**60 DAY NOTICE OF VIOLATION**

***SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)***

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**DATE:** **August 10, 2018**

**To:** Kohl's Department Stores, Inc; Beauty Solutions, Ltd;
Tri-Coastal Design Group, Inc.
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorney's Office for Los Angeles, San Diego, San Jose and San Francisco.

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**From:** SHEFA LMV, INC.

## I. INTRODUCTION

We are a nonprofit public benefit corporation of the State of California acting in the interest of the general public. We seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve public health and safety by reducing the hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6, et seq. ("Proposition 65"). The violations alleged by this Notice consist of product exposures, routes of exposures, and types of harm that may potentially result from exposures to the toxic chemical ("listed chemical") identified below:

| | |
|---|---|
| **Product Exposure:** | **See Section VII** |
| **Listed Chemical:** | **Diethanolamine, AKA DEA** |
| **Routes of Exposure:** | **Dermal absorption; Ingestion; and Inhalation** |
| **Types of Harm:** | **Carcinogen** |

## II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer exposures in violation of Proposition 65, and which is the subject of this Notice, is listed under "Product Category/Type" in Section VII below. All products *within the type* covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating at least as far back as April 11, 2018 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without the clear and responsible warnings required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizenry lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

Through the act of buying, acquiring and using the products, citizens of California are exposed to the listed chemical in homes and elsewhere throughout California where these products are used. Exposure to consumers includes, but is not limited to, when handling the product the listed chemical comes into

contact with the hands and is then absorbed through the skin, hand to mouth contact, hand to food to mouth contact, or through hand to cigarette to mouth. Exposure may continue to occur for a significant period after the initial contact. These violations and threatened violations pertain to a chemical listed as both a carcinogen.

## III. CONTACT INFORMATION

Please direct all questions concerning this Notice to our counsel's offices at the following address:

Daniel N. Greenbaum, Esq.
Law Office of Daniel N. Greenbaum
The Hathaway Building
7120 Hayvenhurst Avenue, Suite 320
Van Nuys, CA 91406
Main: (818) 809-2196
Fax: (424) 243-7689
Email: dgreenbaum@greenbaumlawfirm.com

## IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment ("OEHHA") in the Proposition 65 Implementation Office at (916) 445-6900, or to visit their website at http://oehha.ca.gov/proposition-65.

For the alleged Violator(s), please see the attached copy of "Proposition 65 in Plain Language" which has been prepared by OEHHA.

## V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, we intend to file a citizen enforcement lawsuit against the alleged Violator(s), unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those whom have received such products; (2) reformulate such products to eliminate exposures to the listed chemicals; or, at a minimum, (3) provide clear and reasonable warnings for products sold in the future.

If the alleged Violator is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact the counsel identified above. It should be noted that we cannot: (A) finalize any settlement until after the 60-day Notice period elapses; or (B) speak for the Attorney General or any public agency who received this Notice. Therefore, although we may ultimately reach an agreement that will resolve our claims, such an agreement may not satisfy the public prosecutors.

## VI. PRODUCT INFORMATION

| **Product** | **Retailer(s)** | **Manufacturer(s)/Distributor(s)** |
|---|---|---|
| Anti-Aging Gel Cleanser | Kohl's Department Stores, Inc | Beauty Solutions, Ltd. |
| Scented Hand & Body Cream | Kohl's Department Stores, Inc | Tricoastal Design Bath & Body, LLC |

Identified are specific examples of products recently purchased and witnessed as being available for purchase or use in California that is within the **category or type of product** covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of this exemplar product within the **category or type of product** are also provided below. We allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business to business, through the internet, and/or via catalog by the alleged Violator(s), as well as other distributors and retailers of the product(s).

## VII. EXEMPLAR PRODUCT

| **Product Category** | **Specific Product** | **Manufacturer** |
|---|---|---|
| Beauty Gel Cleanser | Retinol Vitamin--Enriched Anti--Aging Gel Cleanser; Item #46401--000; UPC: 088634464016 | Beauty Solutions, Ltd |
| Hand & Body Cream | Simple Pleasures Coconut Mango Scented Hand & Body Cream with Shea & Cocoa Butter; #:1225050; UPC: 888273791265 | Tricoastal Design Bath & Body, LLC |

The specific exemplar product identified above is within **the category or type of product** which is the subject of this Notice. We identify it herein for all recipients' benefit in order to assist the investigation of the magnitude of potential exposure to the listed chemical from other items **within the product category or type** listed in Section VII. It is important to note that this exemplar product does *not* represent an exhaustive or comprehensive identification of any or all specific products of the type listed under "Product Category/Type" in Section VII.

