

**NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249.6**

April 16, 2019

**VIA CERTIFIED MAIL**

Brian C. Cornell, CEO  
Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN 55403

Don Liu or current CEO  
Target Brands, Inc.  
1000 Nicollet Mall  
Minneapolis, MN 55403

**VIA ELECTRONIC SERVICE**

Office of the California Attorney General  
Proposition 65 Enforcement Reporting  
Attention: Prop 65 Coordinator  
P.O. Box 70550  
Oakland, CA 94612-0550

**VIA MAIL**

[the entities and the public enforcement agencies listed on the distribution list accompanying the attached Certificate of Service]

Re: Violation of California Health & Safety Code § 25249.6

To Whom It May Concern:

Along with co-counsel, I represent Jan Graham (“Noticing Party”). This Notice of Violation (“Notice”) is provided to the public agencies listed on the distribution list accompanying the attached certificate of service. This Notice is also being provided to Target Corporation and Target Brands, Inc. (the “Violators”) pursuant to and in compliance with California Health and Safety Code § 25249.6, *et seq.* (“Proposition 65”).

This Notice satisfies a prerequisite for the Noticing Party to commence an action against the Violators to enforce Proposition 65. The Noticing Party intends to begin an enforcement action sixty (60) days after effective service of this Notice, unless the public enforcement agencies have commenced an action to rectify the violations discussed in this Notice.

## **The Noticing Party**

This notice is provided on behalf of Jan Graham. Ms. Graham is a resident of San Francisco in the State of California. She is acting in the public interest pursuant to California Health & Safety Code § 25249.7(d) and is dedicated to protecting the health of Californians.

Please contact Noticing Party through counsel and direct all questions concerning this Notice to counsel's office at the following addresses:

Ali Abtahi  
Abtahi Law Group LLC  
200 W Madison Street, Suite 2100  
Chicago, IL 60647

Trent B. Miracle  
Simmons Hanly Conroy LLC  
One Court Street  
Alton, Illinois 62002

Mitchell Breit  
Simmons Hanly Conroy LLC  
112 Madison Avenue, 7th floor  
New York, NY 10016-7416

James L. Ward, Jr.  
McGowan, Hood & Felder, LLC  
321 Wingo Way, Suite 103  
Mt. Pleasant, SC 29464

## **Name of the of the Violators**

The names of the Violators are:

- Target Corporation
- Target Brands, Inc.

## **Names of Listed Chemicals**

The violations covered by this Notice consist of the types of harm potentially resulting from exposure to the chemicals known to the State to cause cancer or reproductive toxicity ("Listed Chemicals") identified below:

Listed Chemicals (type of harm): Arsenic (Cancer, Reproductive Toxicity, Developmental Toxicity)  
Chromium [hexavalent compounds] (Cancer, Reproductive Toxicity, Developmental Toxicity, Female Reproductive Toxicity, Male Reproductive Toxicity)  
Lead and Lead Compounds (Cancer, Reproductive Toxicity, Developmental Toxicity, Female Reproductive Toxicity, Male Reproductive Toxicity)  
Silica, crystalline [airborne particles of

respirable size] (Cancer)

**Type of Product and Route of Exposure**

The violations covered by this Notice consist of the product types and routes of exposure identified below:

Product Types: Talcum powder products. See Product Description below.

Routes of Exposure: Inhalation and dermal exposure

**Description of Violation**

The Violators have failed and continue to fail to provide a clear and reasonable Proposition 65 warning regarding the presence of Listed Chemicals. For example, and without limitation, Violators have failed to provide a clear and reasonable Proposition 65 warning on the product package or label, on their website, or at the point of sale.

On February 27, 1987, the State of California officially listed Arsenic (inorganic arsenic compounds) as a chemical known to the State to cause cancer. On May 1, 1997, the State of California officially listed Arsenic (inorganic oxides) as a chemical known to the State to cause developmental toxicity. Violators have exposed and continue to expose consumers within the State of California to Arsenic without providing a clear and reasonable warning of this exposure.

