

*Ropers Majeski Kohn & Bentley
A Professional Corporation
San Francisco*

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7 PROVO CRAFT & NOVELTY, INC.

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13 Attorneys for Plaintiff
14 RUSSELL BRIMER

15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF SAN FRANCISCO
18

19 RUSSELL BRIMER,
20
21 Plaintiff,
22
23 v.
24 PROVO CRAFT & NOVELTY, INC.; and
DOES 1 through 150, inclusive,
25
26 Defendant.

CASE NO. CGC-11-508609
SETTLEMENT PURSUANT TO C.C.P.
SECTION 664.6

26 The Parties have agreed to settle this lawsuit pursuant to C.C.P. Section 664.6 on the
27 terms and conditions noted hereinafter.
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1 1. This settlement is made pursuant to C.C.P. § 664.6. The court shall retain jurisdiction
2 over the parties to enforce the settlement until performance in full of the terms of the settlement.
3 Plaintiff Russell Brimer (“Brimer”) and Defendant Provo Craft & Novelty, Inc. (“Provo Craft”)
4 (collectively Brimer and Provo Craft shall be referred to as the “Parties”), consent to the
5 jurisdiction and venue of the San Francisco County Superior Court.

6 2. Brimer brought this lawsuit in the public interest, and hereby warrants and represents
7 that he has the authority to bind the plaintiff to this settlement and to enter into the release noted
8 herein in the public interest.

9 3. Donald Olsen, General Counsel, Provo Craft & Novelty, Inc., hereby warrants and
10 represents that he has the authority to bind Provo Craft to this settlement.

11 4. On or about October 29, 2010, Brimer served Provo Craft and various public
12 enforcement agencies with a 60-Day Notice of Violation (“Notice”) alleging a violation of
13 California Health & Safety Code § 25249.6 regarding a storage binders with storage pages. The
14 listed chemical at issue was lead. No public enforcer has diligently prosecuted the allegations set
15 forth in the Notice. A copy of this Notice is attached hereto as Exhibit “A.”

16 5. On or about September 1, 2011, Brimer served Provo Craft and various public
17 enforcement agencies with a Supplemental 60-Day Notice of Violation ^{0.0.8} (“Supplemental Notice”)
18 alleging a violation of California Health & Safety Code § 25249.6 regarding the same storage
19 binders with storage pages noted in Para. 4, herein. The listed chemical at issue was the phthalate
20 DEHP. No public enforcer has diligently prosecuted the allegations set forth in the Supplemental
21 Notice. A copy of this Supplemental Notice is attached hereto as Exhibit “B.”

22 6. On or about November 17, 2011, Brimer served Provo Craft and various public
23 enforcement agencies with a Second Supplemental 60-Day Notice of Violation” (“Second
24 Supplemental Notice”) alleging a violation of California Health & Safety Code § 25249.6
25 regarding the aforementioned storage binders and additionally binder inserts/pages, shoulder
26 bags, and tote bags with keychains. The listed chemicals were either lead or DEHP, or both. No
27 public enforcer has diligently prosecuted the allegations set forth in the Second Supplemental
28 Notice. A copy of this Second Supplemental Notice is attached hereto as Exhibit “C.”

1 7. The Notice, the Supplemental Notice, and the Second Supplemental Notice shall be
2 collectively referred to as the "NOTICE." The specific items set forth in the NOTICE are listed
3 in Paragraph 11 herein.

4 8. On or about February 28, 2011, a complaint was filed in the Superior Court in and for
5 the County of San Francisco entitled Brimer v. Provo Craft et al, Case No. CGC-11-508609,
6 regarding the product and violations stated in the Notice.

7 9. On or about December 9, 2011, a complaint in the Superior Court in and for the
8 County of San Francisco entitled Brimer v. Provo Craft et al, Case No. CGC-11-516509,
9 regarding the product and violations stated in the Supplemental Notice. This complaint was
10 amended on or about Feb. 10, 2012, and addressed matters set forth in the Second Supplemental
11 Notice.

12 10. Brimer and Provo Craft have agreed to settle this case and Case No. CGC-11-516509
13 in order to avoid the cost and uncertainty of litigation. The case denominated CGC-11-508609
14 and CGC-11-516509 shall collectively be referred to as the "CASE."

15 11. The products addressed in the NOTICE and the CASE (hereinafter the "Products At
16 Issue") are:

17 The Cuttlebug storage binder and the Cuttlebug storage binder with page insert
18 (aka Cuttlebug Die & Embossing Folder Storage), #37-1575 (#0 93573
19 41575 3)¹;

20 Cuttlebug A2 Binder Insert, #37-1576 (#0 93573 41576 0);

21 Cuttlebug Tote, #2000970 (#0 93573 58871 6);

22 Cricut Shoulder Bag, #29-0692 (#0 93573 10692 7); and,

23 Cuttlebug 2x2 Binder Insert, #37-1577 (#0 93573 41577 7).

24
25 12. Brimer asserts and alleges violations of Proposition 65 as set forth in the NOTICE
26 and the CASE. Defendant Provo Craft denies that it has any liability for the Products At Issue as

27 ¹ Erroneously identified in San Francisco County Superior Court Case No. CGC-11-516509 as
28 #37-1575 (#0 93573 41575 7).

