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ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 07 2016

Sherri R. [Signature], Executive Office Clerk
By: [Signature], Deputy
Ishayla Chambers

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11 **BC 6 1 2 9 1 7**

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

CASE NO.

14 Plaintiff,

COMPLAINT FOR PENALTY AND
INJUNCTION

15 v.

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

16 HOA BINH POMONA SUPERMARKET, a
17 business entity form unknown; CTC FOOD
INTERNATIONAL, dba ORIENTAL
18 TRADING CO., a California Corporation;
19 FIRST WORLD ASIAN TRADING
CORPORATION, a California corporation;
20 PACIFIC EASTERN TRADING
CORPORATION, a California corporation;
21 VINH - SANH TRADING
CORPORATION, a California corporation;
22 ROXY TRADING INC., a California
23 corporation, and DOES 1-20;

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

24 Defendants.

25
26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against
27 Defendants HOA BINH POMONA SUPERMARKET, CTC FOOD INTERNATIONAL dba
28 ORIENTAL TRADING CO., FIRST WORLD ASIAN TRADING CORPORATION, PACIFIC

1 EASTERN TRADING CORPORATION., VINH – SANH TRADING CORPORATION,
2 ROXY TRADING INC., and DOES 1-20 as follows:

3 **THE PARTIES**

- 4 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
5 organization qualified to do business in the State of California. CAG is a person within
6 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting
7 as a private attorney general, brings this action in the public interest as defined under
8 Health and Safety Code section 25249.7, subdivision (d).
- 9 2. Defendant HOA BINH POMONA SUPERMARKET (“HOA BINH”) is a business
10 entity form unknown, doing business in the State of California at all relevant times
11 herein.
- 12 3. Defendant CTC FOOD INTERNATIONAL, dba ORIENTAL TRADING CO. (“CTC”),
13 is a California corporation doing business in the State of California at all relevant times
14 herein.
- 15 4. Defendant FIRST WORLD ASIAN TRADING CORPORATION (“FIRST WORLD”),
16 a California corporation doing business in the State of California at all relevant times
17 herein.
- 18 5. Defendant PACIFIC EASTERN TRADING CORPORATION (“PACIFIC
19 EASTERN”), a California corporation doing business in the State of California at all
20 relevant times herein.
- 21 6. Defendant VINH – SANH TRADING CORPORATION (“VINH – SANH”), a
22 California corporation doing business in the State of California at all relevant times
23 herein.
- 24 7. Defendant ROXY TRADING INC. (“ROXY”), a California corporation doing business
25 in the State of California at all relevant times herein.
- 26 8. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-
27 20, and therefore sues these defendants by such fictitious names. Plaintiff will amend
28 this complaint to allege their true names and capacities when ascertained. Plaintiff is

1 informed, believes, and thereon alleges that each fictitiously named defendant is
2 responsible in some manner for the occurrences herein alleged and the damages caused
3 thereby.

4 9. At all times mentioned herein, the term “Defendant” includes HOA BINH, CTC, FIRST
5 WORLD, PACIFIC EASTERN, VINH – SANH, ROXY, and DOES 1-20.

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

8 11. Upon information and belief, at all times relevant to this action, each of the Defendants,
9 including DOES 1-20, was an agent, servant, or employee of each of the other
10 Defendants. In conducting the activities alleged in this Complaint, each of the
11 Defendants was acting within the course and scope of this agency, service, or
12 employment, and was acting with the consent, permission, and authorization of each of
13 the other Defendants. All actions of each of the Defendants alleged in this Complaint
14 were ratified and approved by every other Defendant or their officers or managing
15 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated
16 the alleged wrongful conduct of each of the other Defendants.

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

21 **JURISDICTION**

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

27 14. This Court has jurisdiction over Defendants named herein because Defendants either
28 reside or are located in this State or are foreign corporations authorized to do business in

1 California, are registered with the California Secretary of State, or who do sufficient
2 business in California, have sufficient minimum contacts with California, or otherwise
3 intentionally avail themselves of the markets within California through their
4 manufacture, distribution, promotion, marketing, or sale of their products within
5 California to render the exercise of jurisdiction by the California courts permissible
6 under traditional notions of fair play and substantial justice.

