



September 20, 2019

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL
INFORMATION PER EVIDENCE CODE § 1040**

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.**

Attorney General Xavier Becerra
c/o Proposition 65 Coordinator
Office of the Attorney General
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation of California Health & Safety Code §25249.5 *et seq.*

Dear Attorney General Becerra:

As You Sow (“AYS”) is a 501(c)(3) non-profit corporation dedicated to, among other causes, toxics reduction, the promotion of and improvement of human health, the improvement of worker and consumer rights, environmental education and the protection of the environment, and corporate accountability. AYS is based in Berkeley, California, and was incorporated in 1992 under the laws of the State of California.

AYS has documented violations of California’s Safe Drinking Water & Toxic Enforcement Act of 1986 (“Proposition 65”), codified at Health & Safety Code section 25249.5 *et seq.*; specifically Section 25249.6, which 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 to provide AYS’s notification of these violations to the public enforcement agencies. Pursuant to section 25249.7(d) of the statute, AYS intends to bring an enforcement action sixty days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the notices served upon the violators. The specific details of the violations that are the subject of this notice are provided below.

Alleged violators. The names of the violators covered by this notice are:

- Alter Eco Americas, Inc.
- Askinosie Chocolate
- Bob's Petro Products, Inc.
- Castronovo Chocolate, LLC
- Conscious Living, LLC dba Cacao Atlanta Chocolate Co.
- Dollar Tree, Inc.
- Escazú Chocolates, LLC
- Hexx Chocolates & Confections
- Hexx Management, LLC

- Hu Master Holdings, LLC
- Hu Products, LLC
- Imlak'esh Organics
- Kyya Chocolate, Inc.
- Mama Ganache Artisan Chocolates, Inc.
- Raaka Chocolate
- Seattle Chocolate Company, LLC
- Tony's Chocolonely, Inc
- Tony's Factory B.V. dba Tony's Chocolonely
- Vivapura, LLC
- Wilderness Family Naturals
- Zotter Chocolates US, LLC
- Zotter Schokoladen Manufaktur GmbH

Chemicals. These violations involve exposures to lead and/or cadmium from the products listed below. The State of California has officially listed lead and cadmium as chemicals known to cause birth defects or reproductive harm. *See* Chemicals Known to the State to Cause Cancer or Reproductive Toxicity, available at http://oehha.ca.gov/prop65/prop65_list/Newlist.html.

Consumer products. The products that are the subject of this notice are chocolate candy; chocolate bars, pieces, chips, beverages, and chocolate-based confections with or without inclusions; cocoa nibs and cocoa powder; chocolate and cacao-based compounds in any form; and other products derived primarily (i.e., in excess of 50%) from cacao that contain lead and/or cadmium and are, at any time, manufactured, distributed, or sold by the alleged violators, including but not limited to the products listed in Exhibit A.

<i>Products</i>	<i>Chemicals</i>	<i>Companies</i>
Alter Eco Deepest Dark Super Blackout Chocolate 90% bar	Cadmium	Alter Eco Americas, Inc.
Askinosie Super Dark Blend Tanzania+Ecuador 88% Dark Chocolate bar	Cadmium, Lead	Askinosie Chocolate
Mama Ganache Artisan Chocolates 2 Criollos 84% Cacao bar	Cadmium	Bob's Petro Products, Inc.; Mama Ganache Artisan Chocolates, Inc.
Castronovo Chocolate Colombia Tumaco 85% Cacao bar	Cadmium	Castronovo Chocolate, LLC
Cacao Atlanta Chocolate Dark 60% Aztec Aphrodisiac bar	Lead	Conscious Living, LLC dba Cacao Atlanta Chocolate Co.
Landmark Confections Dark Chocolate Solid bar	Lead	Dollar Tree, Inc.
Escazu Chocolates Single Origins Patenemo 80% Cacao bar	Cadmium	Escazú Chocolates, LLC