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1 asserted in the CASE. Provo Craft further denies the material, factual, and legal allegations
2 contained in the NOTICE and the CASE, and maintains that all products it has sold, imported
3 and/or distributed in California, and all Provo Craft products manufactured, imported, sold, or
4 distributed by others, including the Products At Issue, have been and are in compliance with all
5 laws, including but not limited to Proposition 65. Nothing herein shall be construed as an
6 admission by Provo Craft of any fact, finding, issue of law, or violation of law, nor shall
7 compliance with this settlement constitute or be construed as an admission by Provo Craft of any
8 fact, finding, conclusion, issue of law, or violation of law.

9 13. Provo Craft & Novelty, Inc. agrees that, as of June 30, 2012, it shall not sell or
10 distribute the Products At Issue in California unless they comply with either Section 13.1, 13.2, or
11 13.3, at Provo Craft & Novelty, Inc.'s sole discretion:

12 13.1 Provo Craft & Novelty, Inc. may sell Products At Issue in California if
13 clear and reasonable warnings, as set forth below, are provided. Each warning shall be affixed to
14 the product and prominently placed with such conspicuousness as compared with other words,
15 statements, designs, or devices as to render it likely to be read and understood by an ordinary
16 individual under customary conditions before purchase or use. Each warning shall be provided in
17 a manner such that the consumer or user understands to which *specific* product the warning
18 applies, so as to minimize the risk of consumer confusion and shall state as follows:

19 **WARNING:** This product contains a chemical known to the State
20 of California to cause birth defects or other
reproductive harm.

21 13.2 Provo Craft & Novelty, Inc. may sell Products At Issue in California if, for
22 any Products At Issue containing lead, they: (1) contain residual surface lead in an amount less
23 than 1.0 microgram (μg) when analyzed pursuant to the NIOSH 9100 testing protocol or (2) no
24 more than 100 parts per million ("ppm") of lead when analyzed pursuant to EPA testing
25 methodologies 3050B and 6010B, or equivalent methodologies utilized by federal or state
26 agencies for the purpose of determining lead content in a solid substance; and, for any Products
27 At Issue containing DEHP, they contain less than 1,000 ppm of DEHP, when analyzed pursuant
28

1 to Environmental Protection Agency testing methodologies 3580A and 8270C, or any method
2 allowed by any state or federal agency to assess the DEHP content by weight of a solid substance.

3 13.3 Provo Craft & Novelty, Inc. may sell Products At Issue in California if, for
4 any Products At Issue containing lead, the Product At Issue will not cause an exposure that
5 exceeds 0.5 micrograms of lead on any given day; and, for any Products At Issue containing
6 DEHP, the Product At Issue will not cause an exposure that exceeds the "No Observable Effect
7 Level," as per California Health & Safety Code § 25249.10 and its implementing regulations.
8 Provo Craft & Novelty, Inc., for a period of not less than three years, shall maintain records
9 demonstrating compliance with this Section 13.3. Brimer, upon thirty (30) days written notice,
10 may request copies of such records.

11 14. Provo Craft agrees to pay a civil penalty of \$20,000, to be apportioned in accordance
12 with Health & Safety Code section 25249.12, subdivisions (c)(1) and (d), with 75% of these
13 funds earmarked for the Office of Environmental Health Hazard Assessment ("OEHHHA") and the
14 remaining 25% of these monies earmarked for plaintiff Brimer.

15 15. Provo Craft agrees to reimburse Brimer's counsel, pursuant to C.C.P. § 1021.5, a total
16 of \$57,500 for fees and costs incurred as a result of this litigation. This figure includes those
17 future fees and costs to be incurred in seeking judicial approval of this settlement as well as any
18 other legal work performed after the execution of this settlement which is incurred in an effort to
19 obtain finality of the case.

20 16. Provo Craft shall convey those payments noted in Paragraphs 14 and 15 herein within
21 five calendar days of receipt of notification from plaintiff that the settlement has been approved
22 by the Court and that no entity has given formal or informal notice within such five-day period
23 that it intends to appeal the approval of the settlement by the Court. Upon receipt of the payments
24 noted in Paragraphs 14 and 15 herein, Brimer shall dismiss the CASE with prejudice. Brimer
25 shall keep Provo Craft fully informed of any scheduled date(s) for hearing on a motion for
26 judicial approval of the settlement (or an ex parte motion to shorten time for hearing a motion for
27 judicial approval of the settlement) in order to allow Provo Craft to plan payment in the normal
28 course of business operations.

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1 17. Payments.

