

SIXTY DAY NOTICE OF VIOLATION

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

DATE: November 15, 2018
To: Burlington Coat Factory Direct Corporation; Burlington Coat Factory of Texas, Inc.; Sakar International, Inc., A Classic Time Watch Co., Inc.; ACTWC, 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.

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: | DEHP (Di[2-Ethylhexyl] Phthalate) |
| Routes of Exposure: | Touch, Oral, Dermal absorption |
| Types of Harm: | Carcinogen, Birth Defects, and Reproductive Toxicity |

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 October 13, 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 activities cause women, pregnant women, and women of child bearing age to be exposed directly through migration of the listed chemical from the products. These violations and threatened violations pertain to a chemical listed as both a carcinogen and a toxicant.

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: A Summary" 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

| <u>Product</u> | <u>Retailer(s)</u> | <u>Manufacturer(s)/Distributor(s)</u> |
|-----------------------|---------------------------|--|
| Children's Headphones | Burlington Coat Factory | Sakar International, Inc. |
| Children's Journal | Burlington Coat Factory | A Classic Time Watch Co., Inc. |

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

| <u>Product Category</u> | <u>Specific Product</u> | <u>Manufacturer</u> |
|--|---|-----------------------------------|
| Music Device Accessory with Plastic Components | UPC: 021331939692; Item #HP2-03136-BEALLS LOL Surprise!™ Kid-Safe Headphones | Sakar International, Inc. |
| Stationary with Plastic Components | Glitter Journal: "Always be Yourself Unless You can be a Unicorn, then Always be a Unicorn" | A Classic Time Watch Co., Inc. |

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.

November 15, 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 US Mail): On November 15, 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:

| | | | | | |
|------------------------|--|---|-------------|----|-------|
| Thomas A. Kingsbury | Burlington Coat Factory Direct Corporation | 1830 Route 130 North | Burlington | NJ | 08016 |
| Thomas A. Kingsbury | Burlington Coat Factory of Texas, Inc. | 1830 Route 130 North | Burlington | NJ | 08016 |
| C T Corporation System | c/o Burlington Coat Factory Direct Corporation | 818 W. 7 th Street, #930 | Los Angeles | CA | 90017 |
| C T Corporation System | c/o Burlington Coat Factory of Texas, Inc. | 818 W. 7 th Street, #930 | Los Angeles | CA | 90017 |
| Charles Saka | Sakar International, Inc. | 195 Carter Dr. | Edison | NJ | 08817 |
| Attn: President/CEO | ACTWC, Inc. | 10 West 33 rd Street Suite 800 | New York | NY | 10001 |
| Joseph Smouha | A Classic Time Watch Co., Inc. | 10 West 33 rd Street | New York | NY | 10001 |
| Joseph Smouha | A Classic Time Watch Co., Inc. | 10 West 33 rd Street Suite 800 | New York | NY | 10001 |

II. California Attorney General (via website Portal): On November 15, 2018, I uploaded a true and correct copy thereof as a PDF file via the California Attorney General's website.

III. District and City Attorneys (via U.S. Mail): On November 15, 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

IV. District and City Attorneys (via email): On November 15, 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.

November 15, 2018 Nate Ford



Date

Name

Signature

District Attorney
ALPINE COUNTY
PO Box 248
Markleeville, CA 96120

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

District Attorney
BUTTE COUNTY
25 County Center Drive —
Administration Building
Oroville, CA 95965

District Attorney
CALAVERAS COUNTY
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney
COLUSA COUNTY
346 5th Street, Suite. 101
Colusa, CA 95932

District Attorney
DEL NORTE COUNTY
450 H Street, Room 171
Crescent City, CA 95531

District Attorney
EL DORADO COUNTY
515 Main Street
Placerville, CA 95667

District Attorney
FRESNO COUNTY
2220 Tulare Street, Suite. 1000
Fresno, CA 93721

District Attorney
GLENN COUNTY
PO Box 430
Willows, CA 95988

District Attorney
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Eureka, CA 95501

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El Centro, CA 92243

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INYO COUNTY
168 North Edwards
Independence, CA 93526

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Bakersfield, CA 93301

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KINGS COUNTY
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney
LAKE COUNTY
255 N. Forbes Street
Lakeport, CA 95453

District Attorney
LOS ANGELES COUNTY
210 W. Temple Street
Los Angeles, CA 90012

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MADERA COUNTY
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3501 Civic Center Drive, Room 130
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PO BOX 730
Mariposa, CA 95338

District Attorney
MENDOCINO COUNTY
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Ukiah, CA 95482

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MERCED COUNTY
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Merced, CA 95340

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MODOC COUNTY
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Alturas, CA 96101

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PO BOX 2053
Mammoth Lakes, CA 93546

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Nevada City, CA 95959

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ORANGE COUNTY
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney
PLACER COUNTY
10810 Justice Center Drive
Roseville, CA 95678

District Attorney
PLUMAS COUNTY
520 Main Street, Room 404
Quincy, CA 95971

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419 4th Street
Hollister, CA 95023

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SAN BERNARDINO COUNTY
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400 County Center, Third Floor
Redwood City, CA 94063

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Fairfield, CA 94533

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Modesto, CA 95353

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