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9 The Chemical Toxin Working Group, Inc.

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF ALAMEDA**

13 THE CHEMICAL TOXIN WORKING  
14 GROUP, INC.,

15 Plaintiff,

16 vs.

17 PURCELL INTERNATIONAL;  
18 99 CENTS ONLY STORES LLC; and  
19 DOES 1 to 50,

20 Defendants.

CASE NO.

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

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

UNLIMITED CIVIL  
(Demand exceeds \$25,000)

21  
22 Plaintiff THE CHEMICAL TOXIN WORKING GROUP, INC. ("CTWG" or  
23 "Plaintiff") brings this action in the interests of the general public pursuant to California's  
24 Safe Drinking Water and Toxic Enforcement Act of 1986, codified as Cal. Health & Safety  
25 Code ("HSC") § 25249.5 *et seq.* and related statutes (also known and referred to herein as  
26 "Proposition 65") and, based on information and belief, hereby alleges:

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I  
**THE PARTIES**

1. Plaintiff CTWG a/k/a The Healthy Living Foundation is a California non-profit public benefit corporation dedicated to, among other causes, reducing the amount of chemical toxins in consumer products, the promotion of human health, environmental safety, and improvement of worker and consumer safety.

2. Plaintiff is a person within the meaning of HSC § 25249.11(a) and brings this enforcement action in the public interest pursuant to HSC § 25249.7(d).

3. Defendant PURCELL INTERNATIONAL ("Purcell") is a California business of unknown form, and a person doing business in the State of California within the meaning of HSC §25249.11(b) and had ten (10) or more employees at all relevant times.

4. Defendant 99 CENTS ONLY STORES LLC ("99 Cents") is a California limited liability company, and a person doing business in the State of California within the meaning of HSC §25249.11(b) and had ten (10) or more employees at all relevant times.

5. Defendant 99 Cents and Defendant Purcell are sometimes each referred to herein as a "Defendant", and collectively, the "Defendants".

6. Defendants own, administer, direct, control, and/or operate facilities and/or agents, distributors, sellers, marketers, or other retail operations who place the "Subject Product(s)" (as defined in Paragraph 18, p.6 below) into the stream of commerce in California (including but not limited to Alameda County) which contain lead and/or cadmium without first giving "clear and reasonable" warnings.

7. Defendants DOES 1-50 are named herein under fictitious names, as their true names and capacities are unknown to Plaintiff. Plaintiff is informed and believes, and thereon alleges, that each of said DOES has manufactured, packaged, distributed, marketed, sold and/or has otherwise been involved in the chain of commerce of, and continues to manufacture, package, distribute, market, sell, and/or otherwise continues to

1 be involved in the chain of commerce of the Subject Products for sale or use in California,  
2 and/or is responsible, in some actionable manner, for the events and happenings referred to  
3 herein, either through its conduct or through the conduct of its agents, servants or  
4 employees, or in some other manner, causing the harms alleged herein. Plaintiff will seek  
5 leave to amend this Complaint to set forth the true names and capacities of DOES when  
6 ascertained.

7 8. Upon information and belief, at all times relevant to this action, each of the  
8 Defendants, including DOES 1-50, was an agent, servant, or employee of each of the other  
9 Defendants. In conducting the activities alleged in this Complaint, each of the Defendants  
10 was acting within the course and scope of this agency, service, or employment, and was  
11 acting with the consent, permission, and authorization of each of the other Defendants. All  
12 actions of each of the Defendants alleged in this Complaint were ratified and approved by  
13 every other Defendant or their officers or managing agents. Alternatively, each of the  
14 Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each  
15 of the other Defendants.

## 16 II 17 JURISDICTION AND VENUE

18 9. This Court has jurisdiction over this action pursuant to California  
19 Constitution Article VI, Section 10, which grants the Superior Court "original jurisdiction  
20 in all causes except those given by statute to other trial courts." This Court has jurisdiction  
21 over this action pursuant to HSC § 25249.7, which allows enforcement of violations of  
22 Proposition 65 in any Court of competent jurisdiction.

23 10. This Court has jurisdiction over each Defendant because, based on  
24 information and belief, each Defendant is a business entity having sufficient minimum  
25 contacts in California, or otherwise intentionally availing itself of the California market  
26 through the sale, marketing, distribution and/or use of the Subject Products in the

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1 California, to render the exercise of jurisdiction over each Defendant by the California  
2 courts consistent with traditional notions of fair play and substantial justice.

3 11. Venue is proper in the Alameda County Superior Court, pursuant to Code of  
4 Civil Procedure (“CCP”) §§ 395 and 395.5, because this Court is a court of competent  
5 jurisdiction, because one or more instances of wrongful conduct occurred, and continue to  
6 occur, in Alameda County, and because the cause of action, or part thereof, arises in  
7 Alameda County because Defendants’ violations occurred (the Subject Products are  
8 marketed, offered for sale, sold, used, and/or consumed without clear and reasonable  
9 warnings) in this County. Furthermore, this Court is the proper venue under CCP § 395.5  
10 and HSC §§ 25249.7(a) and (b), which provide that any person who violates or threatens to  
11 violate HSC §§ 25249.5 or 25249.6 may be enjoined in, and civil penalty assessed and  
12 recovered in a civil action brought in, any court of competent jurisdiction.