2 A. All payments noted in Paragraphs 14 and 15 shall be delivered to The Chanler
3 Group at the following address:

4 The Chanler Group
5 Attn: Proposition 65 Controller
6 2560 Ninth Street
7 Parker Plaza, Suite 214
8 Berkeley, CA 94710

9 B. After this settlement has been approved and the settlement funds required by
10 Paragraphs 14 and 15 have been transmitted to The Chanler Group, Provo Craft shall issue
11 three separate 1099 forms, as follows:

- 12 i. The first 1099 shall be issued to the OEHHA, P.O. Box 4010,
13 Sacramento, CA 95814 (EIN: 68-0284486) in the amount of
14 \$15,000;
- 15 ii. The second 1099 shall be issued to Russell Brimer in the amount of
16 \$5,000; Brimer's address and tax identification number shall be
17 furnished to Provo Craft upon request; and,
- 18 iii. The third 1099 shall be issued to The Chanler Group (EIN: 94-
19 3171522) at the address noted in Para. 28 herein in the amount of
20 \$57,500.

21 18. Brimer, suing in the public interest, hereby releases Provo Craft; all entities that
22 supplied or distributed the Products At Issue to Provo Craft; all entities that manufactured the
23 Products At Issue that were directly or indirectly supplied to Provo Craft; all distributors and
24 retailers of the Products At Issue, including, but not limited to, Wal-Mart Stores, Inc.;
25 Amazon.com, Inc.; Hancock Fabrics, Inc.; Kmart Corporation; Scrapbook Island; Sears Holding
26 Corporation; Notions Marketing Corp.; Ensign Group International; and, the affiliates and
27 subsidiaries of each of these aforementioned entities^{P.O. 97}; all entities served with a 60-day notice, and, the
28 divisions, successors, subsidiaries, parent corporations, related entities, affiliates, agents,
contractors, experts, consultants, counsel, service providers, officers, directors, and employees of
Provo Craft & Novelty, Inc., Wal-Mart Stores, Inc.; Amazon.com, Inc.; Hancock Fabrics, Inc.;

1 Kmart Corporation; Scrapbook Island; Sears Holding Corporation, Notions Marketing Corp.,
2 Ensign Group International; and, the aforementioned entities described or named in this Para. 18
3 (collectively, all of these entities are referred to herein as the "DEFENDANT"), of any liability
4 whatsoever under Proposition 65 related to the Products At Issue and the alleged failure to warn
5 California consumers of an alleged exposure to lead or to DEHP from any of the Products At
6 Issue, including but not limited to as set forth in Brimer v. Provo Craft & Novelty, Inc., et al, San
7 Francisco Superior Court, Docket No. CGC-11-508609 and Brimer v. Provo Craft & Novelty,
8 Inc., et al, San Francisco County Superior Court Case No. CGC-11-516509; and further waives
9 all rights to institute any form of legal or equitable action or defense (including without limit
10 contribution, indemnity, set-off and by right of subrogation) against the DEFENDANT for any
11 and all acts or omissions or statements made or activities directed to be undertaken or activities
12 that were undertaken by DEFENDANT in the course of those lawsuits known as Brimer v. Provo
13 Craft & Novelty, Inc., et al, San Francisco Superior Court, Docket No. CGC-11-508609 and
14 Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco County Superior Court Case No.
15 CGC-11-516509, or in responding to the enforcement of any cause of action which may exist as
16 of the date of this release but which Brimer does not know exists pertaining to an alleged
17 violation of Proposition 65 regarding lead and/or DEHP in the Products At Issue, and which, if
18 known, would materially affect his decision to enter into this C.C.P. § 664.6 settlement,
19 regardless of whether the lack of knowledge is the result of ignorance, oversight, error,
20 negligence, or any other cause.

21 19. Additionally, Brimer in his individual capacity and *not* in his representative capacity,
22 hereby waives any and all rights and benefits which he now has, or in the future may have,
23 conferred upon him with respect to any and all legal or equitable actions that arise from or are
24 related to Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco Superior Court, Docket No.
25 CGC-11-508609 or Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco County Superior
26 Court Case No. CGC-11-516509, the Products At Issue, or by virtue of the provisions of Section
27 1542 of the California Civil Code, which provides as follows:
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A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Brimer understands and acknowledges the significance and consequence of this waiver pursuant to California Civil Code Section 1542, and understands and acknowledges that the waiver applies to any and all legal or equitable actions that arise from or are related directly or indirectly, in whole or in part, to the Products At Issue, Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco Superior Court, Docket No. CGC-11-508609, or Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco County Superior Court Case No. CGC-11-516509, statements made regarding Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco Superior Court, Docket No. CGC-11-508609 or Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco County Superior Court Case No. CGC-11-516509, acts and omissions related to investigating Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco Superior Court, Docket No. CGC-11-508609 or Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco County Superior Court Case No. CGC-11-516509, and the underlying facts of the lawsuit or claims made in Brimer v. Provo Craft & Novelty, Inc., et al, San Francisco Superior Court, Docket No. CGC-11-508609 or Brimer v. Provo Craft & Novelty, Inc., et al., San Francisco County Superior Court Case No. CGC-11-516509. Furthermore, Brimer acknowledges that he intends these consequences for any such claims related to the Products At Issue which may exist as of the date of this release but which Brimer does not know exist, and which, if known, would materially affect his decision to enter into this Agreement, regardless of whether the lack of knowledge is the result of ignorance, oversight, error, negligence or any other cause.

