

1 Reuben Yeroushalmi (SBN 193981)  
2 Ben Yeroushalmi (SBN 232540)  
3 Peter T. Sato (SBN 238486)  
4 **YEROUSHALMI & YEROUSHALMI**  
5 An Association of Independent Law Corporations  
6 9100 Wilshire Boulevard, Suite 240W  
7 Beverly Hills, California 90212  
8 Telephone: 310.623.1926  
9 Facsimile: 310.623.1930

**CONFORMED COPY**  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

SEP 04 2015

Sherril R. Carter, Executive Officer/Clerk  
By Natasha Rose, Deputy  
Natasha Rose

7 Attorneys for Plaintiff,  
8 Consumer Advocacy Group, Inc.

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11 CONSUMER ADVOCACY GROUP, INC.,  
12 in the public interest,

13 Plaintiff,

14 v.

15  
16 BNB GLOBAL, a Maryland Corporation;  
17 PALDO CO. LTD., a Republic of Korea  
18 Corporation; GREEN FARM MARKET, a  
19 Business Entity Form Unknown and DOES  
20 1-20;

21 Defendants.

CASE NO. BC580655

FIRST AMENDED COMPLAINT FOR  
PENALTY AND INJUNCTION

Violation of Proposition 65, the Safe  
Drinking Water and Toxic Enforcement  
Act of 1986 (*Health & Safety Code*, §  
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL  
CASE (exceeds \$25,000)

21 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against  
22 Defendants BNB GLOBAL, PALDO CO. LTD., GREEN FARM MARKET and DOES 1-20 as  
23 follows:

24 **THE PARTIES**

- 25 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an  
26 organization qualified to do business in the State of California. CAG is a person within  
27 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting  
28

1 as a private attorney general, brings this action in the public interest as defined under  
2 Health and Safety Code section 25249.7, subdivision (d).

3 2. Defendant BNB GLOBAL ("BNB"), is a Maryland corporation doing business in the  
4 State of California at all relevant times herein.

5 3. Defendant PALDO CO. LTD ("PALDO"), is a Republic of Korea corporation doing  
6 business in the State of California at all relative times herein.

7 4. Defendant GREEN FARM MARKET ("GREEN FARM"), is a business entity form  
8 unknown doing business in the State of California at all relative times herein.

9 5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-20,  
10 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
11 complaint to allege their true names and capacities when ascertained. Plaintiff is  
12 informed, believes, and thereon alleges that each fictitiously named defendant is  
13 responsible in some manner for the occurrences herein alleged and the damages caused  
14 thereby.

15 6. At all times mentioned herein, the term "Defendants" includes BNB, PALDO, GREEN  
16 FARM and DOES 1-20.

17 7. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
18 times mentioned herein have conducted business within the State of California.

19 8. Upon information and belief, at all times relevant to this action, each of the Defendants,  
20 including DOES 1-20, was an agent, servant, or employee of each of the other  
21 Defendants. In conducting the activities alleged in this Complaint, each of the  
22 Defendants was acting within the course and scope of this agency, service, or  
23 employment, and was acting with the consent, permission, and authorization of each of  
24 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
25 were ratified and approved by every other Defendant or their officers or managing agents.  
26 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged  
27 wrongful conduct of each of the other Defendants.  
28

1 9. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the  
2 Defendants was a person doing business within the meaning of Health and Safety Code  
3 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more  
4 employees at all relevant times.

5 **JURISDICTION**

6 10. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
7 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
8 those given by statute to other trial courts. This Court has jurisdiction over this action  
9 pursuant to Health and Safety Code section 25249.7, which allows enforcement of  
10 violations of Proposition 65 in any Court of competent jurisdiction.

11 11. This Court has jurisdiction over Defendants named herein because Defendants either  
12 reside or are located in this State or are foreign corporations authorized to do business in  
13 California, are registered with the California Secretary of State, or who do sufficient  
14 business in California, have sufficient minimum contacts with California, or otherwise  
15 intentionally avail themselves of the markets within California through their manufacture,  
16 distribution, promotion, marketing, or sale of their products within California to render  
17 the exercise of jurisdiction by the California courts permissible under traditional notions  
18 of fair play and substantial justice.