On February 27, 1987, the State of California officially listed Chromium (hexavalent compounds) as a chemical known to the State to cause cancer. On December 19, 2008, the State of California officially listed Chromium (hexavalent compounds) as a chemical known to the State to cause developmental toxicity, male reproductive toxicity, and female reproductive toxicity. Violators have exposed and continue to expose consumers within the State of California to Chromium (hexavalent compounds) without providing a clear and reasonable warning of this exposure.

On February 27, 1987, the State of California officially listed Lead and Lead Compounds as chemicals known to the State to cause developmental toxicity, male reproductive toxicity, and female reproductive toxicity. On October 1, 1992, the State of California officially listed Lead and Lead Compounds as chemicals known to the State to cause cancer. Violators have exposed and continue to expose consumers within the State of California to Lead and Lead Compounds without providing a clear and reasonable warning of this exposure.

On October 1, 1989, the State of California officially listed Silica, Crystalline (airborne particles of respirable size) as a chemical known to the State to cause cancer. Violators have exposed and continue to expose consumers within the State of California to Silica, Crystalline

(airborne particles of respirable size) without providing a clear and reasonable warning of this exposure.

### **Approximate Duration of Violation**

The violations have been occurring since at least February 27, 1987 and are ongoing.

### **The Consumer Products**

The products that are the subject of this Notice are talc-containing foot powder products, all of which are produced, manufactured, marketed, and/or distributed by each of the Violators. Without limitation, such products include:


- Up & Up Maximum Strength Medicated Foot Powder

This identification is made in good faith to assist in recipients in investigation of, among other things, the magnitude of potential exposures to the Listed Chemicals. Please note that the above examples are not meant to be an exhaustive or comprehensive identification of each specific offending product manufactured, distributed, or sold during the relevant period.

### **General Information Regarding Proposition 65**

Attached to this Notice is a copy of “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.” The attached Summary was prepared by the California Environmental Protection Agency and provides general information about Proposition 65.

Pursuant to Title 11 of the California Code of Regulations § 3100, a certificate of merit is attached hereto. Please direct any inquiries regarding this Notice or any communication to the counsel for the Noticing Party.

Very truly yours,  
  
Ali Abtahi

## CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Ali Abtahi, 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 have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemicals that are 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 the information did not prove that the alleged violators 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.

Dated: April 16, 2019



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Ali Abtahi

## **PROOF OF SERVICE**

I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where the mailing took place. My residence or business address is 200 W. Madison Street, Suite 2100, Chicago, IL 60606.

On this date, I served or caused to be served a true copy of the following document(s) in the manner specified below:

**NOTICE OF VIOLATION OF CALIFORNIA HEALTH &  
SAFETY CODE § 25249.6**

**CERTIFICATE OF MERIT**

**THE SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A  
SUMMARY**

**XXX** **BY CERTIFIED MAIL** through placing the envelope containing the above documents for collection following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

**[SEE ATTACHED CERTIFIED MAIL SERVICE LIST]**

Also on this date, I served or caused to be served a true copy of the following document(s) in the manner specified below:

**NOTICE OF VIOLATION OF CALIFORNIA HEALTH &  
SAFETY CODE § 25249.6**

**CERTIFICATE OF MERIT**

**XXX** **BY MAIL** through placing the envelope containing the above documents for collection following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

**[SEE ATTACHED MAIL SERVICE LIST]**

Also on this date, I served or caused to be served a true copy of the following document(s) in the manner specified below:

**NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249.6**

**CERTIFICATE OF MERIT**

**FACTUAL INFORMATION IN SUPPORT OF CERTIFICATE OF MERIT**

**XXX BY ELECTRONIC FILING** through causing true and correct copies of the above documents to be uploaded to the California Attorney General’s website at the web address on the attached “Electronic Filing Service List”.

**[SEE ATTACHED ELECTRONIC FILING SERVICE LIST]**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 16, 2019, at Chicago, Illinois.



