

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Fernando Aenlle-Rocha

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Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

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

Plaintiff,

v.

EL MONTE SUPERSTORE, INC., a  
California Corporation;  
SF SUPERMARKET, INC., a California  
Corporation;  
SHUN FAT SUPERMARKET, INC., a  
California Corporation;  
TRAN'S FAMILY, INC., a California  
Corporation;  
TRANS GROUP, INC., a California  
Corporation;  
KIM SENG COMPANY DBA IHA  
BEVERAGE, a California Corporation;  
and DOES 1-90,

Defendants.

CASE NO. **20STCV32951**

COMPLAINT FOR PENALTY AND  
INJUNCTION

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

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

1 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges nine causes of action  
2 against defendants EL MONTE SUPERSTORE, INC.; SF SUPERMARKET, INC.; SHUN  
3 FAT SUPERMARKET, INC.; TRAN'S FAMILY, INC.; TRANS GROUP, INC.; KIM SENG  
4 COMPANY DBA IHA BEVERAGE, and DOES 1-90 as follows:

5 **THE PARTIES**

- 6 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. ("Plaintiff" or "CAG") is an  
7 organization qualified to do business in the State of California. CAG is a person within  
8 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting  
9 as a private attorney general, brings this action in the public interest as defined under  
10 Health and Safety Code Section 25249.7, subdivision (d).
- 11 2. Defendant EL MONTE SUPERSTORE, INC.; ("EL MONTE") is a California  
12 Corporation qualified to do business in California, and doing business in the State of  
13 California at all relevant times herein.
- 14 3. Defendant SF SUPERMARKET, INC. ("SF SUPERMARKET") is a California  
15 Corporation qualified to do business in California, and doing business in the State of  
16 California at all relevant times herein.
- 17 4. Defendant SHUN FAT SUPERMARKET, INC. ("SHUN FAT") is a California  
18 Corporation qualified to do business in California, and doing business in the State of  
19 California at all relevant times herein.
- 20 5. Defendant TRAN'S FAMILY, INC. ("TRANS FAMILY") is a California Corporation  
21 qualified to do business in California, and doing business in the State of California at all  
22 relevant times herein.
- 23 6. Defendant TRANS GROUP, INC. ("TRANS GROUP") is a California Corporation  
24 qualified to do business in California, and doing business in the State of California at all  
25 relevant times herein.
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- 1 7. Defendant KIM SENG COMPANY DBA IHA BEVERAGE (“KIM SENG”) is a  
2 California Corporation qualified to do business in California, and doing business in the  
3 State of California at all relevant times herein.
- 4 8. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-90,  
5 and therefore sues these defendants by such fictitious names. Plaintiff will amend this  
6 Complaint to allege their true names and capacities when ascertained. Plaintiff is  
7 informed, believes, and thereon alleges that each fictitiously named defendant is  
8 responsible in some manner for the occurrences herein alleged and the damages caused  
9 thereby.
- 10 9. At all times mentioned herein, the term “Defendants” includes EL MONTE; SF  
11 SUPERMARKET; SHUN FAT SUPERMARKET; TRAN’S FAMILY; TRANS  
12 GROUP; KIM SENG and DOES 1-90.
- 13 10. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all  
14 times mentioned herein have conducted business within the State of California.
- 15 11. Upon information and belief, at all times relevant to this action, each of the Defendants,  
16 including DOES 1-90, was an agent, servant, or employee of each of the other  
17 Defendants. In conducting the activities alleged in this Complaint, each of the  
18 Defendants was acting within the course and scope of this agency, service, or  
19 employment, and was acting with the consent, permission, and authorization of each of  
20 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
21 were ratified and approved by every other Defendant or their officers or managing  
22 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
23 alleged wrongful conduct of each of the other Defendants.
- 24 12. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the  
25 Defendants was a person doing business within the meaning of Health and Safety Code  
26 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more  
27 employees at all relevant times.
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1 **JURISDICTION**

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

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

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

19 **BACKGROUND AND PRELIMINARY FACTS**

20 16. In 1986, California voters approved an initiative to address growing concerns about  
21 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
22 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
23 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
24 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
25 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
26 from contamination, to allow consumers to make informed choices about the products  
27  
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1 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
2 fit.

