

## NOTICE OF VIOLATION

California Safe Drinking Water  
and Toxic Enforcement Act

Lead in Picture Frames  
August 26, 2008

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 302, Oakland, CA 94612-3017, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Michael Green is the Executive Director of and a responsible individual within CEH.

### Description of Violation:

- Violators: The names and addresses of the violators are set forth in Exhibit 1 attached hereto.
- Time Period of Exposure: The violations have been occurring since at least August 26, 2005, and are ongoing.
- Provision of Proposition 65: This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemicals Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this notice.
- Type of Product: The specific type of product causing this violation is picture frames. The picture frames subject to this notice are made of and contain Lead. Non-exclusive examples of this specific type of product are set forth in Exhibit 1 attached hereto.
- Description of Exposures: The picture frames that are the subject of this Notice contain Lead. Lead is used in various components of the picture frames. For example, the Products use uncoated casing or solder to hold metal parts of the picture frames together. Use of these picture frames result in consumer exposures to Lead. The route of exposure for the violations is ingestion via hand to mouth contact, dermal absorption directly through the skin, and inhalation of dust containing Lead. These exposures take place when consumers use, install, clean, service or otherwise touch or handle the products. These exposures occur in homes, schools, workplaces and everywhere else in California where these products are used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

### **Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against the violator named herein unless such alleged violator enters into a binding written agreement to remedy the violations alleged herein by: (1) recalling products already sold; (2) reformulating such products to eliminate the Lead exposure; and (3) paying an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the alleged violator is interested in resolving this dispute without resort to litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (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 CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this notice to CEH and its counsel Mark N. Todzo at Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111, mtodzo at lexlawgroup.com.

**EXHIBIT 1**  
**August 26, 2008 Notice of Violation**  
**Re: Lead in Picture Frames**

<b>Name and Address of Responsible Parties</b>	<b>Non-Exclusive Examples of the Products</b>	<b>Item or SKU # or Further Description</b>
Bedford Downing Glass 220 Ingraham St Ste 2 Brooklyn, NY 11237	5" x 5" Glass Photo Frame, Silver metal trim	
Fetco Home Décor, Inc. 84 Teed Dr. Randolph, MA 02368-4202	6" x 4" Fetco Picture Frame	Woodbridge-Brnz 911464 000337760462
Lifetime Brands Corporate Headquarters 1000 Stewart Avenue Garden City, NY 11530	4" x 6" Melannco Picture Frame	#2050838 028225099067

**CERTIFICATE OF MERIT**  
**Health & Safety Code § 25249.7(d)**

I, Mark Todzo, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

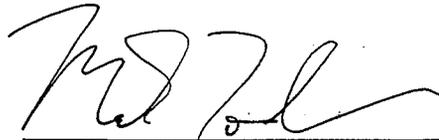
2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and 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 exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on 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 the 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 & 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.

August 26, 2008



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Mark Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving Street, San Francisco, California 94122.

On August 26, 2008, I served true copies of the following documents:

**NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**CERTIFICATE OF MERIT;** and

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an asterisks).

I placed a true copy of this paper in an envelope addressed to:

*See Attached Service List.*

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I placed the envelope containing the above-mentioned documents for collection and mailing on August 26, 2008, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 26, 2008, at San Francisco, California.

Signed: \_\_\_\_\_

Jennie Romer

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Room 900  
Oakland, CA 94612

District Attorney of Colusa County  
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District Attorney of Monterey  
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County  
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Ukiah, CA 95482

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Napa, CA 94559

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Merced, CA 95340

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Nevada City, CA 95959

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Santa Ana, CA 92701

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Auburn, CA 95603

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San Bernardino, CA 92415

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County  
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Quincy, CA 95971

District Attorney of San Diego  
County  
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San Diego, CA 92101

District Attorney of Riverside  
County  
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Riverside, CA 92501

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Francisco County  
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San Francisco, CA 94103

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County  
901 "G" Street  
Sacramento, CA 95814

District Attorney of San Joaquin  
County  
P.O. Box 990  
Stockton, CA 95201

District Attorney of San Luis  
Obispo County  
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San Luis Obispo, CA 93408

District Attorney of San Benito  
County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

District Attorney of San Mateo County  
400 County Ctr, 3<sup>rd</sup> Fl  
Redwood City, CA 94063

District Attorney of Sierra County  
Courthouse, P.O. Box 457  
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District Attorney of Santa Barbara County  
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Santa Barbara, CA 93101

District Attorney of Siskiyou County  
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District Attorney of Stanislaus County  
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Modesto, CA 95353

District Attorney of Sutter County  
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Ventura, CA 93009

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District Attorney of Yolo County  
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Marysville, CA 95901

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Visalia, CA 93291

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Sonora, CA 95370

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200 East Santa Clara Street  
San Jose, CA 95113

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800 City Hall East  
200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3<sup>rd</sup> Avenue #1620  
San Diego, CA 92101

San Francisco City Attorney's Office  
City Hall, Room 234  
San Francisco, CA 94102

California Attorney General's Office  
Attention: Proposition 65  
Coordinator  
1515 Clay Street, Suite 2000  
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Oakland, CA 94612

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