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11 Consumer Advocacy Group, Inc.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 CONSUMER ADVOCACY GROUP, INC.,
15 in the public interest,

16 Plaintiff,

17 v.

18 EL MONTE SUPERSTORE INC., a
19 California Corporation
20 SHUN FAT SUPERMARKET, INC., a
21 California Corporation;
22 SF SUPERMARKET, INC., a California
23 Corporation;
24 TRANS FAMILY, INC., a California
25 Corporation;
26 ORIENTAL FOODBANK, INC., a
27 California Corporation;
28 DAI CHEONG TRADING CO, INC., a
California Corporation;
NORTHERN FOOD I/E, INC., a New York
Corporation;
ZAP EXPO CENTER, INC., a California
Corporation;
T & T FOODS, INC., a Business Entity Form
Unknown;
SAN GABRIEL SUPERSTORE, a business
Entity Form Unknown; and

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

OCT 26 2018

Sherri R. Carter, Executive Officer/Clerk

By: J. DELAROSA, Deputy

CASE NO. **18STCV02562**

PLAINTIFF CONSUMER ADVOCACY
GROUP INC'S COMPLAINT FOR
PENALTY AND INJUNCTION

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

UNLIMITED CIVIL
(Demand exceeds \$25,000)

DOES 1-50;

Defendants.

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges a cause of action against Defendants EL MONTE SUPERSTORE INC.; SHUN FAT SUPERMARKET, INC.; SF SUPERMARKET, INC.; TRANS FAMILY, INC.; ORIENTAL FOODBANK, INC., DAI CHEONG TRADING CO, INC., NORTHERN FOOD I/E, INC., ZAP EXPO CENTER, INC., T&T FOODS, INC., SAN GABRIEL SUPERSTORE, and DOES 1-50 as follows:

THE PARTIES

1. Plaintiff, CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”), is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code section 25249.7, subdivision (d).

2. Defendant, EL MONTE SUPERSTORE INC (“MONTE”), is a California Corporation, doing business in the State of California at all relative times herein.

3. Defendant, SHUN FAT SUPERMARKET, INC. (“FAT”), is a California Corporation, doing business in the State of California at all relevant times herein.

4. Defendant, SF SUPERMARKET, INC. (“SF”), is a California Corporation, doing business in the State of California at all relevant times herein.

5. Defendant, TRANS FAMILY, INC. (“FAMILY”), is a California Corporation, doing business in the State of California at all relevant times herein.

6. Defendant, ORIENTAL FOODBANK, INC (“ORIENTAL”), is a California Corporation, qualified to do business and conducting substantial business in the State of California at all relevant times herein. ORIENTAL has been a registered corporation in the state of California and in good standing since 1993.

7. Defendant, DAI CHEONG TRADING CO, INC (“DAI”), is a California Corporation, engaging in substantial business in the State of California at all relevant times

1 herein. As of the date this Amended Complaint is filed, DAI's status is currently suspended
2 according to the California Secretary of State website.

3 8. Defendant, NORTHERN FOOD I/E, INC ("NORTHERN"), is a New York
4 Corporation, qualified to do business in the State of California, and conducting substantial
5 business in the State of California at all relevant times herein. NORTHERN has been a registered
6 corporation in the state of New York since 2005.

7 9. Defendant, ZAP EXPO CENTER, INC. ("ZAP"), is a California Corporation,
8 qualified to do business and conducting substantial business in the State of California at all
9 relevant times herein. ZAP has been a registered corporation in the state of California and in
10 good standing since 2010.

11 10. Defendant, T&T FOODS, INC. ("T&T"), is a Business Entity Form Unknown,
12 qualified to do business and conducting substantial business in the State of California at all
13 relevant times herein. T&T has been a registered corporation in the state of California and in
14 good standing since 2005.

15 11. Defendant, SAN GABRIEL SUPERSTORE ("GABRIEL"), is a Business Entity
16 Form Unknown doing business in the State of California at all relevant times herein.