19 12. Venue is proper in the County of Los Angeles because one or more of the instances of  
20 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or  
21 because Defendants conducted, and continue to conduct, business in the County of Los  
22 Angeles with respect to the consumer product that is the subject of this action.

23 **BACKGROUND AND PRELIMINARY FACTS**

24 13. In 1986, California voters approved an initiative to address growing concerns about  
25 exposure to toxic chemicals and declared their right "[t]o be informed about exposures to  
26 chemicals that cause cancer, birth defects, or other reproductive harm." Ballot Pamp.,  
27 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
28 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections

1 25249.5, *et seq.* ("Proposition 65"), helps to protect California's drinking water sources  
2 from contamination, to allow consumers to make informed choices about the products  
3 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
4 fit.

5 14. Proposition 65 requires the Governor of California to publish a list of chemicals known to  
6 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*  
7 § 25249.8. The list, which the Governor updates at least once a year, contains over 700  
8 chemicals and chemical families. Proposition 65 imposes warning requirements and  
9 other controls that apply to Proposition 65-listed chemicals.

10 15. All businesses with ten (10) or more employees that operate or sell products in California  
11 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited  
12 from knowingly discharging Proposition 65-listed chemicals into sources of drinking  
13 water (*Health & Safety Code* § 25249.5), and (2) required to provide "clear and  
14 reasonable" warnings before exposing a person, knowingly and intentionally, to a  
15 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

16 16. Proposition 65 provides that any person "violating or threatening to violate" the statute  
17 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.  
18 "Threaten to violate" means "to create a condition in which there is a substantial  
19 probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
20 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
21 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

22 17. On February 27, 1987, the Governor of California added lead to the list of chemicals  
23 known to the State to cause reproductive toxicity (Cal. Code Regs. tit. 27, § 27001(c)).  
24 lead is known to the State to cause developmental, female, and male reproductive  
25 toxicity. Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20)  
26 months after addition of lead to the list of chemicals known to the State to cause  
27 reproductive toxicity, lead became fully subject to Proposition 65 warning requirements  
28 and discharge prohibitions.

1 18. On October 1, 1992, the Governor of California added lead and lead compounds to the  
2 list of chemicals known to the State to cause cancer (Cal. Code Regs. tit. 27, § 27001(b)).  
3 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months  
4 after addition of lead and lead compounds to the list of chemicals known to the State to  
5 cause cancer, lead and lead compounds became fully subject to Proposition 65 warning  
6 requirements and discharge prohibitions.

7 19. Plaintiff identified certain practices of manufacturers and distributors of lead and lead  
8 compounds (“LEAD”)-bearing products of exposing, knowingly and intentionally,  
9 persons in California to the Proposition 65-listed chemicals of such products without first  
10 providing clear and reasonable warnings of such to the exposed persons prior to the time  
11 of exposure. Plaintiff later discerned that Defendants engaged in such practice.

12 **SATISFACTION OF PRIOR NOTICE**

13 20. On or about September 5, 2014 Plaintiff gave notice of alleged violations of Health and  
14 Safety Code section 25249.6, concerning consumer products exposures subject to a  
15 private action to BNB and GREEN FARM and to the California Attorney General,  
16 County District Attorneys, and City Attorneys for each city containing a population of at  
17 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning  
18 the product Seaweed, containing LEAD.

19 21. On or about September 5, 2014 Plaintiff gave notice of alleged violations of Health and  
20 Safety Code section 25249.6, concerning consumer products exposure subject to a private  
21 action to PALDO and GREEN FARM and to the California Attorney General, County  
22 District Attorneys, and City Attorneys for each city containing a population of at least  
23 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the  
24 product Seaweed, containing LEAD.

25 22. On or about September 16, 2014 Plaintiff gave notice of alleged violations of Health and  
26 Safety Code section 25249.6, concerning consumer products exposure subject to a private  
27 action to BNB and GREEN FARM and to the California Attorney General, County  
28 District Attorneys, and City Attorneys for each city containing a population of at least

1 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the  
2 product Seaweed, containing LEAD.