7 15. Venue is proper in the County of Los Angeles because one or more of the instances of
8 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
9 because Defendants conducted, and continue to conduct, business in the County of Los
10 Angeles with respect to the consumer product that is the subject of this action.

11 **BACKGROUND AND PRELIMINARY FACTS**

12 16. In 1986, California voters approved an initiative to address growing concerns about
13 exposure to toxic chemicals and declared their right “[t]o be informed about exposures
14 to chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
15 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
16 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections
17 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
18 from contamination, to allow consumers to make informed choices about the products
19 they buy, and to enable persons to protect themselves from toxic chemicals as they see
20 fit.

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

26 18. All businesses with ten (10) or more employees that operate or sell products in
27 California must comply with Proposition 65. Under Proposition 65, businesses are: (1)
28 prohibited from knowingly discharging Proposition 65-listed chemicals into sources of

1 drinking water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
2 reasonable” warnings before exposing a person, knowingly and intentionally, to a
3 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

4 19. Proposition 65 provides that any person "violating or threatening to violate" the statute
5 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
6 25249.7. "Threaten to violate" means "to create a condition in which there is a
7 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
8 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
9 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

10 20. Plaintiff identified certain practices of manufacturers and distributors of products
11 bearing Lead and Lead Compounds (“LEAD”), exposing, knowingly and intentionally,
12 persons in California to said Proposition 65-listed chemical without first providing clear
13 and reasonable warnings to the exposed persons prior to the time of exposure. Plaintiff
14 later discerned that Defendants engaged in such practice.

15 21. On February 27, 1987 the Governor of California added Lead to the list of chemicals
16 known to the State to cause developmental and reproductive toxicity, and on October 1,
17 1992, the Governor added Lead and Lead Compounds to the list of chemicals known to
18 the State to cause cancer. Pursuant to Health and Safety Code sections 25249.9 and
19 25249.10, twenty (20) months after addition of LEAD to the list of chemicals known to
20 the State to cause cancer and reproductive toxicity, LEAD became fully subject to
21 Proposition 65 warning requirements and discharge prohibitions.

22 **SATISFACTION OF PRIOR NOTICE**

23 22. On or about June 12, 2015, Plaintiff gave notice of alleged violations of Health and
24 Safety Code section 25249.6, concerning consumer products exposures, subject to a
25 private action to HOA BINH, and to the California Attorney General, County District
26 Attorneys, and City Attorneys for each city containing a population of at least 750,000
27 people in whose jurisdictions the violations allegedly occurred, concerning Roasted
28 Seaweed containing LEAD.

1 23. On or about June 16, 2015, Plaintiff gave notice of alleged violations of Health and
2 Safety Code section 25249.6, concerning consumer products exposures, subject to a
3 private action to HOA BINH, ROXY and to the California Attorney General, County
4 District Attorneys, and City Attorneys for each city containing a population of at least
5 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
6 Dried Seaweed containing LEAD.

7 24. On or about June 22, 2015, Plaintiff gave notice of alleged violations of Health and
8 Safety Code section 25249.6, concerning consumer products exposures, subject to a
9 private action to HOA BINH, CTC FOOD, and to the California Attorney General,
10 County District Attorneys, and City Attorneys for each city containing a population of at
11 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
12 Roasted Seaweed containing LEAD.

13 25. On or about November 10, 2015, Plaintiff gave notice of alleged violations of Health
14 and Safety Code section 25249.6, concerning consumer products exposures, subject to a
15 private action to HOA BINH, FIRST WORLD, PACIFIC EASTERN, VINH – SANH,
16 and to the California Attorney General, County District Attorneys, and City Attorneys
17 for each city containing a population of at least 750,000 people in whose jurisdictions
18 the violations allegedly occurred, concerning Canned Crabmeat with Legmeat
19 containing LEAD.