17 12. Plaintiff is presently unaware of the true names and capacities of defendants
18 DOES 1-50, and therefore sues these defendants by such fictitious names. Plaintiff will amend
19 this complaint to allege their true names and capacities when ascertained. Plaintiff is informed,
20 believes, and thereon alleges that each fictitiously named defendant is responsible in some
21 manner for the occurrences herein alleged and the damages caused thereby.

22 13. At all times mentioned herein, the term "Defendants" includes FAT, SF,
23 FAMILY, MONTE, ORIENTAL, DAI, NORTHERN, ZAP, T&T, GABRIEL, and DOES 1-70.

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

26 15. Upon information and belief, at all times relevant to this action, each of the
27 Defendants, including DOES 1-50, was an agent, servant, or employee of each of the other
28 Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was

1 acting within the course and scope of this agency, service, or employment, and was acting with
2 the consent, permission, and authorization of each of the other Defendants. All actions of each
3 of the Defendants alleged in this Complaint were ratified and approved by every other Defendant
4 or their officers or managing agents. Alternatively, each of the Defendants aided, conspired with
5 and/or facilitated the alleged wrongful conduct of each of the other Defendants.

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

10 **JURISDICTION**

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

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

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

BACKGROUND AND PRELIMINARY FACTS

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

21. 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. *Health & Safety Code* § 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.

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

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

24. On February 27, 1987 the Governor of California added LEAD to the list of chemicals known to the State to cause developmental and reproductive toxicity, and on October

1 1, 1992, the Governor added LEAD to the list of chemicals known to the State to cause cancer.
2 Pursuant to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after
3 addition of LEAD to the list of chemicals known to the State to cause cancer and reproductive
4 toxicity, LEAD became fully subject to Proposition 65 warning requirements and discharge
5 prohibitions.

6 25. Plaintiff identified certain practices of manufacturers and distributors of products
7 bearing LEAD, exposing, knowingly, and intentionally, persons in California to said Proposition
8 65-listed chemical without first providing clear and reasonable warnings to the exposed persons
9 prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

10 26. On October 1, 1987, the Governor of California added Cadmium and Cadmium
11 compounds (“CADMIUM”) to the list of chemicals known to the State to cause cancer (Cal.
12 Code Regs. tit. 27, § 27001(b)). CADMIUM is known to the State to cause cancer and
13 developmental, male reproductive toxicity. Pursuant to Health and Safety Code sections 25249.9
14 and 25249.10, twenty (20) months after addition of CADMIUM to the list of chemicals known to
15 the State to cause cancer, CADMIUM became fully subject to Proposition 65 warning
16 requirements and discharge prohibitions.

17 27. On May 1, 1997, the Governor of California added CADMIUM to the list of
18 chemicals known to the State to cause reproductive toxicity (Cal. Code Regs. tit. 27, § 27001(c)).
19 CADMIUM is known to the State to cause developmental, male reproductive toxicity. Pursuant
20 to Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of
21 CADMIUM to the list of chemicals known to the State to cause reproductive toxicity,
22 CADMIUM became fully subject to Proposition 65 warning requirements and discharge
23 prohibitions.

24 28. Plaintiff identified certain practices of manufacturers and distributors of products
25 bearing CADMIUM of exposing, knowingly, and intentionally, persons in California to the
26 Proposition 65-listed chemicals of such products without first providing clear and reasonable
27 warnings of such to the exposed persons prior to the time of exposure. Plaintiff later discerned
28 that Defendants engaged in such practice.

1 29. On February 27, 1987, the Governor of California added Arsenic (inorganic
2 arsenic compounds) (“ARSENIC”) to the list of chemicals known to the State to cause cancer
3 (Cal. Code Regs. Tit §). ARSENIC is known to the State to cause Cancer. Pursuant to Health and
4 Safety Code, twenty (20) months after addition of ARSENIC to the list of chemicals known to
5 the State to cause cancer, ARSENIC became fully subject to Proposition 65 warning
6 requirements and discharge prohibitions.

7 30. On May 1, 1997, the Governor of California added Arsenic (inorganic arsenic
8 compounds) (“ARSENIC”) to the list of chemicals known to the State to cause reproductive
9 toxicity (Cal. Code Regs. Tit §). ARSENIC is known to the State to cause reproductive toxicity.
10 Pursuant to Health and Safety Code, twenty (20) months after addition of ARSENIC to the list of
11 chemicals known to the State to reproductive toxicity ARSENIC became fully subject to
12 Proposition 65 warning requirements and discharge prohibitions.

