

SECOND SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

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

DATE: October 29, 2010

TO: Marc Beige, President – Rubie’s Costume Company, 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: Anthony E. Held, Ph.D., P.E.

I. INTRODUCTION

My name is Anthony E. Held. I hold a Doctor of Philosophy degree in Environmental Engineering and I am a registered professional engineer in the State of California. 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 January 26, 2009, and June 30, 2009. As noted above, notice is also being provided to the violator, Rubie’s Costume Company, 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:	Di(2-ethylhexyl)phthalate (“DEHP”); Lead and/or lead compounds; Antimony and/or antimony compounds; Arsenic and/or arsenic compounds; Cadmium and/or cadmium compounds; Chromium and/or chromium compounds; Mercury and/or mercury compounds; Selenium and/or selenium compounds; Formaldehyde
Routes of Exposure:	Ingestion, Dermal, and Inhalation
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, is 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 October 29, 2007 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.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemicals. By way of example but not limitation, exposures occur when infants and children place the product, or a portion thereof, into their mouth, or otherwise suck, lick, teethe and/or bite the product thereby allowing the listed chemicals to leach out of the substrate. These activities cause infants and children to be exposed directly through migration of the listed chemicals from the products. In addition, exposures occur through direct dermal contact with the products, and may continue to occur for a significant period after dermal contact with the products stops. There is also a risk of exposure through inhalation. People likely to be dermally exposed are women of childbearing age, infants and children.

III. CONTACT INFORMATION

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

Anthony E. Held, Ph.D., P.E.
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 whom 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 resort 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 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 examples within the categories or types 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>
Yarn Babies Caribbean Pirate, #11739 (#0 82686 11739 5)	Spirit Halloween Superstores; Spencer Gifts LLC Alameda County, Northern California	Rubie's Costume Company, Inc.
Batman Child Gauntlets, #8151 (#0 82686 08151)	Target Corporation Sacramento County, Northern California	Rubie's Costume Company, Inc.
Inflatable Pumpkin Bean Bag Toss Game, #57403 (#7 21773 57403 0)	http://www.costumecraze.com	Rubie's Costume Company, Inc.
Lil' All Stars! Lil' Slugger, #11278 (#0 82686 11278 9)	http://www.costumecraze.com	Rubie's Costume Company, Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Halloween Costumes and Halloween Accessories	Yarn Babies Caribbean Pirate, #11739 (#0 82686 11739 5) Batman Child Gauntlets, #8151 (#0 82686 08151) Inflatable Pumpkin Bean Bag Toss Game, #57403 (#7 21773 57403 0) Lil' All Stars! Lil' Slugger, #11278 (#0 82686 11278 9)	Di(2-ethylhexyl)phthalate Lead and/or lead compounds Cadmium and/or cadmium compounds Arsenic and/or arsenic compounds Chromium and/or chromium compounds Mercury and/or mercury compounds Selenium and/or selenium compounds. Formaldehyde

*The specifically identified examples of the types of product which 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 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 and that not all of the examples contain all of the listed toxins. 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 2560 Ninth Street, Parker Plaza, Suite 214, Berkeley, CA 94710.

On October 29, 2010, 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 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:

Marc Beige, President
Rubie's Costume Company, Inc.
1 Ruby Plaza
Richmond Hill, NY 11418

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

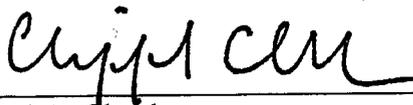
CERTIFICATE OF MERIT

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 chemicals that are the subject of this action;
4. Based on the information obtained through those consultations, and on all other information in my possession, including the Certification received from the alleged Violator, 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, (2) the facts, studies, or other data reviewed by those persons, and (3) the Certification received from the alleged Violator).

Dated: October 29, 2010



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
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The Honorable Michael Riese
Del Norte County District Attorney
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Crescent City, CA 95531

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

The Honorable Robert Holzapfel
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The Honorable Paul Gallegos
Humboldt County District Attorney
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The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

The Honorable Arthur Maillet
Inyo County District Attorney
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The Honorable Edward R. Jagels
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The Honorable Ronald Calhoun
Kings County District Attorney
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The Honorable Jon E. Hopkins
Lake County District Attorney
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The Honorable Robert Burns
Lassen County District Attorney
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The Honorable Gary Woolverson
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Napa, CA 94559

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Orange County District Attorney
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Riverside, CA 92501

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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
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San Bernardino, CA 92415

The Honorable Bonnie Dumanis
San Diego County District Attorney
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The Honorable Kamala Harris
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Shasta County District Attorney
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Weaverville, CA 96093

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Ventura, CA 93009

The Honorable Jeff Reising
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The Honorable Richard Doyle
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200 East Santa Clara Street
San Jose, CA 95113

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