20. Provo Craft , on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Brimer, his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Brimer and his attorneys and other representatives, whether in the course

1 of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter
2 with respect to the Products At Issue.

3 21. The Parties agree, understand, and acknowledge that this settlement represents a
4 compromise of this action and the release of claims as set forth herein, and neither the fact nor the
5 terms of this settlement is to be construed as an admission of liability or wrongdoing on the part
6 of the Parties.

7 22. Each of the Parties acknowledge that they had the right and ability to consultation
8 with and the advice of counsel of their choice, and each voluntarily has entered into this
9 settlement.

10 23. Except to the extent otherwise noted, each of the Parties shall bear its own costs and
11 fees.

12 24. This settlement may be modified only: (1) by written agreement of the Parties and
13 upon entry of a modified settlement by the Court thereon; or (2) upon a successful noticed motion
14 of any Party and entry of a modified settlement by the Court.

15 25. Unless specified herein, all correspondence and notices required to be provided
16 pursuant to this settlement shall be in writing and personally delivered or sent by: (i) first-class
17 registered or certified mail with a return receipt requested; or (ii) overnight courier to the
18 following addresses:

19 To Provo Craft & Novelty, Inc.:

20 Provo Craft & Novelty, Inc.
21 Attn.: Don Olsen, General Counsel
22 10876 South River Front Pkwy, Ste. 600
South Jordan, UT 84095-5929

To Brimer:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Ste. 214
Berkeley, CA 94710-2565

23 With a copy to:

24 Thomas H. Clarke, Jr.
25 RMKB
26 201 Spear St., Ste. 1000
San Francisco, CA 94105-1667

27 For all notices and correspondence required to be provided pursuant to this settlement in writing,
28 the Parties shall also send a courtesy notice by electronic mail to counsel with the correspondence

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1 or notice attached thereto. The provision of such courtesy notice shall not lessen, diminish, or
2 void the requirement noted herein regarding how actual notices and correspondence are to be
3 sent. Further, any party, from time to time, may specify in writing to the other party a change of
4 address to which all notices and other communications shall be sent.

5 26. The Parties agree that pending approval of this settlement agreement by the Superior
6 Court, no responsive pleading is required of any defendant named in San Francisco County
7 Superior Court Case No. CGC-11-516509.

8 27. Brimer has sent trial subpoenas (with document production) to various individuals
9 and entities requiring their appearance at the trial of San Francisco County Superior Court Case
10 No. CGC-11-508609. Subsequent to sending the subpoenas, Brimer agreed to modify the
11 subpoenas so that they were converted to subpoenas duces tecum only, and that any person or
12 entity served would have 14 days notice of the requirement for document production. As part of
13 this settlement herein, the Parties agree that Brimer shall notify the persons and entities subject to
14 the subpoenas, and inform them that the subpoenas are being withdrawn by Brimer and thus
15 rendered null and void. Provo Craft & Novelty, Inc. shall receive a draft copy of the letter
16 withdrawing the subpoenas and shall have five days upon receipt to comment upon its language.
17 The Parties agree to use good in resolving any disagreement regarding the wording of such letter.
18 The Parties agree that the withdrawal of the subpoenas is a term and condition of the settlement
19 noted herein.


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28. As discussed in paragraphs 4-7, above, Brimer served sixty-day notices to various persons and entities in connection with the Products at Issue. The Parties agree that Provo Craft shall notify the persons and entities subject to these sixty-day notices, that the allegations in the NOTICE have been resolved by this settlement and that each is a party to the release contained herein. Brimer shall, consistent to with Code and Regulations, report this settlement on the Attorney General's website so that there is a public record of this settlement, which resolves all outstanding claims with respect to the NOTICE.

Dated: 3-15-12



BY: Russell Brimer, Plaintiff

Dated:

FOR: Provo Craft & Novelty, Inc., Defendant
BY: Donald Olsen
ITS: General Counsel

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28. As discussed in paragraphs 4-7, above, Brimer served sixty-day notices to various persons and entities in connection with the Products at Issue. The Parties agree that Provo Craft shall notify the persons and entities subject to these sixty-day notices, that the allegations in the NOTICE have been resolved by this settlement and that each is a party to the release contained herein. Brimer shall, consistent to with Code and Regulations, report this settlement on the Attorney General's website so that there is a public record of this settlement, which resolves all outstanding claims with respect to the NOTICE.

Dated:

BY: _____
Russell Brimer, Plaintiff

Dated: 3/24/2012

BY: _____
FOR: Provo Craft & Novelty, Inc., Defendant
Donald Olsen
ITS: General Counsel

EXHIBIT A

60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

DATE: October 29, 2010

TO: Jim Thornton, President – Provo Craft & Novelty, Inc.
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Russell Brimer

I. INTRODUCTION

My name is Russell Brimer. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the violator, Provo Craft & Novelty, Inc. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemical: Lead
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the type covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating as far back as October 29, 2007 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposure to the listed chemical, resulting from contact with 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 toxic chemical from the reasonably foreseeable use of the products.