13 31. Plaintiff identified certain practices of manufacturers and distributors of products
14 bearing ARSENIC exposing, knowingly, and intentionally, persons in California to the
15 Proposition 65-listed chemicals of such products without first providing clear and reasonable
16 warnings of such to the exposed persons prior to the time of exposure. Plaintiff later discerned
17 that Defendants engaged in such practice.

18 **SATISFACTION OF PRIOR NOTICE**

19 32. On or about April 18, 2018, Plaintiff gave notice of alleged violations of Health
20 and Safety Code section 25249.6, concern consumer product exposures, subject to a private
21 action to SF, ORIENTAL, MONTE, and to the California Attorney General, County District
22 Attorneys, and City Attorneys for each containing a population of at least 750,000 people in
23 whose jurisdiction the violations allegedly occurred, concerning ANCHOVIES containing
24 LEAD, CADMIUM, and ARSENIC.

25 33. On or about April 20, 2018, Plaintiff gave notice of alleged violations of Health
26 and Safety Code section 25249.6, concerning consumer products exposures, subject to a private
27 action to FAT, FAMILY, SF, GABRIEL, NORTHERN, and to the California Attorney General,
28 County District Attorneys, and City Attorneys for each city containing a population of at least

1 750,000 people in whose jurisdictions the violations allegedly occurred, concerning SEAWEED
2 containing LEAD and ARSENIC.

3 34. On or about April 20, 2018, Plaintiff gave notice of alleged violations of Health
4 and Safety Code section 25249.6, concerning consumer products exposures, subject to a private
5 action to SF, MONTE, ZAP, and to the California Attorney General, County District Attorneys,
6 and City Attorneys for each city containing a population of at least 750,000 people in whose
7 jurisdictions the violations allegedly occurred, concerning DRIED SEAWEED containing LEAD
8 and ARSENIC.

9 35. On or about April 20, 2018, Plaintiff gave notice of alleged violations of Health
10 and Safety Code section 25249.6, concerning consumer products exposures, subject to a private
11 action to SF, MONTE, T&T, and to the California Attorney General, County District Attorneys,
12 and City Attorneys for each city containing a population of at least 750,000 people in whose
13 jurisdictions the violations allegedly occurred, concerning DRIED SHRIMP containing
14 ARSENIC.

15 36. On or about May 7, 2018, Plaintiff gave notice of alleged violations of Health and
16 Safety Code section 25249.6, concerning consumer products exposures, subject to a private
17 action to SF, MONTE, DAI, FAMILY, and to the California Attorney General, County District
18 Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in
19 whose jurisdictions the violations allegedly occurred, concerning DRIED FUNGUS containing
20 LEAD.

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

25 38. Plaintiff's notices of alleged violations included a Certificate of Merit executed by
26 the attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
27 Plaintiff who executed the certificate had consulted with at least one person with relevant and
28 appropriate expertise who reviewed data regarding the exposures to LEAD, CADMIUM, and

1 ARSENIC, the subject Proposition 65-listed chemicals of this action. Based on that information,
2 the attorney for Plaintiff who executed the Certificate of Merit believed there was a reasonable
3 and meritorious case for this private action. The attorney for Plaintiff attached to the Certificate
4 of Merit served on the Attorney General the confidential factual information sufficient to
5 establish the basis of the Certificate of Merit.

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

9 40. Plaintiff is commencing this action more than sixty (60) days from the dates that
10 Plaintiff gave notices of the alleged violation to MONTE, FAT, SF, FAMILY, ORIENTAL,
11 DAI, NORTHERN, ZAP, T&T, and GABRIEL and the public prosecutors referenced in
12 Paragraphs 32-36

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

16 **FIRST CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. against SF, MONTE, ORIENTAL,**
18 **and DOES 1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
19 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