13 **III**  
14 **STATUTORY BACKGROUND**

15 12. The People of the State of California have declared in Proposition 65 their  
16 right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or  
17 other reproductive harm.” (HSC, Div. 20, Ch. 6.6 Note [Section 1, subdivision (b) of  
18 Initiative Measure, Proposition 65]). Proposition 65 is classically styled as a “right-to-  
19 know” law intended to inform consumers’ choices prior to exposure.

20 13. To affect this goal, Proposition 65 requires that individuals be provided with  
21 a “clear and reasonable warning” before being exposed to substances listed by the State of  
22 California as causing cancer or reproductive toxicity. HSC § 25249.6, which states, in  
23 pertinent part:

24 “No person in the course of doing business shall knowingly and  
25 intentionally expose any individual to a chemical known to the state  
26 to cause cancer or reproductive toxicity without first giving clear and  
27 reasonable warning to such individual...”  
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14. Proposition 65 requires the Governor of California to publish a list of chemicals known to the state to cause cancer, birth defects, or other reproductive harm. See HSC § 25249.8. The list, which the Governor updates at least once a year, contains over 700 chemicals and chemical families. Proposition 65 imposes warning requirements and other controls that apply to Proposition 65-listed chemicals.

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

16. Proposition 65 provides that any person who “violates or threatens to violate” the statute “may be enjoined in any court of competent jurisdiction.” HSC §25249.7(a). “Threaten to violate” is defined to mean creating “a condition in which there is a substantial probability that a violation will occur.” HSC §25249.11(e). Violators are liable for civil penalties of up to \$2,500 per day for each violation of Proposition 65. See HSC §25249.7(b).

## IV BACKGROUND AND PRELIMINARY FACTS

17. This action seeks to remedy the continuing failure of Defendants failure to clearly and reasonably warn consumers in California that they are being exposed to lead and cadmium, both chemicals known to the State of California to cause cancer, birth defects and other reproductive harm in both men and women.

18. Defendants have each manufactured, packaged, distributed, marketed, sold and/or have otherwise been involved in the chain of commerce of, and continue to manufacture, distribute, package, promote, market, sell and/or otherwise continue to be

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involved in the chain of the following food products (each a “Subject Product” and collectively the “Subject Products”), which contain the chemicals lead and cadmium.

	<u>Subject Product Name</u>	<u>Chemical(s)</u>
a	Island Sun Fancy Whole Smoked Baby Clams in Sunflower Oil	Lead and Cadmium
b	Island Sun Pieces Smoked Oysters in Sunflower Oil	Lead and Cadmium

19. The Subject Products continue to be offered for sale, sold and/or otherwise provided for use and/or handling to individuals in California.

20. The consumption, use and/or handling of the Subject Products cause exposures to lead and cadmium at levels requiring a “clear and reasonable warning” under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, codified as Cal. Health & Safety Code (“HSC”) § 25249.5 *et seq.* and related statutes (also known as “Proposition 65”). Defendants expose consumers of the Subject Products to lead and cadmium and have failed to provide the health hazard warnings required by Proposition 65.

21. The continued manufacturing, packaging, distributing, marketing and/or sale of the Subject Products, without the required health hazard warnings, causes individuals to be involuntarily exposed to high levels of lead and cadmium in violation of Proposition 65.

22. Plaintiff seeks injunctive relief enjoining Defendants from the continued manufacturing, packaging, distributing, marketing and/or selling of the Subject Products in California without first providing clear and reasonable warnings, within the meaning of Proposition 65, regarding the risks of cancer, birth defects and other reproductive harm posed by exposures to lead and cadmium through the ingestion, use and/or handling of the Subject Products. Plaintiff seeks an injunctive order compelling Defendants to bring their business practices into compliance with Proposition 65 by providing clear and reasonable

1 warnings to each individual who may be exposed to lead and/or cadmium from the  
2 ingestion, use and/or handling of the Subject Products. Plaintiff also seeks an order  
3 compelling Defendants to identify and locate each individual person who in the past has  
4 purchased the Subject Products, and to provide to each such purchaser a clear and  
5 reasonable warning that the use of the Subject Product, as applicable, will cause exposure  
6 to lead and/or cadmium.

7       23. In addition to injunctive relief, Plaintiff seeks an assessment of civil penalties  
8 to remedy Defendants' failure to provide clear and reasonable warnings regarding  
9 exposures to lead and/or cadmium.

10       24. On February 27, 1987, the State of California officially listed lead as a  
11 chemical known to cause reproductive toxicity: developmental toxicity, male reproductive  
12 toxicity, and female reproductive toxicity. On October 1, 1992, the State of California  
13 officially listed lead and lead compounds as chemicals known to cause cancer.

14       25. The Maximum Allowable Dose Level ("MADL") for lead, reproductive  
15 toxicity is 0.5 µg/day. The MADL is calculated based on a body weight of 58 kg for an  
16 adult or pregnant woman, 70 kg for an adult male, 40 kg for an adolescent, 20 kg for a  
17 child, 10 kg for an infant, and 3.5 kg for a neonate (27 CCR § 25803, subd. (b)). The  
18 exposure estimates from the Subject Products exceed the lead MADL set by the California  
19 Office of Environmental Health Hazard Assessment ("OEHHA"). As a result, each  
20 Subject Product is required to have clear and reasonable warning under Proposition 65.

21       26. On October 1, 1987, the State of California officially listed cadmium as a  
22 chemical known to cause cancer. On May 1, 1997, the State of California officially listed  
23 cadmium as causing reproductive toxicity (developmental toxicity and male reproductive  
24 toxicity).