A. CONSUMER PRODUCT EXPOSURE

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, exposures occur when California citizens use, display, clean, repair, pack, unpack, arrange, store or otherwise handle the products. These tasks cause consumers to be exposed directly or indirectly through the routine touching of the parts or portions of the products containing readily available surface amounts of the listed chemical. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. People likely to be exposed include both children and adults.

B. OCCUPATIONAL EXPOSURE

Similarly, men and women in California use or otherwise handle the products as a part of their jobs and are, therefore, subject to occupational exposures to the listed chemical. Employees are exposed at any California business locations of the apparent manufacturer, distributor and retailer (and their agents, assigns and divisions) as well as all other California locations where the products, or the component parts thereof that include the listed chemical are, by way of example but not limitation, used, packed, unpacked, labeled, arranged, displayed, cleaned, stocked, stored, repaired or otherwise handled. These tasks cause employee exposure directly and/or indirectly to the listed chemical through the routine touching of the parts or portions of the products containing readily available amounts of the listed chemical on the surface. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. These products are also used by sole proprietors and other persons in settings not covered by the federal Occupational Safety Health Act ("OSHA"). This Notice alleges the violation of Proposition 65 with respect to occupational exposure governed by the California State Plan for Occupational Safety and Health (the "State Plan"). The State Plan incorporates the provisions of Proposition 65, as approved by OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures 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 compliance contained in the general hazard communication requirement 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 California Attorney General.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Russell Brimer
c/o Clifford A. Chanler
The Chanler Group
Parker Plaza
2560 Ninth Street, Suite 214
Berkeley, CA 94710
Telephone: (510) 848-8880

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violator is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator and other distributors and retailers of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 7)	Scrapbook Island Santa Clara County, Northern California	Provo Craft & Novelty, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Storage Binders with Storage Pages containing Lead	Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 7)	Lead

*The specifically identified example of the type of product that is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On October 29, 2010, I served the following documents:

**60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH
HEALTH & SAFETY CODE §25249.7(d);**

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE
ATTORNEY GENERAL)**

on the Violator listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to such Violator and providing such envelope to a United States Postal Service Representative:

Jim Thornton, President
Provo Craft & Novelty, Inc.
10876 South River Front Parkway, Suite 600
South Jordan, UT 84095

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

A list of addresses for each of these recipients is attached.

Executed on October 29, 2010, at Berkeley, California.



Eleanor Chen-Ranstrom

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice has violated Health and Safety Code §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 *alleged* exposure to the listed chemical that is the subject of this 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 information identified in Health and Safety Code §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: 10/29/10



Clifford A. Chanler

SERVICE LIST

The Honorable Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive
Oroville, CA 95965

The Honorable Jeffrey Tuttle
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable John R. Poyner
Colusa County District Attorney
547 Market Street, Suite 102
Colusa, CA 95932

The Honorable Robert J. Kochly
Contra Costa County District Attorney
900 Ward Street
Martinez, CA 94553

The Honorable Michael Riese
Del Norte County District Attorney
450 H Street, Room 171
Crescent City, CA 95531

The Honorable Vernon Pierson
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667

The Honorable Elizabeth Egan
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721

The Honorable Robert Holzapfel
Glenn County District Attorney
P.O. Box 430
Willows, CA 95988

The Honorable Paul Gallegos
Humboldt County District Attorney
825 5th Street
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

The Honorable Arthur Mallet
Inyo County District Attorney
P.O. Drawer D
Independence, CA 93526

The Honorable Edward R. Jagels
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301

The Honorable Ronald Calhoun
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230

The Honorable Jon E. Hopkins
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

The Honorable Robert Burns
Lassen County District Attorney
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Steve Cooley
Los Angeles County District Attorney
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

The Honorable Michael Keltz
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Edward Berberian
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

The Honorable Robert Brown
Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338

The Honorable Meredith J. Lintott
Mendocino County District Attorney
P.O. Box 1000
Ukiah, CA 95482

The Honorable Larry Morse II
Merced County District Attorney
2222 M Street
Merced, CA 95340

The Honorable Gary Woolverton
Modoc County District Attorney
204 S. Court Street, Room 202
Alturas, CA 96101

The Honorable George Booth
Mono County District Attorney
P.O. Box 617
Bridgeport, CA 93517

The Honorable Dean Filippo
Monterey County District Attorney
P.O. Box 1131
Salinas, CA 93902

The Honorable Gary Lieberstein
Napa County District Attorney
931 Parkway Mall
Napa, CA 94559

The Honorable Clifford Newell
Nevada County District Attorney
110 Union Street
Nevada City, CA 95959

The Honorable Tony Rackauckas
Orange County District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701

The Honorable Bradford Fenocchio
Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678

The Honorable Jeff Cunan
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971

The Honorable Rodric Pacheco
Riverside County District Attorney
4075 Main Street
Riverside, CA 92501

The Honorable Jan Scully
Sacramento County District Attorney
901 G Street
Sacramento, CA 95814

The Honorable Candice Hooper-Mancino
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203

