

ENDORSED
FILED
ALAMEDA COUNTY

SEP 23 2013

CLERK OF THE SUPERIOR COURT
By ~~DOMINIC P. [unclear]~~

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2 Ryan Hoffman SBN 283297
3 Michael Freund & Associates
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5 Berkeley, CA 94704
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8 Attorneys for Plaintiff The Chemical Toxin Working Group, Inc.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

**THE CHEMICAL TOXIN WORKING
GROUP, INC., a California non-profit
corporation**

Plaintiff,

v.

**JFE SHOJI TRADE AMERICA, INC.,
and DOES 1-100**

Defendants.

Case No. **RG-13-686874**

**FIRST AMENDED COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF AND
CIVIL PENALTIES**

[Miscellaneous Civil Complaint (42)]
Proposition 65, Health & Safety Code
Section 25249.5 et seq.]

Plaintiff The Chemical Toxin Working Group, Inc. hereby alleges:

I

INTRODUCTION

1. Plaintiff The Chemical Toxin Working Group, Inc. (hereinafter "Plaintiff" or "CTWG") brings this action as a private attorney general enforcer and in the public interest pursuant to Health & Safety Code section 25249.7, subdivision (d). This complaint seeks injunctive and declaratory relief and civil penalties to remedy Defendants JFE Shoji Trade America, Inc., and Does 1-100

1 (hereinafter "JFE Shoji")'s failure to warn consumers that they have been exposed to lead from
2 several of JFE SHOJI's canned food products. Lead is a chemical known to the State of California
3 to cause cancer, birth defects and other reproductive harm. Based on the Safe Drinking Water and
4 Toxic Enforcement Act of 1986 (Health & Safety Code section 25249.5 *et seq.*) also known as
5 "Proposition 65," businesses with ten or more employees must provide a "clear and reasonable
6 warning" prior to exposing persons to these chemicals.

7
8 **II**
PARTIES

9 2. Plaintiff CTWG is a California non-profit corporation dedicated to helping safeguard the
10 public from health hazards by to reducing the amount of chemical toxins in consumer products and
11 encouraging corporate responsibility. Through this legal action, CTWG seeks to eliminate or
12 substantially reduce exposure to lead by California consumers from JFE SHOJI's seafood products
13 as described herein.

14 3. Defendant JFE SHOJI is a business that distributes and/or sells canned food products that
15 have exposed users to lead in the State of California within the relevant statute of limitations period.
16 These products are "Geisha Whole Baby Clams"; "Geisha Fancy Smoked Oysters in Cottonseed
17 Oil"; and Geisha Mandarin Oranges in Light Syrup (hereinafter "Covered Products"). JFE SHOJI
18 is a company subject to Proposition 65 as it employs ten or more persons.

19 4. Defendants Does 1-100, are named herein under fictitious names, as their true names and
20 capacities are unknown to CTWG. CTWG is informed and believes, and thereon alleges, that each
21 of said Does is responsible, in some actionable manner, for the events and happenings hereinafter
22 referred to, either through said Defendant's conduct, or through the conduct of its agents, servants or
23 employees, or in some other manner, causing the harms alleged by CTWG in this complaint. When
24 said true names and capacities of Does are ascertained, CTWG will seek leave to amend this
25 complaint to set forth the same.

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III

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to California Constitution Article VI, Section 10 because this case is a cause not given by statute to other trial courts.

6. The Complaint is based on allegations contained in Notices of Violation dated January 8, 2013 and July 9, 2013, served on the California Attorney General, other public enforcers and JFE SHOJI. True and correct copies of these Notices of Violation are attached as Exhibit A. More than 60 days have passed since these Notices of Violation were mailed and no public enforcement entity has filed a complaint in this case.

7. This Court is the proper venue for the action because the causes of action have arisen in the County of Alameda where some of the violations of law have occurred. Furthermore, this Court is the proper venue under Code of Civil Procedure section 395.5 and Health & Safety Code section 25249.7.