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Ali Abtahi

## CERTIFIED MAIL SERVICE LIST

Brian C. Cornell, CEO  
Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN 55403

Don Liu or current CEO  
Target Brands, Inc.  
1000 Nicollet Mall  
Minneapolis, MN 55403

## MAIL 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  
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

Del Norte County District Attorney  
450 H Street, Room 171  
Crescent City, CA 95531

El Dorado County District Attorney  
778 Pacific 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  
825 5th Street, Fourth Floor  
Eureka, CA 95501

Imperial County District Attorney  
940 W. Main Street, Suite 102  
El Centro, CA 92243

Inyo County District Attorney  
P.O. Box Drawer D  
Independence, CA 93526

Kern County District Attorney  
1215 Truxtun Avenue, 4th Floor  
Bakersfield, CA 93301

Kings County District Attorney  
1400 W. Lacey Boulevard  
Hanford, CA 93230

Lake County District Attorney  
255 N. Forbes Street  
Lakeport, CA 95453

Lassen County District Attorney  
2950 Riverside Drive, Suite 102  
Susanville, CA 96130

LA County District Attorney  
211 W. Temple Street, Suite 1200  
Los Angeles, CA 90012

Madera County District Attorney  
209 W. Yosemite Avenue  
Madera, CA 93637

Marin County District Attorney  
3501 Civic Center Drive, Suite 145  
San Rafael, CA 94903

Mariposa County District Attorney  
5101 Jones Street  
P.O. Box 730  
Mariposa, CA 95338

Mendocino County District Attorney  
100 N. State Street, Room G-10  
P.O. Box 1000  
Ukiah, CA 95482

Merced County District Attorney  
550 W. Main Street  
Merced, CA 95340

Modoc County District Attorney  
204 S. Court Street, Suite 202  
Alturas, CA 96101

Mono County District Attorney  
278 Main Street  
Bridgeport, CA 93517

Monterey County District Attorney  
P.O. Box 1131  
Salinas, CA 93902

Nevada County District Attorney  
201 Commercial Street  
Nevada City, CA 95959

Napa County District Attorney  
1127 First Street, Suite C  
Napa, CA 94559

Orange County District Attorney  
401 Civic Center Drive West  
Santa Ana, CA 92701

Placer County District Attorney  
10810 Justice Center Dr., Suite 240  
Roseville, CA 95678

Plumas County District Attorney  
520 Main Street, Room 404  
Quincy, CA 95971

Riverside County District Attorney  
3960 Orange Street  
Riverside, CA 92501



Sacramento County District Attorney 901 G Street Sacramento, CA 95814	San Benito County District Attorney 419 4th Street Hollister, CA 95023	San Bernardino County District Attorney 303 W. 3rd Street, 6th Floor San Bernardino, CA 92415-0502
San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101	San Francisco County District Attorney 850 Bryant Street, Room 320 San Francisco, CA 94103	San Joaquin County District Attorney P.O. Box 990 Stockton, CA 95201
San Luis Obispo District Attorney 1035 Palm Street, 4th Floor San Luis Obispo, CA 93408	San Mateo County District Attorney 400 County Center, 3rd 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 Street, West Wing San Jose, CA 95110	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 P.O. Box 457 Downieville, CA 95936	Siskiyou County District Attorney 311 4th Street Yreka, CA 96097	Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533
Sonoma County District Attorney 600 Administration Dr, Room 212 J Santa Rosa, CA 95403	Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354	Sutter County District Attorney 463 Second Street, Suite 102 Yuba City, CA 95991
Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080	Trinity County District Attorney P.O. Box 310 11 Court Street Weaverville, CA 96093	Tulare County District Attorney 221 S. Mooney Boulevard, Rm 224 Visalia, CA 93291-4593
Tuolumne County District Attorney 423 N. Washington Street Sonora, CA 95370	Ventura County District Attorney 800 S. Victoria Avenue, Suite 314 Ventura, CA 93009	Yolo County District Attorney 301 Second Street Woodland, CA 95695
Yuba County District Attorney 215 5th Street, Suite 152 Marysville, CA 95901	Los Angeles City Attorney James K. Hahn City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012	San Diego City Attorney 1200 Third Avenue, Suite 1620 San Diego, CA 92101
San Jose City Attorney 200 E. Santa Clara St, 16th Floor San Jose, CA 95113	San Francisco City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Pl. San Francisco, CA 94102	

## ELECTRONIC FILING SERVICE LIST

Office of the California Attorney General  
Proposition 65 Enforcement Reporting  
ATTN: Prop 65 Coordinator  
P.O. Box 70550  
Oakland, CA 94612-0550  
<https://oag.ca.gov/prop65/add-60-day-notice>