The Honorable Michael Ramos
San Bernardino County District Attorney
316 N. Mountain View Avenue
San Bernardino, CA 92415

The Honorable Bonnie Dumanis
San Diego County District Attorney
330 W. Broadway Street
San Diego, CA 92101

The Honorable Kamala Harris
San Francisco County District Attorney
850 Bryant Street, Room 322
San Francisco, CA 94103

The Honorable James Willett
San Joaquin County District Attorney
P.O. Box 990
Stockton, CA 95201

The Honorable Gerald Shea
San Luis Obispo County District Attorney
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

The Honorable James Fox
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Ann Bramsen
Santa Barbara County District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101

The Honorable Dolores Carr
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Bob Lee
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Gerald Benito
Shasta County District Attorney
1525 Court Street, Third Floor
Redding, CA 96001

The Honorable Lawrence Allen
Sierra County District Attorney
100 Courthouse Square, Second Floor
Downieville, CA 95936

The Honorable James Kirk Andrus
Siskiyou County District Attorney
P.O. Box 986
Yreka, CA 96097

The Honorable David Paulson
Solano County District Attorney
675 Texas Street, Suite 4500
Fairfield, CA 94533

The Honorable Stephan Passalacqua
Sonoma County District Attorney
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

The Honorable Birgit Fladager
Stanislaus County District Attorney
832 12th Street, Suite 300
Modesto, CA 95354

The Honorable Carl Adams
Sutter County District Attorney
446 Second Street
Yuba City, CA 95991

The Honorable Gregg Cohen
Tehama County District Attorney
PO BOX 519
Red Bluff, CA 96080

The Honorable Michael B. Harper
Trinity County District Attorney
PO Box 310
Weaverville, CA 96093

The Honorable Phillip Cline
Tulare County District Attorney
221 South Mooney Boulevard, Suite 224
Visalia, CA 93291

The Honorable Donald Segerstrom, Jr
Tuolumne County District Attorney
423 North Washington Street
Sonora, CA 95370

The Honorable Gregory Totten
Ventura County District Attorney
800 South Victoria Avenue
Ventura, CA 93009

The Honorable Jeff Relsig
Yolo County District Attorney
301 Second Street
Woodland, CA 95695

The Honorable Patrick McGrath
Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901

The Honorable Carmen Trutanich
Office of the City Attorney, Los Angeles
200 North Main Street
Los Angeles, CA 90012

The Honorable Jan Goldsmith
Office of the City Attorney, San Diego
1200 Third Avenue, Suite 1620
San Diego, CA 92101

The Honorable Eileen M. Telchert
Office of the City Attorney, Sacramento
P.O. Box 1948
Sacramento, CA 95812

The Honorable Dennis J. Herrera
Office of the City Attorney, San Francisco
City Hall, Room 234
San Francisco, CA 94102

The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

EXHIBIT B

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)

DATE: September 1, 2011

TO: Jim Thornton, President – Provo Craft & Novelty, Inc.
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Russell Brimer

I. INTRODUCTION

My name is Russell Brimer. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* ("Proposition 65") and supplements the 60-Day Notice of Violation sent on October 29, 2010. As noted above, notice is also being provided to the alleged violator, Provo Craft & Novelty, Inc. (the "Violator"). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemicals ("listed chemicals") identified below, as follows:

Product Exposure: See Section VII. Exhibit A
Listed Chemicals: Lead; Di(2-ethylhexyl)phthalate ("DEHP")
Routes of Exposure: Ingestion, Dermal
Types of Harm: Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer and occupational exposures in violation of Proposition 65, and that are covered by this Notice, are listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the types covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating as far back as September 1, 2008 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposure to the listed chemicals, resulting from contact with 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 toxic chemicals from the reasonably foreseeable use of the products.

A. CONSUMER PRODUCT EXPOSURE (DEHP)

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. Infants, children and/or women of childbearing age ingest the listed chemical when they, among other activities, place the product, or a portion thereof, into their mouth, or otherwise suck, lick, teethe and/or bite the product thereby allowing the listed chemical to leach out of the substrate directly into their mouths. Infants, children and/or women of childbearing age ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. Infants, children and/or women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products.

B. CONSUMER PRODUCT EXPOSURE (LEAD)

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, exposures occur when California citizens use, display, clean, repair, pack, unpack, arrange, store or otherwise handle the products. These tasks cause consumers to be exposed directly or indirectly through the routine touching of the parts or portions of the products containing readily available surface amounts of the listed chemical. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. People likely to be exposed include both children and adults.