IV

STATUTORY BACKGROUND

A. Proposition 65

8. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute passed as "Proposition 65" by an overwhelming majority vote of the people in November of 1986.

9. The warning requirement of Proposition 65 is contained in Health & Safety Code section 25249.6, which provides:

No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual, except as provided in Section 25249.10.

10. Implementing regulations for Proposition 65 define expose as "to cause to ingest, inhale, contact via body surfaces or otherwise come into contact with a listed chemical." An individual may come into contact with a listed chemical through water, air, food, consumer products and any other environmental exposure as well as occupational exposures." (Cal. Code Regs., tit. 27,

1 § 25102, subd. (i).)

2 11. In this case, the exposures at issue are caused by consumer products. Implementing
3 regulations for Proposition 65 define a consumer product exposure as “ an exposure which results
4 from a person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of
5 a consumer good, or any exposure that results from receiving a consumer service.” (Cal. Code
6 Regs., tit. 27, § 25602, subd. (b).)

7 12. Whenever a clear and reasonable warning is required under Health & Safety Code
8 section 25249.6, the “method employed to transmit the warning must be reasonably calculated
9 considering the alternative methods available under the circumstances, to make the warning
10 message available prior to exposure.” (Cal. Code Regs., tit. 27, § 25601.) The warning requirement
11 may be satisfied by a warning that appears on a product’s label or other labeling, shelf labeling,
12 signs, a system of signs, public advertising identifying the system and toll-free information services,
13 or any other, system, that provides clear and reasonable warnings. (Cal. Code Regs., tit. 27, §
14 25603.1, subd. (a)-(d).)

15 13. Proposition 65 establishes a procedure by which the State is to develop a list of
16 chemicals “known to the State to cause cancer or reproductive toxicity.” (Health & Safety Code,
17 § 25249.8.) There is no duty to provide a clear and reasonable warning until 12-months after the
18 chemical was published on the State list. (Health & Safety Code, § 25249.10, subd. (b).) Lead
19 was listed as a chemical known to the State of California to cause developmental toxicity in the
20 fetus and male and female reproductive toxicity on February 27, 1987. Lead was listed as a
21 chemical known to the State of California to cause cancer on October 1, 1992. (Cal. Code Regs., tit.
22 27, § 27001.)

23 14. The Maximum Allowable Dose Level for lead as a chemical known to cause
24 developmental toxicity is 0.5 micrograms per day. (Cal. Code Regs., tit. 27, § 25805.) The No
25 Significant Risk Level for lead as a carcinogen is 15 micrograms per day. (Cal. Code Regs., tit.
26 27, § 25705.)

27 15. Proposition 65 may be enforced by any person in the public interest who provides

1 notice sixty days before filing suit to both the violator and designated law enforcement officials.
2 The failure of law enforcement officials to file a timely complaint enables a citizen suit to be filed
3 pursuant to Health & Safety Code section 25249.7, subdivisions (c) and (d).

4 16. Proposition 65 provides that any person "violating or threatening to violate" Proposition
5 65 may be enjoined in any court of competent jurisdiction. (Health & Safety Code, § 25249.7,
6 subd. (a).) To "threaten to violate" means "to create a condition in which there is a substantial
7 probability that a violation will occur." (Health & Safety Code, § 25249.11, subd. (e).)
8 Furthermore, violators are subject to a civil penalty of up to \$2,500 per day for each violation.
9 (Health & Safety Code, § 25249.7, subd. (b)(1).)

10 V

11 **STATEMENT OF FACTS**

12 17. JFE SHOJI has distributed and/or sold the Covered Products containing lead to the
13 State of California. Consumers have been ingesting these products for many years, without any
14 knowledge of their exposure to lead, a very dangerous chemical.

