

# 60-DAY NOTICE OF VIOLATION

(Pursuant to California Health & Safety Code §§ 25249.5, *et seq.*)

October 6, 2021

To:

Apothekary Inc.  
Shizu Okusa, CEO  
4445 Corporation Ln Ste 264  
Virginia Beach, VA, 23462 - 3262

CC: California Attorney General's Office;  
District Attorney's Offices for All California Counties; and  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento, and Los Angeles

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## I. INTRODUCTION

Safe Products for Californians, LLC ("SPFC") is the noticing entity, acting in the interest of the general public. It seeks to reduce or eliminate the presence of hazardous substances in consumer products sold in California, and to ensure that California consumers are aware of the presence of such substances in consumer goods so that they can make an educated effort to limit their own exposure where deemed necessary.

This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code §§ 25249.6, *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the violators, Apothekary Inc. (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure:	See Section VII, Exhibit A
Listed Chemical:	Lead and Lead Compounds
Routes of Exposure:	Ingestion
Types of Harm:	Birth Defects and Other Reproductive Harm

## II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A 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 back to at least July 29, 2021 are subject to this Notice. As a result of sales of these products, exposures to the listed chemical have been occurring without clear and

reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

California consumers are exposed to the listed chemical through the act of buying, acquiring or utilizing the products. By way of example but not limitation, direct exposures occur when people (including children) ingest the product per the product label instructions, which recommend that such supplement be regularly consumed. The concentration of the noted contaminant compound present within each recommended serving (as suggested by the product manufacturer) constitutes a significant contaminant dose exposure to consumers through the intended daily ingestion of the product.

### **III. CONTACT INFORMATION**

Please direct all questions concerning this notice to SPFC at the following address:

Tanya E. Moore, Esq.  
MOORE LAW FIRM, P.C.  
300 S. First Street Ste. 342  
San Jose, CA 95113  
Telephone (408) 298-2000  
Email: [service@moorelawfirm.com](mailto:service@moorelawfirm.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's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, attached is a 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, SFPC intends to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter 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 who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the exposure of California citizens to the listed chemical(s); and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violators are interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact SPFC's counsel identified in Section III above. It should be noted that neither SPFC's counsel nor SPFC can: (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 this Notice. Therefore, while reaching an agreement with SPFC will resolve its claims; such agreement may not satisfy the public prosecutors.

**VI. ADDITIONAL NOTICE INFORMATION**

(THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 § 12903(b)(4).)

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors, and/or manufacturers of the example within the category or type of product are also provided below. SPFC believes and alleges 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 a catalog by the Violators and other distributors and retailers of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Do not disturb – Signature Superfood Blend UPC# 7-14334-21948-8	Apothekary Inc.	Apothekary Inc.
Better than Botox – Signature Superfood Blend UPC# 8-60000-85484-9	Apothekary Inc.	Apothekary Inc.
Follow your gut – Signature Superfood Blend UPC# 8-60000-85488-7	Apothekary Inc.	Apothekary Inc.
Seal the deal – Signature Superfood Blend UPC# 8-60002-52100-8	Apothekary Inc.	Apothekary Inc.
Slay the day – Signature Superfood Blend UPC# 8-60000-85418-8	Apothekary Inc.	Apothekary Inc.

**VII. EXHIBIT A**

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Apothekary Dietary Supplement	Do not disturb – Signature Superfood Blend UPC# 7-14334-21948-8	Lead and Lead Compounds
	Better than Botox – Signature Superfood Blend UPC# 8-60000-85484-9	

	Follow your gut – Signature Superfood Blend UPC# 8-60000-85488-7	
	Seal the deal – Signature Superfood Blend UPC# 8-60002-52100-8	
	Slay the day – Signature Superfood Blend UPC# 8-60000-85418-8	

\*The specifically identified example of the type of product that is subject to this Notice is for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category/Type" in Exhibit A. Further, it is SPFC's position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

# CERTIFICATE OF MERIT

(Pursuant to California Health & Safety Code § 25249.7(d))

I, Tanya E. Moore, 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 the attorney for the noticing party;
3. I have consulted with one or more persons with relevant and appropriate experience or experience who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of this action;
4. Based on the information obtained through these 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; and
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 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).

Dated: October 6, 2021

*Tanya Moore*  
Tanya Moore (Oct 5, 2021 16:34 PDT)

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Tanya E. Moore

# CERTIFICATE OF SERVICE BY MAIL

I, Jessica Mendoza, hereby declare:

1. I am, and was at the time of service hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 300 South First Street, San Jose, California, 95113.

2. On October 6, 2021, I served the following documents:

- 60-Day Notice of Violation
- Certificate of Merit
- “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”

on the following party 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 First Class Mail:

Apothekary Inc.  
Shizu Okusa, CEO  
4445 Corporation Ln Ste 264  
Virginia Beach, VA, 23462 - 3262

3. On October 6, 2021, I served the following documents:

- 60-Day Notice of Violation
- Certificate of Merit

on each of the parties 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 Office for delivery by First Class Mail.

