

1 WILLIAM VERICK, SBN 140972
Klamath Environmental Law Center
2 FREDRIC EVENSON, SBN 198059
Law Office of Fredric Evenson
3 424 First Street
Eureka, CA 95501
4 Telephone: (707) 268-8900
Facsimile: (707) 268-8901
5

6 DAVID WILLIAMS, SBN 144479
BRIAN ACREE, SBN 202505
2070 Allston Way, Suite 300
7 Berkeley, CA 94704
Telephone: (510) 647-1900
8 Facsimile: (510) 6471905

9 Attorneys for Plaintiff,
MATEEL ENVIRONMENTAL JUSTICE FOUNDATION
10

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO
13 (Unlimited Jurisdiction)

14 MATEEL ENVIRONMENTAL
JUSTICE FOUNDATION,

CASE NO. 440568

15 Plaintiff,

16 v.

[PROPOSED] CONSENT JUDGMENT
BETWEEN PLAINTIFF AND DEFENDANT
A.J. WHOLESALE DISTRIBUTORS, INC.

17
18 A.J. WHOLESALE DISTRIBUTORS, INC.,
et al.,

19 Defendants.
20 _____ /

21 1. INTRODUCTION

22 On or about January 31, 2005, the Mateel Environmental Justice Foundation (“MEJF”)
23 and its attorneys, Klamath Environmental Law Center (“KELC”) sent a 60 Day Notice Letter to
24 the Office of the California Attorney General of the State of California (“California Attorney
25 General”), all California counties’ District Attorneys and all City Attorneys of California cities
26 with populations exceeding 750,000, (collectively, “Public Enforcers”), charging certain
27 businesses with violating the Safe Drinking Water and Toxic Enforcement Act of 1986,
28 California Health and Safety Code Section 25249.5 et seq. (“Proposition 65”), in their

1 manufacture, distribution and/or sale of wires and cables coated with polyvinyl chloride
2 (“PVC”). Specifically, MEJF charged that persons handling the PVC-coated wires and cables
3 (“Cords”) were exposed to certain chemicals, listed under Proposition 65, including cadmium,
4 hexavalent compounds of chromium, vinyl chloride, lead and lead compounds, lead acetate, lead
5 phosphate, lead subacetate and di(2ethylhexyl) phthalate.

6 a. On or about April 19, 2005, MEJF (“Plaintiff”), acting on behalf of itself, the
7 public interest, and the general public for the matters described in the Notice Letter, filed a
8 Complaint for civil penalties and injunctive relief (“Complaint”) in the San Francisco Superior
9 Court, fashioned, *MATEEL ENVIRONMENTAL JUSTICE FOUNDATION v. A.J. WHOLESALE*
10 *DISTRIBUTORS, INC. et al.*, Case No. 440568, based on the Notice Letter. The Complaint
11 alleged, among other things, that A.J. WHOLESALE DISTRIBUTORS, INC., (“Settling
12 Defendant”) violated Proposition 65 and California Business & Professions Code Section 17200
13 et seq. (the “Unfair Competition Act”) by manufacturing, marketing and/or distributing to
14 California residents products that are themselves or which incorporate wires and cables that are
15 PVC-coated and failing to provide clear and reasonable warnings to California residents who
16 handle and use such products that the handling and use of those products in their normally
17 intended manner will cause those persons to be exposed to Proposition 65 Chemicals.

18 b. Plaintiff and Settling Defendant are, for purposes of this Consent Judgment,
19 collectively referred to as the “Parties,” with each of them a “Party”.

20 c. For purposes of this Consent Judgment, the term “Covered Products” means
21 products that are themselves, or that incorporate, utilize, or have appended to them, Cords, and
22 that are manufactured, distributed, marketed or sold by the Settling Defendant. The term
23 Covered Products includes both such products that are subject to the Warning Requirements of
24 Section 7, and those that are not, including those products that are exempted from the warning
25 requirements of this Consent Judgment pursuant to Sections 7.1 or 7.3. The term “Covered
26 Products” also includes products which are manufactured, distributed, marketed and/or sold by
27 the Settling Defendant either under its own name or brand or under the name or brand of another
28 (e.g., privately labeled products).

1 d. For purposes of this Consent Judgment only, the Settling Defendant admits that:
2 (a) it is a business that employs more than ten persons and manufactures, distributes and/or sells
3 Covered Products into the State of California; (b) the Covered Products contain one or more
4 Proposition 65 Chemicals; and (c) Proposition 65 Chemicals are chemicals listed under
5 Proposition 65 as being known to the State of California to cause cancer and/or reproductive
6 toxicity.

7 e. For purposes of this Consent Judgment only, the Parties stipulate that this Court
8 has jurisdiction over the allegations of violations contained in the Complaints and personal
9 jurisdiction over the Settling Defendant as to the acts alleged in the Complaints, that venue is
10 proper in the County of San Francisco and that this Court has jurisdiction to enter this Consent
11 Judgment as a full settlement and resolution of the allegations contained in the Complaints and
12 Notice Letters and of all claims which were or could have been raised by any person or entity
13 based in whole or in part, directly or indirectly, on the facts alleged therein, arising therefrom or
14 related thereto.

15 f. The Parties enter into this Consent Judgment pursuant to a full and final settlement
16 of any and all claims between the Parties for the purpose of avoiding prolonged litigation. This
17 Consent Judgment shall not constitute an admission with respect to any material allegation of the
18 Complaints, each and every allegation of which the Settling Defendant denies; nor may this
19 Consent Judgment or compliance with it be used as evidence of any wrongdoing, misconduct,
20 culpability or liability on the part of any Settling Defendant. The Settling Defendant maintains
21 that its Covered Products have at all times complied with all applicable laws, including
22 Proposition 65.

23 2. SETTLEMENT PAYMENT

24 2.1 In settlement of all of the claims referred to in this Consent Judgment against the
25 Settling Defendant, within 10 days of the entry of this Consent Judgment, Settling Defendant
26 shall pay \$17,500 to the Klamath Environmental Law Center ("KELC") to cover plaintiffs'
27 attorneys' fees and costs. Additionally, within 10 days of the entry of this Consent Judgment,
28 Settling Defendant shall pay \$6,250 to Californians for Alternatives to Toxics, and \$6,250 to the

1 Ecological Rights Foundation, for use toward reducing exposures to toxic chemicals and other
2 pollutants, and toward increasing consumer, worker and community awareness of health hazards
3 posed by lead and other toxic chemicals. The Parties agree and acknowledge that the charitable
4 contributions made pursuant to this Section shall not be construed as a credit against the personal
5 claims of absent third parties for restitution against Settling Defendant. Settling Defendant shall
6 not be required to pay a civil penalty pursuant to Health and Safety Code Section 25249.7(b).

7 2.2 MEJF and KELC represent and warrant that each of the organizations identified in
8 Paragraph 2.1(a)(ii) above is a tax exempt, section 501(c)(3) non-profit organization and that
9 funds distributed to these organizations pursuant to this Consent Judgment may only be spent to
10 reduce harm from toxic chemicals and pollutants, or to increase consumer, worker and
11 community awareness of health hazards posed by lead and other toxic chemicals.

