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January 18, 2024

*By Electronic Mail and U.S. Mail*

Etsy, Inc.  
ATTN: Josh Silverman, CEO  
jsilverman@etsy.com

ATTN: Colin Stretch, Chief Legal Officer  
cstretch@etsy.com  
117 Adams St  
Brooklyn, NY 11202

ATTN: Etsy Regulatory Request for Regulators or Government Officials  
regulatory-intake@etsy.com

**RE: 60-Day Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) & Demand for Supply Chain Identification**

Dear Mr. Silverman and Mr. Stretch:

This firm represents As You Sow (“Noticing Party”) in connection with this notice of violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code section 25249.5, et seq. (“Proposition 65”). As You Sow is a non-profit organization working to create a safe, just, and sustainable world in which protecting the environment and human rights is central to corporate decision making.

This letter constitutes notice to the addressee that they have violated and continue to violate provisions of Proposition 65 and its implementing regulations. Specifically, the Alleged Violator—Etsy, Inc. (“Violator”)—to which this letter is addressed has violated and continues to violate the warning requirement at section 25249.6 of the California Health & Safety Code, which provides, “No 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 giving clear and reasonable warning to such individual[.]”

Pursuant to California Health & Safety Code section 25249.7, subdivision (d), the Noticing Party, as defined in that section, intends to bring an enforcement action against the Violator sixty (60) days after effective service of this notice unless the public enforcement agencies listed in the attached Certificate of Service have commenced and are diligently prosecuting an action to rectify these violations. A summary of Proposition 65 and its implementing regulations, prepared by the Office of Environmental Health Hazard Assessment, the lead agency designated under

Proposition 65, is enclosed with the copy of this notice served to the Violator. The specific details of the violations that are the subject of this Notice are provided below.

**Description of Violations**

The Violator has contravened the warning requirement at section 25249.6 of the California Health and Safety Code, which provides, “[no] 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 giving a clear and reasonable warning to such individual.” Violators have manufactured, produced, packaged, imported, supplied, distributed, sold or otherwise provided the consumer products containing mercury listed below directly to consumers through the Violator’s website without providing the clear and reasonable warnings required by Proposition 65 and its implementing regulations, dating at least as far back as January 2, 2023, and continuing each day through the present.

- Time Period of Exposure: The violations have been occurring since at least January 2, 2023, and are continuing to this day.
- Provision of Proposition 65 Implicated: This Notice of Violation covers the “warning provision” of Proposition 65, which is found at California Health and Safety Code, section 25249.6, and its implementing regulations.
- Chemical Involved: The listed chemical involved in this notice of violation is mercury and mercury compounds. This chemical is recognized by the State of California as a developmental toxin. Exposure to mercury or mercury compounds occurs through ingestion, inhalation, and dermal absorption when skin-lightening creams, sold on Etsy.com’s website, are applied.
- Types of Products: The specific types of products causing the violations are skin-lightening, whitening, and “smoothing” creams containing 1 ppm or more mercury or mercury compounds, including but not limited to those products specifically listed below in **Table 1**.

**Table 1**

<b>Product</b>	<b>Etsy Storefront<sup>1</sup></b>
Aneeza Gold Beauty Face Cream	NaturalSkincarStudio
Aneeza Gold Beauty Face Cream	OkinArewa
Aneeza Gold Beauty Face Cream	PetsUniqueBeautyCent
BeBe Special Cream	Apsarabazaars
Carotone	Hayveen
Carotone	Mama23store
Carotone	perfectobeautycouk
Carotone	QueenikWealth
CCM	Apsarabazaars
CCM Perfect 365 White Cream	Apsarabazaars

<sup>1</sup> The Notice covers all skin-lightening, whitening, and “smoothing” creams containing mercury or mercury compounds, including those products listed in Table 1, whether or not sold at the storefront listed. The Storefront is provided as a courtesy so that Etsy.com can more efficiently locate and remove dangerous products from its website.

Chandni Whitening Cream	Diamonds Group
Crema la Milagrosa	Bulkmayoreo99
Crema la Milagrosa	NATURALbyLLC
Deluxe Nadinola Bleaching Cream	TheDetoxClub
Due Beauty Cream	MystiqueArtShop
Due Beauty Cream	WholesaleByHuma
Faiza	BeautyShopIndia
Faiza	Nova Jewels Art
Faiza	Creations4all786
Faiza	Cosmeticss4All
Faiza	DiamondsGroup
Faiza	iMinoosh
Faiza	KUCHIDRESS
Faiza	MystiqueArtShop
Faiza	WeddingbyASRBoutique
Faiza	WholesaleByHuma
Face Fresh Beauty Cream	IMinoosh
Face Fresh Beauty Cream	BeautyShopIndia
Goree Day Avocado and Aloevera	IMinoosh
Goree Day and Night Whitening Cream	Nova Jewels Art
Goree Day and Night Whitening Cream	OverseasTrend
Goree Day and Night Whitening Cream	ObserverFinds
Goree Day and Night Whitening Cream	PariAfghanShop
Goree Day and Night Whitening Cream	PakistanShop2023
La Tia Mana Crema Limpiadora y Curativa	La Tia Mana
Miss Key Crema Blanqueadora	OceansBeautyWellness
Nunn Care	BotanicaMexicana
Nunn Care	bulkmayoreo99
Nunn Care	GiftofHealthByPaul
Nunn Care	Menwomengiftshop
Nunn Care	Naturallylifee
Nunn Care	NATURALbyLLC
Nunn Care	TruVaShopTreasures
Nunn Care	Wellnessrootsstore

