BRODSKY & SMITH, LLC

9595 WILSHIRE BLVD., STE, 900 BEVERLY HILLS, CA 90212 877.534.2590 www.brodskysmith.com

NEW JERSEY OFFICE 1310 NORTH KINGS HIGHWAY CHERRY HILL, NJ 08934 856.795.7250 NEW YORK OFFICE 240 MINEOLA BOULEVARD MINEOLA, NY 11501 516.741.4977 PENNSYLVANIA OFFICE TWO BALA PLAZA, STE. 805 BALA CYNWYD, PA 19004 610.667.6200

August 19, 2022

President/CEO	President/CEO
Zak Designs, Inc.	Zak Designs, Inc.
c/o Registered Agents Inc.	1603 S. Garfield Road
2355 State St., Suite 101	Airway Heights, WA 99001
Salem, OR 97301	
President/CEO	President/CEO
Ross Stores, Inc.	Ross Stores, Inc.
c/o CT Corporation System	c/o The Corporation Trust Company
330 N. Brand Blvd., Suite 700	Corporation Trust Center
Glendale, CA 91203	1209 Orange Street
	Wilmington, DE 19801

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act

To Whom It May Concern:

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

Brodsky & Smith, LLC ("Brodsky Smith") represents Gabriel Espinoza ("Espinoza"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Espinoza has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 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 ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

- Enforcer: Gabriel Espinoza, 3924 Carlin Ave., Lynwood, CA 90262-5204; (Ph) 310.863.2852.
- 2. Alleged Violator(s): Zak Designs, Inc.; Ross Stores, Inc.
- **3. Time Period of Exposure**: Violations have been occurring since at least August 19, 2022 and are continuing to this day.
- **4. Listed Chemical**: Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.

5. Product:

Product ²	Non- Exclusive Examples of the Product	
Spoon Rest	Mickey Oh Boy Spoon Rest	

6. Description of Exposure: The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion and dermal absorption exposure. When used for its intended purpose, the Product will be in contact with foods. The Listed Chemical will leach into the foods it comes into contact with. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, LLC, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Espinoza's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Sincerely,

Evan J. Smith

Attachments

Certificate of Merit Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

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, over the age of 18 years of age, and am not a party to the within action. My business address is 2 Bala Plaza, Suite 805, Bala Cynwyd, Pennsylvania. I am employed in Montgomery County where the mailing occurred.

On August 19, 2022, I served the following documents: Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary on the following entities and individuals listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Certified Mail:

President/CEO Zak Designs, Inc. c/o Registered Agents, Inc. 2355 State Street, Suite 101 Salem, OR 97301	President/CEO Zak Designs, Inc. 1603 S. Garfield Road Airway Heights, WA 99001	
President/CEO Ross Stores, Inc. c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	President/CEO Ross Stores, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	

On August 19, 2022, I served the following documents: Notice of Violation of California Health & Safety Code §25249.5, et seq.; Certificate of Merit; The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary on each of the individuals on the service list attached hereto as Appendix B by placing a true and correct copy thereof in a sealed envelope, addressed to the person or entity listed below and depositing it in a US Postal Service Office with postage fully prepaid for delivery by Priority Mail.

Executed on August 19, 2022, in Bala Cynwyd, Pennsylvania.

Evan J. Smith

CERTIFICATE OF MERIT

Health & Safety Code Section 25249.7(d)

I, Evan J. Smith, hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
- (2) I am the attorney for the noticing party, Gabriel Espinoza.
- (3) 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 alleged exposure to the listed chemicals that are the subject of the 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 private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator(s) 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 information identified in Health & 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: August 19, 2022

Evan J. Smith

Attorney for Gabriel Espinoza

SERVICE LIST

The Honorable Michael Atwell Alpine County District Attorney 211 West Temple Street, site 1200 Jackson, CA 95612 Los Angeles County District Attorney 78 Court Street, #7.02 Jackson, CA 95612 Jackson, CA 95612 Jackson, CA 95612 Jackson, CA 95612 Jackson, CA 9565 The Honorable Mithew R. Beauchamp Colusa County District Attorney 450 H Street, Room 171 Crescent City, CA 9565 Crescent City, CA 9565 Crescent City, CA 9565 Crescent City, CA 9565 Crescent City, CA 9566 The Honorable Wern Pierson El Dorado County District Attorney 400 West Main Street, Suite 102 P.O. Box 430 Willows CA 95988 The Honorable Maggie Fleming Hamboldt County District Attorney 425 N. Forbes Street Lakeport, CA 95453 Millows CA 95988 The Honorable Maggie Fleming Hamboldt County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Millows CA 95988 The Honorable Keith Fagundes Kings County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Millows CA 95988 The Honorable Keith Fagundes Crescent City, CA 93030 The Honorable Mike Feuer County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Millows CA 95988 The Honorable Mike Feuer County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Malera County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Malera County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Malera County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Malera County District Attorney 255 N. Forbes Street Lakeport, CA 95453 Malera County District Attorney 255 N. Forbes Street Lakeport, CA 95463 The Honorable Edward Berberian Marin County District Attorney 255 N. Forbes Street Lakeport, CA 95463 The Honorable Edward Berberian Marin County District Attorney 255 N. Forbes Street County Dis	Ent. 22 11 221 1 22		r
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Modoc County District Attorney 204 S. Court Street Room 202		Red Bluff, CA 96080	Marysville, CA 95901
204 S. Court Street Room 202			
Alturas, CA 96101			
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ELECTRONIC MAIL SERVICE LIST

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ELECTRONIC UPLOAD 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