C. OCCUPATIONAL EXPOSURE (LEAD)

Similarly, men and women in California use or otherwise handle the products as a part of their jobs and are, therefore, subject to occupational exposures to the listed chemical. Employees are exposed at any California business locations of the apparent manufacturer, distributor and retailer (and their agents, assigns and divisions) as well as all other California locations where the products, or the component parts thereof that include the listed chemical are, by way of example but not limitation, used, packed, unpacked, labeled, arranged, displayed, cleaned, stocked, stored, repaired or otherwise handled. These tasks cause employee exposure directly and/or indirectly to the listed chemical through the routine touching of the parts or portions of the products containing readily available amounts of the listed chemical on the surface. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. These products are also used by sole proprietors and other persons in settings not covered by the federal Occupational Safety Health Act ("OSHA"). This Notice alleges the violation of Proposition 65 with respect to occupational exposure governed by the California State Plan for Occupational Safety and Health (the "State Plan"). The State Plan incorporates the provisions of Proposition 65, as approved by OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures 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 compliance contained in the general hazard communication requirement 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 California Attorney General.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Russell Brimer
c/o Laralei Paras
The Chanler Group
81 Throckmorton Avenue, Suite 203
Mill Valley, CA 94941
Telephone: (415) 381-1128

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violator is interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the categories or types of offending products covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the categories or types of products are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violator and other distributors and retailers of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 7)	Scrapbook Island Santa Clara County, Northern California	Provo Craft & Novelty, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Storage Binders with Storage Pages containing Lead	Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 7)	Lead
Storage Binders containing Di(2-ethylhexyl)phthalate	Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 7)	Di(2-ethylhexyl)phthalate

*The specifically identified example of the types of products that are subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product categories/types listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On September 1, 2011, I served the following documents:

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the alleged Violator listed below via First Class Certified 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:

Jim Thornton, President
Provo Craft & Novelty, Inc.
10876 South River Front Parkway, Suite 600
South Jordan, UT 84095

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

A list of addresses for each of these recipients is attached.

Executed on September 1, 2011, at Berkeley, California.



Eleanor Chen-Ranstrom

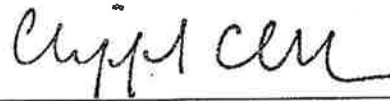
CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached supplemental sixty-day notice in which it is alleged the party identified in the notice has violated Health and Safety Code § 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 *alleged* exposure to the listed chemicals that is the subject of this 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 information identified in Health and Safety Code § 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: September 1, 2011



Clifford A. Chanler

EXHIBIT C

SECOND SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE § 25249.7(d)

DATE: November 17, 2011

TO: Jim Thornton, President – Provo Craft & Novelty, Inc.
Laurie Jimenez, Owner – Scrapbook Island
Steven Morgan, President – Hancock Fabrics, Inc.
Louis D'Ambrosio, President – Kmart Corporation
Louis D'Ambrosio, President – Sears Holdings Corporation
Mike Duke, President – Wal-Mart Stores, Inc.
Jeffrey Bezos, President – Amazon.com, Inc.
California Attorney General's Office;
District Attorney's Office for 58 Counties; and
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

FROM: Russell Brimer

I. INTRODUCTION

My name is Russell Brimer. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6 *et seq.* ("Proposition 65") and supplements the 60-Day Notices of Violation sent on October 29, 2010 and September 1, 2011. As noted above, notice is also being provided to the alleged violators, Provo Craft & Novelty, Inc., Scrapbook Island, Hancock Fabrics, Inc., Kmart Corporation, Sears Holdings Corporation, Wal-Mart Stores, Inc. and Amazon.com, Inc. (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemicals ("listed chemicals") identified below, as follows:

Product Exposure:	See Section VII. Exhibit A
Listed Chemicals:	Lead; Di(2-ethylhexyl)phthalate ("DEHP")
Routes of Exposure:	Ingestion, Dermal
Types of Harm:	Birth Defects and Other Reproductive Harm

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific types of products that are causing consumer and occupational exposures in violation of Proposition 65, and that are covered by this Notice, are listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the types covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating as far back as November 17, 2008 are subject to this Notice. As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposure to the listed chemicals, resulting from contact with 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 toxic chemicals from the reasonably foreseeable use of the products.

A. CONSUMER PRODUCT EXPOSURE (DEHP)

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. Infants, children and/or women of childbearing age ingest the listed chemical when they, among other activities, place the product, or a portion thereof, into their mouth, or otherwise suck, lick, teethe and/or bite the product thereby allowing the listed chemical to leach out of the substrate directly into their mouths. Infants, children and/or women of childbearing age ingest the listed chemical when they, among other activities, touch the products and transfer the listed chemical from the products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the products stops. Infants, children and/or women of childbearing age are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the products.

B. CONSUMER PRODUCT EXPOSURE (LEAD)

California consumers, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical. By way of example but not limitation, exposures occur when California citizens use, display, clean, repair, pack, unpack, arrange, store or otherwise handle the products. These tasks cause consumers to be exposed directly or indirectly through the routine touching of the parts or portions of the products containing readily available surface amounts of the listed chemical. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. People likely to be exposed include both children and adults.