Furthermore, it is our position that the alleged Violator(s) are the best situated to identify **any and all** products within the product category or type listed in Section VII. Therefore, as such, the Violator(s) are obligated to conduct (in good faith) an investigation into **any and all** other products **within the product type or category** described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violator(s)' custody or control) during the relevant period in order to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

# CERTIFICATE OF MERIT

I, Daniel N. Greenbaum, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

(2) I am the attorney for 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 the alleged 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 plaintiffs' case can be established and 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 Health and Safety Code section 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 10, 2018 | Daniel N. Greenbaum | |
|---|---|---|
| *Date* | *Name* | *Signature* |

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this case or action. My business address is:
**7120 Hayvenhurst Ave., Suite 320, Van Nuys CA 91406**

A True and Correct copy of the documents entitled **60 DAY NOTICE OF VIOLATION; CERTIFICATE OF MERIT; THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** will be served or was served in the manner stated below:

I. Interested Parties (Served via Certified Mail): On August 10, 2018, I caused to be served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the US Mail, postage prepaid, and addressed as follows:

| | | | | | |
|---|---|---|---|---|---|
| Attn: CEO or President | Kohls Department Stores Inc. | N56 W17000 Ridgewood Rd. | Menomonee Falls | WI | 53051 |
| Kohl's Dept. Stores Inc. | c/o Corporate Creations Network | 4640 Admiralty Way, 5th Floor | Marina del Rey | CA | 90292 |
| Attn: CEO or President | Beauty Solutions, Ltd | 411 5th Avenue Room 804 | New York | NY | 10016 |
| Attn: CEO or President | Tri-Coastal Design Group, Inc | 40 Harry Shupe Blvd. | Wharton | NJ | 07885 |
| Marvin Stutz | c/o Tri-Coastal Design Group, Inc | 27605 Pacific Coast Hwy | Malibu | CA | 90265 |

II. California Attorney General (via website Portal): On August 10, 2018, I uploaded a true
III. and correct copy thereof as a PDF file via the California Attorney General's website.
IV. District and City Attorneys (via U.S. Mail): On August 10, 2018, I caused to be served the following persons and/or entities at the last known addresses by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and addressed as follows: SEE ATTACHED FOR FULL SERVICE LIST
V. District and City Attorneys (via email): On August 10, 2018, I served the following persons and/or entities at the last known electronic addresses via email. The transmission was reported as sent without error.

cfepd@yolocounty.org; sgrassini@contracosta.org; Prop65DA@co.monterey.ca.us; epu@da.sccgov.org; CEPD@countyofnapa.org; jbarnes@sonoma-county.org; Prop65@co.tulare.ca.us; cdalbey@co.santa-barbara.ca.us; CityAttyCrimProp65@sandiego.gov; CEPDProp65@acgov.org; mlatimer@co.lassen.ca.us; Prop65@rivcoda.org; Prop65@sacda.org; EPU@da.sccgov.org CityAttyCrimProp65@sandiego.gov; gregory.alker@sfgov.org; edobroth@co.slo.ca.us DAConsumer.Environmental@sjcda.org; daspecialops@ventura.org; Prop65DA@santacruzcounty.us

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

August 10, 2018 Nate Ford

*Date* *Name* *Signature*

District Attorney
ALPINE COUNTY
PO Box 248
Moreauville, CA 96120

District Attorney
AMADOR COUNTY
708 Court Street, #202
Jackson, CA 95642

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Colusa, CA 95932

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Crescent City, CA 95531

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EL DORADO COUNTY
515 Main Street
Placerville, CA 95667

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Fresno, CA 93721

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Willows, CA 95988

District Attorney
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Independence, CA 93526

District Attorney
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Bakersfield, CA 93301

District Attorney
KINGS COUNTY
1400 West Lacey Blvd.
Hanford, CA 93230

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Lakeport, CA 95453

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