



C A L I F O R N I A
DEPARTMENT OF JUSTICE

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By Electronic Transmission Only

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RE: Settlement of Proposition 65 Notice No. 2022-2063

Dear Mr. Kenefick and Mr. Khansari:

It recently came to the attention of the Attorney General's Office that the Consent Judgment in the above matter (*CA Citizen Protection Group, LLC v. Signal Products, Inc. et al.*, Alameda County Superior Court, No. 23-CV030099) included products (a wallet and a clutch) that were beyond the scope of the original 60-day notice served by Mr. Khansari. That notice referenced only a cosmetics bag. The Consent Judgment itself, as well as the Motion for Judicial Approval of the Consent Judgment, both misrepresented to the court that Mr. Khansari issued Proposition 65 60-day notices for the wallet and clutch. These statements were false. Based on this false representation, the court approved the Consent Judgment. As discussed in more detail below, the parties did not have authority to settle products that were not included in the 60-day notice, and any such settlement is not in the public interest. The Consent Judgment should be amended to eliminate the products that were not listed in the notice. Further, because Mr. Khansari lacked authority to act in the public interest as to the unnoticed products, the Consent Judgment, does not bar other Proposition 65 enforcers from taking action on those products.

The 60-day notice in this matter specifically named:

Mathew Kenefick, Esq.
Andre Khansari, Esq.
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Guess cosmetic bags, floral design, Style: P8212099, UPC: 190231618973, Group:
Homestead Travel – DINP

Private parties have the authority to enforce Proposition 65, but only if they provide at least 60-days notice of the violation to the alleged violator, to the Attorney General and to other public prosecutors (Health & Saf. Code, § 25249.7, subd. (d)(1)). The 60-day notice is a prerequisite to any lawsuit that a private citizen brings to enforce Proposition 65. (*Consumer Advocacy Group v. Kintetsu Enterprises of America* (2007) 150 Cal.App.4th 953, 963; *Yeroushalmi v. Miramar Sheraton* (2001) 88 Cal. App. 4th 738, 748, fn. 8.) The 60-day notice in this matter identified a single product, Guess cosmetic bags, floral design, Style: P8212099, UPC: 190231618973. The notice did not identify the cosmetics bag as an exemplar of a broader category of items. Thus, the parties had authority only to settle for the single item identified in the 60-day notice and no additional products.

We urge the parties to amend the Consent Judgment to limit its scope to the cosmetics bags. To the extent you decline to do so, we note that, in our view, the Consent Judgment, as it applies to the unnoticed wallets and clutches, is not valid, and cannot bar another action brought by a Proposition 65 enforcers concerning those items.

Sincerely,

/s/ Susan S. Fiering
SUSAN S. FIERING
Deputy Attorney General

For ROB BONTA
Attorney General

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