

KAWAHITO LAW GROUP APC

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March 28, 2018

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

Dear Alleged Violator(s) and the Appropriate Public Enforcement Agencies:

The Kawahito Law Group APC represents the Center for Advanced Public Awareness, Inc. ("CAPA"). CAPA is a California a non-profit company acting in the interest of the general public seeking to further, among other causes, the protection of the environment, improving human health, and environmentally sound practices. CAPA has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65" or "Act"), codified at Cal. Health & Safety Code §25249.5 *et seq.* This letter serves to provide CAPA's Notice of these violations. Pursuant to §25249.7(d) of the Act, CAPA intends to file a private enforcement action in the public interest sixty (60) days after effective service of this Notice unless the appropriate public enforcement agencies have commenced and are prosecuting an action to rectify these violations.

General Information and Summary of Proposition 65. A copy of a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment is attached to this letter.

Alleged Violators. The name of the entity or entities covered by this Notice and who are alleged to be in violation of Proposition 65 (collectively the "Violators") are:

Jet.com, Inc.
Marc Lore, President
221 River Street, Suite 800
Hoboken, NJ 07030

FxA dba Chic Buds
6001 Oak Canyon
Irvine, CA 92618

Consumer Product. The products ("Products") which are causing an exposure without a warning in violation of Proposition 65, are:

| Product(s) | Retailer(s) | Manufacturer(s)/Distributor(s)/ Importer(s) |
|--|--------------------|--|
| Pink Polka Dot Headphones UPC: 813240011510 | Jet.com, Inc. | FxA LLC dba Chic Buds |

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Listed Chemical and Route of Exposure. The chemical that is the subject of this Notice is Di-(2-ethylhexyl) phthalate (“DEHP”). The consumer exposures at issue result from the use of the Products in accordance with their intended use including the handling of the Products by hand. The primary routes of exposure are oral ingestion and dermal absorption. The types of harm from the chemicals at issue include Developmental Toxicity, Male Reproductive Toxicity, and Cancer.

Period of Exposure and Violation. Exposures to DEHP, from the use of the Products have occurred each day since the products were introduced into the California marketplace, but at a minimum since February 21, 2018. Moreover, these exposures will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the Products. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from contact with the Products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the listed chemical from reasonable foreseeable use of the Products.

Resolution of Noticed Claims. Consistent with the public interest goals of Proposition 65, CAPA is interested in seeking a constructive resolution to this matter to have the ongoing violations of California law quickly rectified. To that end, CAPA intends to file a private enforcement action as provided for in the Act for the alleged violations by the Violators, unless Violators agree in an enforceable written instrument to: (1) recall the listed Products or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such Products; (2) reformulate the Products so as to eliminate further exposures to the identified chemicals or affix clear and reasonable Proposition 65 warning labels for products sold in the future; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, and avoid costly and time-consuming litigation.

To the extent you are interested in discussing a potential early resolution of this matter, you may communicate directly with CAPA’s attorneys using the below contact information.

Contact Information. Please direct all questions or issues concerning this Notice to CAPA’s counsel at the following address:

James Kawahito
Kawahito Law Group APC
222 North Sepulveda Blvd Suite 2222
El Segundo, CA 90245

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tel. 310-746-5300

email jkawahito@kawahitolaw.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
Health and Safety Code Section 25249.7(d)

**Re: Center for Advanced Public Awareness, Inc.'s Notice of Proposition 65
Violations**

I, James Kawahito, hereby declare:

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.

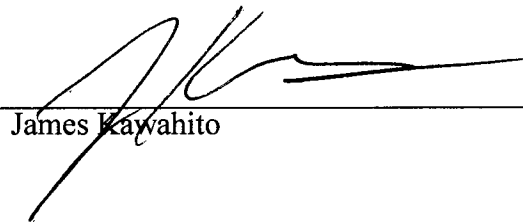
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience and have assembled evidence attached to the copy for the California Attorney General as Exhibit 1 to this Certificate of Merit regarding the lack of warnings for the listed chemical that is the subject of the notice.

4. Based on the information obtained 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. 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 California Health & Safety Code §25249.7(h)(2).

Dated: March 28, 2018



James Kawahito

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CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 222 North Sepulveda Blvd., Suite 2222, El Segundo, CA 90245.

On March 28, 2018, I served the following: **1. 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6 2. Certificate of Merit; Health and Safety Code Section 25249.7(d) 3. The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); A Summary** on the alleged Violators listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the parties listed below and providing such envelope to a United States Postal Service Representative:

Jet.com, Inc.
Marc Lore, President
221 River Street, Suite 800
Hoboken, NJ 07030

Chic Buds
6001 Oak Canyon
Irvine, CA 92618

Jet.com, Inc.
708 SW 8th Street
Bentonville, AR 72716

Jet.com, Inc.
c/o CT Corporation System
818 W. Seventh St., Ste. 930
Los Angeles, CA 90017

FxA LLC dba Chic Buds
Agent for Service of Process
Robert G. Allison
20371 Irvine Ave., Suite 120
Newport Beach, CA 92660

