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January 9, 2006

TO CLIENTS AND FRIENDS:

Re: Lead Content in Soft-sided PVC Lunchboxes

A recent study of soft-sided PVC lunchboxes by the Center for Environmental Health (“CEH”) has resulted in an enforcement action by the State of Washington that will be of interest to some importers. We believe that the CEH study may also prompt California and other states to closely scrutinize similar products, such as coolers, even though the Consumer Product Safety Commission (“CPSC”) does not appear to be in agreement with the study’s conclusion.

According to the CEH, during the summer and fall of 2005, it purchased and tested over 150 soft lunchboxes, finding that approximately 10% contained “high levels of lead,” usually in the lining of the lunchboxes where it could come into contact with food. As a result, the CEH has apparently filed lawsuits under California’s *Prop 65* against the manufacturers and retailers of the products it says contain lead. The CEH study and its publicity has triggered Washington State into sending out notices to lunchbox manufacturers and importers, requiring that they file, by February 15, 2006, a certification of compliance with Washington State law, which prohibits “Packages” [and applies to the lunchboxes] from having a concentration level of lead, cadmium, mercury and hexavalent chromium that exceeds one hundred parts per million by weight.

Although the CPSC has found that no dangerous levels of lead were present in the 60 children’s lunchboxes that it tested, CPSC staff does recommend that manufacturers and importers of vinyl lunchboxes test their products for accessible lead using the CPSC staff’s [laboratory test procedure](#).

Attached is a document with images of some of the lunchboxes supposedly tested by the CEH. In view of the CEH allegations, we believe that it would be prudent to test soft-sided “lunchboxes” and similar articles, especially if intended for use by children.

If you have any questions regarding this matter, please do not hesitate to call us.

Firm contact: Barbara Y. Wierbicki (bwierbicki@tdllp.com)

Note: The above comments are intended for general information only, and not as legal advice. Legal advice can only be offered after a review of a client’s specific facts and circumstances, which may affect the applicability of any general comments contained herein.

Below are some of the lunch boxes that tested high for lead in laboratory tests.

CEH recommends against buying any lunch boxes made with vinyl.