15 18. For many years, JFE SHOJI has knowingly and intentionally exposed numerous
16 persons to lead, without providing a Proposition 65 warning. Prior to CTWG's Notice of Violation,
17 JFE SHOJI failed to provide a warning on the label of the Covered Products. JFE SHOJI's website
18 does not contain any warning regarding lead contained in the Covered Products. Subsequent to
19 issuing the Notice of Violation, CTWG provided JFE SHOJI with test results showing that the
20 Covered Products contain levels of lead far greater than those permissible pursuant to Proposition
21 65. Despite being provided with these test results, JFE SHOJI continues to market and distribute
22 the Covered Products without a warning. JFE SHOJI has at all times relevant hereto been aware
23 that the Covered Products contained lead and that persons using these products have been exposed
24 to the chemical. JFE SHOJI has been aware of the lead in the Covered Products and has failed to
25 disclose the presence of this chemical to the public, who undoubtedly believed they have been
26 ingesting totally healthy and pure products.

27 19. Both prior and subsequent to CTWG's Notice of Violation, JFE SHOJI failed to
28

1 provide consumers of the Covered Products with a clear and reasonable warning that they have been
2 exposed to a chemical known to the State of California to cause cancer, birth defects and other
3 reproductive harm.

4 **FIRST CAUSE OF ACTION**

5 **(Violation of Section 25249.6 of the Health and Safety Code, Failure to Provide Clear**
6 **and Reasonable Warning under Proposition 65)**

7 20. CTWG refers to paragraphs 1-19, inclusive, and incorporates them herein by this
8 reference.

9 21. By committing the acts alleged above, JFE SHOJI has, in the course of doing business,
10 knowingly and intentionally exposed users of the Covered Products to lead, a chemical known to
11 the State of California to cause cancer, birth defects and other reproductive harm without first giving
12 clear and reasonable warning to such individuals, within the meaning of Health & Safety Code
13 section 25249.6.

14 22. Said violations render JFE SHOJI liable for civil penalties up to \$2,500 per day, for
15 each violation.

16 **SECOND CAUSE OF ACTION**

17 **(Declaratory Relief)**

18 23. CTWG refers to paragraphs 1-22, inclusive, and incorporates them herein by this
19 reference.

20 24. There exists an actual controversy relating to the legal rights and duties of the parties,
21 within the meaning of Code of Civil Procedure section 1060, between CTWG and JFE SHOJI
22 concerning whether JFE SHOJI has exposed individuals to a chemical known to the State of
23 California to cause cancer, birth defects and other reproductive harm without providing clear and
24 reasonable warning.

25 **VI**

26 **PRAYER**

27 WHEREFORE CTWG prays for relief as follows:

1 1. On the First Cause of Action, for civil penalties for each and every violation according to
2 proof;

3 2. On the First Cause of Action, and pursuant to Health & Safety Code section 25249.7,
4 subdivision (a), for such temporary restraining orders, preliminary and permanent injunctive orders,
5 or other orders, prohibiting JFE SHOJI from exposing persons to lead without providing clear and
6 reasonable warning;

7 3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil
8 Procedure section 1060 declaring:

9 a. that JFE SHOJI has exposed individuals to a chemical known to the State of
10 California to cause, birth defects and other reproductive harm without providing clear and
11 reasonable warning; and

12 4. On all Causes of Action, for reasonable attorneys' fees pursuant to section 1021.5 of the
13 Code of Civil Procedure or the substantial benefit theory;

14 5. For costs of suit herein; and

15 6. For such other relief as the Court may deem just and proper.

16
17 Dated: September 19, 2013

18
19 By Michael Freund by RRH

20
21 Michael Freund
22 Attorney for The Chemical Toxin Working Group, Inc.

LAW OFFICE OF
MICHAEL FREUND

1919 ADDISON STREET, SUITE 105
BERKELEY, CALIFORNIA 94704-1101

TEL (510) 540-1992
FAX (510) 540-5543
EMAIL FREUND1@AOL.COM

January 8, 2013

VIA CERTIFIED MAIL

Hitoshi Ino
JFE Shoji Trade America, Inc.
340 Golden Shore, Suite 450
Long Beach, CA 90802

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violation Against JFE Shoji Trade America, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent The Chemical Toxin Working Group, a California non-profit corporation dedicated to reducing the amount of chemical toxins in consumer products. The Chemical Toxin Working Group was created by David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include Diet for a Poisoned Planet (1990, 2007); The Safe Shopper's Bible (1995); Living Healthy in a Toxic World (1996); and Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown (2007). Through this Notice of Violation, The Chemical Toxin Working Group seeks to reduce consumer exposures to lead in the products set forth herein.

