

# CLIFFWOOD LAW FIRM, PC

12100 WILSHIRE BLVD, SUITE 800  
LOS ANGELES, CALIFORNIA 90025  
(310)200-3227

## 60-DAY NOTICE OF INTENT TO SUE

*for violations of the Safe Drinking Water and Toxic Enforcement Act of 1986*

March 15, 2023

Current President or CEO

IGK LLC  
c/o C T Corporation System, Agent  
330 N Brand Blvd  
Glendale, CA 91203

Luxury Brand Partners, LLC  
c/o C T Corporation System, Agent  
208 S. LaSalle St, Suite 814  
Chicago, IL 60604

Current President or CEO

IGK LLC and Luxury Brand Partners, LLC  
Attn.: Legal Department  
3800 Ne 1st Avenue 6th Floor  
Miami, FL 33137

Current President or CEO

Ulta Beauty Cosmetics, LLC  
c/o CSC - Lawyers Incorporating Service, Agent  
2710 Gateway Oaks Dr., STE 150N  
Sacramento, CA 95833

Luxury Brand Partners, LLC  
c/o The Corporation Trust Company, Agent  
Corporation Trust Center  
1209 Orange St  
Wilmington, DE 19801

To Whom It May Concern and to Public Prosecutors:

**This First Amended Notice amends the Notice of Violation AG# 2023-00215 dated 1/20/2023. This amendment is issued to change the route of exposure to "inhalation".**

Re: NOTICE OF VIOLATION AGAINST IGK LLC, LUXURY BRAND PARTNERS, LLC, AND ULTA BEAUTY COSMETICS, LLC, of CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.6

Clean Product Advocates, LLC ("CPA") is a California company acting in the interest of the general public seeking to further, among other causes, the protection of the environment, toxics reduction, the promotion and improvement of human health, the improvement of workers and consumer rights, environmental education and corporate accountability. As described below, CPA has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65" or "Act"), codified at Cal. Health & Safety Code § 25249.5 et seq. by IGK LLC, Luxury Brand Partners, LLC, and Ulta Beauty Cosmetics, LLC, (collectively the "Violators"). This letter serves to provide CPA's notification of these violations to the Violators and elected prosecutors. Pursuant to § 25249.7(d) of the statute, CPA intends to bring an enforcement action against the Violators sixty (60) days after the effective service of this notice unless public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

The products which are causing exposure without a warning in violation of Proposition 65, are First Class Charcoal Detox Dry Shampoo, including but not limited to UPC # 810021400518; Jet Lag Dry Shampoo, including but not limited to UPC # 854569007402; Direct Flight Multi-tasking Matcha Dry Shampoo, including but not limited to UPC # 854253008470; Direct Flight Multi-tasking Matcha Dry Shampoo, including but not limited to UPC # 854253008616 (“Products”) manufactured/distributed by IGK LLC, Luxury Brand Partners, LLC, and Ulta Beauty Cosmetics, LLC and offered for sale by retailers to California consumers.

A copy of the Proposition 65 summary prepared by the Office of Environmental Health Hazard Assessment is attached to the copy of this letter served to the Violators.

Because of this lack of a warning, consumers were exposed to the following chemicals without the proper required Proposition 65 warnings: Benzene. The route of exposure for this chemical is through inhalation. Such exposure can cause cancer, birth defects and other reproductive harm. Exposures to the listed chemical from the use of each Product have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as October 25, 2022 will continue every day henceforth until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is removed from the Products. Without proper warnings regarding the toxic effect of exposures to the listed chemical resulting from inhalation of 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 listed chemical from use of the Products.

CPA intends to file a private enforcement action as provided for in the Act for the alleged violations by the Violators, unless Violators agree in an enforceable written instrument to: (1) recall the listed products so as to eliminate further exposures to the identified chemicals; or (2) affix clear and reasonable Proposition 65 warning labels for the products sold in the future or reformulate such products to eliminate the exposures; and (3) pay applicable civil penalties and the costs of bringing this action.

Consistent with the public interest goals of Proposition 65, CPA is interested in seeking a constructive resolution to this matter, and invites Violators, should they seek early resolution of this matter, to communicate directly with CPA’s attorneys. Such resolution will avoid further unwarned consumer exposures, as well as resource intensive litigation.

Please direct all communication regarding this notice to CPA’s attorney, Elham Shabatian (ellie@cliffwoodlaw.com), Cliffwood Law Firm PC, 12100 Wilshire Blvd., Suite 800, Los Angeles, CA 90025, 310-200-3227.

Sincerely,



Elham Shabatian  
CLIFFWOOD LAW FIRM, PC

Cc: see attached distribution list

Attachments:

1. Certificate of Merit;
2. Certificate of Service;
3. Appendix "A" - "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" (to the Noticed Parties only);
4. Certificate of Merit (Attorney General Copy); Factual information sufficient to establish basis of the certificate of merit (only sent to Attorney General)

**CERTIFICATE OF MERIT**  
Health and Safety Code Section 25249.7(d)

**Re: Clean Product Advocates, LLC's Notice of Proposition 65 Violations by IGK LLC, Luxury Brand Partners, LLC, and Ulta Beauty Cosmetics, LLC.**

I, Elham Shabatian, attorney at law, 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 and Safety Code section 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 expertise who have reviewed facts, studies, and/or other data regarding the alleged exposures to the listed chemical that is the cause of action.