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

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

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

20 20. Plaintiff identified certain practices of manufacturers and distributors of Seaweed,  
21 Shrimp and Squid Products of exposing, knowingly and intentionally, persons in  
22 California to Lead and Lead Compounds, Cadmium and Cadmium Compounds, and/or  
23 Inorganic Arsenic Compounds of such products without first providing clear and  
24 reasonable warnings of such to the exposed persons prior to the time of exposure.  
25 Plaintiff later discerned that Defendants engaged in such practice.

26 21. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
27 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
28

27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to the State to cause cancer, Lead became fully subject to Proposition 65 warning requirements and discharge prohibitions.

22. 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 (*Cal. Code Regs. tit. 27, § 27001(c)*). Lead is known to the State to cause developmental, female, and male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to the State to cause developmental and reproductive toxicity, Lead became fully subject to Proposition 65 warning requirements and discharge prohibitions.

23. On October 1, 1987 the Governor of California added Cadmium and Cadmium Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known to the State to cause cancer, Cadmium became fully subject to Proposition 65 warning requirements and discharge prohibitions.

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

25. On February 27, 1987 the Governor of California added Inorganic Arsenic Compounds to the list of chemicals known to the State to cause cancer (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty

(20) months after addition of Inorganic Arsenic Compounds to the list of chemicals known to the State to cause cancer, Inorganic Arsenic Compounds (“Arsenic”) became fully subject to Proposition 65 warning requirements and discharge prohibitions.

**SATISFACTION OF PRIOR NOTICE**

26. Plaintiff served the following notices for alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures:

- a. On or about December 4, 2019 Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to SF SUPERMARKET, EL MONTE, SHUN FAT, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.
- b. On or about December 4, 2019 Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to SF SUPERMARKET, EL MONTE, SHUN FAT, TRANS GROUP, TRAN’S FAMILY and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Seaweed.
- c. On or about December 16, 2019 Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to SF SUPERMARKET, EL MONTE, SHUN FAT, KIM SENG, TRAN’S FAMILY and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.

- 1 d. On or about December 20, 2019 Plaintiff gave notice of alleged violations of  
2 Health and Safety Code Section 25249.6, concerning consumer products  
3 exposures subject to a private action to SF SUPERMARKET, EL MONTE, and  
4 to the California Attorney General, County District Attorneys, and City  
5 Attorneys for each city containing a population of at least 750,000 people in  
6 whose jurisdictions the violations allegedly occurred, concerning the Seaweed.
- 7 e. On or about January 29, 2020 Plaintiff gave notice of alleged violations of  
8 Health and Safety Code Section 25249.6, concerning consumer products  
9 exposures subject to a private action to SF SUPERMARKET, EL MONTE, and  
10 to the California Attorney General, County District Attorneys, and City  
11 Attorneys for each city containing a population of at least 750,000 people in  
12 whose jurisdictions the violations allegedly occurred, concerning the Dried  
13 Shrimp.
- 14 f. On or about February 14, 2020 Plaintiff gave notice of alleged violations of  
15 Health and Safety Code Section 25249.6, concerning consumer products  
16 exposures subject to a private action to SF SUPERMARKET, EL MONTE,  
17 SHUN FAT, TRAN'S FAMILY and to the California Attorney General, County  
18 District Attorneys, and City Attorneys for each city containing a population of at  
19 least 750,000 people in whose jurisdictions the violations allegedly occurred,  
20 concerning the Dried Seaweed.
- 21 g. On or about March 17, 2020 Plaintiff gave notice of alleged violations of Health  
22 and Safety Code Section 25249.6, concerning consumer products exposures  
23 subject to a private action to SF SUPERMARKET, SHUN FAT, TRANS  
24 GROUP, TRAN'S FAMILY and to the California Attorney General, County  
25 District Attorneys, and City Attorneys for each city containing a population of at  
26 least 750,000 people in whose jurisdictions the violations allegedly occurred,  
27 concerning the Dried Seaweed.
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1 h. On or about May 20, 2020 Plaintiff gave notice of alleged violations of Health  
2 and Safety Code Section 25249.6, concerning consumer products exposures  
3 subject to a private action to SF SUPERMARKET, TRANS GROUP, TRAN'S  
4 FAMILY and to the California Attorney General, County District Attorneys, and  
5 City Attorneys for each city containing a population of at least 750,000 people  
6 in whose jurisdictions the violations allegedly occurred, concerning the  
7 Seaweed.