Hexx Dominican Republic Dark Chocolate Oko Caribe 71% Cacao bar	Cadmium, Lead	Hexx Chocolates & Confections; Hexx Management, LLC
Hu Salty Dark Chocolate Organic House Ground Cacao 70% bar	Cadmium, Lead	Hu Master Holdings, LLC; Hu Products, LLC
Imlak'esh Organics Cacao Nibs	Cadmium	Imlak'esh Organics
Kyya Uganda 88% Bold Dark Chocolate bar	Cadmium, Lead	Kyya Chocolate, Inc.
Raaka Yacon Root Dominican Republic 79% Cacao bar	Cadmium	Raaka Chocolate
Seattle Chocolates Truffle Sea Salt Overcast Bar	Lead	Seattle Chocolate Company, LLC
Tony's Chocoloney Dark Chocolate 70% Bar	Lead	Tony's Chocolonely, Inc; Tony's Factory B.V. dba Tony's Chocolonely
Vivapura Cacao Beans	Cadmium, Lead	Vivapura, LLC
Wildly Organic Non-Fermented Cacao Powder	Cadmium, Lead	Wilderness Family Naturals
Zotter Labooko Vegan Dark Chocolate Peru 100% bar	Cadmium	Zotter Chocolates US LLC; Zotter Schokoladen Manufaktur GmbH

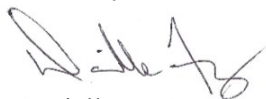
Route of exposure. Use of the products identified in this notice result in human exposures to lead and/or cadmium. The route of exposure is ingestion. No clear and reasonable warning is provided with the products regarding the reproductive hazards of lead and/or cadmium.

Duration of violation. These ongoing violations have occurred on every day since at least September 20, 2018, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, Cal. Code Regs. section 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify this ongoing violation of California law, *As You Sow* is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with *As You Sow* to discuss an early resolution of this matter by contacting Danielle Fugere, President via tel: (510) 735-8141 or email: dfugere@asyousow.org.

Sincerely,



Danielle Fugere

CERTIFICATE OF MERIT

(for *As You Sow*'s Notice of Proposition 65 Violation on Alter Eco Americas, Inc.; Askinosie Chocolate; Bob's Petro Products, Inc.; Castronovo Chocolate, LLC; Conscious Living, LLC dba Cacao Atlanta Chocolate Co.; Dollar Tree, Inc.; Escazú Chocolates, LLC; Hexx Chocolates & Confections; Hexx Management, LLC; Hu Master Holdings, LLC; Hu Products, LLC; Imlak'esh Organics; Kyya Chocolate, Inc.; Mama Ganache Artisan Chocolates, Inc.; Raaka Chocolate; Seattle Chocolate Company, LLC; Tony's Chocolonely, Inc; Tony's Factory B.V. dba Tony's Chocolonely; Vivapura, LLC; Wilderness Family Naturals; Zotter Chocolates US, LLC; Zotter Schokoladen Manufaktur GmbH)

I, Chelsea Linsley, declare:

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

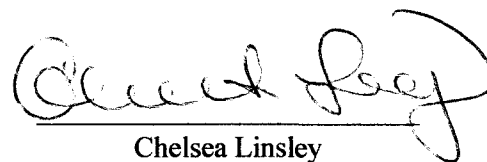
I am in-house counsel and Staff Attorney of the noticing party.

I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding exposure to the listed chemical that is the subject of the action.

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 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.

The copy of this Certificate of Merit served on the Attorney General has attached to it to it factual information sufficient to establish the basis for this certificate, including the information identified in section 25249.7(h)(2) of the Health and Safety Code, 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: September 20, 2019


Chelsea Linsley

Enclosure (For Attorney General Copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years. My business address is: 2150 Kittredge Street, Ste. 450, Berkeley, CA 94704.

On SEPTEMBER 20, 2019, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit
- “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Mike Forbes
Chief Executive Officer
Alter Eco Americas, Inc.
1663 Mission St. Suite 520
San Francisco, CA 94103

Shawn Askinosie
Owner
Askinosie Chocolate
514 E Commercial St.
Springfield, MI 65803-2946

Robert L Taylor Jr
Registered Agent
Bob's Petro Products, Inc.
443 N Ryan Terrace
Porterville, CA 93257

cc: Robert L Taylor Jr
Registered Agent
Bob's Petro Products, Inc.
114 N Main St.
Porterville, CA 93257-3714