12 2.3 Except as specifically provided in this Consent Judgment, each side shall bear its
13 own costs and attorney's fees.

14 3. ENTRY OF CONSENT JUDGMENT

15 The Parties request that the Court promptly enter this Consent Judgment and waive their
16 respective rights to a hearing or trial on the allegations of the Complaint.

17 4. MATTERS COVERED BY THIS CONSENT JUDGMENT

18 4.1 For purposes of Section 4 of this Consent Judgment, the term Settling Defendant
19 shall include the Settling Defendant, as defined above, and its past, present and future parents,
20 divisions, subdivisions, brands, subsidiaries and affiliates and the predecessors, successors and
21 assigns of any of them, as well as their past, present and future officers, directors, employees,
22 agents, attorneys, representatives, shareholders and assigns. For purposes of Section 4, the term
23 Settling Defendant shall also be deemed to include the Settling Defendant's supplier of Covered
24 Products, but only with respect to those Covered Products that such supplier manufactures for the
25 Settling Defendant. The preceding sentence shall not apply with respect to a supplier who ships
26 Covered Products directly to a consumer at the request of the Settling Defendant, where a
27 warning is provided to address the obligations of this Consent Judgment solely pursuant to
28 Section 7.5(e) below. A list delineating some, but not necessarily all, of the names of the various

1 business entities and brands or product types referred to in this Paragraph and in existence on or
2 before the date of this Consent Judgment is attached hereto as Exhibit C.

3 4.2 As to Covered Products, this Consent Judgment is a final and binding resolution
4 between Plaintiff acting on behalf of itself and, (as to those matters referenced in the Notice
5 Letters) in the public interest pursuant to Health and Safety Code Section 25249.7(d) and the
6 general public pursuant to Business and Professions Code Section 17204 and the Settling
7 Defendant of: (a) any violation of Proposition 65; or, (b) with respect to exposures to the
8 Proposition 65 Chemicals associated with the use of Covered Products, the Unfair Competition
9 Act; or (c) with respect to exposures to the Proposition 65 Chemicals associated with the use of
10 Covered Products, any other statutory or common law claim, to the fullest extent that any such
11 claims were or could have been asserted by any person or entity against the Settling Defendant
12 based on its or their exposure of persons to chemicals contained in or otherwise associated with
13 the use of Covered Products manufactured, sold or distributed by, for or on behalf of the Settling
14 Defendant and/or their alleged failure to provide a clear and reasonable warning of such exposure
15 to such individuals; or (d) as to exposures to chemicals contained in or otherwise associated with
16 the use of Covered Products, any other claim based in whole or part on the facts alleged in the
17 Complaints or Notice Letters, whether based on actions or omissions committed by the Settling
18 Defendant or any other entity within the Settling Defendant's chain of distribution, including, but
19 not limited to, customers, wholesale or retail sellers or distributors and any other person in the
20 course of doing business ("Downstream Entity").

21 4.3 As to any claims, violations (except violations of this Consent Judgment), actions,
22 damages, costs, penalties, or causes of action which may arise or have arisen after the original
23 date of entry of this Consent Judgment, compliance by the Settling Defendant with the terms of
24 this Consent Judgment shall be deemed to constitute its full and complete compliance with
25 Proposition 65 and the Unfair Competition Act with respect to the provision of warnings for
26 chemicals contained in or otherwise associated with the use of Covered Products, provided that
27 the concentrations of those chemicals other than lead are materially similar to that associated
28 with the Covered Products with respect to Proposition 65 at the time this Consent Judgment is

1 entered.

2 4.4 Notwithstanding Sections 4.2 or 4.3 above, as to all customers, distributors,
3 wholesalers, retailers or any other Downstream Entity, except as otherwise indicated in Sections
4 4.5 and 4.6 below, which may in the course of doing business use, maintain, distribute, or sell
5 Covered Products which are manufactured, distributed or sold by the Settling Defendant
6 (including Covered Products which are privately labeled by the Settling Defendant for a
7 Downstream Entity), Plaintiff (acting on behalf of itself and, as to those matters raised in the
8 Notice Letters, on behalf of the general public) waives all rights to institute any form of legal
9 action whether under Proposition 65 or the Unfair Competition Act or otherwise, arising out of or
10 resulting from or related directly or indirectly to, in whole or in part, exposure to, or otherwise
11 associated with the use of and alleged failure to warn with respect to Proposition 65 Chemicals
12 contained in Covered Products.

13 4.5 Nothing in this Consent Judgment shall be deemed to release, from past liability
14 under Proposition 65 or any other statute or regulation (except from liability for occupational
15 exposures under the circumstances set forth in Sections 4.6, 7.5 and 7.6 of this Consent
16 Judgment), any entity which incorporates Cords obtained from the Settling Defendant into a
17 Covered Product the entity manufactures or distributes for sale to retail consumers, unless such
18 entity is itself a Settling Defendant; nor shall any such entity which is not itself a Settling
19 Defendant be entitled to utilize or otherwise rely on the provisions of this Consent Judgment.
20 Notwithstanding the preceding sentence, however, compliance with the terms of Section 7 of this
21 Consent Judgment by an entity that incorporates Cords obtained from the Settling Defendant into
22 a Covered Product it manufactures or distributes for sale to retail consumers, shall be deemed to
23 constitute compliance with Proposition 65 with respect to Covered Products it sells in the future.

24 4.6 Nothing in this Consent Judgment shall be deemed to require an out of state
25 manufacturer of Covered Products to provide a Proposition 65 warning for occupational
26 exposures occurring within the State of California. Nothing in this Consent Judgment will be
27 deemed to release a California employer from liability for failure to comply with its obligations,
28 if any, to provide warnings under Proposition 65 for the exposures of its employees to chemicals

1 contained in or otherwise associated with Non-Retail Covered Products (as defined in Section 7.6
2 below) unless such employer makes Proposition 65 warning information available to its
3 employees in the manner specified in Section 7.6 below or as otherwise permitted by 8 Cal. Code
4 Regs. § 5194.

5 4.7 In furtherance of the foregoing, Plaintiff hereby waives any and all rights and
6 benefits which it now has, or in the future may have, conferred upon it by virtue of the provisions
7 of Section 1542 of the California Civil Code, which provides as follows:

8 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
9 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN
10 HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
11 KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS
12 SETTLEMENT WITH THE DEBTOR.

13 Plaintiff understands and acknowledges that the significance and consequence of its waiver of
14 California Civil Code Section 1542 is that even if Plaintiff and/or, with respect to the matters
15 raised in the Notice Letters, any person or entity on whose behalf they purport to act or could act,
16 suffers future damages or harm arising out of, resulting from, or related directly or indirectly to,
17 in whole or in part, the matters covered in Sections 4.2, 4.3 and 4.4 above (“Damages”), Plaintiff
18 and any person or entity on whose behalf they purport to act or could act, will not be able to
19 make any claim for such Damages against the Settling Defendant or any of its customers,
20 distributors, wholesalers, retailers, or any other person in the course of doing business who may
21 use, maintain, distribute or sell the Covered Products. Furthermore, Plaintiff acknowledges that
22 it intends these consequences for any such Damages which may exist as of the date of this release
23 but which Plaintiff does not know exist, and which, if known, would materially affect its decision
24 to enter into this Consent Judgment, regardless of whether its lack of knowledge is the result of
25 ignorance, oversight, error, negligence, or any other cause, no matter how justifiable such cause
26 may be.

