AMENDED 60-DAY NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d) (PROPOSITION 65)

Date: January 20, 2021

To: Rhett M. Roberts, Chief Executive Officer, Redmond Trading Company, L.C.

California Attorney General's Office;

District Attorney's Office for 58 Counties; and

City Attorneys for San Francisco, San Diego, San Jose, Sacramento & Los Angeles

From: Center for Advanced Public Awareness

I. INTRODUCTION

Center for Advanced Public Awareness ("CAPA") is a non-profit organization in the State of California acting in the interest of the general public, pursuant to California Health & Safety Code § 25249.7(d). CAPA seeks to further: the elimination of toxic chemicals in the manufacture of products; the improvement of human health through increased public awareness of toxic chemicals; and the promotion of environmentally sound practices and corporate responsibility.

This Amended 60-Day Notice of Violation ("Notice") amends the 60-Day Notice of Violation sent on September 9, 2020, and is provided to the alleged violator, Redmond Trading Company, L.C. ("Notice Recipient"), as well as the California Attorney General's Office, the District Attorney's Offices for 58 Counties, and City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles.

CAPA provides this Notice after identifying violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, codified at California Health & Safety Code § 25249.5 et seq. ("Proposition 65"), based on the failure to provide a clear and reasonable health hazard warning in connection with the sale or use of the products, listed below, in the State of California. The Notice Recipient is hereby given notice that it violated and continues to violate Proposition 65 with respect to the warning requirement, codified at California's Health & Safety Code § 25249.6: "No 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 giving a clear and reasonable warning to such individual." Without clear and reasonable warnings in compliance with the implementing regulation, codified as California Code of Regulations, title 27, section 25600, et seq., or California Code of Regulations, title 27, section 25601, et seq., concerning the toxic effects of exposures to listed chemicals, citizens in California lack the information necessary to make an informed decision as to whether or how to eliminate or reduce their risk of exposure from the reasonably foreseeable use of products containing listed chemicals.

II. NATURE OF ALLEGED VIOLATIONS

<u>Consumer Product</u>. The specific type or category of products ("**Products**") that are the subject of this Notice are as follows:

Exemplar Product	Category/Type	Retailer	Manufacturer/ Distributor
Amazingly Natural Baby Powder	Baby Powder	Thrive Market	Redmond Trading
GTIN 0 18788 20332 2			Company, L.C.

Identified above is a specific example of Products recently purchased and witnessed as being available for sale or use in the State of California, within the *category* of offending products covered by this Notice. The identified retailers, manufacturers and/or distributors of the Products are based on publicly available information. The Exemplar Product is identified for the Notice Recipient's benefit to assist in its investigation into the alleged violations that are the subject of this Notice. The specific identified Exemplar Product is not intended to be an exhaustive list of all such products potentially in violation of Proposition 65.

The Notice Recipient is now obligated to conduct, in good faith, an investigation into other products, within the category or of the type identified, that may have been manufactured, imported, sold or distributed for sale, or in the Notice Recipient's custody or control during the relevant time period, identified below, to ensure the requisite health hazard warnings are provided to individuals in California prior to purchase.

<u>Listed Chemical.</u> The chemical that is the subject of this Notice is the heavy metal, Lead. The State of California listed Lead as a chemical known to cause developmental toxicity, male reproductive toxicity and female reproductive toxicity on February 27, 1987, and as a chemical known to cause cancer on October 1, 1992.

Routes of Exposure. The exposures that are the subject of this Notice result from the use and application of Products containing Lead. Exposures occur when individuals, including infants, toddlers, children and women of childbearing age, contact, apply, touch, or otherwise utilize the Products' in accordance with their intended uses, resulting in exposures through inhalation, ingestion and dermal absorption. Individuals inhale Lead during the application of the Products. Individuals ingest Lead indirectly through inhalation and hand to month transfer. Dermal absorption of Lead occurs when consumers apply the products to the skin, including skin affected with the condition the Products are designed to prevent and treat, and to the diaper area of infants, toddlers and children.

<u>Violations and Time Period of Exposure.</u> CAPA alleges the Notice Recipient knowingly and intentionally exposed, and continues to knowingly and intentionally expose, individuals, including infants, toddlers, children and women of childbearing age, within the State of California to Lead, by failing to provide a clear and reasonable health hazard warning to consumers about the known reproductive and developmental risks posed by exposure to Lead and that the Products can expose users to Lead, as required by Proposition 65.