25       27. The MADL (oral for cadmium) reproductive toxicity is 4.1 µg/day. The  
26 MADL is calculated based on a body weight of 58 kg for an adult or pregnant woman, 70  
27 kg for an adult male, 40 kg for an adolescent, 20 kg for a child, 10 kg for an infant, and 3.5  
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1 kg for a neonate. 27 CCR § 25803(b). The exposure estimate from each Subject Product  
2 exceeds the MADL set by OEHHA. As a result, each Subject Product is required to have  
3 clear and reasonable warnings under Proposition 65.

4 28. Plaintiff purchased the Subject Products without a Proposition 65 warning on  
5 the Subject Products, or as required by Proposition 65.

6 29. To test the Subject Products for lead and cadmium, Plaintiff engaged a well-  
7 respected and accredited testing laboratory that used the testing protocol used and approved by the  
8 California Attorney General. The results of testing undertaken by Plaintiff of the Subject Products,  
9 show that each of the Subject Products tested were in violation of the 0.5 µg/day MADL “safe  
10 harbor” daily limit for lead and the 4.1 µg/day MADL “safe harbor” daily limit for cadmium set  
11 forth in Proposition 65’s regulations. As a result, each Subject Product is required to have  
12 clear and reasonable warnings under Proposition 65.

13 30. As a proximate result of acts by each Defendant, as a person in the course of  
14 doing business within the meaning of HSC §25249.11(b), individuals throughout the State  
15 of California, including in the County of Alameda, have been exposed to lead and  
16 cadmium without clear and reasonable warnings. The individuals subject to exposures to  
17 lead and cadmium include normal and foreseeable users of the Subject Products, as well as  
18 all other persons exposed to the Subject Products.

19 31. At all times relevant to this action, Defendants have knowingly and  
20 intentionally exposed the users of the Subject Products to lead and cadmium without first  
21 giving clear and reasonable warnings to such individuals.

22 32. Individuals using the Subject Products are exposed to lead and cadmium in  
23 excess of the “maximum allowable daily” levels determined by the State of California, as  
24 applicable for lead and cadmium.

25 33. At all times relevant to this action, Defendants have, in the course of doing  
26 business, failed to provide individuals ingesting, using and/or handling the Subject

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1 Products with clear and reasonable warnings that the Subject Products expose individuals  
2 to lead and cadmium.

3 **SATISFACTION OF PRIOR NOTICE**

4 34. On or about April 05, 2017, Plaintiff gave 60-day notice of alleged violations  
5 of HSC §25249.6 (the “April Notice”), concerning consumer product exposures subject to  
6 a private action, to Defendant 99 Cents and to the California Attorney General, County  
7 District Attorneys, and City Attorneys for each city containing a population of at least  
8 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the  
9 Subject Products containing lead and cadmium.

10 35. On or about December 28, 2017, Plaintiff gave a second 60-day notice of  
11 alleged violations of HSC §25249.6 (the “December Notice”, and together with the April  
12 Notice, the “Notices”), concerning consumer product exposures subject to a private action,  
13 to Defendant Purcell, Defendant 99 Cents, and to the California Attorney General, County  
14 District Attorneys, and City Attorneys for each city containing a population of at least  
15 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the  
16 Subject Products containing lead and cadmium. A true and correct copy of the December  
17 Notice is attached hereto as **Exhibit “A”**, is hereby incorporated by reference, and is  
18 available on the Attorney General’s website located at <https://oag.ca.gov/prop65>, under  
19 AG Number 2017-02711.

20 36. Before sending the Notices of alleged violations, Plaintiff investigated the  
21 consumer products involved, the likelihood that such products would cause users to suffer  
22 significant exposures to lead and cadmium and the corporate structure of each Defendant.

23 37. The Notices of alleged violations included a Certificate of Merit executed by  
24 the attorney for the noticing party, CTWG. The Certificate of Merit stated that the  
25 attorney for Plaintiff who executed the certificate had consulted with at least one person  
26 with relevant and appropriate expertise who reviewed data regarding the exposures to lead  
27 and cadmium, the subject Proposition 65-listed chemicals of this action. Based on that  
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1 information, the attorney for Plaintiff who executed the Certificate of Merit believed there  
2 was a reasonable and meritorious case for this private action. The attorney for Plaintiff  
3 attached to the Certificate of Merit served on the Attorney General the confidential factual  
4 information sufficient to establish the basis of the Certificate of Merit.

5 38. Plaintiff's April Notice of alleged violations also includes a Certificate of  
6 Service and documents entitled "Appendix "A" - The Safe Drinking Water & Toxic  
7 Enforcement Act of 1986 (Proposition 65): A Summary". HSC §25249.7(d).

8 39. Plaintiff's December Notice of alleged violations also includes a Certificate  
9 of Service and documents entitled "Appendix "A" - The Safe Drinking Water & Toxic  
10 Enforcement Act of 1986 (Proposition 65): A Summary", and "Appendix "B" - The Safe  
11 Drinking Water & Toxic Enforcement Act of 1986 (Proposition 65): Special Compliance  
12 Procedure". HSC §25249.7(d)

13 40. The Notices were issued pursuant to, and in compliance with, the  
14 requirements of Health and Safety Code section 25249.7, subdivision (d) and the statute's  
15 implementing regulations regarding the notice of the violations to be given to certain  
16 public enforcement agencies and to the violator. The Notices included, *inter alia*, the  
17 following information: the name, address, and telephone number of the noticing individual;  
18 the name of the alleged violator; the statute violated; the approximate time period during  
19 which violations occurred; and descriptions of the violations including the chemicals  
20 involved, the routes of toxic exposure, and the specific product or type of product causing  
21 the violations.