On March 28, 2018, I served the following: **1. 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6; 2. Certificate of Merit; Health and Safety Code Section 25249.7(d); 3. Certificate of Merit (Attorney General Copy); Factual information sufficient to establish the basis of the certificate of merit**

On the following parties by uploading the foregoing documents at the webpage listed below:

Office of the California Attorney General
Prop 65 Enforcement

<https://oag.ca.gov/prop65/add-60-day-notice>

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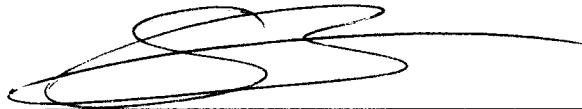
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On March 28, 2018, I served the following: **1. 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6; 2. Certificate of Merit; Health and Safety Code Section 25249.7(d)** to the public enforcers by placing a true and correct copy in a sealed envelope, with postage fully prepaid with the U.S. Postal Service, addressed to the parties listed on the attached **Service List**.

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

Dated: March 28, 2018

A handwritten signature in black ink, appearing to read 'Sebastian Burnside', written over a horizontal line.

Sebastian Burnside

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SERVICE LIST

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| Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612 | Alpine County District Attorney P.O. Box 248 Markleeville, CA 96120 | Amador County District Attorney 708 Court Street, #202 Jackson, CA 95642 |
| Butte County District Attorney 25 County Center Drive, Suite 245 Oroville, CA 95965 | Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249 | Colusa County District Attorney 346 5th Street, Suite 101 Colusa, CA 95932 |
| Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org | Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531 | El Dorado County District Attorney 515 Main Street Placerville, CA 95667 |
| Fresno County District Attorney 2220 Tulare Street, Suite 1000 Fresno, CA 93721 | Glenn County District Attorney P.O. Box 430 Willows, CA 95988 | Humboldt County District Attorney 525 5th Street, 4th Floor Eureka, CA 95501 |
| Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243 | Inyo County District Attorney 230 W. Line Street Bishop, CA 93514 | Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301 |
| Kings County District Attorney 1400 West Lacey Blvd. Hanford, CA 93230 | Lake County District Attorney 255 N. Forbes Street Lakeport, CA 95453 | Lassen County District Attorney 220 S. Lassen Street Susanville, CA 96130 [field_prop65ctacts_title] mlatimer@co.lassen.ca.us |
| Los Angeles County District Attorney 210 W. Temple St., 18th Floor Los Angeles, CA 90012 | Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637 | Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903 |
| Mariposa County District Attorney P.O. Box 730 Mariposa, CA 95338 | Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 9548 | Merced County District Attorney 550 West Main Street Merced, CA 95340 |
| Modoc County District Attorney 204 S. Court Street Room 202 Alturas, CA 96101 | Mono County District Attorney P.O. Box 2053 Mammoth Lakes, CA 93546 | Monterey County District Attorney 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us |
| Napa County District Attorney 931 Parkway Mall Napa, CA 94559 CEPD@countyofnapa.org | Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959 | Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701 |
| Placer County District Attorney 10810 Justice Center Drive Roseville, CA 95678 | Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971 | Riverside County District Attorney 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org |
| Sacramento County District Attorney 901 G Street Sacramento, CA 95814 Prop65@sacda.org | San Benito District Attorney 419 4th Street Hollister, CA 95023 | San Bernardino County District Attorney 303 W. Third Street San Bernardino, CA 92415 |
| San Diego County District Attorney 330 W. Broadway, Suite 1300 San Diego, CA 92101 | San Francisco County District Attorney 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org | San Joaquin County District Attorney 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org |

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| <p>San Luis Obispo County District Attorney County Government Center Annex, 4th Floor San Luis Obispo, CA 93408 [field_prop65ctacts_title] edobroth@co.slo.ca.us</p> | <p>San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063</p> | <p>Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101</p> |
| <p>Santa Clara County District Attorney 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org</p> | <p>Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060</p> | <p>Shasta County District Attorney 1355 West Street Redding, CA 96001</p> |
| <p>Sierra County District Attorney 100 Courthouse Square Downieville, CA 95936</p> | <p>Siskiyou County District Attorney P.O. Box 986 Yreka, CA 96097</p> | <p>Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533</p> |
| <p>Sonoma County District Attorney 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org</p> | <p>Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95353</p> | <p>Sutter County District Attorney 446 Second Street, Suite 102 Yuba City, CA 95991</p> |
| <p>Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080</p> | <p>Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093</p> | <p>Tulare County District Attorney 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us</p> |
| <p>Tuolumne County District Attorney 423 N. Washington Street Sonora, CA 95370</p> | <p>Ventura County District Attorney 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org</p> | <p>Yolo County District Attorney 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org</p> |
| <p>Yuba County District Attorney 215 Fifth Street, Suite 152 Marysville, CA 95901</p> | <p>Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012</p> | <p>San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett Pl, San Francisco, CA 94102</p> |
| <p>San Diego City Attorney's Office 1200 Third Ave #1620, San Diego, CA 92101</p> | | |