Exposures caused by the use of the Products have occurred each day since the Products were introduced into the California marketplace, but, at a minimum, since September 9, 2019, and, potentially, as far back as September 9, 2017. Because the Products lack clear and reasonable warnings regarding the Products ability to expose consumers to lead and the toxic effects of exposures to Lead, each Product sold during this period not accompanied by a compliant warning constitutes a violation by the Notice Recipient and/or other sellers of the Products, whether sold directly through retailers located in, or with locations in, California, via the internet, or through catalog purchases by customers and individuals located in California. Moreover, these exposures are ongoing and will continue either until clear and reasonable warnings are provided to protect consumers and users or until this known toxin is removed from the Products.

III. RESOLUTION OF NOTICED CLAIMS

Consistent with the public interest goals of Proposition 65, CAPA seeks to pursue a constructive resolution of this matter to quickly rectify ongoing violations of California law. To that end, based on the allegations set forth in this Notice and pursuant to Health & Safety Code § 25249.7(d), CAPA intends to file a private enforcement action in the public interest sixty (60) days after effective service of this Notice, unless the appropriate public enforcement agencies have commenced and are diligently prosecuting an action to rectify these allegations. If the Notice Recipient seeks to resolve the claims alleged in this Notice without litigation, it may contact CAPA's counsel at the address listed below.

It should be noted neither CAPA nor its counsel can: (1) finalize any settlement until after the expiration of the 60-day Notice period; or (2) speak for the California Attorney General or any District or City attorney in receipt of this Notice. Therefore, while reaching an agreement with CAPA will satisfy CAPA's claims, the agreement may not satisfy any public prosecutors.

IV. GENERAL INFORMATION AND SUMMARY OF PROPOSITION 65

A copy of a summary of Proposition 65's provisions, prepared by the Office of Environmental Health Hazard Assessment ("**OEHHA**") is enclosed with the copy of the Notice served on the Notice Recipient for its reference. For further general information concerning Proposition 65, contact OEHHA's Proposition 65 Implementation Office at (916) 445-6900.

V. CERTIFICATE OF MERIT

Pursuant to Health & Safety Code § 25249.7(d) and Cal. Code. Regs. tit 11, § 3100, a Certificate of Merit is attached hereto. A copy of the Notice and Certificate of Merit is served on the California Attorney General and marked "Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040" with all supporting documentation, as required by Cal. Code. Regs. tit 11, § 3102, attached thereto.

VI. CONTACT INFORMATION

Please direct all questions, issues or communications regarding this 60-Day Notice of Violation and its potential resolution to CAPA's counsel at the following address:

Center for Advanced Public Awareness c/o Laralei S. Paras, Esq. Seven Hills LLP 4 Embarcadero Center, Suite 1400 San Francisco, California 94111 Telephone: (415) 926-7247

<u>Attachments:</u> Certificate of Merit; Proof of Service; The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (to Violator only); and Additional Confidential Supporting Information for Certificate of Merit (to California Attorney General only.)

Printed on 100% Post-Consumer Recycled Paper.

CERTIFICATE OF MERIT

Health and Safety Code § 25249.7(d)

Re: CAPA's Notice of Proposition 65 Violations

- I, Laralei S. Paras, hereby declare and certify:
- 1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.
- 2. I am an attorney for the noticing party.
- 3. I have consulted with one or more persons with relevant and appropriate experience and have assembled evidence attached to the copy for the California Attorney General as Exhibit 1 to this Certificate of Merit regarding the lack of warnings for the listed chemical that is the subject of the notice.
- 4. Based on the information obtained 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 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.
- 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 California Health & Safety Code § 25249.7(h)(2) (i.e. the identity of the persons consulted with and relied on by the certifier and the facts, studies and data reviewed by that person.)

Dated: January 20, 2021

Laralei S. Paras

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years of age and not a party to this case. Seven Hills LLP's business address is 4 Embarcadero Center, Suite 1400, San Francisco, CA 94111.

On January 20, 2021, I caused to be served the following:

AMENDED 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

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

CERTIFICATE OF MERIT

XXXX by Certified First Class Mail through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, individually addressed to each alleged violator listed below and providing such envelope to a United States Postal Service Representative:

Rhett M. Roberts, CEO Redmond Trading Company, L.C. 475 West 910 South, Suite 2 Heber City, UT 84032-2491

On January 20, 2021, I caused to be served true and correct copies of the following documents:

AMENDED 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d); and

CERTIFICATE OF MERIT

XXXX by **First Class Mail** through the United States Postal Service by placing copies of the above documents in a sealed envelope, addressed to each entity on the attached "Service List" and providing such envelope to a United States Postal Representative, with correct postage.

XXXX via **Electronic Mail**, by sending copies of the above documents, addressed individually, to the Recipient listed on the attached "Electronic Mail Service List".

On January 20, 2021, I caused to be served true and correct copies of the following documents:

AMENDED 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

CERTIFICATE OF MERIT; and

CERTIFICATE OF MERIT ATTACHMENTS

XXXX via **Electronic Mail**, by uploading the documents, addressed to California Attorney General at their website address, listed under the "Electronic Upload Service List".