This letter constitutes notification that JFE Shoji Trade America, Inc. ("JFE Shoji") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code). The products subject to this Notice of Violation and the chemical in the products identified as exceeding allowable levels are:

Geisha Whole Baby Clams – lead
Geisha Fancy Smoked Oysters in Cottonseed Oil – lead

GFE Shoji has manufactured, marketed, distributed and/or sold the above products which have exposed and continue to expose numerous individuals within California to lead. This chemical was

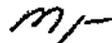
listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. JFE Shoji is in violation of Proposition 65 because the company failed to provide a warning to consumers that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for these products.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, The Chemical Toxin Working Group gives notice of the alleged violations to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to the noticing party from information now available. The Chemical Toxin Working Group is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: The Chemical Toxin Working Group

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to JFE Shoji Trade America, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party The Chemical Toxin Working Group. The Notice of Violation alleges that the party identified has exposed persons in California to lead from specified consumer products without providing a Proposition 65 warning. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
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 the action. In particular, I have consulted with the laboratory who conducted the testing for lead regarding these products and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through the testing laboratory and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed products from the noticed party. Furthermore, 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 California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 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 7, 2013



Michael Freund
Attorney for The Chemical Toxin Working Group

CERTIFICATE OF SERVICE

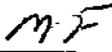
I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On January 8, 2013 I served the within:

Notice of Violation Against JFE Shoji Trade America, Inc., for Violation of California Health & Safety Code Section 25249.5 et seq. and Certificate of Merit; (Supporting Documentation sent to Attorney General only)

on the parties in said action, via electronic mail to the California Attorney General and by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California addressed as follows:

See attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on January 8, 2013 at Berkeley, California



Michael Freund

Service List

- District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612
- District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120
- District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642
- District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965
- District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
- District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932
- District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553
- District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
- District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667
- District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721
- District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988
- District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501
- District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243
- District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514
- District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301
- District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230
- District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453
- District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130
- District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012
- District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637
- District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903
- District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338
- District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482
- District Attorney, Merced County
550 W. Main Street
Merced, CA 95340
- District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020
- District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517
- District Attorney, Monterey County
Post Office Box 1131
Salinas, CA 93902
- District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559
- District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959
- District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701
- District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678
- District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971
- District Attorney, Riverside County
3960 Orange Street
Riverside, CA 92501
- District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95814
- District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023
- District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004
- District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101
- District Attorney, San Francisco County
850 Bryant Street, Suite 322
San Francisco, CA 94103
- District Attorney, San Joaquin County
222 E. Weber Ave. Rm. 202
Stockton, CA 95202
- District Attorney, San Luis Obispo County
1035 Palm St, Room 450
San Luis Obispo, CA 93408
- District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063
- District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101
- District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110
- District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060
- District Attorney, Shasta County
1355 West Street
Redding, CA 96001
- District Attorney, Sierra County
PO Box 457
Downieville, CA 95936
- District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097
- District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533
- District Attorney, Sonoma County
600 Administration Drive,
Room 2123
Santa Rosa, CA 95403
- District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354
- District Attorney, Sutter County
446 Second Street
Yuba City, CA 95991
- District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080
- District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093
- District Attorney, Tulare County
221 S. Mooney Blvd., Room 224
Visalia, CA 93291
- District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370
- District Attorney, Ventura County
800 South Victoria Ave, Suite 314
Ventura, CA 93009
- District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695
- District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901
- Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012
- San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101
- San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102
- San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

LAW OFFICE OF
MICHAEL FREUND

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BERKELEY, CALIFORNIA 94704-1101

