

BoyesLegal

A Professional Corporation



San Jose

84 W. Santa Clara Street, Ste. 490
San Jose, California 95113-1812

Date: August 29, 2022

VIA U.S. MAIL

California Attorney General's Office
Proposition65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, California 94612-0550

District Attorney's Office
Proposition65 Enforcement Reporting
Monterey County
1200 Aguajito Rd.,
Monterey, CA 93940

VIA E-MAIL ONLY

Attorney for Defendants,
Jeffrey & Hillary USA Corp, Glenn Qin,
Rebecca Campos, Laura Campos
Benjamin Goldstein, Esq.
HOSP, GILBERT & BERGSTEN,
A Law Corporation
301 North Lake Avenue, Suite 410
Pasadena, CA 91101
bgoldstein@hosplaw.com

Attorney for Defendant, Real Time Realty
Steven Spaulding, Esq.
Berkes, Crane, Santa, and Spangler
515 S. Figueroa St., Suite 1500
Los Angeles, CA 90071
sspaulding@bcsslaw.com

Attorney for Defendant,
Bonnie Wheeler, as Successor Trustee
Of Ikey Little Trust Dated 1983
Lindsey Berg-James
NOLAND, HAMERLY
A Professional Corporation
333 Salinas Street
P.O. Box 2510
Salinas, CA 93901
lbergjames@nheh.com

SAN JOSE

T +1 408-572-5665
F +1 408-572-5567

SANTA CRUZ

T +1 831-471-5306
F +1 831-431-8855

LOS ANGELES

T +1 424-465-2600
F +1 424-652-8075

SAN FRANCISCO

T +1 415-638-9197
F +1 415-255-5983



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From:

Patricia A. Boyes, Esq.
Elizabeth J. Boyes, Esq.
BoyesLegal, APC.
84 W. Santa Clara St., Ste 490
San Jose, CA 95113

**SIXTY DAY NOTICE OF VIOLATION
SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)**

I. INTRODUCTION

We are a law firm in the State of California representing private parties Kathleen Harris, Mikel Harris, and Kyle Bingham, acting in the interest of the general public. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6, et seq. ("Proposition 65"). The violations alleged by this Notice consist of product exposures, routes of exposures, and types of harm that may potentially result from exposures to the toxic chemical ("listed chemical") identified below:

Listed Chemical: 1, 2, 3 TCP Chromium (Trichloropropane)

Routes of Exposure: Touch, Oral, Dermal

Absorption, Inhalation

Types of Harm: Kidney Disease, Respiratory Issues,
Blood Toxicity, Cysts



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II. NATURE OF ALLEGED VIOLATION

The alleged violation of Proposition 65 arises from the presence of 1, 2, 3 TCP Chromium, above the legal limit, in an agricultural well that was illegally used for residential purposes at multiple rental units on the property located at 1115 Trafton Rd., Moss Landing, CA. Kathleen Harris and Mikel Harris have lived at the property since 2013, approximately five years before the water was tested for toxicity, and currently live at the property.

On or about November 1, 2013, Kathleen and Mikel Harris entered into a lease agreement with the former owner of the property, Ikey Little, for the lease of 1115 Trafton Road in Moss Landing, California (hereinafter the "Subject Property").

On or about September 9, 2014, Plaintiff Kyle Bingham entered into a lease agreement with the former owner, Ikey Little, for the lease of another rental unit at the subject property.

In May 2015, the property was purchased by Jeffrey & Hillary USA Corp. The manager for Jeffrey & Hillary is Glenn Qin. The rental agent and property manager for the property was Laura Campos, Rebecca Campos and Real Time Realty.

The house at 1115 Trafton Road, was built in 1999. In 2001 Ikey Little had the home hooked up to an agricultural well by using a grandfathered permit, stating that the water would only be used for her personal residence and the strawberries, which would be considered a private well and not subject to County regulation. Water from the well was to be used only to irrigate agricultural land in production as of May 21, 2001, unless a subsequent permit was obtained from the county. **The 2001 permit did not authorize domestic or residential use of the well water. However, the well was hooked up to Plaintiffs' rental units to provide water for all household uses including drinking water, which resulted in toxic chemicals being injected into the water supply.** Since four residences and one business were hooked up to that well, it was really a small water system, which should have been regulated and monitored by the County.

It slowly became apparent to Plaintiffs that there was something wrong with the water as their animals died and they developed health problems. Continuous e-mails between Plaintiffs, Laura Campos, and Glenn Qin from 2014 through the present document the ongoing water problems at the property, running the gamut from contaminated water to no water at all. The emails also document the failure to repair the ongoing water issues and other habitability issues at the subject property.

Glen Qin employed Maggiora Brothers Drilling Co. to address the continuous water issues at the property. Invoices reflect that Maggiora Brothers Drilling Co. was called out to the subject property every few months from December 2014 to the present. The reasons for their constant visits to the subject property range from replacing a part,



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flushing the water system, water testing for contaminants and bacteria, and bringing hauled drinking water to Plaintiffs when they had no potable water.

