

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Hexavalent Chromium in Footwear Made With Leather Materials

July 2, 2019

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 508, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Caroline Cox is the Senior Scientist of and a responsible individual within CEH.

Description of Violation:

- Violators: The names and addresses of the violators are identified on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least July 3, 2016, and are ongoing.
- Provision of Proposition 65: This Notice covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is chromium (hexavalent compounds), which is also known as hexavalent chromium. Hexavalent chromium is listed under Proposition 65 as a chemical known to the State of California to cause cancer and reproductive toxicity. Exposures to hexavalent chromium occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is footwear made with leather materials. Non-exclusive examples of this specific type of product are identified on the attached Exhibit 1. The specific type of product covered by this Notice is further limited to specific brands for certain responsible parties as set forth on Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to hexavalent chromium. Use of the products identified in this Notice results in

human exposures to hexavalent chromium. The routes of exposure for the violations are: (1) dermal absorption directly through the skin when consumers wear, touch or handle the products or otherwise have direct skin to leather contact with the leather parts of the products; and (2) ingestion via hand to mouth contact after consumers wear, touch or handle the products. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of hexavalent chromium.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the hexavalent chromium exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any alleged violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that each alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of hexavalent chromium in footwear; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of hexavalent chromium in such products; and representative exemplars of each unit of any such products sold by each alleged violator in the year preceding this Notice through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to CEH's counsel Eric S. Somers at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, esomers@lexlawgroup.com

EXHIBIT 1
July 2, 2019 Notice of Violation
Hexavalent Chromium in Footwear Made With Leather Materials

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Further Limitation on Products Sold by Violators	Style, SKU, UPC or Further Description
GBG USA Inc. 350 Fifth Avenue, 6 th Floor New York, New York 10118 Authentic Brands Group LLC 1411 Broadway, 4th Floor New York, NY 10018	Frye Women's Melissa Stud Back Zip Boot	None	Style No. 92697 SKU No. 439088859369
Nordstrom, Inc. 1617 Sixth Avenue Seattle, WA 98101	Frye Women's Melissa Stud Back Zip Boot	Supplied by GBG USA Inc. and Authentic Brands Group LLC	Style No. 92697 SKU No. 439088859369
	Gentle Souls by Kenneth Cole Women's Iona Slide Sandal in Lipstick	Supplied by Kenneth Cole Productions, Inc.	Style No. 67280 SKU No. 191010211842
	Sperry Men's Top Sider In Gold A/O Brown	Supplied by Wolverine World Wide, Inc. and/or Sperry Top-Sider, LLC	SKU No. 0818-6511-3435 Style No. 0219493
Kenneth Cole Productions, Inc. 603 West 50th Street New York, NY 10019	Gentle Souls by Kenneth Cole Women's Iona Slide Sandal in Lipstick	None	Style No. 67280 SKU No. 191010211842

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Urban Outfitters, Inc. 5000 South Broad Street Philadelphia, PA 19112 Urban Outfitters West LLC 5000 South Broad Street Philadelphia, PA 19112	UO Leather Slip-On Sandal in Black	None	SKU No. 50807841
Eddie Bauer LLC 10401 Northeast 8th Street, Suite 500 Bellevue, WA 98004	Eddie Bauer Women's Sunrise Slide in Black	None	Item No. 020 0121 792 UPC No. 400011174415
Tommy Bahama Group, Inc. 999 Peachtree Street, NE Suite 688 Atlanta, GA 30309	Tommy Bahama Orion Leather Venetian Drivers	None	Style No. TB7S00045 UPC No. 8-82976-78002-1
Steven Madden, Ltd. 52-16 Barnett Avenue, Long Island City, New York 11104 Steven Madden Retail, Inc. 52-16 Barnett Avenue, Long Island City, New York 11104	Steve Madden Women's Flute Gold Leather Sandals	None	UPC No. 888311-806203
Tory Burch LLC 11 West 9th Street, 7th Floor New York, NY 10011	Tory Burch Women's Carter Sequin Slides in Perfect White	None	Style No. 46244 UPC No. 400997783892