27 4.8 The Settling Defendant waives all rights to institute any form of legal action against
28 Plaintiff, its officers, directors, attorneys, consultants and representatives for all legal actions

1 undertaken or statements made in the course of such legal actions to seek enforcement of this
2 action and judgment.

3 **5. ENFORCEMENT OF JUDGMENT**

4 5.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties
5 hereto by means of noticed motion or order to show cause before the Superior Court of San
6 Francisco County.

7 **6. MODIFICATION OF JUDGMENT**

8 6.1 This Consent Judgment may be modified only upon written agreement of the Parties
9 and upon entry of a modified amended Consent Judgment by the Court, or upon motion of any
10 Party as provided by law and upon entry of a modified amended Consent Judgment by the Court.
11 Notwithstanding the immediately preceding sentence or any other term or provision of this
12 Consent Judgment, if Plaintiff or any affiliated entity, or the California Attorney General, enters
13 into, or agrees to in writing, or is otherwise bound by injunctive relief terms or provisions
14 relating to the provision of Proposition 65 warnings for Covered Products, with regard to their
15 Cords, which, taken together, are more favorable to the defendant(s) than the terms or provisions
16 that this Consent Judgment provide for a Covered Product of like kind and characteristics with
17 respect to its thermoset/thermoplastic-coated electrical cord and use, the terms of injunctive relief
18 provided for in Section 7 of this Consent Judgment shall automatically be deemed to have been
19 modified to add such more favorable terms or provisions as an option which the Settling
20 Defendant may elect for compliance with this Consent Judgment.

21 **7. INJUNCTIVE RELIEF**

22 7.1 Covered Products shall be deemed to comply with Proposition 65 and be exempt
23 from any Proposition 65 warning requirements if the Cords that are sold as a part of or in
24 association with those Covered Products meet the following criteria: (a) the surface contact layer
25 of the Cords shall have no lead as an intentionally added constituent; and (b) the surface contact
26 layer of the Cords shall have lead content by weight of no more than 0.03% (300 parts per
27 million, or "300 ppm"). The Settling Defendant may comply with the above requirements by
28 relying on information obtained from its suppliers regarding the content of the surface contact

1 layer of the Cords, provided such reliance is in good faith. Obtaining test results showing that
2 the lead content is no more than 0.03%, using a method of sufficient sensitivity to establish a
3 limit of quantification (as distinguished from detection) of less than 300 ppm shall be deemed to
4 establish good faith reliance. Provided that the level of quantitation requirement set forth in the
5 preceding sentence is met, the test protocol and methods described on Exhibit D hereto may be
6 relied on. Nothing in the preceding two sentences shall preclude a Settling Defendant from
7 establishing good faith reliance by an alternative means.

8 7.2 Covered Products manufactured and shipped for distribution to or sale in California
9 on or after the Effective Date that do not meet the warning exemption standard set forth in
10 Section 7.1 of this Consent Judgment and are not exempt pursuant to Section 7.3 shall be
11 accompanied by a warning as described in Section 7.4 below. For purposes of this Section, one
12 year after the entry of this Consent Judgment shall be considered the "Effective Date."

13 7.3 The following Covered Products are deemed to be exempt from any Proposition 65
14 warning requirements with respect to Cords: (a) Covered Products which because of their size,
15 weight or function have Cords that are handled only infrequently (such as upon their installation
16 in a setting where they are not typically plugged and unplugged) ("Infrequently Handled
17 Products"); (b) those Covered Products that: (i) are sold at retail before the Effective Date; or
18 (ii) are distributed or shipped for sale outside the State of California; (c) Covered Products that
19 use Cords only as internal components not normally accessible to the consumer during ordinary
20 use; and/or (d) Covered Products which contain the Proposition 65 Chemical only as part of the
21 inner conductor or other component not normally accessible to the consumer during ordinary use.
22 Exhibit E contains a list of Covered Products/Product types that are deemed to meet the criteria
23 for Infrequently Handled Products set forth in this Section 7.3 and are therefore exempt.
24 Plaintiffs have previously provided the California Attorney General's Office and the Settling
25 Defendant with a list of Covered Products/Product types that are deemed not to meet the criteria
26 for Infrequently Handled Products set forth in this Section 7.3 and therefore are not exempt
27 ("Non-Exempt Products List"). Exhibit E and the Non-Exempt Products List may be used as
28 guidance in determining whether other Covered Products meet these criteria; Exhibit E and the

1 Non-Exempt Products List may also be used by the Parties in the course of dispute resolution
2 pursuant to Section 9. The Parties acknowledge that common usage of the terms “portable” and
3 “non-portable” do not affect the classification of any Covered Products under this Consent
4 Judgment. Covered Products may be considered Infrequently Handled Products regardless of
5 their weight or the likelihood that they may be used while moving, whether that be on a person,
6 in a car, on an airplane or otherwise.

7 7.2 Should the Settling Defendant’s Covered Products require Proposition 65 warnings
8 under Section 7.2, the Settling Defendant shall, except as otherwise provided in Section 7.5
9 below, either provide one of the warnings described below or any other Proposition 65 warning
10 that has been reviewed and approved in writing by the California Attorney General for use with
11 Covered Products regarding their thermoset/thermoplastic-coated wires and/or cables:

12 “**WARNING:** This product contains chemicals, including lead, known to the
13 State of California to cause [cancer, and] birth defects or other reproductive harm.

14 *Wash hands after handling.*”

15 or

16 “**WARNING:** Handling the cord on this product will expose you to lead, a
17 chemical known to the State of California to cause [cancer, and] birth defects or
18 other reproductive harm. *Wash hands after handling.*”

19 or

20
21 “**WARNING:** The power cord on this product contains lead, a chemical known to
22 the State of California to cause [cancer, and] birth defects or other reproductive
23 harm. *Wash hands after handling.*”

24 The word “WARNING” shall be in all capital letters and in bold typeface. The hand-washing
25 admonition shall be in bold typeface and italicized. Inclusion of the bracketed words “cancer,
26 and” in the above warning shall be at the Settling Defendant’s option.

27 7.3 Unless otherwise indicated herein, the warning required or authorized in Sections 7.4
28 shall be given by having it: (a) affixed to the Covered Product itself or to the unit package of

1 such Covered Product; (b) printed on the Covered Product itself or on the unit package of such
2 Covered Product; (c) displayed on an internet site for those units of Covered Products sold on the
3 internet; (d) included in the owner's manual if the conditions set forth in Section 7.9 below are
4 satisfied ("Owner's Manual Warning"); or, (e) printed on the invoice issued directly to the
5 consumer by the Settling Defendant to confirm the sale, where the Settling Defendant sells
6 Covered Products directly to consumers by telephone, mail order, or internet sale, but never has
7 physical possession of the Covered Product or its packaging.