Since no help was forthcoming from the landlord or the property manager, and Kathleen and her husband were experiencing unexplained health issues, Kathleen arranged to have the water tested for contaminants.

- 8/15/2019 – Water sample was taken for testing by Community Water Center
- **10/7/2019 – Letter to Kathleen Harris from Community Water Center indicating that their tests showed her water to have 24.1 mg/L of Nitrogen (maximum allowed is 10 mg/L) and .165 ug/L of 1.2.3-TCP (maximum allowed is .005 ug/L); the Community Water Center recommended that the water not be used for drinking or cooking, and the letter noted that no filters are currently certified by the State of California which remove 1, 2, 3 TCP.**

In October 2019, Monterey County sent Isaiah Tuazon and Roger Van Horn to investigate and Sunny Day Pajaro Water district ran tests on the water. **On October 10, 2019, my clients were informed that the test results showed that the water contained 249 times the allowable amount of 1, 2, 3 TCP Chromium.**

A bottled water order was issued by the County in November 2019 and the water supply was shut off. After Christmas, my clients were informed by a person who works for Jeffrey & Hillary USA Corp. that their water supply had been switched to the “purple pipe” which provides recycled water that can only be used for irrigation and industrial use. Needless to say, Plaintiffs continued to use bottled water.

On December 16, 2019, Kyle Bingham sent Glen Qin an email which stated, “The water tanks are empty and we don’t have water to flush the toilet what should we do?” Glen Qin responded, “Solution 1: continue to have drinkable water delivered and **use the well water to flush the toilet and use the water filter to filter out the TC123.** Solution 2: To close out the house for renting immediately.”

On December 19, 2019, Monterey County Resource Management Agency issued an Administrative Citation against Jeffrey & Hillary USA Corp. for multiple violations of Monterey County Code sections including: “Construction without approval permits, **illicit discharge of gray water,** Maintenance of property – Accumulation of rubbish and garbage, overgrown weeds/ vegetation.”

Jeffrey & Hillary USA Corp. received a new permit for the well on November 16, 2020 but Plaintiffs were advised by the County not to drink or use the water until the



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County could come out to test the water because, even though the well has been permitted, it was unknown as to what contaminants still exist in the pipes that carry the water to the residences.

After years of unexplained symptoms, on January 27, 2020, Mikel Harris's doctor, Dr. Raffo reported: "Patient's symptoms ramped up this morning; **eyes, head, heart, and two coughs. Went to Watsonville ER figuring they could give him an emergency CT scan and the doctor told him to get out of the ER because he was buying might be to be checked for heavy-metal so could Dr. Raffo put in a script for him to be green for heavy-metal such as arsenic, hexavalent chromium, 1, 2, 3, TCP? Plan: Dr. Raffo really thought he needed to see a toxicology specialist.**"

On February 4, 2020, Dr. Hassani reported: "He complains that he continued to have headaches, bulging eyes, occasional cough and palpitations. He also reported that he had chills that were present all day. He stated that he had followed up with at least 4 different physicians with similar symptoms, but still continued to have symptoms. **He had blood work done multiple times by different physicians and every time his blood work returns unremarkable."** Mikel's Laboratory Report stated "**Chromium: 1.5 mcg/L.**" Dr. Raffo also ordered CT scan of the head and x-ray of the chest/abdomen/pelvis.

While Kathleen Harris and Kyle Bingham were never tested for blood toxicity, Kathleen has experienced health issues from exposure to the toxic water. Kathleen Harris has treated for respiratory issues, cysts in hands and loss of thumb joint, and injured her shoulder and hip because she has had to use hauled bottled water for many years. As of the date of this Notice, Mikel and Kathleen only use hauled bottled water for drinking and bathing.

III. CONTACT INFORMATION

Please direct all questions concerning this Notice to BoyesLegal, APC at the following address:

Patricia A. Boyes, Esq.
Elizabeth J. Boyes, Esq.
BoyesLegal, APC
84 W. Santa Clara St., Suite 490
San Jose, CA 95113
Email: patricia@boyeslegal.com
elizabeth@boyeslegal.com



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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 ("OEHHA") in the Proposition 65 Implementation Office at (916) 445-6900, or to visit their website at <http://oehha.ca.gov/proposition-65>.

For the alleged Violator(s), please see the attached copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIM

Based on the allegations set forth in this Notice and concerns regarding the Statute of Limitations in these matters, a civil lawsuit was filed on 6/28/2021 in Monterey County Superior Court, entitled Case No.: 21CV002053 against the alleged Violator(s). However, the investigation is on-going and we are still gathering information regarding the Defendants' violations.

We cannot speak for the Attorney General or any public agency who received this Notice. Therefore, although we may ultimately reach an agreement that will resolve our claims, such an agreement may not satisfy the public prosecutors.