Nunn Care	YadyTreasures
Snow White Armpit Whitening Underarm Cream	ShopSheida

Description of Exposures: This Notice addresses consumer product exposures to mercury and mercury compounds resulting from the acquisition, purchase, storage, consumption, or reasonably foreseeable use of cosmetics used to lighten, whiten, or “smooth” skin. Mercury is an additive or active ingredient in such cosmetics. Use of the items listed above in Table 1, as well as other items containing mercury as an active ingredient, results in human exposures to mercury.<sup>2</sup> Mercury exposure occurs in three main routes: ingestion, inhalation, or dermal absorption. Ingestion may occur post-application due to insufficient hand washing prior to eating or preparing food or touching of the mouth. Inhalation may occur due to the significant amount of mercury vapor produced by use of these creams, which can affect all household members. Dermal absorption may occur as these products are designed and specifically marketed for direct contact with skin. These exposures occur in residences throughout California where the products are used. No clear and reasonable warning is provided with these products regarding the developmental toxicity of using these products or specifically of mercury.

Pursuant to California Code of Regulations, title 11, section 3100, a Certificate of Merit is attached.<sup>3</sup>

#### **Lack of Non-English Warning**

A number of the products listed in Table 1 include non-English labeling. Those products additionally violate California Code of Regulations, title 27, section 25602, subdivision (b), for failing to carry warnings in the non-English language on the label.

#### **Resolution of Claims Being Noticed**

Based on the allegations set forth in this Notice, the Noticing Party intends to file a citizen enforcement lawsuit against the Violator unless it agrees to remedy the violations set forth above. If the Violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please contact the Noticing Party through its counsel identified below.

#### **Preservation of Relevant Evidence**

This Notice also serves as a demand that the Violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to mercury released from or during the storage, shipment, and use of skin lightening creams; purchases and sales information for such products; communications with any person relating to actual or potential exposures to mercury from the use of such products; representative exemplars of each unit of any of the brands listed above in Table 1 sold since January 2022; the content of internet displays for the products causing the violations; and all communications regarding the alleged violations.

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<sup>2</sup> These products are also illegal adulterated cosmetics sold in violation of FDA regulations. (See 21 C.F.R. § 700.13(d)), and California’s Sherman Act.

<sup>3</sup> A second copy of the entire notice and Certificate of Merit is served on the Attorney General, clearly marked “Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040” with all supporting documentation required by 11 Cal. Code Regs., § 3102 attached thereto.

**Parties**

This Notice is provided on behalf of the following organization:

As You Sow  
Responsible Individual: Danielle Fugere  
Main Post Office  
As You Sow  
PO Box 751  
Berkeley, CA 94701  
(510) 735-8158

The Noticing Parties can be contacted through counsel as identified below:

Rachel Doughty  
Greenfire Law, PC  
2748 Adeline Street, Suite A  
Berkeley, CA 94703  
(510) 900-9502  
rdoughty@greenfirelaw.com

**Demand for Supply Chain Contacts**

Pursuant to California Code of Regulations title 27, article 6, section 25600.2, subdivision (g) you must promptly provide As You Sow (through its counsel) with the names and contact information for each of the manufacturers, producers, packagers, importers, suppliers, and distributors of each of the products listed above in Table 1. **We expect to receive this information within a week.**

Sincerely,



Rachel S. Doughty  
Greenfire Law, PC

Attachments:

Certificate of Merit (All Recipients)

Certificate of Merit Support (Attorney General only)

Certificate of Service (All Recipients)

*The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary* (“Summary”)  
(Noticed Party Only)

### Certificate of Merit

California Health & Safety Code Section 25249.7, Subdivision (d)

I, Rachel Doughty, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices 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 has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the 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 plaintiff's 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: January 18, 2024

Greenfire Law, PC

By:



Rachel Doughty

## CERTIFICATE OF SERVICE

I, the undersigned, am over the age of 18 years and not a party to this case. I am employed in the County of Alameda. My business address is 2748 Adeline Street, Suite A, Berkeley, CA 94703.

On January 18, 2024, I caused to be served the following documents:

- 60-Day Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) & Demand for Supply Chain Identification [to the entire service list]
- Certificate of Merit [to the entire service list]
- The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (“Summary”) [to Etsy.com ]
- Support for Certificate of Merit [to the Office of the California Attorney General only]

I served the foregoing documents on those located on the attached service list as designated below.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 18, 2024 in Berkeley, California.

*Nuria de la Fuente*

Nuria de la Fuente

## **ELECTRONIC UPLOAD SERVICE LIST**

### **SERVED BY: 60 - DAY NOTICE PORTAL**

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<https://oag.ca.gov/prop65/add-60-day-notice>

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## **CERTIFICATE OF SERVICE**

I, the undersigned, am over the age of 18 years and not a party to this case. I am employed in the County of Alameda. My business address is 2748 Adeline Street, Suite A, Berkeley, CA 94703.

On January 18, 2024, I caused to be served the following documents:

- 60-Day Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) & Demand for Supply Chain Identification
- Certificate of Merit

I served the foregoing documents on those located on the attached service list as designated below.

(X) By First Class Mail:	Deposited the above documents in a sealed envelope with the United States Postal Service, with the postage fully paid.
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 18, 2024 in Berkeley, California.

*Nuria de la Fuente*  
Nuria de la Fuente

### **SERVICE LIST**

Hydee Feldstein Soto  
Los Angeles City Attorney  
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