8 7.4 If the warning is printed on the product, package label, or invoice, then the warning
9 shall be contained in the same section of the label that contains other safety warnings, if any,
10 concerning the use of the Covered Product or near its displayed price and/or UPC code. Such
11 warning shall be prominently affixed to or printed on each such Covered Product, its label or
12 package or invoice, and displayed with such conspicuousness, as compared with other words,
13 statements, designs, or devices on such Covered Product, its label, package or display or invoice
14 as to render it likely to be read and understood by an ordinary individual under customary
15 conditions of purchase or use. With respect to the preceding sentence, the type size of any
16 warning required by paragraph 7.4 must be legible, but otherwise need not be larger than any
17 other warning language used in conjunction with the Covered Product in question and its relative
18 size may take into account the nature, immediacy, and acuteness of the risks for which other
19 warnings are given. If the size of a Covered Product and its packaging is such that a warning
20 required by this Consent Judgment cannot physically be printed on its non-transparent portion in
21 a legible size, the warning may be printed on a separate piece of paper or cardstock and inserted
22 into the Covered Product's packaging, provided that i) the cardstock or paper containing the
23 warning is not white or uncolored and contains only the warning language, and ii) a substantial
24 portion of the exterior of the packaging material is transparent.

25 7.5 If a warning is provided on the internet pursuant to (c) above, the warning message
26 shall be displayed (or, upon the internet site user's identification as a California resident, such as
27 when the user types in a zip code, automatically appear) either: (a) on the same page on which
28

1 the Covered Product is displayed, (b) on the same page as the order form for the Covered
2 Product, or (c) on the same page as the price for the Covered Product.

3 7.6 If the warning is given in the owners manual pursuant to Section 7.9 below, it shall
4 be located in one of the following places in the manual: the outside of the front cover; the inside
5 of the front cover; the first page other than the cover; or the outside of the back cover. The
6 warning shall be printed or stamped in the manual or contained in a durable label or sticker
7 affixed to the manual in a font no smaller than the font used for other safety warnings in the
8 manual. Alternatively, the warning may be included in a safety warning section of the owner's
9 manual consistent with specifications issued by Underwriters Laboratories.

10 7.7 A warning in the owner's manual of a Covered Product may be used to satisfy the
11 warning requirements of this Section 7 only under the following circumstances: the Covered
12 Product (i) may cause serious injury or bodily harm (other than by means of fire or electrocution)
13 unless used as directed; or (ii) is sophisticated, difficult to understand or install, set-up, or
14 assemble; or (iii) has one or more features a consumer must read about in order to know how to
15 program or use the Covered Product. However, a Covered Product may not utilize an owner's
16 manual warning if it meets the following criteria: (a) the Covered Product is unlikely to cause
17 serious injury or bodily harm other than by means of fire or electrocution; (b) the Covered
18 Product is easily assembled or programmed by an ordinary consumer without need to reference
19 instructions; and (c) fundamental operation of the Covered Product is easily understood and
20 commonly performed by an ordinary consumer without training or need to reference operating
21 instructions. Exhibit F contains a list of Covered Products/product types for which Owner's
22 Manual Warnings are deemed to be an allowable method of communicating the warnings
23 required by this Section 7. Plaintiffs have previously provided the California Attorney General's
24 Office and the Settling Defendant with a list of Covered Products/product types for which
25 Owner's Manual Warnings are deemed not to be an allowable method of communicating the
26 warnings required by this Section 7 (the "Non-Owner's Manual Product List"). Exhibit F and the
27 Non-Owner's Manual Product List may be used as guidance in determining whether the criteria
28 for use of owner's manual warnings set forth in this Section are satisfied. Exhibit F and the Non-

1 Owner's Manual Products List may also be used by the Parties in the course of dispute resolution
2 pursuant to Section 9.

3 7.8 The Settling Defendant may provide an Owner's Manual Warning on any Covered
4 Products/product types, except for those listed on the Non-Owner's Manual Product List, that
5 satisfy the criteria in Section 7.9, whether or not that Covered Product or product type is listed on
6 Exhibit F. Settling Defendant shall provide to Plaintiff, by certified mail or other confirmable
7 delivery, a list of those Covered Products for which an owners manual warning is proposed to be
8 given. Plaintiff shall, within 60 days, notify Settling Defendant as to whether Plaintiff agrees that
9 an owner's manual warning is appropriate. In the event that Plaintiff determines that an
10 Owner's Manual Warning is not appropriate, it shall provide a written explanation of the basis
11 therefore. In the event that the Settling Defendant disagrees with Plaintiff's determination the
12 settling defendant may elect to invoke the Dispute Resolution process provided for in Section 9
13 hereof. Products not existing as of the Effective Date that are introduced for sale after January 1,
14 2006 may use a owner's manual warning if approved in writing by the California Attorney
15 General's office, following 60 days prior notice to Plaintiff.

16 7.9 The requirement for product labeling, set forth herein, is imposed pursuant to the
17 terms of this Consent Judgment. The Parties recognize that product labeling is not the exclusive
18 method of providing a warning under Proposition 65 and its implementing regulations.

19 **8. ADDED INFREQUENTLY HANDLED PRODUCTS**

20 8.1 Exhibit E contains a list of Infrequently Handled Products that are deemed to meet
21 the criteria of Section 7.3(a) and, therefore, deemed to be exempt from Proposition 65 warning
22 requirements. The Products appearing on Exhibit E and the Non-Exempt Products List may be
23 used as guidance to interpret the criteria of Section 7.3(a). A Covered Product not appearing on
24 the Non-Exempt Products List, is exempt if it meets the criteria of Section 7.3(a) whether or not
25 it appears on Exhibit E.

26 8.2 At Least 60 days prior to retail sale, Settling Defendant shall provide to Plaintiff by
27 certified mail or other confirmable delivery, a list of those Covered Products which do not exist
28 as of the Effective Date for which Settling Defendant contends are infrequently handled products

1 for which no warning is required. Plaintiff shall, within 60 days, notify Settling Defendant as to
2 whether Plaintiff agrees that that the Covered Product is infrequently handled and does not
3 require a warning. In the event that Plaintiff determines that a warning is required it shall
4 provide a written explanation of the basis therefore. In the event that the Settling Defendant
5 disagrees with Plaintiff's determination the settling defendant may elect to invoke the Dispute
6 Resolution process provided for in Section 9 hereof. Products not existing as of the Effective
7 Date that are introduced for sale after January 1, 2006 may be sold without a warning because
8 they are infrequently handled if so approved in writing by the California Attorney General's
9 office, following 60 days prior notice to Plaintiff.

