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.

Dated: September 19, 2017



Robert B. Hancock

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, over the age of 18 years of age, and am not a party to the within action.

On September 19, 2017, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET. SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
United States Nutrition, Inc.
2100 Smithtown Avenue
Ronkonkoma, NY 11779

Current President or CEO
United States Nutrition, Inc.
110 Orville Drive
Bohemia, NY 11716

United States Nutrition, Inc.
c/o Corporation Service Corporation
80 State Street
Albany, NY 12207-2543

Current President or CEO
Worldwide Sport Nutritional Supplements, Inc.
2100 Smithtown Avenue
Ronkonkoma, NY 11779

Worldwide Sport Nutritional Supplements, Inc.
c/o Corporation Service Corporation
80 State Street
Albany, NY 12207-2543

Current President or CEO
Amazon.com, Inc.
410 Terry Avenue North
Seattle, WA 98109-5210

On September 19, 2017, I served the following documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(I)** on the following parties by uploading the foregoing documents at the webpage listed below:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550
<https://oag.ca.gov/prop65/add-60-day-notice>

On September 19, 2017, I served the following documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto. As to those parties listed by mailing address only, I effected service 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 with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail. As to those parties having an e-mail address listed, I effected service by transmitting the document via electronic transmission to the e-mail address listed.

Executed under penalty of perjury pursuant to the laws of the State of California on September 19, 2017.



Robert B. Hancock

Notice of Violations of California Health & Safety Code §25249.5 *et. seq.*
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Service List

District Attorney,
 Alameda County
 1225 Fallon St., Rm. 900
 Oakland, CA 94612

District Attorney,
 Alpine County
 P.O. Box 248
 Markleeville, CA 96120

District Attorney,
 Amador County
 708 Court St., #202
 Jackson, CA 95642

District Attorney, Butte County
 25 County Center Dr.
 Oroville, CA 95965

District Attorney,
 Calaveras County
 891 Mountain Ranch Rd.
 San Andreas, CA 95249

District Attorney,
 Colusa County
 346 Fifth St. Ste. 101
 Colusa, CA 95932

District Attorney,
 Contra Costa County
 900 Ward St.
 Martinez, CA 94553
ccacounty@contracosta.ca.gov

District Attorney,
 Del Norte County
 450 H St., Ste. 171
 Crescent City, CA 95531

District Attorney,
 El Dorado County
 515 Main St.
 Placerville, CA 95667

District Attorney,
 Fresno County
 2220 Tulare St., #1000
 Fresno, CA 93721

District Attorney,
 Glenn County
 P.O. Box 430
 Willows, CA 95988

District Attorney,
 Humboldt County
 825 5th St.
 Eureka, CA 95501

District Attorney,
 Imperial County
 940 W. Main St., Ste. 102
 El Centre, CA 92243

District Attorney, Inyo County
 P.O. Drawer D
 Independence, CA 93526

District Attorney, Kern County
 1215 Truxtun Ave.
 Bakersfield, CA 93301

District Attorney,
 Kings County
 1400 West Lacey Boulevard
 Hanford, CA 93230

District Attorney, Lake County
 255 N. Forbes St.
 Lakeport, CA 95453

District Attorney,
 Lassen County
 220 S. Lassen St.
 Susanville, CA 96130
ralph@lassen.ca.gov

District Attorney,
 Los Angeles County
 210 W. Temple St., Ste. 1800
 Los Angeles, CA 90012

District Attorney,
 Madera County
 209 W. Yosemite Ave.
 Madera, CA 93637

District Attorney,
 Marin County
 3501 Civic Center Dr., Rm. 130
 San Rafael, CA 94903

District Attorney,
 Mariposa County
 P.O. Box 730
 Mariposa, CA 95338

District Attorney,
 Mendocino County
 P.O. Box 1000
 Ukiah, CA 95482

District Attorney,
 Merced County
 2222 M St.
 Merced, CA 95340

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

District Attorney,
 Mono County
 P.O. Box 617
 Bridgeport, CA 93517

District Attorney,
 Monterey County
 P.O. Box 1131
 Salinas, CA 93902
Prop6511A@co.monterey.ca.us