20 **Anchovies**

21 42. Plaintiff repeats and incorporates by reference paragraphs 1 through 41 of this
22 complaint as though fully set forth herein. Each of the Defendants is, and at all times mentioned
23 herein was, a manufacturer, distributor, promoter, or retailer of Dried Anchovies including but
24 not limited to: "SEASONED ANCHOVIES WITH SESAME"; "IMPORTED BY: ORIENTAL
25 FOODBANK, INC."; "COMMERCE, CA 90040"; "PRODUCT OF THAILAND"; "NET
26 WEIGHT 3.5 OZ. (100 g.)"; "Seasoned Anchovy w/ Sesam (OP) 04988401142 6"; "UPC
27 049884011436"; "UPC 049884040917" ("ANCHOVIES")
28

1 43. Plaintiff is informed, believes, and thereon alleges that ANCHOVIES contain
2 LEAD, CADMIUM, and ARSENIC.

3 44. Defendants knew or should have known that LEAD and CADMIUM have been
4 identified by the State of California as a chemical known to cause cancer and reproductive
5 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also
6 informed of the presence of LEAD and CADMIUM in ANCHOVIES within Plaintiff's notice of
7 alleged violations further discussed above at Paragraph 32.

8 45. Defendants knew or should have known that ARSENIC has been identified by the
9 State of California as a chemical known to cause reproductive toxicity and therefore was subject
10 to Proposition 65 warning requirements. Defendants were also informed of the presence of
11 ARSENIC in ANCHOVIES within Plaintiff's notice of alleged violations further discussed
12 above at Paragraph 32.

13 46. Plaintiff's allegations regarding ANCHOVIES concern "[c]onsumer products
14 exposure[s]," which "is an exposure that results from a person's acquisition, purchase, storage,
15 consumption, or other reasonably foreseeable use of a consumer good, or any exposure that
16 results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*. ANCHOVIES
17 are consumer products, and, as mentioned herein, exposures to CADMIUM, LEAD, and
18 ARSENIC took place as a result of such normal and foreseeable consumption and use.

19 47. Plaintiff is informed, believes, and thereon alleges that between April 18, 2015
20 and the present, each of the Defendants knowingly and intentionally exposed California
21 consumers and users of ANCHOVIES, which Defendants manufactured, distributed, or sold as
22 mentioned above, to CADMIUM, LEAD, and ARSENIC, without first providing any type of
23 clear and reasonable warning of such to the exposed persons before the time of exposure.
24 Defendants have distributed and sold ANCHOVIES in California. Defendants know and intend
25 that California consumers will use and consume ANCHOVIES, thereby exposing them to
26 CADMIUM, LEAD, and ARSENIC. Defendants thereby violated Proposition 65.

27 48. The principal routes of exposure with regard to ANCHOVIES are and were
28 through ingestion, including hand to mouth pathways, inhalation, and trans-dermal absorption.

Persons sustained exposures primarily by eating and consuming ANCHOVIES, and additionally by handling ANCHOVIES without wearing gloves or any other personal protective equipment, or by touching bare skin or mucous membranes with gloves after handling ANCHOVIES as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or even breathing in particulate matter dispersed from ANCHOVIES.

49. Plaintiff is informed, believes, and thereon alleges that each of Defendant's violations of Proposition 65 as to ANCHOVIES have been ongoing and continuous to the date of the signing of this complaint, as Defendants engaged and continue to engage in conduct which violates Health and Safety Code section 25249.6, including the manufacture, distribution, promotion, and sale of ANCHOVIES, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to CADMIUM, LEAD, and ARSENIC by ANCHOVIES as mentioned herein.

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

51. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to LEAD, CADMIUM, and ARSENIC from ANCHOVIES pursuant to Health and Safety Code section 25249.7(b).

52. In the absence of equitable relief, the general public will continue to be involuntarily exposed to LEAD, CADMIUM and ARSENIC that is contained in ANCHOVIES, creating a substantial risk of irreparable harm. Thus, by committing the acts alleged herein, Defendants have caused irreparable harm for which there is no plain, speedy, or adequate remedy at law.

