LAW OFFICES

## **BRODSKY & SMITH**

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

October 13, 2022

President/CEO/Owner	President/CEO
24-7 International	Neubraf Textiles Limited
51 Stiles Lane	12th Floor, 3 Lockhart Road
Pine Brook, NJ 07058-9535	Wanchai
	HONG KONG
President/CEO	Member/Manager
Dillard's, Inc.	Dillard International, LLC
c/o The Corporation Trust Company	c/o CT Corporation System
Corporation Trust Center	701 S. Carson Street, Suite 200
1209 Orange Street	Carson City, NV 89701
Wilmington, DE 19801	IN:

### 60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act1

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  $\S$  25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Ema Bell ("Bell"), 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, Bell 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. <u>DESCRIPTION OF THE VIOLATION</u>

<sup>&</sup>lt;sup>1</sup> 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.

- 1. Enforcer: Ema Bell, 222 S. Figueroa St. Apt. 1212, Los Angeles, CA 90012-2581; (Ph) 424-332-3817.
- 2. Alleged Violator(s): 24-7 International; Neubraf Textiles Limited; Dillard's, Inc.; Dillard International, LLC
- 3. Time Period of Exposure: Violations have been occurring since at least October 13, 2022 and are continuing to this day.
- 4. Listed Chemical: Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.

### 5. Product:

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Toiletry bag	Cremieux Toiletry bag
	UPC# 843058143493

6. Description of Exposure: The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. 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 Bell 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, Bell is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

<sup>&</sup>lt;sup>2</sup> 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 Bell'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.

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

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 October 13, 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/Owner 24-7 International 51 Stiles Lane Pine Brook, NJ 07058-9535	President/CEO Neubraf Textiles Limited 12th Floor, 3 Lockhart Road Wanchai HONG KONG
President/CEO Dillard's, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Member/Manager Dillard International, LLC c/o CT Corporation System 701 S. Carson Street, Suite 200 Carson City, NV 89701

On October 13, 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 October 13, 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, Ema Bell.
- (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: October 13, 2022

Evan J. Smith

Attorney for Ema Bell

## **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   Kings County District Attorney   255 N. Forbes Street   Lakeport, CA 95453   Millows CA 95988   The Honorable Keith Fagundes   Create County District Attorney   255 N. Forbes Street   Lakeport, CA 95453   Millows CA 95988   The Honorable Mike Feuer   Office of the City Attorney, Los Angeles   County District Attorney   255 N. Forbes Street   Lakeport, CA 95433   Magera County District Attorney   255 N. Forbes Street   Lakeport, CA 95434   The Honorable Edward Berberian   Marin County District Attorney   255 N. Forbes Street   Lakeport, CA 95433   Magera County District Attorney   255 N. Forbes Street   Lakeport, CA 95434   The Honorable Bright Fladager   The Honorable Mike Feuer   The	Ent. 22 11 221 1 22		r
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Markleeville, CA 96120			
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Kings County District Attorney 1400 West Lacey Blvd. Hanford, CA 93230  Convert Main Street, 8th Floor Los Angeles, CA 90012  The Honorable Edward Berberian Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903  The Honorable Birgit Fladager Stanislaus County District Attorney 321 21th street, Suite 300 Modesto, CA 95353  The Honorable Stephen Wagstaffe San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063  The Honorable Michael Ramos San Bernardino, CA 92415 The Honorable Stephen Bernardino, CA 92415 Redding, CA 96097  The Honorable Kirk Andrus Siskiyou County District Attorney 40 Sending, CA 96097  The Honorable James Kirk Andrus 40 Sending, CA 96097  The Honorable James Sanchez Office of the City Attorney 40 Sending Street Son Mateo County District Attorney 40 County District Attorney 41 Street 40 County District Attorney 42 Street 40 County District Attorney 41 Street 40 County District			
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300 North Flower Street Santa Ana, CA 92703  The Honorable Birgit Fladager Stanislaus County District Attorney 832 12th street, Suite 300  Modesto, CA 95353  The Honorable Stephen Wagstaffe San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063  The Honorable James Kirk Andrus Siskiyou County District Attorney P.O. Box 986  Redding, CA 96097  The Honorable Laura Krieg Thonorable Laura Krieg The Honorable Laura Krieg Thonorable Laura Krieg Tuolumne County District Attorney 423 N. Washington Street Sonora, CA 95370  The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square P.O. Box 2003  The Honorable Jordan Funk Modoc County District Attorney 200 San Bernardino County District Attorney P.O. Box 96080  The Honorable James Kirk Andrus Siskiyou County District Attorney 423 N. Washington Street Sonora, CA 95370  The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square P.O. Box 519  Red Bluff, CA 96080  The Honorable James Square P.O. Box 1000  Ukiah, CA 9548  The Honorable Candace Hooper The Honorable Tim Kendall Mono County District Attorney 419 4th Street P.O. Box 2053  Mammoth Lakes, CA 93546  The Honorable Mamnos San Bernardino County District Attorney San Bernardino County District Attorney San Bernardino County District Attorney P.O. Box 310  The Honorable James Sanchez Office of the City Attorney, Sacramento Trinity County District Attorney P.O. Box 519  The Honorable Gregg Cohen The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth street, Suite 152  Mammoth Lakes, CA 93546  The Honorable Mamnos The Honorable Gregg Cohen The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth street, Suite 152  Mammoth Lakes, CA 93546  The Honorable Mamnos Sanchez P.O. Box 310  Washington Street San Bernardino County District Attorney P.O. Box 519  The Honorable Gregg Cohen The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth street, Suite 152  Mammoth Lakes, CA 935901  The Honorable Mamnos The			
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204 S. Court Street Room 202			
Alturas, CA 96101			
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# ELECTRONIC MAIL SERVICE LIST

m v 11 2 av 1		
The Honorable Nancy O'Malley	The Honorable Tori Verber Salzar	Honorable Anne Marie Schubert
Alameda County District Attorney	San Joaquin County District Attorney	Sacramento County District Attorney
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Supervising Deputy District Attorney	Assistant District Attorney	Deputy District Attorney
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Nora V. Frimann, City Attorney	Lisa A. Smittcamp, District Attorney	· · · · · · · · · · · · · · · · · · ·
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Proposition65notices@sanjoseca.gov	consumerprotection@fresnocountyca.gov	

## 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