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State of California
DEPARTMENT OF JUSTICE

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November 13, 2009

Sears Holding Company
c/o Michael J. Steel
Morrison & Foerster LLP
425 Market Street,
San Francisco, CA 94105

RE: Lead in Children's Product Purchased at Sears (PHT 230)

Dear Mr. Steel:

We just received a report about a children's product purchased in a Sears store in Richmond, California that contains illegal levels of lead. The lead levels reported exceed the limits in the federal Consumer Product Safety Improvement Act ("CPSIA"). Furthermore, selling the product without a proper warning likely violates California's Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as "Proposition 65." We are writing to ask that you stop selling the product immediately and take other corrective action as needed.

The children's product is a pair of open-toed "Paula" shoes. The SKU is 742282835542. It was purchased at a Sears store at the Hilltop Mall in Richmond, California, on October 5, 2009. Our internal reference number is PHT 230. Please use it in communications with our office about this. We have enclosed photographs of the product.

The item was purchased by an investigator for the Center for Environmental Health, using a grant from a fund administered by the Public Health Institute. The fund was established through a Proposition 65 settlement between our office and several companies over lead in toys. (*People v. Mattel et al.*, Alameda County Super. Ct., Civ. No. RG 07-356892.) After screening the product for lead, the Center for Environmental Health sent a sample to a federally-approved laboratory for further testing. The test results, which are enclosed, indicate 3,957 parts per million ("ppm") lead in the orange plastic on the insole of the shoes. This exceeds federal lead limits, which deem a children's product with more than 300 ppm lead in an accessible component a "banned hazardous substance." It also appears to violate Proposition 65, which requires a clear and reasonable warning prior to exposing persons to known carcinogens and reproductive toxins, including lead. (Cal. Health & Saf. Code, § 25249.6; Cal. Code Regs., tit. 27, § 27001.)

Lead is a toxic metal that damages the nervous system and other organs. Even at low levels of exposure, lead can impact brain development in children. Based on what appears to be violations of federal and state law, you should stop selling the product immediately. Additionally, please send us any test results you have and any representations from the manufacturer or supplier about the lead content in the product. Please contact us immediately so we can discuss what further actions your company intends to take.

Sincerely,

HARRISON M. POLLAK
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

Enclosures

cc (via electronic mail): Mark Schoem, Consumer Product Safety Commission

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great price!
PAULA
64278
FUCHSIA
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9.99

PHT230
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64278

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$17.98

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AD5961077

7 42282 83554 2

D36 M64278 552

JUV **PAULA** FUCHSIA

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D36 M64278 552

64278 **1 M** **$17.98**

see more online@sears.com/shoes

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No.: 09-013-13564-3
Total Lead Test on Children's Product

Client: Centre for Environmental Health **Address:** 2201 Broadway Suite 302, Oakland, CA 94612, U.S.A	**Contact:** Caroline Cox **Phone:** 510-655-3900 **Fax:** 510-655-9100 **Email:** Caroline@ceh.org
Date Received: November 6, 2009	**Date Reported:** November 11, 2009
Lab Book/Page No.: Lab book 12161, pages 10 to 13	

Date Analyzed: November 10, 2009

Client Sample ID	Description of Tested Sample Parts	Exova Sample ID	Method	Total Lead Content (ppm)
PHT230	Orange material on insole of TKS pink and orange shoe	09-13564-38631	CPSC-CH-E1002-08	3957

Analyzed by:

2009-11-11

Jack Li, B.Sc.
Analyst, Trace Metals & Specialty Chemicals
Health Sciences

Reported by:

2009-11-11

Peter Susel, B.Sc., C. Chem.
Mgr, Trace Metals & Specialty Chemicals
Health Sciences

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