8 i. On or about May 20, 2020 Plaintiff gave notice of alleged violations of Health  
9 and Safety Code Section 25249.6, concerning consumer products exposures  
10 subject to a private action to SF SUPERMARKET, EL MONTE, TRAN'S  
11 FAMILY and to the California Attorney General, County District Attorneys, and  
12 City Attorneys for each city containing a population of at least 750,000 people  
13 in whose jurisdictions the violations allegedly occurred, concerning the Dried  
14 Squid.

15 27. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
16 products involved, the likelihood that such products would cause users to suffer  
17 significant exposures to Lead, Cadmium, and Arsenic, and the corporate structure of  
18 each of the Defendants.

19 28. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
20 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for  
21 Plaintiff who executed the certificate had consulted with at least one person with relevant  
22 and appropriate expertise who reviewed data regarding the exposures to Lead, Cadmium,  
23 Arsenic, the subject Proposition 65-listed chemical of this action. Based on that  
24 information, the attorney for Plaintiff who executed the Certificate of Merit believed  
25 there was a reasonable and meritorious case for this private action. The attorney for  
26 Plaintiff attached to the Certificate of Merit served on the Attorney General the  
27  
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confidential factual information sufficient to establish the basis of the Certificate of Merit.

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

30. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff gave notice of the alleged violations to EL MONTE; SF SUPERMARKET; SHUN FAT SUPERMARKET; TRAN'S FAMILY; TRANS GROUP; KIM SENG and DOES 1-90. the public prosecutors referenced in Paragraph 26.

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

#### **FIRST CAUSE OF ACTION**

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

#### **Dried Seaweed**

32. Plaintiff repeats and incorporates by reference paragraphs 1 through 31 of this complaint as though fully set forth herein.

33. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Round Shaped Dried Seaweed ("Round Dried Seaweed"), including but not limited to • "GROVE GROW NOTES;" "Round Shaped Dried Seaweed;" "NET WT: 65g(2.3OZ);" "S&M(HK) ENTERPRISES LTD.;" "RM3.8/F., YUEXIU BLDG., 160-174 LOCKHART ROAD, WAN CHAI, HK.;" "DISTRIBUTOR: CHANG RONG INTERNATIONAL BROOKLYN YN NY 11213;" "PRODUCT OF CHINA;" "6 926265 022417;"

34. Round Dried Seaweed contains Lead and Cadmium.

- 1 35. Defendants knew or should have known that Lead and Cadmium has been identified by  
2 the State of California as a chemical known to cause cancer, and reproductive toxicity  
3 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
4 informed of the presence of Lead and Cadmium in Round Dried Seaweed within  
5 Plaintiff's notice of alleged violations further discussed above at Paragraph 26a.
- 6 36. Plaintiff's allegations regarding Round Dried Seaweed concerns "[c]onsumer products  
7 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
8 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
9 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §  
10 25602(b). Round Dried Seaweed is/are consumer products, and, as mentioned herein,  
11 exposures to Lead and Cadmium took place as a result of such normal and foreseeable  
12 consumption and use.
- 13 37. Plaintiff is informed, believes, and thereon alleges that between December 4, 2016 the  
14 present, each of the Defendants knowingly and intentionally exposed California  
15 consumers and users of Round Dried Seaweed, which Defendants manufactured,  
16 distributed, or sold as mentioned above, to Lead and Cadmium, without first providing  
17 any type of clear and reasonable warning of such to the exposed persons before the time  
18 of exposure. Defendants have distributed and sold Round Dried Seaweed in California.  
19 Defendants know and intend that California consumers will use and consume Round  
20 Dried Seaweed, thereby exposing them to Lead and Cadmium. Defendants thereby  
21 violated Proposition 65.
- 22 38. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
23 Persons sustain exposures by handling Round Dried Seaweed without wearing gloves or  
24 any other personal protective equipment, or by touching bare skin or mucous membranes  
25 with gloves after handling Round Dried Seaweed, as well as through direct and indirect  
26 hand to mouth contact, hand to mucous membrane, or breathing in particulate matter  
27 dispersed from Round Dried Seaweed.
- 28