TEL (510) 540-1992
FAX (510) 540-5543
EMAIL FREUND1@AOL.COM

July 9, 2013

VIA CERTIFIED MAIL

Hitoshi Ino
JFE Shoji Trade America, Inc.
340 Golden Shore, Suite 450
Long Beach, CA 90802

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation Against JFE Shoji Trade America, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent The Chemical Toxin Working Group, a California non-profit corporation dedicated to reducing the amount of chemical toxins in consumer products. The Chemical Toxin Working Group was created by David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include Diet for a Poisoned Planet (1990, 2007); The Safe Shopper's Bible (1995); Living Healthy in a Toxic World (1996); and Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown (2007). Through this Notice of Violation, The Chemical Toxin Working Group seeks to reduce consumer exposures to lead in the products set forth herein.

This letter constitutes notification that JFE Shoji Trade America, Inc. ("JFE Shoji") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code). The product subject to this Notice of Violation and the chemical in the product identified as exceeding allowable levels are:

Geisha Mandarin Oranges in Light Syrup – lead

JFE Shoji has manufactured, marketed, distributed and/or sold the above product which has exposed and continues to expose numerous individuals within California to lead. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on

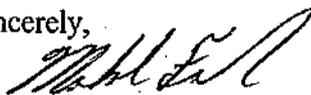
October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. These violations have occurred every day since at least July 9, 2010, and will continue every day until the lead is removed from the noticed products or until clear and reasonable warnings are provided. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. JFE Shoji is in violation of Proposition 65 because the company failed to provide a warning to consumers that they are being exposed to lead from the listed product. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for these products.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, The Chemical Toxin Working Group gives notice of the alleged violations to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to the noticing party from information now available. The Chemical Toxin Working Group is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: The Chemical Toxin Working Group

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to JFE Shoji Trade America, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party The Chemical Toxin Working Group. The Notice of Violation alleges that the party identified has exposed persons in California to lead from specified consumer products without providing a Proposition 65 warning. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
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 the action. In particular, I have consulted with the laboratory who conducted the testing for lead regarding these products and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through the testing laboratory and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed products from the noticed party. Furthermore, 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 California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 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: July 3, 2013



Michael Freund
Attorney for The Chemical Toxin Working Group

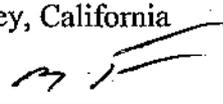
CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On July 9, 2013 I served the within:

Notice of Violation Against JFE Shoji Trade America, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq. and Certificate of Merit (Supporting Documentation sent to Attorney General only)

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California, addressed to the names set forth on the Notice of Violation and on the attached Service List.

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on July 9, 2013 at Berkeley, California



Michael Freund

Service List

- District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612
- District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120
- District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642
- District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965
- District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
- District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932
- District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553
- District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
- District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667
- District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721
- District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988
- District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501
- District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243
- District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514
- District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301
- District Attorney, Kings County
400 West Lacey Boulevard
Hanford, CA 93230
- District Attorney, Lake County
55 N. Forbes Street
Lakeport, CA 95453
- District Attorney, Lassen County
20 South Lassen Street, Ste. 8
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- District Attorney, Los Angeles County
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Los Angeles, CA 90012
- District Attorney, Madera County
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Madera, CA 93637
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- District Attorney, Mendocino County
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- District Attorney, Modoc County
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- District Attorney, Mono County
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- District Attorney, Monterey County
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- District Attorney, Napa County
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Napa, CA 94559
- District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959
- District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701
- District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678
- District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971
- District Attorney, Riverside County
3960 Orange Street
Riverside, CA 92501
- District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95814
- District Attorney, San Benito County
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Hollister, CA 95023
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Santa Barbara, CA 93101
- District Attorney, Santa Clara County
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San Jose, CA 95110
- District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060
- District Attorney, Shasta County
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- District Attorney, Sierra County
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- District Attorney, Siskiyou County
Post Office Box 986
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- District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533
- District Attorney, Sonoma County
600 Administration Drive,
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- District Attorney, Stanislaus County
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San Francisco, CA 94102
- San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113