

60-DAY NOTICE OF VIOLATION

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

DATE: January 27, 2017

TO: Trevor Cohen, President – Giftcraft 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 alleged violator, Giftcraft Inc. (the “Violator”). The violations covered by this Notice consist of the product exposure, route 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
Route of Exposure:	Ingestion
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 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 categories covered by this Notice shall be referred to hereinafter as the “products.” Exposures to the listed chemical from the use of the products have been occurring without the clear and reasonable warning required by Proposition 65, dating as far back as January 27, 2014. Without proper warnings regarding the toxic effects of exposures 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 listed chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring and consuming the products, are exposed to the listed chemical. By way of example, consumers and other individuals, including women of childbearing age, ingest the listed chemical when they drink or otherwise ingest the products. This act causes consumers to be exposed to the listed chemical through routine consumption of the products containing the listed chemical. The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal 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 in the general hazard communication requirements 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 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 Josh Voorhees
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 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 examples 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 warning” 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 retailers and distributors of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
For Tea's Sake Citrus Delight Herb & Fruit Tea, #985045, UPC # 0 67103 39205 0	Mixed Bag Sacramento County, California	Giftcraft Inc.
For Tea's Sake Let's Detox Rooibos Tea, #985027, UPC # 0 67103 39016 2	Mixed Bag Sacramento County, California	Giftcraft Inc.
For Tea's Sake Skinny Sip Oolong Tea, #985023, UPC # 0 67103 39012 4	Woodland Healthcare Yolo County, California	Giftcraft Inc.
For Tea's Sake Let's Go Green Jasmine Tea, #985019, UPC # 0 67103 39008 7	Mixed Bag Sacramento County, California	Giftcraft Inc.
For Tea's Sake Mango Tango Herb & Fruit Tea, #985037, UPC # 0 67103 39197 8	Portico Home & Garden Stanislaus County, California	Giftcraft Inc.
For Tea's Sake Cold Be Gone Herbal Tea, #985022, UPC # 0 67103 39011 7	Mixed Bag Sacramento County, California	Giftcraft Inc.
For Tea's Sake Let's Chai Black Tea, #985015, UPC # 0 67103 39004 9	St. Joseph's Gift Shop San Joaquin County, California	Giftcraft Inc.

VI. ADDITIONAL NOTICE INFORMATION (continued)

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
For Tea's Sake Classically Yours Classic Black Tea, #985070, UPC # 0 67103 41129 4	St. Joseph's Gift Shop San Joaquin County, California	Giftcraft Inc.

VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Packaged Dried Herb & Fruit Teas	For Tea's Sake Citrus Delight Herb & Fruit Tea, #985045, UPC # 0 67103 39205 0 For Tea's Sake Mango Tango Herb & Fruit Tea, #985037, UPC # 0 67103 39197 8	Lead
Packaged Dried Rooibos Teas	For Tea's Sake Let's Detox Rooibos Tea, #985027, UPC # 0 67103 39016 2	Lead
Packaged Dried Oolong Teas	For Tea's Sake Skinny Sip Oolong Tea, #985023, UPC # 0 67103 39012 4	Lead
Packaged Dried Green Jasmine Teas	For Tea's Sake Let's Go Green Jasmine Tea, #985019, UPC # 0 67103 39008 7	Lead
Packaged Dried Herbal Teas	For Tea's Sake Cold Be Gone Herbal Tea, #985022, UPC # 0 67103 39011 7	Lead
Packaged Dried Chai Black Teas	For Tea's Sake Let's Chai Black Tea, #985015, UPC # 0 67103 39004 9	Lead
Packaged Dried Black Teas	For Tea's Sake Classically Yours Classic Black Tea, #985070, UPC # 0 67103 41129 4	Lead

*The specifically identified examples of the types of products that are subject to this Notice are for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical 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 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 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 January 27, 2017, 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 entity 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 each envelope to a United States Postal Service Representative:

Trevor Cohen, President
Giftcraft Inc.
300 International Drive, Suite 100
Williamsville, NY 14221

Trevor Cohen, President
Giftcraft Inc.
P.O. Box 1270
Grand Island, NY 14072

on the alleged entity listed below via First Class International Registered 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:

Trevor Cohen, President
Giftcraft Inc.
8550 Airport Road
Brampton, ON, Canada
L6T 5A3

as well as by providing copies of the above documents electronically uploaded to the public enforcers according to directions from their respective offices, and/or by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Electronically Uploaded to the Attorney General's website:</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 January 27, 2017, at Berkeley, California.



Caroline Liang

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 that 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: January 27, 2017



Clifford A. Chanler