20 26. Before sending the notice of alleged violations, Plaintiff investigated the consumer
21 products involved, the likelihood that such products would cause users to suffer
22 significant exposures to LEAD, and the corporate structure of each of the Defendants.

23 27. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
24 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney
25 for Plaintiff who executed the certificate had consulted with at least one person with
26 relevant and appropriate expertise who reviewed data regarding the exposures to LEAD,
27 the subject Proposition 65-listed chemicals of this action. Based on that information, the
28 attorney for Plaintiff who executed the Certificate of Merit believed there was a

1 reasonable and meritorious case for this private action. The attorney for Plaintiff
2 attached to the Certificate of Merit served on the Attorney General the confidential
3 factual information sufficient to establish the basis of the Certificate of Merit.

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

7 29. Plaintiff is commencing this action more than sixty (60) days from the dates that
8 Plaintiff gave notices of the alleged violation to HOA BINH, CTC, FIRST WORLD,
9 PACIFIC EASTERN, VINH – SANH, ROXY, and the public prosecutors referenced in
10 Paragraphs 22 through 25.

11 30. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
12 any applicable district attorney or city attorney has commenced and is diligently
13 prosecuting an action against the Defendants.

14 **FIRST CAUSE OF ACTION**

15 **(By CONSUMER ADVOCACY GROUP, INC. and against HOA BINH POMONA**
16 **SUPERMARKET INC. and DOES 1-20 for Violations of Proposition 65, The Safe**
17 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et***
18 ***seq.*))**

19 **B&C Roasted Seaweed**

20 31. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
21 reference paragraphs 1 through 30 of this complaint as though fully set forth herein.
22 Each of Defendants HOA BINH POMONA SUPERMARKET INC. and DOES 1-20 is,
23 and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer
24 of Roasted Seaweed, which includes but is not limited to, ““B&C”, “Roasted Seaweeds,
25 Yaki Sushi Nori” “Gold” “NET WT. 5.0 OZ (140g) 50 Sheets” Product Of China, UPC
26 “6 920423 929792” (“B&C ROASTED SEAWEED”).

27 32. B&C ROASTED SEAWEED contains LEAD.

28 33. Defendants knew or should have known that LEAD has been identified by the State of
California as a chemical known to cause cancer and reproductive toxicity and therefore

1 was subject to Proposition 65 warning requirements. Defendants were also informed of
2 the presence of LEAD in B&C ROASTED SEAWEED within Plaintiff's notice of
3 alleged violations further discussed above at Paragraphs 22.

4 34. Plaintiff's allegations regarding B&C ROASTED SEAWEED concerns "[c]onsumer
5 products exposure[s]," which "is an exposure that results from a person's acquisition,
6 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
7 good, or any exposure that results from receiving a consumer service." *Cal. Code Regs.*
8 tit. 27, § 25602(b). B&C ROASTED SEAWEED is a consumer product, and, as
9 mentioned herein, exposures to LEAD took place as a result of such normal and
10 foreseeable use.

11 35. Plaintiff is informed, believes, and thereon alleges that between June 12, 2012 and the
12 present, each of the Defendants knowingly and intentionally exposed their California
13 consumers and users of B&C ROASTED SEAWEED, which Defendants manufactured,
14 distributed, or sold as mentioned above, to Lead, without first providing any type of
15 clear and reasonable warning of such to the exposed persons before the time of
16 exposure. Defendants have distributed and sold B&C ROASTED SEAWEED in
17 California. Defendants know and intend that California consumers will use B&C
18 ROASTED SEAWEED, thereby exposing them to LEAD. Defendants thereby violated
19 Proposition 65.

20 36. The principal routes of exposure were through ingestion, including hand to mouth
21 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
22 eating and consuming B&C ROASTED SEAWEED, handling B&C ROASTED
23 SEAWEED without wearing gloves or by touching bare skin or mucus membranes with
24 gloves after handling B&C ROASTED SEAWEED, or through direct and indirect hand
25 to mouth contact, hand to food to mouth, direct contact to food then to mouth, hand to
26 mucous membrane, or breathing in particulate matter emanating from B&C ROASTED
27 SEAWEED, as well as through environmental mediums that carry the LEAD once
28 contained within the B&C ROASTED SEAWEED.

