

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Cadmium in Jewelry

May 19, 2010

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, California, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

Description of Violation:

- Violators: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least May 19, 2007, 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.
- Chemical Involved: The name of the listed chemical involved in these violations is cadmium. Exposures to cadmium occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is jewelry. Non-exclusive examples of this specific type of product are attached hereto as Exhibit 1.
- Description of Exposure: Use of the products identified in this Notice results in human exposures to cadmium. The jewelry is made of materials and components that contain cadmium. For example, the metallic components such as beads, pendants, clasps, posts and other parts of the jewelry contain cadmium. The route of exposure for the violation is ingestion via hand-to-mouth contact after consumers touch or handle the products; direct ingestion when consumers place the products in their mouths; and dermal absorption directly through the skin when consumers touch, handle or wear the products. These exposures occur in homes, workplaces and everywhere else throughout California where these products are worn, handled or used. No clear and reasonable warning is provided with these products regarding the hazards of cadmium.

Resolution of Noticed Claims:

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each of the alleged violators 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 cadmium exposure or taking appropriate measures to otherwise comply with Proposition 65; and (3) paying an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators 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 through its counsel Eric S. Somers at the Lexington Law Group, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111, esomers at lexlawgroup.com.

EXHIBIT 1
May 19, 2010 Notice of Violation
Cadmium in Jewelry
Non-Exclusive Examples of the Products

Responsible Party	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
<p style="text-align: center;">AZ3, Inc. 2761 Fruitland Ave. Vernon, CA 90058</p> <p>BCBG Max Azria Group, Inc. 2761 Fruitland Ave. Vernon, CA 90058</p>	<p style="text-align: center;">Miley Cyrus Max Azria Necklace with Clock Pendant</p>	<p style="text-align: center;">SKU No. 7-25942-21838-1</p>
<p>Charlotte Russe, Inc. 4645 Morena Boulevard San Diego, CA 92117</p> <p>Charlotte Russe Holding Inc. 4645 Morena Boulevard San Diego, CA 92117</p>	<p style="text-align: center;">Necklace with Owl Pendant</p>	<p style="text-align: center;">SKU No. 301035839</p>
<p>Fiesta Jewelry Corporation 250 Esten Avenue, Suite A1 Pawtucket, RI 02860</p>	<p style="text-align: center;">American Eagle Outfitters Blue Bracelet with Metal Pieces</p>	<p style="text-align: center;">SKU No. 0483-03313-1021 321-16680100 Item No. 000016680100</p>
<p>MJM Jewelry Corp. dba Berry Jewelry Company 188 8th Avenue, 11th Floor New York, NY 10018</p>	<p style="text-align: center;">BKE Necklace with White Cord and Charm</p>	<p style="text-align: center;">SKU No. 9541800000</p>
<p style="text-align: center;">Old Navy, LLC 2 Folsom St. San Francisco, CA 94105</p>	<p style="text-align: center;">Bracelet with Flower Charms</p>	<p style="text-align: center;">SKU No. 1-24031-00000-3</p>

<p>Tanya Creations, Inc. 360 Narragansett Park Drive East Providence, RI 02916</p>	<p>Necklace with Brown Cord and Metal Charms</p>	<p>SKU No. 4-92150-12331-7</p>
<p>Wal-Mart Stores Inc. 702 SW 8th St. Bentonville, AK 72716</p>	<p>Miley Cyrus Max Azria Necklace with Clock Pendant</p>	<p>SKU No. 7-25942-21838-1</p>
<p>The Wet Seal, Inc. 26972 Burbank Foothill Ranch, CA 92610</p>	<p>Wet Seal Necklace with Textured Flowers</p>	<p>SKU No. 424068100005</p>
<p>The Wet Seal Retail, Inc. 26972 Burbank Foothill Ranch, CA 92610</p>	<p>Arden B Silver Multi-Strand Necklace with Blue Beads</p>	<p>SKU No. 420359000009</p>

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

I, Eric. S. Somers, 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, 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.

May 19, 2010



Eric S. Somers
Attorney for the CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE BY MAIL

I declare that:

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

On May 19, 2010, 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).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

Please see attached service list.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on May 19, 2010, at San Francisco, California.

Signed: _____
Jennie Romer

SERVICE LIST

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

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
708 Court Street, Ste. 202
Jackson, CA 95642

District Attorney of Butte County
Administration Building
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Oroville, CA 95965

District Attorney of Calaveras
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891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Colusa County
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District Attorney of Contra Costa
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District Attorney of Del Norte County
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Alturas, CA 96101-4020

District Attorney of Mono County
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240
Roseville, CA 95678

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Los Angeles, CA 90012

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San Diego, CA 92101

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City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65
Coordinator and Robert Thomas
1515 Clay Street, Ste. 2000
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Oakland, CA 94612-0550

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