4. On October 6, 2021, I served the following documents:

- 60-Day Notice of Violation
- Certificate of Merit

on the following party by causing a true and correct .PDF copy thereof to be sent via electronic mail to the party listed below, pursuant to Cal. Code Regs., title. 27, § 25903(c)(1):

Alameda County District Attorney  
CEPDProp65@acgov.org

Calaveras County District Attorney  
Prop65Env@co.calaveras.ca.us

Contra Costa County District Attorney  
sgrassini@contracostada.org

Lassen County District Attorney  
mlatimer@co.lassen.ca.us

Merced District Attorney  
Prop65@countyofmerced.com

Napa County District Attorney  
CEPD@countyofnapa.org

Placer County District Attorney  
davidhollister@countyofplumas.com

Riverside County District Attorney  
Prop65@rivcoda.org

San Diego County District  
AttorneyCityAttyCrimProp65@sandiego.gov

San Francisco City Attorney Office  
Valeria.lopez@sfcityatty.org

San Joaquin County District Attorney  
DAConsumer.Environmental@sjcda.org

Santa Barbara County District Attorney  
DAProp65@co.santa-barbara.ca.us

Santa Cruz County District Attorney  
Prop65DA@santacruzcounty.us

Tulare County District Attorney  
Prop65@co.tulare.ca.us

Yolo County District Attorney  
cfepd@yolocounty.org

Inyo County District Attorney  
[inyoda@inyocounty.us](mailto:inyoda@inyocounty.us)

Mariposa County District Attorney  
mcda@mariposacounty.org

Monterey County District Attorney  
Prop65DA@co.monterey.ca.us

Nevada County District Attorney  
DA.Prop65@co.nevada.ca.us

Plumas County District Attorney  
davidhollister@countyofplumas.com

Sacramento County District Attorney  
Prop65@sacda.org

San Diego Deputy City Attorney  
CityAttyProp65@sandiego.gov

San Francisco County District Attorney  
alethea.sargent@sfgov.org

San Luis Obispo County District Attorney  
edobroth@co.slo.ca.us

Santa Clara County District Attorney  
EPU@da.sccgov.org

Sonoma County District Attorney  
jbarnes@sonoma-county.org

Ventura County District Attorney  
daspecialops@ventura.org

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

Dated: October 6, 2021



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Jessica Mendoza

## SERVICE LIST

Alameda County District Attorney 1225 Fallon Street, Suite 900 Oakland, CA 94612 CEPDP65@acgov.org	Lassen County District Attorney 220 South Lassen Street Susanville, CA 96130 [field_prop65ctacts_title] mlatimer@co.lassen.ca.us	Sacramento County District Attorney 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Sonoma County District Attorney 600 Administration Dr Sonoma, CA 95403 jbarnes@sonoma-county.org
Alpine County District Attorney P.O. Box 248 Markleeville, CA 96120	Los Angeles County District Attorney 211 West Temple Street Suite 1200 Los Angeles, CA 90012	San Benito County District Attorney 419 4th Street, Second Floor Hollister, CA 95203	Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354
Amador County District Attorney 708 Court Street #202 Jackson, CA 95642	Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502	Sutter County District Attorney 466 Second Street, Suite 102 Yuba City, CA 95991
Butte County District Attorney 25 County Center Drive, Suite 245 Oroville, CA 95965	Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101 CityAttyCrimProp65@sandiego.gov	Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
Calaveras County District Attorney 891 Mountain Ranch Road San Andreas, CA 95249	Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338	San Francisco County District Attorney 732 Brannan St San Francisco, CA 94103 gregory.alker@sfgov.org	Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093
Colusa County District Attorney 346 Fifth Street, Suite 101 Colusa, CA 95932	Mendocino County District Attorney 100 North State Street, P.O. Box 1000 Ukiah, CA 95482	San Joaquin County District Attorney 222 East Weber Avenue, Room 202 Stockton, CA 95201 DAConsumer.Environmental@sjcda.org	Tulare County District Attorney 221 S Mooney Blvd Visalia, CA 95370 Prop65@co.tulare.ca.us
Contra Costa County District Attorney 900 Ward St Martinez, CA 94553 sgrassini@contracostada.org	Merced County District Attorney 550 W. Main Street Merced, CA 95340	San Luis Obispo County District Attorney 1035 Palm Street, 4th Floor San Luis Obispo, CA 93408 [field_prop65ctacts_title] edobroth@co.slo.ca.us	Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063	Ventura County District Attorney 800 S Victoria Ave Ventura, CA 93009 daspecialops@ventura.org
El Dorado County District Attorney 515 Main Street Placerville, CA 95667	Mono County District Attorney 278 Main St Bridgeport, CA 93517	Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101 DAP65@co.santa-barbara.ca.us	Yolo County District Attorney 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org
Fresno County District Attorney 2220 Tulare Street, Suite 1000 Fresno, CA 93721	Monterey County District Attorney 1200 Aguajito Rd Monterey, CA 93940 Prop65DA@co.monterey.ca.us	Santa Clara County District Attorney 70 W Hedding St San Jose, CA 95110 EPU@da.sccgov.org	Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
Glenn County District Attorney P.O. Box 430 Willows, CA 95988	Napa County District Attorney 1127 First Street, Ste. C Napa, CA 94559 CEPD@countyofnapa.org	Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060 Prop65DA@santacruzcounty.us	Office of the City Attorney, Los Angeles 800 City Hall East 200 North Main Street Los Angeles, CA 90012
Humboldt County District Attorney 825 5th Street, 4th Floor Eureka, CA 95501	Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	Shasta County District Attorney 1355 West Street Redding, CA 96001	Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	Sierra County District Attorney 100 Courthouse Square Downieville, CA 95936	Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1620 San Diego, CA 92101
Inyo County District Attorney P.O. Drawer D 168 N Edwards St Independence, CA 93526	Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	Siskiyou County District Attorney P.O. Box 986 Yreka, CA 96097	Office of the City Attorney, San Francisco 1 Dr. Carlton B. Goodlett Place, Room 234 San Francisco, CA 94102
Kern County District Attorney 1215 Truxtun Avenue, 4th Floor Bakersfield, CA 93301	Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533	Office of the City Attorney, San Jose 200 East Santa Clara Street, 16th Floor San Jose, CA 95113
Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	Riverside County District Attorney 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org		
Lake County District Attorney 255 North Forbes Street Lakeport, CA 95453			