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Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Further Limitation on Products Sold by Violators	Style, SKU, UPC or Further Description
<p>Saks Incorporated 225 Liberty Street, 31st Floor New York, NY 10281</p> <p>Saks & Company LLC 225 Liberty Street, 31st Floor New York, NY 10281</p> <p>Saks Direct, LLC 225 Liberty Street, 31st Floor New York, NY 10281</p>	Tory Burch Women's Carter Sequin Slides in Perfect White	Supplied by Tory Burch LLC	Style No. 46244 UPC No. 400997783892
<p>H&M Hennes & Mauritz LP 110 Fifth Avenue, 11th Floor New York, NY 10011</p>	H&M Genuine Leather Sandals	None	UPC No. 0826-8-0383-04-02 SKU No. 3527/1-49-123456
<p>Wolverine World Wide, Inc. 9341 Courtland Drive N.E., Rockford, Michigan</p> <p>Sperry Top-Sider, LLC 9341 Courtland Drive N.E., Rockford, Michigan</p>	Sperry Top-Sider Men's in Gold A/O Brown	None	SKU No. 0818-6511-3435 Style No. 0219493
<p>Weyco Group, Inc. 333 West Estabrook Boulevard Glendale, WI 53212</p>	Stacy Adams Men's Calisto Fisherman Sandal in White	None	Item No. 396591 UPC No. 7-17501-81497-4

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Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	Further Limitation on Products Sold by Violators	Style, SKU, UPC or Further Description
Designer Brands Inc. 810 DSW Drive Columbus, OH 43219 DSW Shoe Warehouse, Inc. 810 DSW Drive Columbus, OH 43219	Stacy Adams Men's Calisto Fisherman Sandal in White	Supplied by Weyco Group, Inc.	Item No. 396591 UPC No. 7-17501-81497-4

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Eric S. Somers, hereby declare:

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


2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and 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 exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, 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 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 the 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 & Safety Code § 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.

July 2, 2019



Eric S. Somers
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

1 **PROOF OF SERVICE**

2

3 I, Alexis Pearson, declare:

4 I am a citizen of the United States and employed in the County of San Francisco, State of
5 California. I am over the age of eighteen (18) years and not a party to this action. My business
6 address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is
apearson@lexlawgroup.com.

7 On July 2, 2019, I served the following document(s) on all interested parties in this action
8 by placing a true copy thereof in the manner and at the addresses indicated below:

9 **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND
10 TOXIC ENFORCEMENT ACT;**

11 **CERTIFICATE OF MERIT; and**

12 **THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986**
13 **(PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an
14 asterisk).

15 ☒ **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail
16 with the United States Postal Service ("USPS"). Under that practice, mail would be deposited
17 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the
18 ordinary course of business. On this date, I placed sealed envelopes containing the above
19 mentioned documents for collection and mailing following my firm's ordinary business practices.

20 *Please see attached service list.*

21 ☐ **BY FACSIMILE:** I caused all pages of the document(s) listed above to be transmitted via
22 facsimile to the fax number(s) as indicated and said transmission was reported as complete and
23 without error.

24 ☒ **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via
25 email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m.
26 on the date executed.

27 Stacey Grassini, Deputy District Attorney
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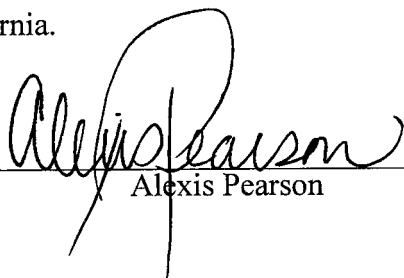
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1 ☐ **BY PERSONAL DELIVERY:** I placed all pages of the document(s) listed above in a sealed
2 envelope addressed to the party(ies) listed above, and caused such envelope to be delivered by
hand to the addressee(s) as indicated.

3 ☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility
4 regularly maintained by FedEx, or delivered such document(s) to a courier or driver authorized by
FedEx, with delivery fees paid or provided for, and addressed to the person(s) being served.

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

6 Executed on July 2, 2019 at San Francisco, California.

7
8 
9 Alexis Pearson

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