10 **9. DISPUTE RESOLUTION**

11 9.1 Wherever this Consent Judgment provides that the Settling Defendant may invoke
12 the Dispute Resolution process or file a motion to have the Court resolve an issue, the Settling
13 Defendant seeking a resolution shall first mail (by certified mail) and fax a notice to Plaintiff,
14 setting forth the dispute and the basis for the Party's position. The Parties interested in the
15 dispute shall then meet and confer in good faith within sixty (60) days to determine whether the
16 dispute may be resolved in order to avoid further litigation of the issue, unless both Parties
17 waive, in writing, notice and the opportunity to meet and confer. In the event that Plaintiff fails
18 to meet and confer within the sixty (60) day period, the Settling Defendant's position shall be
19 deemed to have prevailed. In the event that, after meeting and conferring, Plaintiff disapproves
20 or disagrees with a position taken by the Settling Defendant, Plaintiff shall notify the Settling
21 Defendant in writing, sent by an overnight delivery service requiring a signature upon delivery,
22 within 14 (fourteen) days of meeting and conferring. Should the Plaintiff do so and should the
23 Settling Defendant wish to pursue its position, the Settling Defendant shall then seek to have the
24 California Attorney General concur with the Settling Defendant's position. If the California
25 Attorney General concurs in writing with the Settling Defendant, the Settling Defendant shall
26 provide notice thereof to Plaintiff and the Settling Defendant's view shall prevail. If, however,
27 the California Attorney General does not concur with the Settling Defendant within ninety (90)
28 days of the date on which the Settling Defendant sought the California Attorney General's

1 concurrence, the Settling Defendant shall have the right to bring the issue to the Court by noticed
2 motion for its de novo review and, provided that it is proceeding in good faith, shall not be
3 subject to further penalties during the pendency of such motion and/or if the motion is not
4 contested by Plaintiff. In the event that the Plaintiff chooses to contest such a motion and
5 prevails, 1) the Settling Defendant shall be deemed to be in compliance with the terms of this
6 Consent Judgment provided that it implements the warning requirements imposed as the result of
7 the Court's determination within ninety (90) days that the Court's determination is final; and 2)
8 Plaintiff may elect to seek to recover its attorney fees incurred in association with such motion as
9 provided for by California Civil Procedure Code Section 1021.5.

10 **10. TERMINATION**

11 10.1 The Settling Defendant may elect (but is not required) to terminate its participation
12 in this Consent Judgment beginning on January 31, 2006 or any date thereafter by means of filing
13 with the court and serving on the Plaintiff, the California Attorney General, and counsel of record
14 to the Settling Defendant with a notice of termination. In the event of the exercise of such an
15 election, the Settling Defendant's obligations and rights and benefits hereunder shall
16 immediately be deemed to cease to exist.

17 **11. APPLICATION OF JUDGMENT**

18 The obligations of this Consent Judgment shall apply to and be binding upon all
19 plaintiffs, acting in the public interest pursuant to Health and Safety Code section 25249.7(d) and
20 on behalf of the general public pursuant to Business and Professions Code section 17204, and the
21 Settling Defendant and the successors or assigns of any of them.

22 **12. AUTHORITY TO STIPULATE**

23 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the
24 Party he or she represents to enter into this Consent Judgment and to execute it on behalf of the
25 Party represented and legally to bind that Party.
26
27
28

1 **13. NOTICES**

2 Whenever a notice is called for by this Consent Judgment, it shall be provided to the
3 Settling Defendant at the addresses identified in Exhibit B hereto. If any Party desires to change
4 the individual and/or address designated to receive notice on its behalf, such Party shall provide
5 notice to all other Parties pursuant to the terms of this Section.

6 **14. RETENTION OF JURISDICTION**

7 This Court shall retain jurisdiction of this matter to implement this Consent Judgment.

8 **15. ENTIRE AGREEMENT**

9 This Consent Judgment contains the sole and entire agreement and understanding of the
10 Parties with respect to the entire subject matter hereof, and any and all prior discussions,
11 negotiations, commitments and understandings related hereto. No representations, oral or
12 otherwise, express or implied, other than those contained herein have been made by any Party
13 hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be
14 deemed to exist or to bind any of the Parties.

15 **16. GOVERNING LAW**

16 The validity, construction and performance of this Consent Judgment shall be governed
17 by the laws of the State of California, without reference to any conflicts of law provisions of
18 California law.

19 **17. COURT APPROVAL**

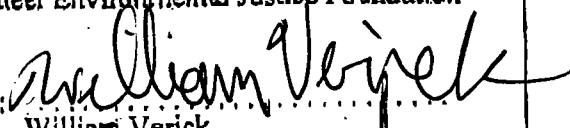
20 If this Consent Judgment is not approved and entered by the Court, or if the entry of this Consent
21 Judgment is successfully challenged, this Consent Judgment shall be of no force or effect, and
22 cannot be used in any proceeding for any purpose.

1 IT IS SO STIPULATED:

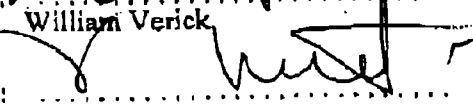
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: _____, 2005

Mateel Environmental Justice Foundation

By: 
William Verick

DATED: July 21, 2005

By: 

VUTHISIT PRAPAVAT
Its: PRESIDENT.

AJ WHOLESALE DISTRIBUTORS, II

IT IS SO ORDERED, ADJUDGED AND DECREED:

DATED: _____

JUDGE OF THE SUPERIOR COURT

EXHIBIT A
(Copy Of 60-Day Notice Letter)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



January 31, 2005

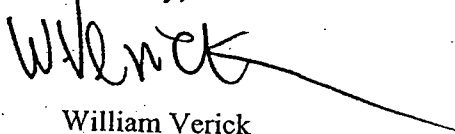
EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

ATTORNEY GENERAL COPY
CONTAINS OFFICIAL
INFORMATION PURSUANT TO
EVIDENCE CODE §1040

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") hereby give you notice that the private businesses on the attached service list are in violation of Cal. Health & Safety Code § 25249.6. This office and Mateel are both private enforcers of Proposition 65, both organizations may be reached at the below listed address and telephone number, I may be considered a "responsible individual" at both organizations, and I may be contacted at the same address and telephone number. The above referenced violations occur when California residents come into contact with thermoset/thermoplastic-coated wires, cables, and/or cords/cord sets, including PVC-coated wires, cords/cord sets, plugs and connectors, and both SPT and HPN cords/cord sets (hereinafter collectively "Cords"). These businesses market products with, or that are themselves, Cords. Some examples of the products that incorporate Cords are those listed in the attached Product List. Handling of, and contact with, these Cords exposes people to acrylonitrile, antimony trioxide, arsenic, 1,3 butadiene, carbon tetrachloride, carbon black extracts, chlorinated paraffins, chloroform, ethyl acrylate, ethylene thiourea, nickel, toluene, cadmium, hexavalent chromium, vinyl chloride, lead and lead compounds, lead acetate, lead phosphate, lead subacetate, and di(2ethylhexyl) phthalate. Handling Cords causes these chemicals to come off the coating of the Cords and to be transferred to the skin of the person handling the Cords. These chemicals are then ingested through hand-to-mouth contact and hand-to-food-to-mouth and hand-to-cigarette-to-mouth behavior. These chemicals are also absorbed through the skin, through mucous membranes and enter the body through cuts, punctures and abrasions. Smokers also inhale those chemicals transferred from hands to cigarettes. People are thus exposed to these chemicals via the ingestion, inhalation, dermal absorption, mucous membrane absorption and subcutaneous routes. These exposures (and resulting violations) occur occupationally, environmentally, and as the result of the sale of consumer products and services. In occupational settings, the type of work that is done during which the above-referenced exposures occur is the handling of, and contact with, Cords, including during the manufacture, installation, maintenance, handling and/or use of electrical equipment to which these Cords are attached. As described above, the exposures that are the subject of this notice occur via the dermal absorption, inhalation, ingestion and subcutaneous routes. These violations have occurred every day since at least January 31, 2004 and will continue every day until reasonable warnings are given to those people exposed. Environmental exposure violations occur in every county of the State and occur both on and off the property of the aforementioned private businesses.

