



October 25, 2017

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

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

Attorney General Xavier Becerra
c/o Proposition 65 Coordinator
Office of the Attorney General
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation of California Health & Safety Code §25249.5 *et seq.*

Dear Attorney General Becerra:

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 violators. The names of the violators covered by this notice are:

- **Abbott Laboratories**
- **The Honest Company Inc.**
- **The Hain Celestial Group Inc.**
- **Amazon.com, Inc.**

- **Whole Foods Market, Inc.**

Chemical. The violations involve exposure to lead from the products listed below. The State of California has officially listed lead as a chemical 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:

Any infant formula that contains lead and are, at any time, manufactured, distributed, or sold by the alleged violators, including but not limited to the following:

- Similac OptiGro Sensitive Infant Formula with Iron Milk-Based Powder, Similac OptiGro for Spit-Up Non-GMO Infant Formula with Iron Milk-Based Powder, and Similac OptiGro Organic Infant Formula with Iron Milk-Based Powder, which is manufactured, distributed and/or sold in California by Abbott Laboratories.
- Honest Co. Organic Premium Formula with Iron Milk-Based Powder, which is manufactured, distributed and/or sold in California by The Honest Company Inc.
- Earth's Best Organic Premium Dairy DHA/ARA Infant Formula with Iron Organic Milk-Based Powder, which is manufactured, distributed and/or sold in California by The Hain Celestial Group Inc.
- 365 Everyday Value Organic Milk Based Powder Infant Formula with Iron, which is manufactured, distributed and/or sold in California by Amazon.com, Inc. and/or Whole Foods Market, Inc.

Route of exposure. Use of the products identified in this notice result in human exposure to lead. The route of exposure is ingestion. No clear and reasonable warning is provided to the products regarding the reproductive hazards of lead.

Duration of violation. The ongoing violations have occurred on every day since at least August 11, 2016, 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:

Danielle Fugere
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
Tel: (510) 735-8141
Email: dfugere@asyousow.org

Sincerely,

Danielle Fugere

A handwritten signature in blue ink, appearing to read 'Danielle Fugere', written over the printed name.

CERTIFICATE OF MERIT

(for As You Sow's Notice of Proposition 65 Violation on Abbott Laboratories, The Honest Company Inc., The Hain Celestial Group Inc., Amazon.com, Inc., and Whole Foods Market, Inc.)

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 in-house counsel 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: October 25, 2017



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 October 25, 2017, 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:

Abbott Laboratories
Miles White
Chairman and CEO
100 Abbott Park Rd
Abbott Park, IL 60064-3500

Amazon.com, Inc.
Jeffrey Bezos
Chairman, President, and CEO
410 Terry Ave N
Seattle, WA 98109-5210

The Honest Company Inc.
Nick Vlahos
Chief Executive Officer
12130 Millennium Ste 500
Playa Vista, CA 90094-2946

Whole Foods Market, Inc.
John Mackey
Chief Executive Officer
550 Bowie St
Austin, TX 78703-4644

The Hain Celestial Group Inc.
Irwin Simon
Chairman, President, and CEO
1111 Marcus Ave
Lake Success, NY 11042

On October 25, 2017, 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

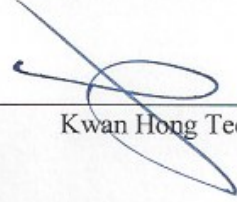
on the Attorney General of the State of California by electronic service of the Attorney General’s Proposition 65 60 Day Notice Filing system.

On October 25, 2017, 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 October 25, 2017 at Oakland, California.

A handwritten signature in blue ink, consisting of a large, stylized loop that crosses itself, positioned above a horizontal line.

Kwan Hong Teoh