1 37. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
2 Proposition 65 as to B&C ROASTED SEAWEED have been ongoing and continuous to
3 the date of the signing of this complaint, as Defendants engaged and continue to engage
4 in conduct which violates Health and Safety Code section 25249.6, including the
5 manufacture, distribution, promotion, and sale of B&C ROASTED SEAWEED , so that
6 a separate and distinct violation of Proposition 65 occurred each and every time a person
7 was exposed to LEAD by B&C ROASTED SEAWEED as mentioned herein.

8 38. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
9 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
10 violations alleged herein will continue to occur into the future.

11 39. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to LEAD from B&C ROASTED SEAWEED,
13 pursuant to Health and Safety Code section 25249.7(b).

14 40. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
15 filing this Complaint.

16 **SECOND CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. and against HOA BINH, ROXY, and**
18 **DOES 1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
19 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

20 **ROXY Dried Seaweed**

21 41. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
22 reference paragraphs 1 through 40 of this complaint as though fully set forth herein.
23 Each of Defendants HOA BINH, ROXY, and DOES 1-20 is, and at all times mentioned
24 herein was, a manufacturer, distributor, promoter, or retailer of Dried Seaweed, which
25 includes but is not limited to, "ROXY Dried Seaweed, Nt Wt. 1.5oz (42.5g), Product of
26 China. UPC: 0 51299 17027 1" ("ROXY DRIED SEAWEED").

27 42. ROXY DRIED SEAWEED contains LEAD.
28

1 43. Defendants knew or should have known that LEAD has been identified by the State of
2 California as a chemical known to cause cancer and reproductive toxicity and therefore
3 was subject to Proposition 65 warning requirements. Defendants were also informed of
4 the presence of LEAD in ROXY DRIED SEAWEED within Plaintiff's notice of alleged
5 violations further discussed above at Paragraphs 23.

6 44. Plaintiff's allegations regarding ROXY DRIED SEAWEED concerns "[c]onsumer
7 products exposure[s]," which "is an exposure that results from a person's acquisition,
8 purchase, storage, consumption, or other reasonably foreseeable use of a consumer
9 good, or any exposure that results from receiving a consumer service." *Cal. Code Regs.*
10 tit. 27, § 25602(b). ROXY DRIED SEAWEED is a consumer product, and, as
11 mentioned herein, exposures to LEAD took place as a result of such normal and
12 foreseeable use.

13 45. Plaintiff is informed, believes, and thereon alleges that between June 16, 2012 and the
14 present, each of the Defendants knowingly and intentionally exposed their California
15 consumers and users of ROXY DRIED SEAWEED, which Defendants manufactured,
16 distributed, or sold as mentioned above, to Lead, without first providing any type of
17 clear and reasonable warning of such to the exposed persons before the time of
18 exposure. Defendants have distributed and sold ROXY DRIED SEAWEED in
19 California. Defendants know and intend that California consumers will use ROXY
20 DRIED SEAWEED, thereby exposing them to LEAD. Defendants thereby violated
21 Proposition 65.

22 46. The principal routes of exposure were through ingestion, including hand to mouth
23 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
24 eating and consuming ROXY DRIED SEAWEED, handling ROXY DRIED SEAWEED
25 without wearing gloves or by touching bare skin or mucus membranes with gloves after
26 handling ROXY DRIED SEAWEED, or through direct and indirect hand to mouth
27 contact, hand to food to mouth, direct contact to food then to mouth, hand to mucous
28 membrane, or breathing in particulate matter emanating from ROXY DRIED

1 SEAWEED, as well as through environmental mediums that carry the LEAD once
2 contained within the ROXY DRIED SEAWEED.

3 47. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to ROXY DRIED SEAWEED have been ongoing and continuous to
5 the date of the signing of this complaint, as Defendants engaged and continue to engage
6 in conduct which violates Health and Safety Code section 25249.6, including the
7 manufacture, distribution, promotion, and sale of ROXY DRIED SEAWEED , so that a
8 separate and distinct violation of Proposition 65 occurred each and every time a person
9 was exposed to LEAD by ROXY DRIED SEAWEED as mentioned herein.

