

KAWAHITO LAW GROUP APC

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June 26, 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”), 180 Promenade Circle, Suite 300, Sacramento, California 95834. CAPA is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, fostering and increasing the public awareness of chemicals used to manufacture consumer products, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

CAPA has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65” or “Act”), which is codified at California Health & Safety Code §25249.5 et seq., with respect to the product(s) identified below. These violations have occurred and continue to occur because the alleged Violator failed to provide required clear and reasonable warnings with these products. Section 25249.6 of the statute provides that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual . . .” This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), CAPA intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently 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:

Mother Earth's Farmacy
 36633 Cathedral Canyon Dr.
 Cathedral City, CA 92234

Consumer Products and Listed Chemical. The products (“Products”), which are causing an exposure without a warning in violation of Proposition 65 include all the medical marijuana “flowers” or “buds” sold to California residents for consumption by smoking. Violators failed to clearly and reasonably warn consumers that Marijuana Smoke¹ is a chemical known to the State of California to cause cancer. On June 19, 2009, the Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency added marijuana smoke to the Proposition 65 list. OEHHA announced the selection of marijuana smoke as a chemical for consideration for listing by the Carcinogen Identification Committee (CIC) in the *California Regulatory Notice Register* on December 12, 2007, subsequent to consultation with the CIC at their November 19, 2007 meeting. The CIC determined that marijuana smoke was clearly shown, through scientifically valid testing according to generally accepted principles, to cause cancer. Consequently, marijuana smoke was added to the Proposition 65 list, pursuant to Title 27, California Code of Regulations, section 25305(a)(1) (formerly Title 22, California Code of Regulations, section 12305(a)(1)).

Listed Chemical and Route of Exposure.

Chemical	CAS No.	Toxicological Endpoint	Listing Mechanism
Marijuana smoke ²	--	Cancer	State's qualified experts

The consumer exposures that are the subject of this notice result from the use of the Products in accordance with their intended use including the combustion and inhalation of the products. Consequently, the primary route of exposure to the chemicals contained in marijuana is through direct smoking of the marijuana leaves, flowers, and stems.

¹ Many of the chemical constituents that have been identified in marijuana smoke are carcinogens. The following 33 marijuana smoke constituents are listed under Proposition 65 as causing cancer: acetaldehyde, acetamide, acrylonitrile, 4-aminobiphenyl, arsenic, benz[a]anthracene, benzene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[j]fluoranthene, benzo[k]fluoranthene, benzofuran, 1,3-butadiene, cadmium, carbazole, catechol, chromium (hexavalent compounds), chrysene, dibenz[a,h]anthracene, dibenz[a,i]pyrene, dibenzo[a,e]pyrene, diethylnitrosamine, dimethylnitrosamine, formaldehyde, indeno[1,2,3- c,d]pyrene, isoprene, lead, mercury, 5- methylchrysene, naphthalene, nickel, pyridine, and quinolone.

² *Marijuana Smoke Listed Effective June 19, 2009 as Known to the State of California to Cause Cancer*, Office of Environmental Health Hazard Assessment, June 19, 2009, available at: <https://oehha.ca.gov/proposition-65/crn/marijuana-smoke-listed-effective-june-19-2009-known-state-california-cause> (last visited: June. 26, 2018).

KAWAHITO LAW GROUP APC

June 26, 2018

Page 3

Period of Exposure and Violation. Exposures to Marijuana Smoke from the use of the Products have occurred each day since the products were introduced into the California marketplace, but at a minimum since May 8, 2018. Moreover, these exposures will continue every day until clear and reasonable warnings are provided to purchasers and users. Without proper warnings regarding the toxic effects of exposures to Marijuana Smoke 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 chemicals 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) 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
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: June 26, 2018



James Kawahito

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 June 26, 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:

Mother Earth's Farmacy
36633 Cathedral Canyon Dr.
Cathedral City, CA 92234

On June 26, 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>

On June 26, 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**.

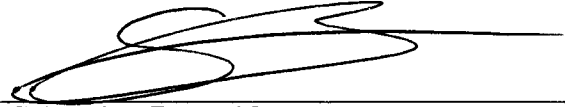
KAWAHITO LAW GROUP APC

June 26, 2018

Page 6

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

Dated: June 26, 2018

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Sebastian Burnside

KAWAHITO LAW GROUP APC

June 26, 2018

Page 7

SERVICE LIST

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 5 th Street, 4 th 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., 18 th 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

KAWAHITO LAW GROUP APC

June 26, 2018

Page 8

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