3 23. On or about June 12, 2015 Plaintiff gave notice of alleged violations of Health and Safety  
4 Code section 25249.6, concerning consumer products exposure subject to a private action  
5 to PALDO and GREEN FARM and to the California Attorney General, County District  
6 Attorneys, and City Attorneys for each city containing a population of at least 750,000  
7 people in whose jurisdictions the violations allegedly occurred, concerning the product  
8 Seaweed, containing LEAD.

9 24. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
10 products involved, the likelihood that such products would cause users to suffer  
11 significant exposures to LEAD and the corporate structure of each of the Defendants.

12 25. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
13 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for  
14 Plaintiff who executed the certificate had consulted with at least one person with relevant  
15 and appropriate expertise who reviewed data regarding the exposures to LEAD, the  
16 subject Proposition 65-listed chemicals of this action. Based on that information, the  
17 attorney for Plaintiff who executed the Certificate of Merit believed there was a  
18 reasonable and meritorious case for this private action. The attorney for Plaintiff attached  
19 to the Certificate of Merit served on the Attorney General the confidential factual  
20 information sufficient to establish the basis of the Certificate of Merit.

21 26. Plaintiff's notices of alleged violations also included a Certificate of Service and a  
22 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986  
23 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

24 27. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
25 gave notices of the alleged violation BNB, PALDO and GREEN FARM and the public  
26 prosecutors referenced in Paragraph 20-23.

1 28. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
2 any applicable district attorney or city attorney has commenced and is diligently  
3 prosecuting an action against the Defendants.

4 **FIRST CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against BNB and GREEN FARM and**  
6 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
7 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

8 **Seaweed**

9 29. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
10 reference paragraphs 1 through 28 of this complaint as though fully set forth herein. Each  
11 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,  
12 promoter, or retailer of Roasted Seaweed, which includes but is not limited to: (1)  
13 “Roasted SEAWEED Snack; Roasted with Olive Oil; PRODUCT OF KOREA; Net WT.  
14 0.17 oz (5 g)X12; DISTRIBUTED BY: C nature 16639 VALLEY AVE., CERRITOS,  
15 CA 90703; Barcode: 7 00153 94247 8” and (2) “Roasted SEAWEED Snack; Roasted  
16 with Olive Oil; PRODUCT OF KOREA; Net WT. 0.7 oz(20 g)X4; DISTRIBUTED BY:  
17 C nature 16639 VALLEY AVE., CERRITOS, CA 90703; Barcode: 6 09722 64712 0”  
18 (“SEAWEED”).

19 30. SEAWEED contains LEAD.

20 31. Defendants knew or should have known that LEAD has been identified by the State of  
21 California as a chemical known to cause cancer and reproductive toxicity and therefore  
22 was subject to Proposition 65 warning requirements. Defendants were also informed of  
23 the presence of LEAD in SEAWEED within Plaintiff's notice of alleged violations  
24 further discussed above at Paragraph 20 and 22.

25 32. Plaintiff's allegations regarding SEAWEED concern “[c]onsumer products exposure[s],”  
26 which “is an exposure that results from a person’s acquisition, purchase, storage,  
27 consumption, or other reasonably foreseeable use of a consumer good, or any exposure  
28 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b).*

1 SEAWEED are consumer products, and, as mentioned herein, exposures to lead took  
2 place as a result of such normal and foreseeable consumption and use.

3 33. Plaintiff is informed, believes, and thereon alleges that between September 5, 2011 and  
4 the present, each of the Defendants knowingly and intentionally exposed California  
5 consumers of SEAWEED, which Defendants manufactured, distributed, or sold as  
6 mentioned above, to LEAD without first providing any type of clear and reasonable  
7 warning of such to the exposed persons before the time of exposure. Defendants have  
8 distributed and sold SEAWEED in California. Defendants know and intend that  
9 California consumers will use and consume SEAWEED, thereby exposing them to  
10 LEAD. Defendants thereby violated Proposition 65.