Cordially,



William Verick

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
980 9th Street, 10th Floor
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
151 W. MISSION ST.
SAN JOSE, CA 95110

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO
202 C ST. FLOOR 3
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
225 FALLON ST. #9
OAKLAND, CA 94612

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
108 COURT ST. SUITE 202
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET ST.
COLUSA, CA 95932

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

OUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
COUNTY ADMINISTRATION
BUILDING
707 NEVADA ST.
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 748
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
301 S. STATE ST.
UKIAH, CA 95482

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
P.O. BOX 1171
ALTURAS, CA 9610

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH ST.
P.O. BOX 180
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
400 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
P.O. BOX 10716
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
P.O. BOX 749
SACRAMENTO, CA 95804

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
101 W. BROADWAY #1440
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1105 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNIEVILLE, CA 95936

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 1ST. ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
c/o GREGORY BROSE D.D.A.
4245 MARKET ST. #205
VENTURA, CA 93003

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
204 4TH ST
P.O. BOX 1247
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

CUTHISIT PRAPAVAT, PRESIDENT
A J WHOLESALE DISTRIBUTORS, INC.
6925 PARAMOUNT BLVD
LONG BEACH, CA 90805

RICHARD KRONRAD, PRESIDENT
ATICO INTERNATIONAL USA, INC.
501 S. ANDREWS AVE.
FT. LAUDERDALE, FL 33301

MARK COHEN, PRESIDENT
ATLAS COPCO NORTH AMERICA, INC.
34 MAPLE AVE, POB 2028
PINE BROOK, NJ 07058

JIM CHASM, PRESIDENT
CLORE AUTOMOTIVE, L.L.C.
8735 ROSEHILL RD., STE. 220
LENAXA, KS 66215

DANIEL G. FLAHERTY, PRESIDENT
GEMMY INDUSTRIES CORPORATION
2111 WALNUT HILL LANE
IRVING, TX 70538

DOUGLAS NEGRIN, PRESIDENT
INTERDYNAMICS, INC.
80 39TH ST.
BROOKLYN, NY 11232

J. MARTY O'DONOHUE, PRESIDENT
MARINCO
2655 NAPA VALLEY CORPORATE DR
NAPA, CA 94558-7453

PRESIDENT OR CEO
MILWAUKEE ELECTRIC TOOL CORP.
13135 W. LISBON RD
BROOKFIELD, WI 53005

KEITH W. BENSON, PRESIDENT
NATIONAL MANUFACTURING CC
ONE FIRST ST
STERLING IL 61081

PAUL ZIMMERMAN, PRESIDENT
PACIFIC INDUSTRIAL COMPONE
INC.
19861 SW 95TH PL
TUALATIN, OR 97062

DARLENE L GOSS, PRESIDENT
2545 PRAIRIE RD
EUGENE, OR 97402

BRADLEY M. NYSETER, PRESI
SEA-DOG
3402 SMITH AVE; PO BOX 479
EVERETT, WA 98201

FRANK FRENCH, PRESIDENT
SHINN FU COMPANY OF AMERIC
10939 N. POMONA AVE
KANSAS CITY, MO 64153

PATRICIA SCHOENBERG, PRESI
SPECTRA MERCHANDISING
INTERNATIONAL, INC.
4230 NORMANDY
CHICAGO, IL 60634

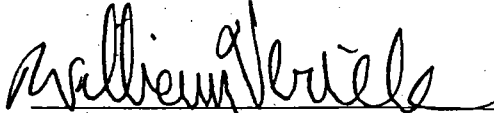
LOUIS I SHATKIN, PRESIDENT
TOWER MANUFACTURING COR
25 RESERVOIR AVE
PROVIDENCE, RI 02907

DENNIS JACOBSEN, PRESIDENT
WMH TOOL GROUP
2420 VANTAGE RD
ELGIN, IL 60123

CERTIFICATE OF MERIT

I, William Verick, hereby declare: 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. I am the attorney for the noticing party. 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. 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. 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 person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: January 31, 2005



William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Alison Nichols, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On January 31, 2005, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on January 31, 2005, at Eureka, California.


ALISON NICHOLS

PRODUCT LIST

COMPANY NAME	PRODUCT
A J WHOLESALE DISTRIBUTORS, INC.	PIT BULL PIG TAIL MALE TWIST TO FEMALE GROUND ITEM #CHIE002
ATICO INTERNATIONAL USA, INC.	TDE SYSTEMS LAMINATOR MOPS#345540-116
CLORE AUTOMOTIVE, L.L.C.	SOLAR 1 AMP BATTERY CHARGER PART NO. 1001
GEMMY INDUSTRIES CORPORATION	TOTALLY GHOUL PUMPKIN LIGHT DEPT 09 9-4 CODE 0-579657-115
INTERDYNAMICS, INC.	INTERDYNAMICS POWERAIR AIR COMPRESSOR MODEL# PA-120 OR #PA-120T
MARINCO	MARINCO POWER CORD MARINE CORD SET 25FT PRODUCT #25PCM2
MILWAUKEE ELECTRIC TOOL CORP. / ATLAS COPCO NORTH AMERICA, INC.	MILWAUKEE SUPERCHARGER II #48-59-0192
NATIONAL MANUFACTURING CO	DYNAMAXX 40 WATT GLUE GUN #N315-820 OR #V5564
OREGON SCIENTIFIC, INC.	EMERGENCY ALERT WEATHER RADIO #WR106
	PICO 6-12 VOLT TEST LIGHT #0690PT
PACIFIC INDUSTRIAL COMPONENTS, INC.	PICO 30 INCH TEST LEADS #1575PT
SEA-DOG	SEA-DOG LINE POWER SOCKET WITH BATTERY CLIPS #426450-1
SHINN FU COMPANY OF AMERICA, INC.	ROAD X PEDITION CORDLESS SPOTLIGHT MODEL #I-5001
SPECTRA MERCHANDISING INTERNATIONAL, INC.	SPECTRA DIGITAL AM/FM STEREO CASSETTE PLAYER #SCR-90
TOWER MANUFACTURING CORP	OVERLOAD GUARD EXTENSION CORD 40FT #C629166
WMH TOOL GROUP	TURTLE WAX 6INCH RANDOM ORBIT WAXER/POLISHER #65000TW

EXHIBIT B
(Address For Notice Under Consent Judgment)

Rosalyn Patamakanthin
Law Offices of Rosalyn Patamakanthin
3699 Wilshire Blvd., Suite 880
Los Angeles, CA 90010

EXHIBIT C
(Optional List of Certain Brand Names and Product Type)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT D
(Exemplar of Optional Testing Protocol)

Step 1: Cut 3-inch section of a cable that has not previously been used or wiped.

Step 2. On multiconductor cables, remove the insulated conductors and any other inner components from the 3-inch section of the cable. On single insulated conductors, remove the metallic conductor from the 3-inch section of the cable. Place the outer nonmetallic covering into a lead free receptacle (such as a pre-labeled resealable plastic food storage bag).