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

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1 **SECOND CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against SF, FAT, GABRIEL,**
3 **FAMILY, NORTHERN and DOES 11-20 for Violations of Proposition 65, The Safe**
4 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et***
5 ***seq.*)**

6 **Seaweed Products**

7 54. Plaintiff repeats and incorporates by reference paragraphs 1 through 53 of this
8 complaint as though fully set forth herein. Each of the Defendants is, and at all times mentioned
9 herein was, a manufacturer, distributor, promoter, or retailer of Dried Seaweed including but not
10 limited to: “Seaweed”; “Special Grade”; “Exported By Fuzhou Yefeng Import and Trading Co.,
11 Ltd. Add:16f., Zhong Min BLDG.B, Yangqiao RD., Fuzhou, China”; “Net Wt: 7 oz (200.g)”;
12 “INGREDIENT: SEAWEED”; “PRODUCT OF CHINA”; “Please Store In a Cold Dry Place” “6
930248 600851”. (“SEAWEED”)

13 55. Plaintiff is informed, believes, and thereon alleges that SEAWEED contains
14 LEAD and ARSENIC.

15 56. Defendants knew or should have known that ARSENIC has been identified by the
16 State of California as a chemical known to cause reproductive toxicity and therefore was subject
17 to Proposition 65 warning requirements. Defendants were also informed of the presence of
18 ARSENIC in SEAWEED within Plaintiff's notice of alleged violations further discussed above
19 at Paragraph 33

20 57. Defendants knew or should have known that LEAD has been identified by the
21 State of California as a chemical known to cause cancer and reproductive toxicity and therefore
22 was subject to Proposition 65 warning requirements. Defendants were also informed of the
23 presence of LEAD in SEAWEED within Plaintiff's notice of alleged violations further discussed
24 above at Paragraph 33

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

1 a consumer product, and, as mentioned herein, exposures to LEAD and ARSENIC took place as
2 a result of such normal and foreseeable consumption and use.

3 59. Plaintiff is informed, believes, and thereon alleges that between April 20, 2015
4 and the present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of SEAWEEED, which Defendants manufactured, distributed, or sold as
6 mentioned above, to LEAD and ARSENIC, without first providing any type of clear and
7 reasonable warning of such to the exposed persons before the time of exposure. Defendants have
8 distributed and sold SEAWEEED in California. Defendants know and intend that California
9 consumers will use SEAWEEED, thereby exposing them to LEAD, and ARSENIC. Defendants
10 thereby violated Proposition 65.

11 60. The principal routes of exposure with regard to SEAWEEED are and were through
12 ingestion, including hand to mouth pathways, inhalation, and trans-dermal absorption. Persons
13 sustained exposures primarily by eating and consuming SEAWEEED, and additionally by
14 handling SEAWEEED without wearing gloves or any other personal protective equipment, or by
15 touching bare skin or mucous membranes with gloves after handling SEAWEEED as well as
16 through direct and indirect hand to mouth contact, hand to mucous membrane, or even breathing
17 in particulate matter dispersed from SEAWEEED.

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

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

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

64. In the absence of equitable relief, the general public will continue to be involuntarily exposed to LEAD and ARSENIC that is contained in SEAWEED, creating a substantial risk of irreparable harm. Thus, by committing the acts alleged herein, Defendants have caused irreparable harm for which there is no plain, speedy, or adequate remedy at law.

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

THIRD CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against SF, ZAP, MONTE and DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

Dried Seaweed

66. Plaintiff repeats and incorporates by reference paragraphs 1 through 65 of this complaint as though fully set forth herein.

67. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Seaweed, including but not limited to: “HANHENG TASTE”; “DRIED SEAWEED STRIPS”; “PRODUCT OF CHINA”; “NET WEIGHT 100G (3.5OZ)”; “INGREDIENT: SEAWEED”; “PRODUCT OF CHINA”; “DISTRIBUTED BY ZAP EXPO CENTER INC; 1301 John Reed CT.; City of Industry, CA 91745; EmailLchlink3@yahoo,cn”; “Please store in a cool dry place”; UPC 6 930248 687135” (“DRY SEAWEED”)

68. Plaintiff is informed, believes, and thereon alleges that DRY SEAWEED contains LEAD and ARSENIC.

69. Defendants knew or should have known that ARSENIC has been identified by the State of California as a chemical known to cause reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of