Sincerely,

BOYESLEGAL, APC

A handwritten signature in blue ink that reads "Patricia A. Boyes". The signature is written in a cursive, flowing style.

Patricia A. Boyes, Esq.

PAB:eb
cc: clients



Proposition 65 Fact Sheet for Tenants

Office of Environmental Health Hazard Assessment
California Environmental Protection Agency

This fact sheet was prepared by the Office of Environmental Health Hazard Assessment (OEHHA), which administers the Proposition 65 program. It provides information to tenants whose apartment managers and owners have posted or distributed Proposition 65 warnings.

What is Proposition 65?

In 1986, California voters approved an initiative to address their growing concerns about exposure to toxic chemicals. That initiative became the Safe Drinking Water and Toxic Enforcement Act of 1986, better known by its original name of Proposition 65. Proposition 65 requires the State to publish a list of chemicals known to cause cancer, birth defects, or other reproductive harm. The list has grown to include over 800 chemicals since it was first published in 1987.

What chemicals are on the Proposition 65 list?

The Proposition 65 list contains two types of chemicals: *carcinogens*, which can cause cancer, and *reproductive toxicants*, which cause birth defects or other reproductive harm, such as sterility or miscarriages. Some chemicals may be additives or ingredients in pesticides, common household products, food, or drugs. Others may be industrial chemicals, dyes, or solvents used in dry cleaning, manufacturing, and construction. Still others may be byproducts of chemical processes; for example, motor vehicle exhaust.

What does a Proposition 65 warning mean?

Under Proposition 65, businesses are required to give a “clear and reasonable” warning before knowingly exposing anyone to a listed chemical above a specified level. This warning can be included on the label of a consumer product or published in a newspaper. An equally common practice is for businesses to provide a warning at the workplace or in a public area affected by the chemical.

Many apartment owners and managers have posted or distributed warnings to notify tenants that they may be exposed to one or more chemicals on the Proposition 65 list. For example, a warning may be given because tenants are exposed to chemicals in pesticides applied to landscaping or structures or chemicals in housing construction materials, such as lead in paint or asbestos in ceiling coatings.

A growing trend among rental property owners and other businesses is to provide warnings for chemicals on the list, such as tobacco smoke or motor vehicle exhaust, which are regularly released into the environment in or near rental

housing. In some cases, however, owners and managers are providing warnings to avoid potential violations and lawsuits, even though exposure to chemicals on the Proposition 65 list has not been verified. You should discuss the warning with the owner or manager to learn why it was provided so that you and your family can make informed decisions about exposure to any of these chemicals and your health.

Is my family’s health at risk from exposure to these chemicals?

Warnings must be provided for chemicals listed under Proposition 65 if exposure to them may present a significant risk of cancer or reproductive harm. For *carcinogens*, the chemical must be present at or above a level that could cause one additional case of cancer in a population of 100,000 people exposed to the chemical over a lifetime. For *reproductive toxicants*, the chemical must be present at or above 1/1000th of the level at which the chemical is determined to have no negative health risks (the “no-observable-effect level”).

Proposition 65 generally does not prohibit a business from exposing people to listed chemicals nor does exposure to these chemicals necessarily create an immediate health risk. Also, as stated above, a warning may have been provided in some cases even though the level at which the chemical is present is actually too low to pose a significant health risk. It is important to find out why you have received the warning so that you can discover which chemicals you are exposed to, and at what levels, to determine how best to protect your family’s health.

Where can I get more information?

Speak with the housing owner or manager directly to learn why you received a Proposition 65 warning. Property owners and managers are not required to notify OEHHA when they provide tenants with a warning. However, to obtain general information on the Proposition 65 list of chemicals, you may contact OEHHA at (916) 445-6900, or visit <http://www.oehha.ca.gov/prop65.html>. Following is a list of contacts for more information on Proposition 65 as well as chemicals that may be found in your home.

Type of Information	Contact
Proposition 65: Enforcement	California Attorney General (510) 873-6321, http://oag.ca.gov/prop65
Asbestos Indoor air quality	Indoor Exposure Assessment Unit, Air Resources Board (916) 322-8282, http://www.arb.ca.gov/html/flslist.htm
Lead	<ul style="list-style-type: none"> o Lead Coordinator in your county government office o Childhood Lead Poisoning Prevention Program (510) 620-5600, http://www.cdph.ca.gov/programs/CLPPB/Pages/default.aspx

Type of Information	Contact
Tenant issues	<ul style="list-style-type: none">○ Department of Consumer Affairs (800) 952-5210, http://www.dca.ca.gov/○ Department of Housing and Community Development (800) 952-5275, http://www.hcd.ca.gov/
Basis for Warning Signs	<ul style="list-style-type: none">○ California Apartment Association (800) 967-4222, http://www.caanet.org/