22 41. Plaintiff is commencing this action more than sixty (60) days from the dates  
23 that Plaintiff served the April Notice to Defendant 99 Cents, and the December Notice to  
24 Defendant Purcell and Defendant 99 Cents, and the public prosecutors referenced in the  
25 paragraphs above.

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

2 43. Plaintiff CTWG, Defendant Purcell and Defendant 99 Cents entered into  
3 several statutes of limitations tolling agreements to allow the parties time to discuss  
4 resolution of the alleged violations referenced in the Notices. The final Statutes of  
5 Limitations Tolling Agreement was fully executed as of July 31, 2019 (the "Tolling  
6 Agreement"). Pursuant to Section 2 of the Tolling Agreement, Plaintiff and each of the  
7 Defendants agreed to toll:

8 "each and every: (a) time limit, statute of limitation and/or  
9 statute of repose (of any kind or nature, including all statutes  
10 of limitations specified within the Prop 65 statute), (b) deadline  
11 and/or defense based in whole or in part upon the passage of  
12 time from certain events, and (c) contractual provision or  
13 deadline, if any, requiring the Parties to institute or assert any  
14 claim, right, objection, action, arbitration, administrative  
15 proceeding or legal proceeding, or take any step therein, within  
16 a specific period of time" . . .

17 during the "Tolling Periods" (as defined in Section 3 of the Tolling Agreement). The  
18 Tolling Periods were defined as (i) commencing on June 14, 2017 and ending August 30,  
19 2019 with respect to the April Notice; and (ii) commencing on March 08, 2018 and ending  
20 on August 30, 2019 with respect to the December Notice.

21  
22 **FIRST CAUSE OF ACTION**

23 **(Injunctive Relief for Violations of Proposition 65, The Safe Drinking Water and**  
24 **Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**  
25 **(Against All Defendants and Does 1 - 50)**

26 44. Plaintiff repeats and incorporates by reference Paragraphs 1 through 43,  
27 inclusive, as if specifically set forth in this cause of action.  
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1           45. By committing the acts alleged in this Complaint, each Defendant at all  
2 times relevant to this action, and continuing through the present, has violated and  
3 continues to violate HSC §25249.6 by, in the course of doing business, knowingly and  
4 intentionally exposing individuals, who ingest, use or handle the Subject Products, to the  
5 chemicals lead and cadmium at levels exceeding allowable exposure levels under  
6 Proposition 65 guidelines without Defendants first giving clear and reasonable warnings to  
7 such individuals pursuant to HSC §§25249.6 and 25249.11(f).

8           46. Defendants have manufactured, packaged, distributed, marketed, sold and/or  
9 has otherwise been involved in the chain of commerce of, and continue to manufacture,  
10 package, distribute, market, sell and/or otherwise continue to be involved in the chain of  
11 commerce each of the Subject Products, which have been, are, and will be ingested, used  
12 and/or handled by individuals in California, without Defendants providing clear and  
13 reasonable warnings, within the meaning of Proposition 65, regarding the risks of cancer,  
14 birth defects and other reproductive harm posed by exposure to lead and cadmium through  
15 the ingestion, use and/or handling of the Subject Products. Furthermore, Defendants have  
16 threatened to violate HSC §25249.6 by the Subject Products being marketed, offered for  
17 sale, sold and/or otherwise provided for ingestion, use and/or handling to individuals in  
18 California.

19           47. By the above-described acts, Defendants have violated HSC §25249.6 and  
20 are therefore subject to an injunction ordering Defendants to stop violating Proposition 65,  
21 and to provide warnings to consumers and other individuals who will purchase, use and/or  
22 handle the Subject Products.

23           48. An action for injunctive relief under Proposition 65 is specifically authorized  
24 by Health & Safety Code §25249.7(a) in any court of competent jurisdiction.

25           49. Continuing commission by the Defendants of the acts alleged above will  
26 irreparably harm consumers within the State of California, for which harm they have no  
27 plain, speedy, or adequate remedy at law. In the absence of equitable relief, Defendants  
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1 will continue to create a substantial risk of irreparable injury by continuing to cause  
2 consumers to be involuntarily and unwittingly exposed to lead and cadmium through the  
3 ingestion, use and/or handling of the Subject Products.

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5 **SECOND CAUSE OF ACTION**

6 **(Civil Penalties for Violations of Proposition 65, The Safe Drinking Water and Toxic  
7 Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*)  
8 (Against All Defendants and Does 1 - 50)**

9 50. Plaintiff repeats and incorporates by reference Paragraphs 1 through 49,  
10 inclusive, as if specifically set forth in this cause of action.

11 51. By committing the acts alleged in this Complaint, each of the Defendants at  
12 all times relevant to this action, and continuing through the present, have violated and  
13 continue to violate HSC §25249.6 by, in the course of doing business, knowingly and  
14 intentionally exposing individuals who ingest, use or handle the Subject Products to the  
15 chemicals lead and cadmium at levels exceeding allowable exposure levels without  
16 Defendants first giving clear and reasonable warnings to such individuals pursuant to HSC  
17 §§25249.6 and 25249.11(f).