District Attorney, Napa County
 931 Parkway Mall
 Napa, CA 94559
CEPD@ccnattyofnapa.org

District Attorney,
 Nevada County
 201 Commercial St.
 Nevada City, CA 95959

District Attorney,
 Orange County
 401 Civic Center Dr. West
 Santa Ana, CA 92701

District Attorney,
 Placer County
 10810 Justice Center Dr.,
 Ste. 240
 Roseville, CA 95678

District Attorney,
 Plumas County
 520 Main St., Rm. 404
 Quincy, CA 95971

District Attorney,
 Riverside County
 3072 Orange St.
 Riverside, CA 92501
Tropus@rivco.ca.gov

District Attorney,
 Sacramento County
 901 G St.
 Sacramento, CA 95814
Prop65@sacdc.ca.gov

District Attorney,
 San Benito County
 419 Fourth St., 2nd Fl.
 Hollister, CA 95023

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

District Attorney,
 San Diego County
 330 W. Broadway, Rm. 1300
 San Diego, CA 92101

District Attorney,
 San Francisco County
 732 Brannan Street
 San Francisco, CA 94103
gov.alken@sf.gov

District Attorney,
 San Joaquin County
 222 E. Weber Ave., Rm. 202
 Stockton, CA 95202
DACounty@Frye.cometal@sicda.org

District Attorney,
 San Luis Obispo County
 County Government Center
 Annex, 4th Floor
 San Luis Obispo, CA 93408
edbroth@co.slo.ca.us

District Attorney,
 San Mateo County
 400 County Cir., 3rd Fl.
 Redwood City, CA 94063

District Attorney,
 Santa Barbara County
 1112 Santa Barbara St.
 Santa Barbara, CA 93101

District Attorney,
 Santa Clara County
 70 West Hedding St.
 San Jose, CA 95110
EPD@clacounty.ca.gov

District Attorney,
 Santa Cruz County
 701 Ocean St., Rm. 200
 Santa Cruz, CA 95060

District Attorney,
 Shasta County
 1355 West St.
 Redding, CA 96001

District Attorney,
 Sierra County
 PO Box 457
 Downieville, CA 95936

District Attorney,
 Siskiyou County
 P.O. Box 986
 Yreka, CA 96097

District Attorney,
 Solano County
 675 Texas St., Ste. 4500
 Fairfield, CA 94533

District Attorney,
 Sonoma County
 600 Administration Dr.
 Santa Rosa, CA 95403
jbarnes@sonoma-county.org

District Attorney,
 Stanislaus County
 832 12th St., Ste. 300
 Modesto, CA 95353

District Attorney,
 Sutter County
 463 Second St., Ste. 102
 Yuba City, CA 95991

District Attorney,
 Tehama County
 P.O. Box 519
 Red Bluff, CA 96080

District Attorney,
 Trinity County
 P.O. Box 310
 Weaverville, CA 96093

District Attorney,
 Tulare County
 221 S. Mooney Ave., Rm. 224
 Visalia, CA 93291
Prop65@co.tulare.ca.us

District Attorney,
 Tuolumne County
 423 N. Washington St.
 Sonora, CA 95370

District Attorney,
 Ventura County
 800 S. Victoria Ave.
 Ventura, CA 93009
dameci@co.ventura.org

District Attorney, Yolo County
 301 2nd St.
 Woodland, CA 95695
cfed@yolocounty.org

District Attorney, Yuba County
 215 Fifth St., Ste. 152
 Marysville, CA 95901

Los Angeles City Attorney's
 Office
 City Hall East
 200 N. Main St., Rm. 800
 Los Angeles, CA 90012

Office of the City Attorney
 City of Sacramento
 915 I St., 4th Fl.
 Sacramento, CA 95814

San Diego City Attorney's
 Office
 1200 3rd Ave., Ste. 1620
 San Diego, CA 92101

San Francisco City Attorney's
 Office
 City Hall, Rm. 234
 1 Dr. Carlton B Goodlett Place
 San Francisco, CA 94102

San Jose City Attorney's Office
 200 E. Santa Clara St.,
 16th Fl.
 San Jose, CA 95113