1 ARSENIC in DRY SEAWEED within Plaintiff's notice of alleged violations further discussed
2 above at Paragraph 34

3 70. Defendants knew or should have known that LEAD has been identified by the
4 State of California as a chemical known to cause cancer and reproductive toxicity and therefore
5 was subject to Proposition 65 warning requirements. Defendants were also informed of the
6 presence of LEAD in DRY SEAWEED within Plaintiff's notice of alleged violations further
7 discussed above at Paragraph 34

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

14 72. Plaintiff is informed, believes, and thereon alleges that between April 20, 2015
15 and the present, each of the Defendants knowingly and intentionally exposed California
16 consumers and users of DRY SEAWEED, which Defendants manufactured, distributed, or sold
17 as mentioned above, to LEAD and ARSENIC, without first providing any type of clear and
18 reasonable warning of such to the exposed persons before the time of exposure. Defendants have
19 distributed and sold DRY SEAWEED in California. Defendants know and intend that California
20 consumers will use DRY SEAWEED, thereby exposing them to LEAD, and ARSENIC.
21 Defendants thereby violated Proposition 65.

22 73. The principal routes of exposure with regard to DRY SEAWEED are and were
23 through ingestion, including hand to mouth pathways, inhalation, and trans-dermal absorption.
24 Persons sustained exposures primarily by eating and consuming DRY SEAWEED, and
25 additionally by handling DRY SEAWEED without wearing gloves or any other personal
26 protective equipment, or by touching bare skin or mucous membranes with gloves after handling
27 DRY SEAWEED as well as through direct and indirect hand to mouth contact, hand to mucous
28 membrane, or even breathing in particulate matter dispersed from DRY SEAWEED.

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

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

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

77. In the absence of equitable relief, the general public will continue to be involuntarily exposed to LEAD and ARSENIC that is contained in DRY SEAWEED, creating a substantial risk of irreparable harm. Thus, by committing the acts alleged herein, Defendants have caused irreparable harm for which there is no plain, speedy, or adequate remedy at law.

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

FOURTH CAUSE OF ACTION

(By CONSUMER ADVOCACY GROUP, INC. and against SF, MONTE, T&T, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))

Dried Seafood

79. Plaintiff repeats and incorporates by reference paragraphs 1 through 78 of this complaint as though fully set forth herein.

80. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Shrimp, including but not limited to: “t&t Dried

Shrimp Tom Kho”; “Special Selection”; “NET WT. 3 oz.”; “PACKED FOR: T&T TRADING
LOS ANGELES, CA 90201 USA”; “UPC 8 1069853126 3” (“SHRIMP”)

81. Plaintiff is informed, believes, and thereon alleges that SHRIMP contains
ARSENIC.

82. Defendants knew or should have known that ARSENIC has been identified by the
State of California as a chemical known to cause reproductive toxicity and therefore was subject
to Proposition 65 warning requirements. Defendants were also informed of the presence of
ARSENIC in SHRIMP within Plaintiff’s notice of alleged violations further discussed above at
Paragraph 35.

83. Plaintiff’s allegations regarding SHRIMP concern “[c]onsumer products
exposure[s],” which “is an exposure that results from a person’s acquisition, purchase, storage,
consumption, or other reasonably foreseeable use of a consumer good, or any exposure that
results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b). SHRIMP are
consumer products, and, as mentioned herein, exposures to ARSENIC took place as a result of
such normal and foreseeable consumption and use.

84. Plaintiff is informed, believes, and thereon alleges that between April 20, 2015
and the present, each of the Defendants knowingly and intentionally exposed California
consumers and users of SHRIMP, which Defendants manufactured, distributed, or sold as
mentioned above, to ARSENIC, without first providing any type of clear and reasonable warning
of such to the exposed persons before the time of exposure. Defendants have distributed and
sold SHRIMP in California. Defendants know and intend that California consumers will use and
consume SHRIMP, thereby exposing them to SHRIMP. Defendants thereby violated
Proposition 65.

