

60-DAY NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Date:	December 9, 2016
To:	President – TKO Sports Group USA Ltd President – TKO Strength & Performance Inc. President – Ross Stores, Inc. President – Argento SC by Sicura Inc. California Attorney General's Office District Attorney's Office for 58 Counties City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles
From:	Michael DiPirro

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, you may contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. Attached for your reference is a summary, "Appendix A: The Safe Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," provided by the California Office of Environmental Health Hazard Assessment's ("OEHHA") (copies not provided to public enforcement agencies).

This Notice of Violation is provided by Michael DiPirro. I am a citizen of the State of California acting in the interest of the general public. I am dedicated to protecting the environment, promoting awareness of exposures to toxic chemicals in products sold in California, improving human health and supporting environmentally sound practices.

Identified below are specific examples of products recently purchased and/or witnessed as being available for purchase or use in California that are within the categories or types of offending products covered by this Notice. 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 location 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 retailers and distributors of the manufacturer, including, but not limited to the retailer(s) and/or distributor(s) listed below.

Description of Violations:

Violator(s):	TKO Sports Group USA Ltd TKO Strength & Performance Inc. Ross Stores, Inc. Argento SC by Sicura Inc.
Toxic Chemicals:	Di(2-ethylhexyl)phthalate ("DEHP") DEHP is also known as Bis (2- ethylhexyl) Phthalate. Exposures to DEHP occur from use of the products identified in this Notice.
Product Category:	Exercise Equipment With a PVC Rope Component

Non-exclusive Example of Type of Product¹:	TKO Weighted Grip Jump Rope with PVC Rope (JUR014BLYE) (#8 72510 00047 0)
Retailer(s):	Ross Stores, Inc., Sonoma County, Northern California
Manufacturer(s):	TKO Sports Group USA Ltd; TKO Strength & Performance Inc.
Distributor(s):	Argento SC by Sicura Inc.
Types of Harm:	Birth Defects and Other Reproductive Harm
Description of Exposure:	These exposures occur in homes, some workplaces and everywhere else throughout California where these products are handled or used. 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.
Routes of Exposure:	Ingestion, Dermal Reasonably foreseeable use of the products identified in this Notice results in human exposures to DEHP. The Products contain DEHP. The routes of exposure for the violations are: (1) dermal absorption directly through the skin when consumers touch, use, or handle the products; (2) ingestion via hand to mouth contact after consumers touch, use, or handle the products; and (3) direct ingestion when consumers place their hands in their mouths while using the products or otherwise place the products in their mouths.
Time Period of Exposure:	The violations have been occurring since at least December 9, 2013, and are continuing to this day.

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; (2) take effective measures to prevent unwarned DEHP exposures from products sold in the future and to ensure that the requisite health hazard warnings are provided to those who have received such products; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). If the alleged Violator is interested in resolving this dispute without resorting to expensive and time-consuming litigation, please feel free to contact me through my counsel identified below. 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 of Violation. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Notice to Michael DiPirro through his counsel Jennifer Henry or David Bush at Bush & Henry, Attorneys at Law, PC, 3270 Mendocino Ave. Suite 2E, Santa Rosa, CA 95403; Telephone: (707) 541-6255; E-mail: DRBush@BushAndHenry.com, JHenry@BushAndHenry.com.

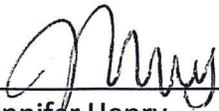
¹ The specifically identified examples of the types of products that are subject to this Notice are for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product categories/types listed herein. These examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under "Product Category." 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 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.

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

I, Jennifer Henry, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party identified in the notice has violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney who represents the noticing party.
3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies or other data regarding the alleged exposures 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(s) 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.

December 9, 2016



Jennifer Henry
Attorneys for Michael DiPirro

PROOF OF SERVICE

I declare that:

I am employed in Sonoma County, California; my business address is 3270 Mendocino Avenue, Suite 2E, Santa Rosa, CA 95403. I am over the age of 18 years and not a party to the within cause.

On December 9, 2016, I served true copies of the following documents:

60-DAY NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

APPENDIX A: THE SAFE WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY; OEHA/CAL EPA (only sent to the Violator(s));

CERTIFICATE OF MERIT; and

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

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 as follows:

on the alleged Violator(s) 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:

TKO Sports Group USA Ltd 4660 Pine Timbers, Ste 198 Houston TX 77041	TKO Strength & Performance Inc. 4660 Pine Timbers, Ste 198 Houston TX 77041	Ross Stores, Inc. 5130 Hacienda Dr. Dublin CA 94568	Argento SC by Sicura Inc. 1407 Broadway, Ste 2201 New York, NY 10018
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By providing copies to the addressees below electronically as follows:

<i>Electronically via the Attorney General website:</i>			The Attorney General of the State of California;	
<u>Electronically to the following recipients at the following electronic mail addresses:</u>	Stacey Grassini Deputy District Attorney Stanislaus County sgrassini@contracostada.org	Yen Deng Assistant District Attorney Santa Clara County epu@da.sccgov.org	Gary Lieberstein District Attorney Napa County CEPD@countyofnapa.org	Jeff W. Reisig District Attorney Yolo County cfepd@yolocounty.org
Dije Ndreu Deputy District Attorney Monterey County Prop65DA@co.monterey.ca.us	Paul E. Zellerbach District Attorney Riverside County Prop65@rivcoda.org	Phillip J. Cline District Attorney Tulare County Prop65@co.tulare.ca.us	Gregory D. Totten District Attorney Ventura County daspecialops@ventura.org	Anne Marie Schubert District Attorney Sacramento County Prop65@sacda.org
Gregory Alker Assistant District Attorney San Francisco City/County Gregory.alker@sfgov.org	Eric J. Dobroth Deputy District Attorney San Luis Obispo County edobroth@co.slo.ca.us	Stephan R. Passalacqua District Attorney Sonoma County jbarnes@sonoma-county.org	Michelle Latimer Program Coordinator Lassen County mlatimer@co.lassen.ca.us	Tori Verber Salazar District Attorney San Joaquin County DAConsumer.Environmental@sjcda.org

As well as providing copies 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:

By placing each envelope in a United States Postal Service mailbox, postage prepaid:

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 December 9, 2016, at Santa Rosa, California.



M. Madden

SERVICE LIST

- The Honorable Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612
- The Honorable Terese Drabec
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
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- The Honorable Barbara Yook
Calaveras County District Attorney
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- The Honorable John Poyner
Colusa County District Attorney
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Colusa, CA 95932
- The Honorable Mark Peterson
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- The Honorable Dale Trigg
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- The Honorable Vern Pierson
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- The Honorable Gregg Cohen
Tehama County District Attorney
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- The Honorable Jeff Reisig
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- The Honorable Jan Goldsmith
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- The Honorable Dennis Herrera
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1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
- The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113
- Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
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