4. Based on the information obtained through those 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 plaintiffs' case can be established and 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 Health and 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: March 15, 2023

By   
\_\_\_\_\_  
Elham Shabatian

**PROOF OF SERVICE**

I, Elham Shabatian, am over the age of 18 and am not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 12100 Wilshire Blvd, Suite 800, Los Angeles, CA 90025

On March 15, 2023, I served the following documents:

- 1. 60-Day Notice of Intent to Sue Under Health and Safety Code section 25249.6
- 2. Certificate of Merit; Health and Safety Code Section 25249.7 (d)
- 3. Certificate of Merit (Attorney General Copy); Factual information sufficient to establish basis of the certificate of merit (*only sent to Attorney General*)
- 4. The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

on the alleged violator (s) listed below via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such envelope to a United States Postal Service Representative:

Current President Or CEO IGK LLC c/o C T Corporation System, Agent 330 N Brand Blvd Glendale, CA 91203	Current President Or CEO IGK LLC and Luxury Brand Partners, LLC Attn.: Legal Department 3800 Ne 1st Avenue 6th Floor Miami, FL 33137
Luxury Brand Partners, LLC c/o The Corporation Trust Company, Agent Corporation Trust Center 1209 Orange St Wilmington, DE 19801	Luxury Brand Partners, LLC c/o C T Corporation System, Agent 208 S. LaSalle St, Suite 814 Chicago, IL 60604
Current President or CEO Ulta Beauty Cosmetics, LLC c/o CSC - Lawyers Incorporating Service, Agent 2710 Gateway Oaks Dr., STE 150N Sacramento, CA 95833	

as well as by filing electronically a true and correct copy thereof as permitted through the website of the California Office of the Attorney General via link at [oag.ca.gov/prop65](http://oag.ca.gov/prop65):

State of California Department of Justice  
Office of the Attorney General of California  
Filing link: [oag.ca.gov/prop65](http://oag.ca.gov/prop65)

Copies of the notice were provided to the public enforcers by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney offices the parties listed on the attached Distribution List. The District Attorney and City Attorney offices that have requested electronic service only were served electronically via the email addresses listed on the Distribution List.

CLIFFWOOD LAW FIRM, PC  
12100 Wilshire Blvd, Suite 800 ♦ Los Angeles, CA 90025 ♦ [ellie@cliffwoodlaw.com](mailto:ellie@cliffwoodlaw.com)