Step 3. Repeat steps 1 and 2 above for two additional cables such that a total of three samples are produced for laboratory analysis.

Step 4. Prepare samples for laboratory analysis according to EPA Method 160.4 or 3050.

Step 5. Analyze samples for total lead by EPA Method 7420 (AA Flame).

Step 6. Compute the arithmetic mean from the three samples.

EXHIBIT E
(Infrequently Handled Products)

1	208- and 220-volt appliances (unless appliance is portable)
2	AC Adapters for foreign outlets and other voltage converters
3	Adjustable beds
4	Air Conditioner
5	Air Purifier
6	Amplifier for home stereo systems (including associated power and interconnector cords, but not including interconnector cords for microphones or musical instruments)
7	Answering machine
8	Audio mixer and associated power cords for in-studio, non-portable mixer units
9	Audio or video cable and adapter cords
10	Audio switcher power cords, unless designed to plug into front of audio/video appliance
11	Audio/video equipment and associated power and patch/pin cords (if A/V equipment is (i) not portable, e.g., no handle or carrying case, (ii) is not designed to plug into front of audio/video appliance, and (iii) is otherwise designed for long term installation)
12	Auto power adapters and cord, unless designed to plug into cigarette lighter or similar in-dash power source
13	Automotive wires and cables (installed)
14	Back cushion massager
15	Bathtub bubble mat
16	Bathtub spas
17	Battery Connection Cords (internal)
18	Battery charger units (except those used for automobiles)
19	Beard Trimmer (cordless models only)
20	Blender (not including hand-held models)
21	Bread Machine
22	Broadcast Equipment, and associated power and interconnector cords (if designed for in-studio or other non-portable installation)
23	Building wire (installed)
24	Calculator
25	Caller ID Unit
26	Can Opener
27	Carafes/Decanters, if cord attaches to separate base unit
28	Carbon Monoxide Detectors
29	Cash Registers
30	CATV Receiver Power Cords
31	CB radio/antenna cords (not handsets)
32	CD Player/changer (non-portable units only)
33	CD/DVD Home Theater Systems
34	Cielo Bath
35	Circuit Cable
36	Clock
37	Coffee Maker
38	Color Imaging System Power Cord & Cable (non-portable and not for use with portable computer system)
39	Combo Wash/Dryer

1	40	Compactor
2	41	Computer Adapter Cords (not for laptops, and not designed to plug into front of system)
3	42	Computer Cables (in walls)
4	43	Computer CD/DVD Drives (installed, not used with laptops)
5	44	Computer docking system
6	45	Computer Keyboard
7	46	Computer modem line (data and power)
8	47	Computer monitor cable
9	48	Computer Mouse (cordless)
10	49	Computer Peripheral AC Adaptor cord and I/F cable (not including those for portable computers or portable peripheral devices)
11	50	Computer Peripheral PCMCIA Card Cord (not including those for portable computers)
12	51	Computer Peripheral Wires & Cables (not including those for portable computers and those designed to plug into front of desktop computer (e.g., USB cords))
13	52	Computer Scanners (not including those designed for portable computers)
14	53	Computer Servers and External Storage Units
15	54	Computer Speaker Cords (not including those used with portable computers)
16	55	Computer Tape Drives
17	56	Controller/Tuner Power Cord
18	57	Convactor Power Cords
19	58	Cooktop Power Cords (not including those used with small portable hot plates)
20	59	Copier
21	60	Cordless Toothbrush
22	61	Data Logger Cable (unless included with portable device)
23	62	Deep fryer
24	63	Desktop computer power/patch/pin cords (unless designed to plug into front of computer (e.g., USB cords))
25	64	Digital imaging equipment (non-portable and not for use with portable computer system)
26	65	Digital media editor power cords/connecting cables (for installed, non-portable media editor units)
27	66	Digital Sender (digitizes and transmits images), for installed, non-portable units
28	67	Digital Tuner (non-portable units only)
	68	Dishwasher
	69	Drink Mixer (not hand-held)
	70	Dryer
	71	DVD (non-portable units only)
	72	DVD Audio/Video Cable (unless designed to plug into front of system)
	73	DVD Recorder Power/Interconnector Cords (non-portable units only)
	74	Egg Cooker
	75	Electric Bedding
	76	Electric Grill - Indoor or Outdoor
	77	Electric Recliners/Massage Chairs
	78	Electric Sewing Machine (non-portable units only, I.e., those which have no handle or case)
	79	Electric Thermos Pot (if cord attaches to separate base unit)
	80	Electric/Digital Pianos, Organs (non-portable units only)
	81	Electrolysis Water System (corded base unit only)
	82	Electronic Musical instruments, including associated power and adaptor cords (non-portable units only)
	83	Electronic White Board/Print Board Power Cords and Cables

1	84	Espresso & Cappucino Makers
2	85	Facial Spas
3	86	Factory Automation Equipment (industrial systems, not for home use)
4	87	Fan/Heater Products (non-portable models only; i.e., in excess of 10 pounds, as packaged, or having blade diameter 9 inches or greater (rounded to the nearest whole inch) or smaller units which otherwise are regularly installed, or not typically moved from place to place).
5	88	Fax Machines
6	89	Fire Alarm cable
7	90	Fish Roaster
8	91	Flatbread Maker
9	92	Food Processor/Chopper (not including hand-held models)
10	93	Fountain, Decorative
11	94	Freezer
12	95	Garbage Disposals and associated cords (whether sold separately or with product)
13	96	Generators (large systems with only grounding wire)
14	97	Hair Clippers (cordless models only)
15	98	Hair Dryer (only models with retractable cord)
16	99	Hair setter (rollers only, not curling irons)
17	100	Ham and Two-Way Radio and Accessories and Adapters (not handset cords, unless microphone is designed on stand with switch)
18	101	Hard Disk Recorder peripheral and power cords (not including those for portable computers)
19	102	Headphones (cordless models only)
20	103	Headset with Earphone and Microphone (cordless models only)
21	104	Hole punch
22	105	Hot Lather Machine
23	106	Hot Lotion dispenser
24	107	Hot Pot/Kettle/Tea Brewer (if cord attaches to separate base unit)
25	108	Hot Water Dispenser
26	109	Humidifier/Dehumidifier
27	110	Ice Cream Maker
28	111	Ice Maker
	112	Indoor and outdoor phone cable (if designed for permanent installation)
	113	Intercoms (non-hand-held models only)
	114	Inverters/other power supplies (non-automotive uses)
	115	Iron (cordless only)
	116	Juicer/Juice extractor (non-hand-held models only)
	117	LCD Projector (CRT Monitor, receives data from computer) (except for use with portable computer)
	118	Letter opener
	119	Lighting (including tabletop and floor lamps, spotlights, or ceiling lighting, not holiday string lights or clip-on lights)
	120	Magnetic Card Reader/Writer including associated power cord and cable
	121	Meat Grinder (not hand-held models)
	122	Meat Slicer (not hand-held Electric Knives)
	123	Microphone (only including cords powering base unit of cordless microphone system)
	124	Microwave Oven
	125	Mini Speaker System including associated connection cords (not including those for use with laptop computers or other portable devices)
	126	Mixer (non-hand-held models only)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