Executed on the 20th day of January, 2021, at Folsom, California.

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SERVICE LIST

The Honorable Michael Atwell Alpine County District Attorney	The Honorable Jackie Lacey Los Angeles County District Attorney	The Honorable Todd Riebe Amador County District Attorney
P.O. Box 248 Markleeville, CA 96120	211 West Temple Street, Ste 1200 Los Angeles, CA, 90012	708 Court Street, #202 Jackson, CA 95642
The Honorable Michael Ramsey	The Honorable Matthew R. Beauchamp	Del Norte County District Attorney
Butte County District Attorney	Colusa County District Attorney	450 H street, Room 171
25 County Center Drive, Suite 245	346 5th Street, Suite 101	Crescent City, CA 95531
Oroville, CA 95965	Colusa, CA 95932	3,
The Honorable Vern Pierson	The Honorable Lisa Smittcamp	The Honorable Dwayne Stewart
El Dorado County District Attorney	Fresno County District Attorney	Glenn County District Attorney
778 Pacific Street	2220 Tulare Street, Suite 1000	P.O. Box 430
Placerville, CA 95667	Fresno, CA 93721	Willows CA 95988
The Honorable Maggie Fleming	The Honorable Gilbert Otero	The Honorable Lisa Green
Humboldt County District Attorney	Imperial County District Attorney	Kern County District Attorney
825 5 th Street, 4 th Floor	940 West Main Street, Suite 102	1215 Truxtun Avenue
Eureka, CA 95501	El Centro, CA 92243	Bakersfield, CA 93301
The Honorable Keith Fagundes	The Honorable Donald Anderson	The Honorable David Linn
Kings County District Attorney	Lake County District Attorney	Madera County District Attorney
1400 West Lacey Blvd.	255 N. Forbes Street	209 West Yosemite Avenue
Hanford, CA 93230	Lakeport, CA 95453	Madera, CA 93637
The Honorable Edward Berberian	The Honorable Mike Feuer	The Honorable C. David Eyster
Marin County District Attorney	Office of the City Attorney, Los Angeles	Mendocino County District
3501 Civic Center Drive, Room 130	Kames K. Hahn Hall East	Attorney
San Rafael, CA 94903	200 North Main Street, 8th Floor	P.O. Box 1000
T I I I D' I I D I	Los Angeles, CA 90012	Ukiah, CA 9548
The Honorable Richard Doyle	The Honorable Tony Rackaukas	The Honorable Tim Kendall
Office of the City Attorney, San Jose	Orange County District Attorney	Mono County District Attorney
200 East Santa Clara Street, 16 th Floor San Jose, CA 95113	401 Civic Center Drive West	P.O. Box 2053
	Santa Ana, CA 92701	Mammoth Lakes, CA 93546
The Honorable Stephen Wagstaffe	The Honorable Candace Hooper	The Honorable Stephanie Bridgett
San Mateo County District Attorney 400 County Center, Third Floor	San Benito District Attorney 419 4th Street	Shasta County District Attorney 1355 West Street
Redwood City, CA 94063	Hollister, CA 95023	Redding, CA 96001
The Honorable James Kirk Andrus	The Honorable Michael Ramos	The Honorable Amanda Hopper
Siskiyou County District Attorney	San Bernardino County District Attorney	Sutter County District Attorney
P.O. Box 986	303 W. Third Street	446 Second Street, Suite 102
Redding, CA 96097	San Bernardino, CA 92415	Yuba City, CA 95991
The Honorable Laura Krieg	The Honorable Krishna Abrams	The Honorable Eric Heryford
Tuolumne County District Attorney	Solano County District Attorney	Trinity County District Attorney
423 N. Washington Street	675 Texas Street, Suite 4500	P.O. Box 310
Sonora, CA 95370	Fairfield, CA 94533	Weaverville, CA 96093
The Honorable Lawrence Allen	The Honorable James Sanchez	The Honorable Patrick McGrath
Sierra County District Attorney	Office of the City Attorney, Sacramento	Yuba County District Attorney
100 Courthouse Square	915 I Street, 4 th Floor	215 Fifth Street, Suite 152
Downieville, CA 95936	Sacramento, CA 95814	Marysville, CA 95901
The Honorable Jordan Funk	The Honorable Gregg Cohen	The Honorable Birgit Fladager
Modoc County District Attorney	Tehama County District Attorney	Stanislaus County District Attorney
204 S. Court Street Room 202	P.O. Box 519	832 12th street, Suite 300
Alturas, CA 96101	Red Bluff, CA 96080	Modesto, CA 95353

ELECTRONIC MAIL SERVICE LIST

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Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
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