11 34. The principal routes of exposure are through ingestion, dermal contact and inhalation.  
12 Persons sustain exposures by eating and consuming SEAWEED, handling SEAWEED  
13 without wearing gloves or any other personal protective equipment, or by touching bare  
14 skin or mucous membranes with gloves after handling SEAWEED, as well as through  
15 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in  
16 particulate matter dispersed from SEAWEED.

17 35. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
18 Proposition 65 as to SEAWEED have been ongoing and continuous to the date of the  
19 signing of this complaint, as Defendants engaged and continue to engage in conduct  
20 which violates Health and Safety Code section 25249.6, including the manufacture,  
21 distribution, promotion, and sale of SEAWEED, so that a separate and distinct violation  
22 of Proposition 65 occurred each and every time a person was exposed to lead by  
23 SEAWEED as mentioned herein.

24 36. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
25 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
26 violations alleged herein will continue to occur into the future.  
27  
28

1 37. Based on the allegations herein, Defendants are liable for civil penalties of up to  
2 \$2,500.00 per day per individual exposure to lead from SEAWEED, pursuant to Health  
3 and Safety Code section 25249.7(b).

4 38. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
5 filing this Complaint.

6 **SECOND CAUSE OF ACTION**

7 **(By CONSUMER ADVOCACY GROUP, INC. and against PALDO and GREEN FARM**  
8 **and DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**  
9 **Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

10 **Seaweed**

11 39. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by  
12 reference paragraphs 1 through 38 of this complaint as though fully set forth herein. Each  
13 of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor,  
14 promoter, or retailer of Roasted Seaweed, which includes but is not limited to: "PalDo  
15 Fun&Yum ROASTED SEAWEED, EXTRA CRISPY AND DELICIOUS; NET  
16 WEIGHT 5 g x 3; MANUFACTURED FOR: PALDO CO., LTD 577, GANGNAM-  
17 DAERO, SEOCHO, SEOUL, 137-904 KOREA; PRODUCT OF KOREA; Barcode: 8  
18 801128 542531". ("SEAWEED II").

19 40. SEAWEED II contains LEAD.

20 41. Defendants knew or should have known that LEAD has been identified by the State of  
21 California as a chemical known to cause cancer and reproductive toxicity and therefore  
22 was subject to Proposition 65 warning requirements. Defendants were also informed of  
23 the presence of LEAD in SEAWEED II within Plaintiff's notice of alleged violations  
24 further discussed above at Paragraph 21 and 23.

25 42. Plaintiff's allegations regarding SEAWEED II concern "[c]onsumer products  
26 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
27 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
28 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*

1 25602(b). SEAWEED II are consumer products, and, as mentioned herein, exposures to  
2 lead took place as a result of such normal and foreseeable consumption and use.

3 43. Plaintiff is informed, believes, and thereon alleges that between September 5, 2011 and  
4 the present, each of the Defendants knowingly and intentionally exposed their employees,  
5 California consumers of SEAWEED II, which Defendants manufactured, distributed, or  
6 sold as mentioned above, to LEAD without first providing any type of clear and  
7 reasonable warning of such to the exposed persons before the time of exposure.  
8 Defendants have distributed and sold SEAWEED II in California. Defendants know and  
9 intend that California consumers will use and consume SEAWEED II, thereby exposing  
10 them to LEAD. Defendants thereby violated Proposition 65.

11 44. The principal routes of exposure are through ingestion, dermal-contact and inhalation.  
12 Persons sustain exposures by eating and consuming SEAWEED II, handling SEAWEED  
13 II without wearing gloves or any other personal protective equipment, or by touching  
14 bare skin or mucous membranes with gloves after handling SEAWEED II, as well as  
15 through direct and indirect hand to mouth contact, hand to mucous membrane, or  
16 breathing in particulate matter dispersed from SEAWEED II.

17 45. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
18 Proposition 65 as to SEAWEED II have been ongoing and continuous to the date of the  
19 signing of this complaint, as Defendants engaged and continue to engage in conduct  
20 which violates Health and Safety Code section 25249.6, including the manufacture,  
21 distribution, promotion, and sale of SEAWEED II, so that a separate and distinct  
22 violation of Proposition 65 occurred each and every time a person was exposed to lead by  
23 SEAWEED II as mentioned herein.