1 39. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
2 Proposition 65 as to Round Dried Seaweed have been ongoing and continuous, as  
3 Defendants engaged and continue to engage in conduct which violates Health and Safety  
4 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of  
5 Round Dried Seaweed, so that a separate and distinct violation of Proposition 65  
6 occurred each and every time a person was exposed to Lead and Cadmium by Round  
7 Dried Seaweed as mentioned herein.

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

11 41. Based on the allegations herein, Defendants are liable for civil penalties of up to  
12 \$2,500.00 per day per individual exposure to Lead and Cadmium from Round Dried  
13 Seaweed, pursuant to Health and Safety Code Section 25249.7(b).

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

## 16 **SECOND CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. and against SF SUPERMARKET,**  
18 **EL MONTE, SHUN FAT, TRANS GROUP, TRAN'S FAMILY and DOES 11-20 for**  
19 **Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act**  
20 **of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

### 21 **Seaweed**

22 43. Plaintiff repeats and incorporates by reference paragraphs 1 through 42 of this complaint  
23 as though fully set forth herein.

24 44. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
25 distributor, promoter, or retailer of Dried Laver ("Laver"), including but not limited to •  
26 "Richin"; "Dried Laver"; "Net Wt: 1.5 oz. (43G)"; "Ingredients: Laver; Distributor:  
27 Richin Trading Inc."; UPC "7 15685 17028 2"; "Product of China"

28 45. Laver contains Lead and Cadmium.

1 46. Defendants knew or should have known that Lead and Cadmium has been identified by  
2 the State of California as a chemical known to cause cancer, and reproductive toxicity  
3 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
4 informed of the presence of Lead and Cadmium in Laver within Plaintiff's notice of  
5 alleged violations further discussed above at Paragraph 26b.

6 47. Plaintiff's allegations regarding Laver concerns "[c]onsumer products exposure[s],"  
7 which "is an exposure that results from a person's acquisition, purchase, storage,  
8 consumption, or other reasonably foreseeable use of a consumer good, or any exposure  
9 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).

10 Laver is/are consumer products, and, as mentioned herein, exposures to Lead and  
11 Cadmium took place as a result of such normal and foreseeable consumption and use.

12 48. Plaintiff is informed, believes, and thereon alleges that between December 4, 2016 the  
13 present, each of the Defendants knowingly and intentionally exposed California  
14 consumers and users of Laver, which Defendants manufactured, distributed, or sold as  
15 mentioned above, to Lead and Cadmium, without first providing any type of clear and  
16 reasonable warning of such to the exposed persons before the time of exposure.  
17 Defendants have distributed and sold Laver in California. Defendants know and intend  
18 that California consumers will use and consume Laver, thereby exposing them to Lead  
19 and Cadmium. Defendants thereby violated Proposition 65.

20 49. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
21 Persons sustain exposures by handling Laver without wearing gloves or any other  
22 personal protective equipment, or by touching bare skin or mucous membranes with  
23 gloves after handling Laver, as well as through direct and indirect hand to mouth contact,  
24 hand to mucous membrane, or breathing in particulate matter dispersed from Laver.

25 50. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
26 Proposition 65 as to Laver have been ongoing and continuous, as Defendants engaged  
27 and continue to engage in conduct which violates Health and Safety Code Section  
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25249.6, including the manufacture, distribution, promotion, and sale of Laver, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to Lead and Cadmium by Laver as mentioned herein.

51. 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.

52. 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 Cadmium from Laver, pursuant to Health and Safety Code Section 25249.7(b).

53. 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 SUPERMARKET, EL MONTE, SHUN FAT, KIM SENG, TRAN'S FAMILY 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**

54. Plaintiff repeats and incorporates by reference paragraphs 1 through 53 of this complaint as though fully set forth herein.

55. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Seaweed Slice ("Seaweed Slice"), including but not limited to "Heng Lung Brand;" "Henglung;" "DRIED SEAWEED SLICE;" "NET WT: 7 oz ( 200 g);" "DISTRIBUTOR: IHA BEVERAGE, COMMERCE, CA 90040;" "Ingredients: Seaweed (Kelp);" "PRODUCT OF CHINA;" "6 10232 00673 4;"

56. Seaweed Slice contains Lead, and Arsenic.

57. Defendants knew or should have known that Lead, and Arsenic has been identified by the State of California as a chemical known to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also

1 informed of the presence of Lead, and Arsenic in Seaweed Slice within Plaintiff's notice  
2 of alleged violations further discussed above at Paragraph 26c.

3 58. Plaintiff's allegations regarding Seaweed Slice concerns "[c]onsumer products  
4 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
5 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
6 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*  
7 *25602(b)*. Seaweed Slice is/are consumer products, and, as mentioned herein, exposures  
8 to Lead, and Arsenic took place as a result of such normal and foreseeable consumption  
9 and use.

10 59. Plaintiff is informed, believes, and thereon alleges that between December 16, 2016 the  
11 present, each of the Defendants knowingly and intentionally exposed California  
12 consumers and users of Seaweed Slice, which Defendants manufactured, distributed, or  
13 sold as mentioned above, to Lead, and Arsenic, without first providing any type of clear  
14 and reasonable warning of such to the exposed persons before the time of exposure.  
15 Defendants have distributed and sold Seaweed Slice in California. Defendants know and  
16 intend that California consumers will use and consume Seaweed Slice, thereby exposing  
17 them to Lead, and Arsenic. Defendants thereby violated Proposition 65.

18 60. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
19 Persons sustain exposures by handling Seaweed Slice without wearing gloves or any  
20 other personal protective equipment, or by touching bare skin or mucous membranes  
21 with gloves after handling Seaweed Slice, as well as through direct and indirect hand to  
22 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed  
23 from Seaweed Slice.

24 61. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
25 Proposition 65 as to Seaweed Slice have been ongoing and continuous, as Defendants  
26 engaged and continue to engage in conduct which violates Health and Safety Code  
27 Section 25249.6, including the manufacture, distribution, promotion, and sale of  
28

1 Seaweed Slice, so that a separate and distinct violation of Proposition 65 occurred each  
2 and every time a person was exposed to Lead, and Arsenic by Seaweed Slice as  
3 mentioned herein.

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

7 63. Based on the allegations herein, Defendants are liable for civil penalties of up to  
8 \$2,500.00 per day per individual exposure to Lead, and Arsenic from Seaweed Slice,  
9 pursuant to Health and Safety Code Section 25249.7(b).

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

12 **FOURTH CAUSE OF ACTION**

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

17 **Seaweed**

18 65. Plaintiff repeats and incorporates by reference paragraphs 1 through 64 of this complaint  
19 as though fully set forth herein.

20 66. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
21 distributor, promoter, or retailer of Dried Seaweed (“Dried Seaweed”), including but not  
22 limited to “• “Glam Day”; “Dried Seaweed”; “Net Wt.: 1oz (28g)”; “UPC 6 950296  
23 805282”; “Product for P.R.C”

24 67. Dried Seaweed contains Lead.

25 68. Defendants knew or should have known that Lead has been identified by the State of  
26 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
27 was subject to Proposition 65 warning requirements. Defendants were also informed of  
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1 the presence of Lead in Dried Seaweed within Plaintiff's notice of alleged violations  
2 further discussed above at Paragraph 26d.

3 69. Plaintiff's allegations regarding Dried Seaweed concerns "[c]onsumer products  
4 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
5 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
6 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §  
7 25602(b). Dried Seaweed is/are consumer products, and, as mentioned herein, exposures  
8 to Lead took place as a result of such normal and foreseeable consumption and use.