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

Signature



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Elham Shabatian

March 15, 2023

## DISTRIBUTION LIST

District Attorney Alpine County PO Box 248 Markleeville, CA 96120	District Attorney Lake County 255 North Forbes Street Lakeport, CA 95453	District Attorney Sierra County PO Box 457 Downieville, CA 95936
District Attorney Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney Los Angeles County Hall of Justice 211 W. Temple St. Ste 1200 Los Angeles, CA 90012	District Attorney's Office Siskiyou County Courthouse 311 Fourth Street, Room 204 Yreka, CA 96097
District Attorney Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533
District Attorney Colusa County 310 6th Street Colusa, CA 95932	District Attorney Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354
District Attorney Del Norte County 450 H Street, Suite 171 Crescent City, CA 95531	District Attorney Mendocino County PO Box 1000 Ukiah, CA 95482	District Attorney Sutter County 446 Second Street Yuba City, CA 95991
District Attorney EL Dorado County 778 Pacific Street Placerville, CA 95667	District Attorney Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney Tehama County PO Box 519 Red Bluff, CA 96080
District Attorney Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney Orange County 300 N Flower St. Santa Ana, CA 92703	District Attorney Trinity County Post Office Box 310 Weaverville, CA 96093
District Attorney Glenn County Post Office Box 430 Willows, CA 95988	District Attorney San Benito County 419 4th Street Hollister, CA 95023	District Attorney Tuolumne County 423 North Washington St. Sonora, CA 95370
District Attorney Humboldt County 825 5th Street 4th Floor Eureka, CA 95501	District Attorney San Bernardino County 316 No. Mountain View Avenue San Bernardino, CA 92415	District Attorney Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney Imperial County 940 West Main Street, Suite 102 El Centro, CA 92243	District Attorney San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main St., Suite 800 Los Angeles, CA 90012
District Attorney Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney Shasta County 1355 West Street Redding, CA 96001	District Attorney Kings County 1400 West Lacey Blvd. Hanford, CA 93230
Alameda County District Attorney <a href="mailto:CEPDPProp65@acgov.org">CEPDPProp65@acgov.org</a>	Calaveras County District Attorney <a href="mailto:Prop65Env@co.calaveras.ca.us">Prop65Env@co.calaveras.ca.us</a>	Contra Costa County District Attorney <a href="mailto:sgrassini@contracostada.org">sgrassini@contracostada.org</a>
Inyo County District Attorney <a href="mailto:inyoda@inyocounty.us">inyoda@inyocounty.us</a>	Lassen County District Attorney <a href="mailto:mlatimer@co.lassen.ca.us">mlatimer@co.lassen.ca.us</a>	Mariposa County District Attorney <a href="mailto:mcdam@mariposacounty.org">mcdam@mariposacounty.org</a>
Merced County District Attorney <a href="mailto:Prop65@countyofmerced.com">Prop65@countyofmerced.com</a>	Monterey County District Attorney <a href="mailto:Pro65DA@co.monterey.ca.us">Pro65DA@co.monterey.ca.us</a>	Napa County District Attorney <a href="mailto:CEPD@countyofnapa.org">CEPD@countyofnapa.org</a>
Nevada County District Attorney <a href="mailto:DA.Prop65@co.nevada.ca.us">DA.Prop65@co.nevada.ca.us</a>	Placer County District Attorney <a href="mailto:Prop65@placer.ca.gov">Prop65@placer.ca.gov</a>	Plumas County District Attorney <a href="mailto:davidhollister@countyofplumas.com">davidhollister@countyofplumas.com</a>
Riverside County District Attorney <a href="mailto:Prop65@rivcoda.org">Prop65@rivcoda.org</a>	Sacramento County District Attorney <a href="mailto:Prop65@sacda.org">Prop65@sacda.org</a>	San Diego City Attorney <a href="mailto:CityAttyProp65@sandiego.gov">CityAttyProp65@sandiego.gov</a>
San Diego County District Attorney <a href="mailto:SanDiegoDAProp65@sdcca.org">SanDiegoDAProp65@sdcca.org</a>	San Francisco County District Attorney <a href="mailto:alexandra.grayner@sfgov.org">alexandra.grayner@sfgov.org</a>	San Francisco City Attorney <a href="mailto:Valerie.Lopez@sfcityatty.org">Valerie.Lopez@sfcityatty.org</a>
San Joaquin County District Attorney DA <a href="mailto:DAConsumer.Environmental@sjcda.org">DAConsumer.Environmental@sjcda.org</a>	San Luis Obispo County District Attorney <a href="mailto:edobroth@co.slo.ca.us">edobroth@co.slo.ca.us</a>	Santa Barbara County District Attorney <a href="mailto:DAProp65@co.santa-barbara.ca.us">DAProp65@co.santa-barbara.ca.us</a>
Santa Clara County District Attorney <a href="mailto:EPU@da.sccgov.org">EPU@da.sccgov.org</a>	Santa Cruz County District Attorney <a href="mailto:Prop65DA@santacruzcounty.us">Prop65DA@santacruzcounty.us</a>	Sonoma County District Attorney <a href="mailto:jbarnes@sonoma-county.org">jbarnes@sonoma-county.org</a>
Tulare County District Attorney <a href="mailto:Prop65@co.tulare.ca.us">Prop65@co.tulare.ca.us</a>	Ventura County District Attorney <a href="mailto:daspecialops@veutura.org">daspecialops@veutura.org</a>	Yolo County District Attorney <a href="mailto:cfepd@yolocounty.org">cfepd@yolocounty.org</a>
San Jose City Attorney's Office <a href="mailto:proposition65notices@sanjoseca.gov">proposition65notices@sanjoseca.gov</a>	District Attorney Fresno <a href="mailto:consumerprotection@fresnocountyca.gov">consumerprotection@fresnocountyca.gov</a>	District Attorney of Roseville <a href="mailto:pwp65@place.ca.gov">pwp65@place.ca.gov</a>

## APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA PROTECTION AGENCY THE SAFE  
DRINKING WATER AND TOXIC ENFORCEMENT ACTION  
1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the office of Environmental Health Hazard Assessment, the Lead and Toxic Enforcement Act 1986 (commonly known as "Proposition 65") A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide law. The reader is directed to the statute and its implementing regulations (See citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code Regulations, Sections 250000 through 27000.

### WHAT DOES PROPOSITION 65 REQUIRE?

*The "Governor's List"* Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 725 chemicals have been listed as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the following:

*Clear and Reasonable Warnings.* A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed.

Exposures are exempt from the warning requirement if they occur less than twelve months after the date of the listing of the chemical.

*Prohibition from discharges into drinking water.* A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of the listing of chemicals.

### DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

*Governmental agencies and public water utilities.* All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

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*Exposures that pose no significant risk of cancer.* For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70- year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

*Exposures that will produce no observable reproductive effect at 1,000 times the level in question.* For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000- fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

*Discharge that does not result in a "significant amount" of the listed chemical entering into any source of drinking water.* The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount; expect an amount that would meet the " no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

#### HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 27. California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

#### *FOR FURTHER INFORMATION....*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916)445-6900