24 46. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
25 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
26 violations alleged herein will continue to occur into the future.  
27  
28

1 47. Based on the allegations herein, Defendants are liable for civil penalties of up to  
2 \$2,500.00 per day per individual exposure to lead from SEAWEED II, pursuant to Health  
3 and Safety Code section 25249.7(b).

4 48. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
5 filing this Complaint.

6 **PRAYER FOR RELIEF**

7 Plaintiff demands against each of the Defendants as follows:

- 8 1. A permanent injunction mandating Proposition 65-compliant warnings;
- 9 2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
- 10 3. Costs of suit;
- 11 4. Reasonable attorney fees and costs; and
- 12 5. Any further relief that the court may deem just and equitable.

13  
14 Dated: September 4, 2015

YEROUSHALMI & YEROUSHLAMI

15  
16 BY: 

17 Reuben Yeroushalmi  
18 Attorneys for Plaintiff,  
19 Consumer Advocacy Group, Inc.  
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1201 W. Temple St  
 Los Angeles, CA 90026  
 Phone: (213) 353-9100  
 Fax: (213) 353-9200



Work order: X32490

FIRM: YEROUSHALMI & YEROUSHALMI

DATE: 9/4/2015

Account Code:

COURT: LASC-STANLEY MOSK

Attorney: NATHAN DEVRIES

CASE NO.: BC580655

TELEPHONE: 310-623-1926

CASE TITLE: BNB GLOBAL

FAX NO.:

DOCUMENTS: FIRST AMENDED COMPLAINT

ATTENTION:

CLAIM/FILE #: BC580655

STATUTE DATE	
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EXTRA CHARGES MAY APPLY
<b>DO TODAY</b>

CALWEST RECEIVED STAMP SEP 4 2015
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<input checked="" type="checkbox"/> COURT FILING	<input checked="" type="checkbox"/> FILE	<input type="checkbox"/> ISSUE	<input checked="" type="checkbox"/> CONFORM
<input type="checkbox"/> CERTIFY	<input type="checkbox"/> RECORD	<input type="checkbox"/> Copy/Research	
Court filing fee:			
<input type="checkbox"/> ATTACHED <input type="checkbox"/> PLEASE ADVANCE			
Special Instructions & Attachments:			

COURT RECEIVED STAMP	
PROCESS SERVICE	
RECORDER	
PULL FILE	
CALWEST PHOTOCOPY	
TELEPHONE/FAX	
INDEXING	
COURT SERVICE	
SPECIAL P/U	
DELIVERY	
RUSH FILING	
BAD ADDRESS	
MILES	
CHECK SERV. CHARGE	
FEES ADV'D	
TOTAL	

<input type="checkbox"/> PROCESS SERVING	WITNESS FEES AMOUNT:
<input type="checkbox"/> ATTACHED	<input type="checkbox"/> PLEASE ADVANCE
PLEASE INDICATE NAME EXACTLY AS IT SHOULD APPEAR ON PROOF OF SERVICE	
RESIDENCE ADDRESS SERVE:	BUSINESS ADDRESS SERVE:

HEARINGS SET FOR: \_\_\_\_\_ AT: \_\_\_\_\_ DEPT: \_\_\_\_\_  
 LAST DAY TO SERVE \_\_\_\_\_

PROCESS SERVER:	HAIR COLOR:	WEIGHT:
AGE:	EYE COLOR:	HEIGHT:
SEX:	RACE:	OTHER:

<input type="checkbox"/> PERSONAL SERVE	PERSON SERVED:
<input type="checkbox"/> SUBSTITUTE SERVICE	TITLE:
<input type="checkbox"/> NOT SERVED	DATE: _____ TIME: _____

Date: \_\_\_\_\_ Time: \_\_\_\_\_ SPOKE WITH: \_\_\_\_\_ REPORT: \_\_\_\_\_ SERVER: \_\_\_\_\_