Tom Neuhaus
Owner
Mama Ganache Artisan Chocolates, Inc.
1491 Monterey St.
San Luis Obispo, CA 93401-2925

Hu Master Holdings, LLC
c/o Registered Agent
Corporation Service Company
80 State St.
Albany, NY 12207-2543

Hu Products, LLC
c/o Jordan Brown and Jessica Karp
Co-Founders
Hu Kitchen
78 5th Ave.
New York, NY 10011-8003

Tucker Garrison
Chief Executive Officer
Imlak'esh Organics
6336 Lindmar Drive
Goleta, CA 93117

Richard William Boosey, III
Chief Operations Officer
Kyya Chocolate
278 N Elm St.
Springdale, AR 72762-9164

Ryan Cheney
Chief Executive Officer
Raaka Chocolate
62 Seabring St., No. 64
Brooklyn, NY 11231-1621

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Denise Castronovo
President
Castronovo Chocolate, LLC
555 Colorado Ave., Suite 103
Stuart, FL 34994

Kristen Hard
Chief Executive Officer
Conscious Living, LLC dba
Cacao Atlanta Chocolate
312 N Highland Ave. NE, Ste. C
Atlanta, GA 30307-1966

Caline Monica Jarudi
Registered Agent
Conscious Living, LLC dba
Cacao Atlanta Chocolate
202 Peralume Place NW
Atlanta, GA 30318

Gary M. Philbin
President, Chief Executive Officer and
Director
Dollar Tree, Inc.
500 Volvo Pkwy.
Chesapeake, VA 23320-1604

Dollar Tree, Inc.
c/o Registered Agent
Corporation Service Company
100 Shockoe Slip, Fl. 2
Richmond VA 23219

Danielle Centeno
President
Escazú Chocolates, LLC
936 N. Blount St.
Raleigh, NC 27604

Hexx Chocolates & Confections
c/o Matthew Silverman
Registered Agent
HEXX
Legal Department
10100 West Charleston Blvd., Suite 110
Las Vegas, NV 89135

Jean Thompson
Chief Executive Officer
Seattle Chocolate Company, LLC
1180 Andover Park W
Tukwila, WA 98188

Ingrid Lee
Registered Agent
Seattle Chocolate Company, LLC
1180 Andover Park W
Tukwila, WA 98188

Tony's Chocolonely, Inc.
c/o Brant Norquist
Registered Agent
Stoel Rives, LLP
760 SW 9th Ave, Suite 3000
Portland, OR 97205

Peter-Jan J. M. Swinkels
Commissioner
Tony's Factory B.V. dba Tony's Chocolonely
c/o Michelle Wald
US Country Manager
Tony's Chocolonely, Inc.
1355 NW Everett St., Suite 100
Portland, OR 97209

Christopher Cowens
Chief Executive Officer
Vivapura, LLC
320 Smelter Ave
Patagonia, AR 85624

Kenneth Fischer
Manager
Wilderness Family Naturals
99 Edison Blvd., Ste. 1
Silver Bay, MN 55614-1211

Zotter Chocolates US, LLC
c/o Andreas Dolleschal
Registered Agent
Smargasy, Inc.
611 SE 11th St., Suite B
Cape Coral, FL 33990

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Hexx Management, LLC
c/o Matthew Silverman
Registered Agent
HEXX
Legal Department
10100 West Charleston Blvd., Suite 110
Las Vegas, NV 89135

Josef Zotter
Managing Director
Zotter Schokoladen Manufaktur GmbH
c/o Zotter Chocolates US, LLC
611 Se 11th St., Suite B
Cape Coral, FL 33990-2809

On SEPTEMBER 20, 2019, I served the following documents:

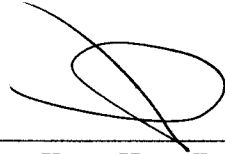
- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit

on each of the District Attorneys on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto and depositing it at a United States Postal Service mail box for delivery by First Class Mail.

On SEPTEMBER 20, 2019, I served the following documents on the Attorney General using the Attorney General's Proposition 65 electronic Notice Filing Form (<https://oag.ca.gov/prop65/add-60-day-notice>):

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

Executed on SEPTEMBER 20, 2019, at Berkeley, California.



Kwan Hong Teoh