18 52. Defendants have manufactured, packaged, distributed, marketed, sold and/or  
19 have otherwise been involved in the chain of commerce of, and continue to manufacture,  
20 package, distribute, market, sell and/or otherwise continue to be involved in the chain of  
21 commerce of the Subject Products, which have been, are, and will be ingested, used and/or  
22 handled by individuals in California, without Defendants providing clear and reasonable  
23 warnings, within the meaning of Proposition 65, regarding the risks of cancer, birth defects  
24 and other reproductive harm posed by exposure to lead and cadmium through the use  
25 and/or handling of the Subject Products. Furthermore, Defendants have threatened to  
26 violate HSC §25249.6 by the Subject Products being marketed, offered for sale, sold  
27 and/or otherwise provided for ingestion, use and/or handling to individuals in California.

53. By the above-described acts, Defendants are liable, pursuant to HSC §25249.7(b), for a civil penalty of up to \$2,500 per day for each violation of HSC §25249.6 relating to the Subject Products.

54. Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief against each of the Defendants as follows:

1. A preliminary and permanent injunction enjoining the Defendants, their agents employees, assigns and all persons acting in concert or participating with each Defendant, from manufacturing, packaging, distributing, marketing and/or selling the Subject Products for sale or use in California without first providing clear and reasonable warnings, within the meaning of Proposition 65, that the users and/or handlers of the Subject Products are exposed to the chemicals lead and cadmium;
2. An injunctive order, pursuant to HSC § 25249.7(b) and 27 CCR §§ 25603 and 25603.1, compelling Defendants to provide “clear and reasonable” warnings on the labels of the Subject Products. The warnings should indicate that the Subject Products will expose the user or consumer to chemicals known to the State of California to cause cancer and reproductive toxicity.
3. An assessment of civil penalties against Defendants, pursuant to Health & Safety Code §25249.7(b), in the amount of \$2,500 per day for each violation of Proposition 65;
4. An award to Plaintiff of its attorneys’ fees pursuant to CCP § 1021.5 or the substantial benefit theory;

- 1       5.       An award of costs of suit herein pursuant to CCP § 1032 et seq. or as  
2       otherwise warranted; and  
3       6.       Such other and further relief as the Court may deem just and proper.  
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5                               Respectfully submitted,

6       DATED: August 29, 2019

**KHANSARI LAW CORP., APC**

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10                              Andre A. Khansari, Esq.  
11                              Attorneys for Plaintiff,  
12                              The Chemical Toxin Working Group, Inc.  
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**EXHIBIT “A”**

**EXHIBIT “A”**

December 28, 2017

**VIA CERTIFIED MAIL**

William E. Purcell, President/CEO, and  
Registered Agent for Service of Process  
PURCELL INTERNATIONAL  
2499 N. Main Street, #200  
Walnut Creek, California 94597

**VIA CERTIFIED MAIL**

Geoff Covert, Manager  
99 CENTS ONLY STORES LLC  
4000 E. Union Pacific Avenue  
City of Commerce, California 90023

*(Registered Agent for Service of Process):*  
99 CENTS ONLY STORES LLC  
c/o CT Corporation System  
818 West Seventh Street, Suite 930  
Los Angeles, California 90017

**VIA U.S. MAIL and EMAIL**

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

**VIA ELECTRONIC FILING**

State of California Department of Justice  
Office of the Attorney General  
Proposition 65 Enforcement Reporting  
Filing link: [oag.ca.gov/prop65](http://oag.ca.gov/prop65)

**Notice of Violations of**  
**California Health & Safety Code Section 25249.5 et seq.**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

We represent The Chemical Toxin Working Group, Inc., a California non-profit corporation, a/k/a as The Healthy Living Foundation ("HLF"), an organization dedicated to reducing the amount of chemical toxins in consumer products, the promotion of human health, environmental safety, and improvement of worker and consumer safety. David Steinman created HLF to effectuate his commitments as an 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), along with his many publications as the publisher of the "Healthy Living Magazine" and its associated websites and periodicals.

Through this Notice of Violation (this "**Notice**"), HLF seeks to reduce and/or eliminate exposures to lead and cadmium ingested by consumers from oysters and clams

produced, distributed and sold, as applicable, by Purcell International and 99 Cents Only Stores LLC, among other retailers.

This Notice constitutes written notification that Purcell International and 99 Cents Only Stores LLC (the "**Noticed Parties**") have violated the warning requirements of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (codified at California Health & Safety Code §25249.5, *et seq.*). The products subject to this Notice of Violation (the "specified products") and the chemicals in the specified product(s) identified as exceeding allowable levels are the following:

- **Island Sun Fancy Whole Smoked Baby Clams in Sunflower Oil – Lead and Cadmium**
- **Island Sun Pieces Smoked Oysters in Sunflower Oil – Lead and Cadmium**

The Noticed Parties have manufactured, marketed, distributed and/or sold the applicable specified products which have exposed and continue to expose numerous individuals within California to lead and cadmium. Lead was listed pursuant to Proposition 65 as a chemical known to the State of California to cause developmental toxicity and reproductive toxicity on February 27, 1987 and as a chemical known to cause cancer on October 1, 1992. Cadmium was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1987, and as a chemical known to the State of California to cause reproductive and developmental toxicity on May 1, 1997.