85. The principal routes of exposure with regard to SHRIMP are and were through
ingestion, including hand to mouth pathways, inhalation, and trans-dermal absorption. Persons
sustained exposures primarily by eating and consuming SHRIMP, and additionally by handling
SHRIMP without wearing gloves or any other personal protective equipment, or by touching
bare skin or mucous membranes with gloves after handling SHRIMP as well as through direct

1 and indirect hand to mouth contact, hand to mucous membrane, or even breathing in particulate
2 matter dispersed from SHRIMP.

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

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

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

16 89. In the absence of equitable relief, the general public will continue to be
17 involuntarily exposed to ARSENIC that is contained in SHRIMP, creating a substantial risk of
18 irreparable harm. Thus by committing the acts alleged herein, Defendants have caused
19 irreparable harm for which there is no plain, speedy, or adequate remedy at law.

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

22 **FIFTH CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against SF, MONTE, FAMILY,**
24 **DAI and DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
25 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

26 **Dried Fungus**

27 91. Plaintiff repeats and incorporates by reference paragraphs 1 through 90 of this
28 complaint as though fully set forth herein.

1 92. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Dried Fungus including but not limited to: “Dried Black
3 Fungus”; “Fortuna Brand”; “Net Wt. 2.5 oz (70 g); “Packed for: Dai Cheong Trading Co., Inc.”;
4 “Product of China”; “UPC 0 88183 030182” (“FUNGUS”)

5 93. Plaintiff is informed, believes, and thereon alleges that FUNGUS contains LEAD.

6 94. Defendants knew or should have known that LEAD has been identified by the
7 State of California as a chemical known to cause reproductive toxicity and therefore was subject
8 to Proposition 65 warning requirements. Defendants were also informed of the presence of
9 LEAD in FUNGUS within Plaintiff's notice of alleged violations further discussed above at
10 Paragraph 36.

11 95. Defendants knew or should have known that LEAD has been identified by the
12 State of California as a chemical known to cause cancer and reproductive toxicity and therefore
13 was subject to Proposition 65 warning requirements. Defendants were also informed of the
14 presence of LEAD in FUNGUS within Plaintiff's notice of alleged violations further discussed
15 above at Paragraph 36

16 96. Plaintiff's allegations regarding FUNGUS concern “[c]onsumer products
17 exposure[s],” which “is an exposure that results from a person's acquisition, purchase, storage,
18 consumption, or other reasonably foreseeable use of a consumer good, or any exposure that
19 results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b). FUNGUS is a
20 consumer product, and, as mentioned herein, exposures to LEAD took place as a result of such
21 normal and foreseeable consumption and use.

22 97. Plaintiff is informed, believes, and thereon alleges that between May 7, 2015 and
23 the present, each of the Defendants knowingly and intentionally exposed California consumers
24 and users of FUNGUS, which Defendants manufactured, distributed, or sold as mentioned
25 above, to LEAD, without first providing any type of clear and reasonable warning of such to the
26 exposed persons before the time of exposure. Defendants have distributed and sold FUNGUS in
27 California. Defendants know and intend that California consumers will use FUNGUS, thereby
28 exposing them to LEAD. Defendants thereby violated Proposition 65.

98. The principal routes of exposure with regard to FUNGUS are and were through ingestion, including hand to mouth pathways, inhalation, and trans-dermal absorption. Persons sustained exposures primarily by eating and consuming FUNGUS, and additionally by handling FUNGUS without wearing gloves or any other personal protective equipment, or by touching bare skin or mucous membranes with gloves after handling FUNGUS as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or even breathing in particulate matter dispersed from FUNGUS.

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

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

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

102. In the absence of equitable relief, the general public will continue to be involuntarily exposed to LEAD that is contained in FUNGUS, creating a substantial risk of irreparable harm. Thus, by committing the acts alleged herein, Defendants have caused irreparable harm for which there is no plain, speedy, or adequate remedy at law.

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

PRAYER FOR RELIEF

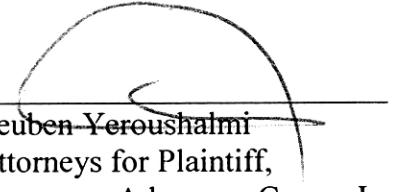
Plaintiff demands against each of the Defendants as follows:

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: October 26, 2018

YEROUSHALMI & YEROUSHALMI

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