10 48. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
11 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
12 violations alleged herein will continue to occur into the future.

13 49. Based on the allegations herein, Defendants are liable for civil penalties of up to
14 \$2,500.00 per day per individual exposure to LEAD from ROXY DRIED SEAWEED,
15 pursuant to Health and Safety Code section 25249.7(b).

16 50. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
17 filing this Complaint.

18 **THIRD CAUSE OF ACTION**

19 **(By CONSUMER ADVOCACY GROUP, INC. and against HOA BINH, CTC, and DOES**
20 **1-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act**
21 **of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

22 **Orchido Roasted Seaweed**

23 51. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
24 reference paragraphs 1 through 50 of this complaint as though fully set forth herein.
25 Each of Defendants HOA BINH, CTC, and DOES 1-20 is, and at all times mentioned
26 herein was, a manufacturer, distributor, promoter, or retailer of Roasted Seaweed, which
27 includes but is not limited to, "Orchido® Roasted Seaweed, Net Wt. (0.17oz, 5g) 10
28

1 Sheets. Distributed by Oriental Trading Co., ‘DOP4150’ UPC: 0 74601 00867 3”
2 (“ORCHIDO ROASTED SEAWEED”)

3 52. ORCHIDO ROASTED SEAWEED contains LEAD.

4 53. Defendants knew or should have known that LEAD has been identified by the State of
5 California as a chemical known to cause cancer and reproductive toxicity and therefore
6 was subject to Proposition 65 warning requirements. Defendants were also informed of
7 the presence of LEAD in ORCHIDO ROASTED SEAWEED within Plaintiff’s notice of
8 alleged violations further discussed above at Paragraphs 24.

9 54. Plaintiff’s allegations regarding ORCHIDO ROASTED SEAWEED concerns
10 “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s
11 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
12 consumer good, or any exposure that results from receiving a consumer service.” *Cal.*
13 *Code Regs.* tit. 27, § 25602(b). ORCHIDO ROASTED SEAWEED is a consumer
14 product, and, as mentioned herein, exposures to LEAD took place as a result of such
15 normal and foreseeable use.

16 55. Plaintiff is informed, believes, and thereon alleges that between June 22, 2012 and the
17 present, each of the Defendants knowingly and intentionally exposed their California
18 consumers and users of ORCHIDO ROASTED SEAWEED, which Defendants
19 manufactured, distributed, or sold as mentioned above, to Lead, without first providing
20 any type of clear and reasonable warning of such to the exposed persons before the time
21 of exposure. Defendants have distributed and sold ORCHIDO ROASTED SEAWEED
22 in California. Defendants know and intend that California consumers will use
23 ORCHIDO ROASTED SEAWEED, thereby exposing them to LEAD. Defendants
24 thereby violated Proposition 65.

25 56. The principal routes of exposure were through ingestion, including hand to mouth
26 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
27 eating and consuming ORCHIDO ROASTED SEAWEED, handling ORCHIDO
28 ROASTED SEAWEED without wearing gloves or by touching bare skin or mucus

1 membranes with gloves after handling ORCHIDO ROASTED SEAWEED, or through
2 direct and indirect hand to mouth contact, hand to food to mouth, direct contact to food
3 then to mouth, hand to mucous membrane, or breathing in particulate matter emanating
4 from ORCHIDO ROASTED SEAWEED, as well as through environmental mediums
5 that carry the LEAD once contained within the ORCHIDO ROASTED SEAWEED.