With respect to the specified products listed above, the violation: commenced on the latter of the date that the specified product was first offered for sale in California or the date upon which California law codified the allowable level of the relevant chemical(s) surpassed by the specified product(s); has continued every day since the relevant date the violation commenced; and will continue every day henceforth until lead and cadmium are removed from the specified products, reduced to allowable levels, or until a "clear and reasonable" warning is provided to consumers by the Noticed Parties in accordance with the law. The primary route of exposure has been through ingestion but may have also occurred through inhalation and/or dermal contact.

Proposition 65 requires that a "clear and reasonable" warning be provided prior to exposure to certain listed chemicals. The Noticed Parties are in violation of Proposition 65 because the Noticed Parties have failed to provide a warning to consumers that they are being exposed to lead and cadmium. While in the course of doing business, the Noticed Parties are "knowingly and intentionally" exposing consumers to lead and cadmium, without first providing a "clear and reasonable" warning. See Cal. Health and

Safety Code § 25249.6. The method of warning should be a warning that appears on the product's label. See Cal. Code Regs. tit. 27, § 25603.1, subd. (a). The Noticed Parties have not provided any Proposition 65 warnings on the specified products' labels, point of sale, or any other appropriate warnings that persons handling, ingesting and/or otherwise using the specified product(s) are being exposed to lead and cadmium.

Proposition 65 requires that notice and intent to sue be provided to a violator 60-days before a suit is filed in connection therewith. With this Notice, HLF gives written notice of the alleged violation to the Noticed Parties and the appropriate governmental authorities. This Notice covers all violations of Proposition 65 that are currently known to the HLF from information now available as specifically related to the violating products sold through Noticed Parties, and other retailers and/or distributors. HLF is continuing its investigation that may reveal further violations.

Pursuant to Title 27, C.C.R. § 25903(b), copies of the documents entitled (i) "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary", referenced as Appendix "A", and (ii) "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): Special Compliance Procedure", referenced as Appendix "B", are attached hereto for reference by the Noticed Parties.

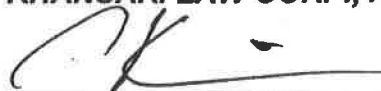
Pursuant to Title 11, C.C.R. § 3100, a "Certificate of Merit" is attached hereto.

HLF is interested in a prompt resolution of this matter with an enforceable written agreement by the Noticed Parties to (1) eliminate or reduce lead and cadmium, to an allowable level in, or provide appropriate warning on the labels of, the specified products and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures and expensive and time-consuming litigation.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, HLF is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this Notice to my office on behalf of HLF.

If you have any questions, please contact my office at your earliest convenience. Thank you for your time and consideration with respect to this urgent matter.

Sincerely,  
**KHANSARI LAW CORP., APC**



Andre A. Khansari, Esq.  
(Attachments)

**Attachments:**

1. Certificate of Merit;
2. Certificate of Service;
3. Additional Supporting Information for Certificate of Merit (to Attorney General only); and
4. Appendix "A" – "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary", and Appendix "B" – "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): Special Compliance Procedure" (to the Noticed Parties only).

Copy to: The Chemical Toxin Working Group, Inc. (via email only)



## **CERTIFICATE OF MERIT**

**Re: The Chemical Toxin Working Group Inc.'s Notice of Proposition 65  
Violations by Purcell International and 99 Cents Only Stores LLC**

I, Andre A. Khansari, hereby declare:

1. This Certificate of Merit (this "Certificate") accompanies the attached Notice of Violation dated December 28, 2017 (the "NOV") in which it is alleged that the parties identified in the NOV ("alleged violators") have violated California 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, Inc. The NOV alleges that the alleged violators have exposed persons in California to the listed chemical(s) that is the subject of this Certificate. Please refer to the NOV for additional details regarding the product(s) name and alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical(s) that is the subject of this Certificate. I have reviewed the laboratory testing results for the chemical(s) subject to the NOV and relied on these results. The testing was conducted by a reputable testing laboratory, and by experienced scientists. The facts, studies and other data derived through this investigation overwhelmingly demonstrate that the alleged violators expose persons to the listed chemical(s) that is the subject of this Certificate.
4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that the listed product(s) in the NOV expose people to unlawfully high levels of the specified chemical(s). 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 that the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate 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: December 28, 2017



Andre A. Khansari, Esq.  
Attorney for The Chemical Toxin Working Group, Inc.

## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

#### THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

**The "Proposition 65 List."** Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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<sup>1</sup> All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

***Clear and reasonable warnings.*** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***Prohibition from discharges into drinking water.*** A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### ***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

***Grace Period.*** Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

***Governmental agencies and public water utilities.*** All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

**Exposures that pose no significant risk of cancer.** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures to Naturally Occurring Chemicals in Food.** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

**Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water.** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

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<sup>2</sup> See Section 25501(a)(4).

### **HOW IS PROPOSITION 65 ENFORCED?**

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:  
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at  
[P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

## APPENDIX B

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

#### THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): SPECIAL COMPLIANCE PROCEDURE

This Appendix B contains the notice of special compliance procedure and proof of compliance form prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). Under the Act, a private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. These exposures are:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties any reimbursement for costs and attorney's fees, if the alleged violator has done *all* of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of \$500 (subject to change in 2019 and every five years thereafter) to the private party within 30 days; and



- Notified the private party serving the notice in writing that the violation has been corrected.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city of greater than 750,000 population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator.

When a private party sends a notice of alleged violation that alleges one or more of the exposures listed above, the notice must include a notice of special compliance procedure, and a proof of compliance form to be completed by the alleged violator as directed in the notice.