C. OCCUPATIONAL EXPOSURE (LEAD)

Similarly, men and women in California use or otherwise handle the products as a part of their jobs and are, therefore, subject to occupational exposures to the listed chemical. Employees are exposed at any California business locations of the apparent manufacturer, distributor and retailer (and their agents, assigns and divisions) as well as all other California locations where the products, or the component parts thereof that include the listed chemical are, by way of example but not limitation, used, packed, unpacked, labeled, arranged, displayed, cleaned, stocked, stored, repaired or otherwise handled. These tasks cause employee exposure directly and/or indirectly to the listed chemical through the routine touching of the parts or portions of the products containing readily available amounts of the listed chemical on the surface. Additionally, exposure can occur through the routine touching and ingesting of other materials that are contaminated with the listed chemical from the products as a result of these tasks. These products are also used by sole proprietors and other persons in settings not covered by the federal Occupational Safety Health Act ("OSHA"). This Notice alleges the violation of Proposition 65 with respect to occupational exposure governed by the California State Plan for Occupational Safety and Health (the "State Plan"). The State Plan incorporates the provisions of Proposition 65, as approved by OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures 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 compliance contained in the general hazard communication requirement 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 California Attorney General.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Russell Brimer
c/o Stephen S. Sayad
The Chanler Group
81 Throckmorton Avenue, Suite 203
Mill Valley, CA 94941
Telephone: (415) 381-1128

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violators' reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violators are interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL NOTICE INFORMATION

Identified below are specific examples of products recently purchased and witnessed as being available for purchase or use in California that are within the categories or types of offending products covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturers of the example within the categories or types of products are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet and/or via a catalog by the Violators and other distributors and retailers of the manufacturer.

VI. ADDITIONAL NOTICE INFORMATION (continued)

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 3)	Scrapbook Island Santa Clara County, Northern California	Provo Craft & Novelty, Inc.
Cuttlebug A2 Binder Insert, #37-1576 (#0 93573 41576 0)	Hancock Fabrics, Inc. (http://www.hancockfabrics.com)	Provo Craft & Novelty, Inc.
Cuttlebug Tote, #2000970 (#0 93573 58871 6)	Hancock Fabrics, Inc. (http://www.hancockfabrics.com)	Provo Craft & Novelty, Inc.
Cricut Shoulder Bag, #29-0692 (#0 93573 10692 7)	Wal-Mart Stores, Inc. Alameda County, Northern California	Provo Craft & Novelty, Inc.
Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 3)	Kmart Corporation; Sears Holdings Corporation (http://www.kmart.com)	Provo Craft & Novelty, Inc.
Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 3)	Amazon.com, Inc. (http://www.amazon.com)	Provo Craft & Novelty, Inc.
Cuttlebug 2 x 2 Binder Insert, #37-1577 (#0 93573 41577 7)	Amazon.com, Inc. (http://www.amazon.com)	Provo Craft & Novelty, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Storage Binders with Storage Pages containing Lead	Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 3)	Lead
Shoulder Bags containing Lead	Cricut Shoulder Bag, #29-0692 (#0 93573 10692 7)	Lead
Storage Binders containing Di(2-ethylhexyl)phthalate	Cuttlebug Storage Binder, #37-1575 (#0 93573 41575 3)	Di(2-ethylhexyl)phthalate

VII. EXHIBIT A (continued)

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Binder Inserts/Pages containing Di(2-ethylhexyl)phthalate	Cuttlebug A2 Binder Insert, #37-1576 (#0 93573 41576 0) Cuttlebug 2 x 2 Binder Insert, #37-1577 (#0 93573 41577 7)	Di(2-ethylhexyl)phthalate
Tote Bags with Keychains containing Di(2-ethylhexyl)phthalate	Cuttlebug Tote, #2000970 (#0 93573 58871 6)	Di(2-ethylhexyl)phthalate

*The specifically identified examples of the types of products that are subject to this Notice is for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product categories/types listed in Exhibit A. It is important to note that these examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is Parker Plaza, 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On November 17, 2011, I served the following documents:

SECOND SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(d);

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the alleged Violators listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entities listed below and providing each envelope to a United States Postal Service Representative:

Jim Thornton, President
Provo Craft & Novelty, Inc.
10876 South River Front Parkway, Suite 600
South Jordan, UT 84095

Laurie Jimenez, Owner
Scrapbook Island
1375 Blossom Hill Road, Suite 46
San Jose, CA 95118

Steven Morgan, President
Hancock Fabrics, Inc.
One Fashion Way
Baldwyn, MS 38824

Jeffrey Bezos, President
Amazon.com, Inc.
1200 12th Avenue South, Suite 1200
Seattle, WA 98144

Louis D'Ambrosio, President
Kmart Corporation
3333 Beverly Road
Hoffman Estates, IL 60179

Louis D'Ambrosio, President
Sears Holdings Corporation
3333 Beverly Road
Hoffman Estates, IL 60179

Mike Duke, President
Wal-Mart Stores, Inc.
702 SW Eighth Street
Bentonville, AR 72716

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via 2nd Day Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

A list of addresses for each of these recipients is attached.

Executed on November 17, 2011, at Berkeley, California.



Eleanor Chen-Ranstrom

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached supplemental sixty-day notice in which it is alleged the parties identified in the notice have violated Health and Safety Code § 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 *alleged* exposure to the listed chemicals that is the subject of this 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 Violators will be able to establish any of the affirmative defenses set forth in the statute;
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in Health and Safety Code § 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: November 17, 2011



Clifford A. Chanler