127	Mobil telephone battery cables (internal wires and cords only)
128	Mobile telephone accessories (only those using corded base charging unit or permanently installed in automobiles)
129	Mobile video screens designed for permanent installation (such as for use in automobiles or boats)
130	Multi-function office support device (combines functions such as copier, printer, fax machine, PBX, voice mail into one)
131	Neon sign & oil burner ignition cable
132	NIC/Modem cables
133	Optical Cable/Stereo Optical Cords (unless designed to plug into front of system)
134	Optical Disc AC Adapter (non-portable and not for use with portable computer systems)
135	Optical Disc Power Cords (non-portable and not for use with portable computer systems)
136	Ovens
137	Over-Range Microwave Ovens/Hoods
138	Paper shredder
139	Parrafin/wax Bath for Hands
140	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold with device otherwise excluded)
141	Pencil sharpener
142	Personal Hygiene System and assoicated power cord
143	Pest Repeller
144	Pet Cage Dryers
145	Portable Dishwasher
146	Portable heater (only if designed for permanent installation)
147	Portable Washer
148	Postage meters
149	Postal scales
150	Potpourri heater
151	Power bases for charging wireless devices (if designed for long term installation)
152	Power tools (corded, cordless, stationary, or portable)
153	Power/control/instrumentation tray cable (except for non-permanently-installed public address systems)
154	Pressure Cooker
155	Printer cables
156	Printer power cord
157	Projector, non-portable (no handle or carrying case)
158	Public Address Amplifier and Accessories (non-portable or otherwise designed for permanent or long term installation)
159	Radiator
160	Radios with attached cord and without handles (including clock radios)
161	Range
162	Range Hoods/Vent
163	Rechargeable Flashlights
164	Rechargeable Lanterns
165	Refrigerator
166	Rice Cake Maker
167	Rice Cooker
168	Riser/Plenum cable (if designed for permanent/long term installation)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

169	Roaster Oven
170	Rope Lights (other than holiday string lights) if designed for permanent/long term installation
171	Satellite dish
172	Scales
173	Scanner antenna
174	Shavers - Cordless w/Corded Recharger Base only
175	Sink Top Switch for Disposer or Hot Water Dispenser (air activated switch mounted to sink or countertop, designed for permanent/long term installation)
176	Smoke detector (internal wires or if designed for permanent/long term installation)
177	Speaker wire (designed for use with components designed for long term/permanent installation; speaker wire associated with portable equipment with attached handle or carrying case not excluded)
178	Stapler
179	Steam cooker
180	Stereo and audio power/patch/pin cords (for use with non-portable components and except where designed to plug into front of system)
181	Surge protector
182	Telecom Data Cable (installed)
183	Telecom Power Cable (installed)
184	Tele-Homecare System (power cords)
185	Telephone power and data cord (phone to wall cords only)
186	Television (except small mobile models with attached/built in handle or carrying case)
187	Television Antenna
188	Television distribution system/swapper
189	Television Monitor (including computer monitors except small mobile models with attached/built in handle or carrying case)
190	Television peripheral cords (unless designed for use with devices that plug into the front of the set)
191	Thermostat Cable
192	Toaster
193	Toaster Oven
194	Towel Warmer
195	Transcriber and foot pedal and associated power and interconnecting cords
196	Underground Low-Energy Cable (exclusion applies to consumer uses only)
197	Vanity/lighted makeup mirror
198	VCR (unless portable with attached handle or carrying case)
199	Video mixer and switcher (if component of desktop system with no separate mice)
200	Video printer power cords/connecting cables (unless used with laptop)
201	Warming drawer
202	Washer/Dryer
203	Water distiller
204	Water filter units designed for permanent/long term installation
205	Water heater designed for permanent/long term installation
206	Water jet - Dental
207	Waxers - hair removal (corded base unit only)
208	Wine cellars
209	Diesel Locomotive and Motor Cable

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

210	Ignition Cable for Gas Tube Signage
211	Hook-Up Wire (intended for permanent or long-term installation)
212	Telephone Switching Station Cable
213	Loop Detector Wire Used in Traffic Counting
214	Utility Cable and Wire (Power and Communications)
215	Signal Cable
216	Power/Control/Instrumentation/Signal Cable Utility Cable and Wire (Power and Communications)

EXHIBIT F
(Examples of Products For Which Warnings May Be Given In Owner's Manual)

1	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold concurrently with equipment that also appears on this list)
2	AC adaptor cords (when sold concurrently with equipment that also appears on this list)
3	Air Pumps
4	Power and patch cords for professional/commercial audio/video equipment used in field (when sold concurrently with the equipment)
5	Interconnection or patchcables for portable audio/video/computer components or peripheral devices (when sold concurrently with equipment that also appears on this list)
6	Power adapters and cord for use with automotive cigarette lighter or similar power outlet (when sold concurrently with equipment that also appears on this list)
7	Power and interconnector cords for broadcast equipment used in field (when sold concurrently with the broadcast equipment)
8	Coffee warmer/urn (party-size)
9	Adapter and power cords for laptop and desktop computers/peripherals (when sold concurrently with computer or peripheral device)
10	Computer Joystick (owner's manual warning authorized only where reference to the owners manual is necessary to program or install software for use; alternatively, warning that otherwise would be placed in owner's manual must appear as part of on-screen programming/installation instructions)
11	Computer Mouse (when sold concurrently with equipment that also appears on this list)
12	Digital camera cords and cables (when sold concurrently with digital camera)
13	Portable DVD Player (e.g., with handles/carrying case)
14	Power and adaptor cords for portable electronic musical instruments and keyboards (when sold concurrently with the electronic musical instrument or keyboard)
15	Foot Massagers (wet)
16	Laptop Computer
17	Sandwich Maker
18	Telephone handset cord (handset-to-phone portion only where sold concurrently with telephone with programmable features)
19	Thermoelectric coolers
20	Travel Steamer
21	Vacuum cleaner, deep cleaner/extractor and/or carpet shampoo machine (both regular or retractable cord models)
22	Vaporizer
23	Video Camera power cords, adaptor cords (e.g., AC, auto), charger cords, connecting cables (when sold concurrently with video camera)
24	Video game accessories (owner's manual warning authorized where: i) accessory is sold with another product for which owners manual warnings are allowed; or ii) reference to the owners manual is necessary to program or install software for use). Warning that would otherwise be placed in owner's manual may alternatively be displayed as part of on-screen programming/installation instructions where use of such are necessary for initial product use.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

25	Stand alone video mixer or switcher with non-integrated mouse
26	Portable warming tray
27	Cord of handheld waxers used for hair removal
28	Mobile telephones
29	Camera Cords and cables (only if sold concurrently with camera)
30	Telephones with programmable features

1 EXHIBIT G
2 (Warning Sign*)
3

4 **WARNING:**

5
6 Handling certain plastic coated cords,
7 cables, or accessories sold in this store will
8 expose you to lead, a chemical known to the
9 State of California to cause [cancer, and]
10 birth defects or other reproductive harm.
11

12
13
14 *Wash hands after handling.*
15

16
17 A list of products for which this warning is
18 given is attached.
19
20
21

22
23
24
25
26
27
28

* Use of words appearing in brackets shall be at the Settling Defendant's option