The notice and proof of compliance form is reproduced here:

Date:

Page 1

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

### **SPECIAL COMPLIANCE PROCEDURE** **PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

**The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:**

- (1) You have actually taken the corrective steps that you have certified in this form.**
- (2) The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice.**
- (3) The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.**
- (4) This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.**

### **PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY**

The alleged violation is for an exposure to: (check one)



\_\_\_Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.

\_\_\_A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

\_\_\_Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

\_\_\_Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

**IMPORTANT NOTES:**

(1) You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.

(2) Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Date:

Page 2

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

**PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE**

**Certification of Compliance**

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- ☐ Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- ☐ Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately showing its placement on my premises; OR
- ☐ Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

**Certification**

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

\_\_\_\_\_  
Signature of alleged violator or authorized representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and title of signatory

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at [P65Public.Comments@oehha.ca.gov](mailto:P65Public.Comments@oehha.ca.gov).

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

## **CERTIFICATE OF SERVICE**

I am a citizen of the United States and a resident of the County of Los Angeles. I am over the age of eighteen years and not a party to the within entitled action or process. My business address is **11845 W. Olympic Blvd., Suite 1000, Los Angeles, California 90064.**

On December 28, 2017, I served the following documents:

- (i) **Notice of Violations by Purcell International and 99 Cents Only Stores LLC for Violation of California Health & Safety Code Section 25249.5 et seq.;**
- (ii) **Certificate of Merit;**
- (iii) **Certificate of Service; and**
- (iv) **Appendix "A" – "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary", and Appendix "B" – "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): Special Compliance Procedure" (to the Noticed Parties only),**

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party below, and depositing it at a United States Postal Service Office in Los Angeles, California for delivery by Certified Mail:

William E. Purcell, President/CEO, and  
Registered Agent for Service of Process  
PURCELL INTERNATIONAL  
2499 N. Main Street, #200  
Walnut Creek, CA 94597

Geoff Covert, Manager  
99 CENTS ONLY STORES LLC  
4000 E. Union Pacific Avenue  
City of Commerce, CA 90023

(Registered Agent for Service of Process):  
99 CENTS ONLY STORES LLC  
c/o CT Corporation System  
818 West Seventh Street, Suite 930  
Los Angeles, CA 90017

On December 28, 2017, I served the following documents:

- (i) **Notice of Violations by Purcell International and 99 Cents Only Stores LLC for Violation of California Health & Safety Code Section 25249.5 et seq.;**
- (ii) **Certificate of Merit;**
- (iii) **Certificate of Service; and**
- (iv) **Additional Information and Supporting Documentation Required by Title 11, C.C.R. §3102,**

on the following party by filing electronically a true and correct copy thereof as permitted through the website of the California Office of the Attorney General via link at [oag.ca.gov/prop65](http://oag.ca.gov/prop65):

State of California Department of Justice  
Office of the Attorney General

On December 28, 2017, I served the following documents:

- (i) **Notice of Violations by Purcell International and 99 Cents Only Stores LLC for Violation of California Health & Safety Code Section 25249.5 et seq.;**
- (ii) **Certificate of Merit; and**
- (iii) **Certificate of Service,**

on each of the parties on the service list attached hereto (see attached "**Service List**") by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney

offices listed on the attached service list, and depositing it at a United States Postal Service mail box for delivery by First Class Mail, except for the Contra Costa County District Attorney, Lassen County District Attorney, Riverside County District Attorney, Sacramento County District Attorney, San Francisco County District Attorney, Napa County District Attorney, San Joaquin County District Attorney, San Luis Obispo County District Attorney, Santa Clara County District Attorney, Sonoma County District Attorney, Tulare County District Attorney, Ventura County District Attorney, Monterey County District Attorney, and Yolo County District Attorney, which have requested electronic service only via the following email addresses, respectively (as listed on the Service List): [sgrassini@contracostada.org](mailto:sgrassini@contracostada.org); [mlatimer@co.lassen.ca.us](mailto:mlatimer@co.lassen.ca.us); [prop65@rivcoda.org](mailto:prop65@rivcoda.org); [prop65@sacda.org](mailto:prop65@sacda.org); [Gregory.alker@sfgov.org](mailto:Gregory.alker@sfgov.org); [cepd@countyofnapa.org](mailto:cepd@countyofnapa.org); [daconsumer.environmental@sjcda.org](mailto:daconsumer.environmental@sjcda.org); [edobroth@co.slo.ca.us](mailto:edobroth@co.slo.ca.us); [epu@da.sccgov.org](mailto:epu@da.sccgov.org); [jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org); [prop65@co.tulare.ca.us](mailto:prop65@co.tulare.ca.us); [daspecialops@ventura.org](mailto:daspecialops@ventura.org); [Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us); and [cfepd@yolocounty.org](mailto:cfepd@yolocounty.org).

I, Andre A. Khansari, declare under penalty of perjury that the foregoing is true and correct.  
Executed on December 28, 2017 at Los Angeles, California

A handwritten signature in black ink, appearing to be 'AK' with a stylized flourish, written over a horizontal line.