6 57. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
7 Proposition 65 as to ORCHIDO ROASTED SEAWEED have been ongoing and
8 continuous to the date of the signing of this complaint, as Defendants engaged and
9 continue to engage in conduct which violates Health and Safety Code section 25249.6,
10 including the manufacture, distribution, promotion, and sale of ORCHIDO ROASTED
11 SEAWEED , so that a separate and distinct violation of Proposition 65 occurred each
12 and every time a person was exposed to LEAD by ORCHIDO ROASTED SEAWEED
13 as mentioned herein.

14 58. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
15 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
16 violations alleged herein will continue to occur into the future.

17 59. Based on the allegations herein, Defendants are liable for civil penalties of up to
18 \$2,500.00 per day per individual exposure to LEAD from ORCHIDO ROASTED
19 SEAWEED, pursuant to Health and Safety Code section 25249.7(b).

20 60. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
21 filing this Complaint.

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1 **FOURTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against HOA BINH, FIRST WORLD,**
3 **PACIFIC EASTERN, VINH – SANH, and DOES 1-20 for Violations of Proposition 65,**
4 **The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
5 **25249.5, *et seq.*))**

6 **Canned Crabmeat with Legmeat**

- 7 61. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 60 of this complaint as though fully set forth herein.
9 Each of Defendants HOA BINH, FIRST WORLD, PACIFIC EASTERN, VINH –
10 SANH, and DOES 1-20 is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Canned Crabmeat with Legmeat, which includes but
12 is not limited to, (1) “ASUKA® Brand, Crabmeat with Legmeat. Net. Wt. 6 ½ OZ
13 (185g), DR.WT. 3 ½ OZ (112g). Distributed By: Vinh Sanh Trading Corp.,
14 www.vinhsanh.com. UPC: 7 37483 20028 2” (“CANNED CRAB”)
- 15 62. CANNED CRAB contains LEAD.
- 16 63. Defendants knew or should have known that LEAD has been identified by the State of
17 California as a chemical known to cause cancer and reproductive toxicity and therefore
18 was subject to Proposition 65 warning requirements. Defendants were also informed of
19 the presence of LEAD in CANNED CRAB within Plaintiff's notice of alleged violations
20 further discussed above at Paragraphs 25.
- 21 64. Plaintiff's allegations regarding CANNED CRAB concerns “[c]onsumer products
22 exposure[s],” which “is an exposure that results from a person's acquisition, purchase,
23 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
24 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
25 *25602(b)*. CANNED CRAB is a consumer product, and, as mentioned herein, exposures
26 to LEAD took place as a result of such normal and foreseeable use.
- 27 65. Plaintiff is informed, believes, and thereon alleges that between November 10, 2012 and
28 the present, each of the Defendants knowingly and intentionally exposed their California
consumers and users of CANNED CRAB, which Defendants manufactured, distributed,

1 or sold as mentioned above, to Lead, without first providing any type of clear and
2 reasonable warning of such to the exposed persons before the time of exposure.

3 Defendants have distributed and sold CANNED CRAB in California. Defendants know
4 and intend that California consumers will use CANNED CRAB, thereby exposing them
5 to LEAD. Defendants thereby violated Proposition 65.

6 66. The principal routes of exposure were through ingestion, including hand to mouth
7 pathways, and inhalation and trans-dermal absorption. Persons sustained exposures by
8 eating and consuming CANNED CRAB, handling CANNED CRAB without wearing
9 gloves or by touching bare skin or mucus membranes with gloves after handling
10 CANNED CRAB, or through direct and indirect hand to mouth contact, hand to food to
11 mouth, direct contact to food then to mouth, hand to mucous membrane, or breathing in
12 particulate matter emanating from CANNED CRAB, as well as through environmental
13 mediums that carry the LEAD once contained within the CANNED CRAB.

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

21 68. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
22 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
23 violations alleged herein will continue to occur into the future.

24 69. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to LEAD from CANNED CRAB, pursuant to
26 Health and Safety Code section 25249.7(b).

27 70. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
28 filing this Complaint.

PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

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

Dated: March 4, 2016

YEROUSHALMI & YEROUSHALMI

BY: _____

Reuben Yeroushalmi
Attorneys for Plaintiff,
Consumer Advocacy Group, Inc.