Andre A. Khansari

# SERVICE LIST

Page 1 of 3

DISTRICT ATTORNEY ALAMEDA COUNTY 1225 FALLON STREET, SUITE 900 OAKLAND, CA 94612	DISTRICT ATTORNEY KERN COUNTY 1216 TRUXTON AVENUE BAKERSFIELD, CA 93301	DISTRICT ATTORNEY NEVADA COUNTY 201 COMMERCIAL STREET NEVADA CITY, CA 95959
DISTRICT ATTORNEY ALPINE COUNTY P.O. BOX 248 MARKLEEVILLE, CA 96120	DISTRICT ATTORNEY KINGS COUNTY 400 WEST LACEY BLVD. HANFORD, CA 93230	DISTRICT ATTORNEY ORANGE COUNTY 401 WEST CIVIC CENTER DR. SANTA ANA, CA 92701
DISTRICT ATTORNEY AMADOR COUNTY 708 COURT STREET, SUITE 202 JACKSON, CA 95642	DISTRICT ATTORNEY LAKE COUNTY 255 N. FORBES STREET LAKEPORT, CA 95453	DISTRICT ATTORNEY PLACER COUNTY 10810 JUSTICE CENTER DRIVE, STE. 240 ROSEVILLE, CA 95678
DISTRICT ATTORNEY BUTTE COUNTY 25 COUNTY CENTER DRIVE, STE 245 OROVILLE, CA 95965	DISTRICT ATTORNEY LASSEN COUNTY 220 SOUTH LASSEN STREET, SUITE 8 SUSANVILLE, CA 96130 mlatimer@co.lassen.ca.us	DISTRICT ATTORNEY PLUMAS COUNTY 520 MAIN STREET, ROOM 404 QUINCY, CA 95911
DISTRICT ATTORNEY CALAVERAS COUNTY 891 MOUNTAIN RANCH ROAD SAN ANDREAS, CA 95249	DISTRICT ATTORNEY LOS ANGELES COUNTY 210 WEST TEMPLE STREET, STE 18000 LOS ANGELES, CA 90012	DISTRICT ATTORNEY RIVERSIDE COUNTY 3072 ORANGE STREET RIVERSIDE, CA 92501 Prop65@rlvcoda.org
DISTRICT ATTORNEY COLUSA COUNTY 346 FIFTH STREET SUITE 101 COLUSA, CA 95932	DISTRICT ATTORNEY MADERA COUNTY 209 WEST YOSEMITE AVENUE MADERA, CA 93637	DISTRICT ATTORNEY SACRAMENTO COUNTY 901 "G" STREET SACRAMENTO, CA 95814 Prop65@sacda.org
DISTRICT ATTORNEY CONTRA COSTA COUNTY 900 WARD STREET. MARTINEZ, CA 94553 sgrassini@contracostada.org	DISTRICT ATTORNEY MARIN COUNTY 350 CIVIC CENTER DRIVE, RM. 130 SAN RAFAEL, CA 94903	DISTRICT ATTORNEY SAN BENITO COUNTY 419 4TH STREET HOLLISTER, CA 95023
DISTRICT ATTORNEY DEL NORTE COUNTY 450 H STREET SUITE 171 CRESCENT CITY, CA 95531	DISTRICT ATTORNEY MARIPOSA COUNTY POST OFFICE BOX 730 MARIPOSA, CA 95338	DISTRICT ATTORNEY SAN BERNARDINO COUNTY 316 N. MOUNTAIN VIEW AVENUE SAN BERNARDINO, CA 92415
DISTRICT ATTORNEY EL DORADO COUNTY 515 MAIN STREET PLACERVILLE, CA 95667	DISTRICT ATTORNEY MENDOCINO COUNTY P. O. BOX 1000 UKIAH, CA 95482	DISTRICT ATTORNEY SAN DIEGO COUNTY 330 WEST BROADWAY, SUITE 1300 SAN DIEGO, CA 92101
DISTRICT ATTORNEY FRESNO COUNTY 2220 TULARE STREET, SUITE 1000 FRESNO, CA 93721	DISTRICT ATTORNEY MERCED COUNTY 550 W. MAIN STREET MERCED, CA 95340	DISTRICT ATTORNEY SAN FRANCISCO COUNTY 732 BRANNAN STREET SAN FRANCISCO, CA 94103 Gregory.alker@sfgov.org

# SERVICE LIST

Page 2 of 3

DISTRICT ATTORNEY GLENN COUNTY POST OFFICE BOX 430 WILLOWS, CA 95988	DISTRICT ATTORNEY SAN MATEO COUNTY 400 COUNTY CTR., 3RD FLOOR REDWOOD CITY, CA 94063	DISTRICT ATTORNEY SUTTER COUNTY 446 SECOND STREET YUBA CITY, CA 95991
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DISTRICT ATTORNEY SAN JOAQUIN COUNTY 222 E. WEBER AVE., RM. 202 STOCKTON, CA 95202 DAConsumer.Environmental@sjcda.org	DISTRICT ATTORNEY SONOMA COUNTY 600 ADMINISTRATIVE DRIVE SONOMA, CA 95403 jbarnes@sonoma-county.org	LOS ANGELES CITY ATTORNEY'S OFFICE CITY HALL EAST 200 N. MAIN STREET, SUITE 800 LOS ANGELES, CA 90012
DISTRICT ATTORNEY SAN LUIS OBISPO COUNTY COUNTY GOVERNMENT CENTER ANNEX SAN LUIS OBISPO, CA 93408 edobroth@co.slo.ca.us	DISTRICT ATTORNEY STANISLAUS COUNTY 83212 STREET, SUITE 300 MODESTO, CA 95354	SAN DIEGO CITY ATTORNEY'S OFFICE 1200 3RD AVENUE, SUITE 1620 SAN DIEGO, CA 92101

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Page 3 of 3

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