9 70. Plaintiff is informed, believes, and thereon alleges that between December 20, 2016 the  
10 present, each of the Defendants knowingly and intentionally exposed California  
11 consumers and users of Dried Seaweed, which Defendants manufactured, distributed, or  
12 sold as mentioned above, to Lead, without first providing any type of clear and  
13 reasonable warning of such to the exposed persons before the time of exposure.  
14 Defendants have distributed and sold Dried Seaweed in California. Defendants know  
15 and intend that California consumers will use and consume Dried Seaweed, thereby  
16 exposing them to Lead. Defendants thereby violated Proposition 65.

17 71. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
18 Persons sustain exposures by handling Dried Seaweed without wearing gloves or any  
19 other personal protective equipment, or by touching bare skin or mucous membranes  
20 with gloves after handling Dried Seaweed, as well as through direct and indirect hand to  
21 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed  
22 from Dried Seaweed.

23 72. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
24 Proposition 65 as to Dried Seaweed have been ongoing and continuous, as Defendants  
25 engaged and continue to engage in conduct which violates Health and Safety Code  
26 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried  
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1 Seaweed, so that a separate and distinct violation of Proposition 65 occurred each and  
2 every time a person was exposed to Lead by Dried Seaweed as mentioned herein.

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

6 74. Based on the allegations herein, Defendants are liable for civil penalties of up to  
7 \$2,500.00 per day per individual exposure to Lead from Dried Seaweed, pursuant to  
8 Health and Safety Code Section 25249.7(b).

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

11 **FIFTH CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against SF SUPERMARKET,**  
13 **EL MONTE, and DOES 41-50 for Violations of Proposition 65, The Safe Drinking**  
14 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***  
***seq.*))**

15 **Dried Shrimp**

16 76. Plaintiff repeats and incorporates by reference paragraphs 1 through 75 of this complaint  
17 as though fully set forth herein.

18 77. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
19 distributor, promoter, or retailer of Dried Shrimp ("Dried Shrimp"), including but not  
20 limited to "Lam Sheng Kee"; "Dried Shrimp"; "Net Weight: 8oz (227G)"; "Supervised  
21 by: Lam Sheng Kee (HK) International Limited"; "Distributed by: Win Luck Trading  
22 Inc"; "UPC 6 949682 805845"; "Product of China"

23 78. Dried Shrimp contains Lead.

24 79. Defendants knew or should have known that Lead has been identified by the State of  
25 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
26 was subject to Proposition 65 warning requirements. Defendants were also informed of  
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1 the presence of Lead in Dried Shrimp within Plaintiff's notice of alleged violations  
2 further discussed above at Paragraph 26e.

3 80. Plaintiff's allegations regarding Dried Shrimp concerns "[c]onsumer products  
4 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
5 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
6 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §  
7 25602(b). Dried Shrimp is/are consumer products, and, as mentioned herein, exposures  
8 to Lead took place as a result of such normal and foreseeable consumption and use.

9 81. Plaintiff is informed, believes, and thereon alleges that between January 29, 2017 the  
10 present, each of the Defendants knowingly and intentionally exposed California  
11 consumers and users of Dried Shrimp, which Defendants manufactured, distributed, or  
12 sold as mentioned above, to Lead, without first providing any type of clear and  
13 reasonable warning of such to the exposed persons before the time of exposure.  
14 Defendants have distributed and sold Dried Shrimp in California. Defendants know and  
15 intend that California consumers will use and consume Dried Shrimp, thereby exposing  
16 them to Lead. Defendants thereby violated Proposition 65.

17 82. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
18 Persons sustain exposures by handling Dried Shrimp without wearing gloves or any  
19 other personal protective equipment, or by touching bare skin or mucous membranes  
20 with gloves after handling Dried Shrimp, as well as through direct and indirect hand to  
21 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed  
22 from Dried Shrimp.

23 83. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
24 Proposition 65 as to Dried Shrimp have been ongoing and continuous, as Defendants  
25 engaged and continue to engage in conduct which violates Health and Safety Code  
26 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried  
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Shrimp, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to Lead by Dried Shrimp as mentioned herein.

84. 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.

85. 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 Dried Shrimp, pursuant to Health and Safety Code Section 25249.7(b).

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

#### **SIXTH CAUSE OF ACTION**

**(By CONSUMER ADVOCACY GROUP, INC. and against SF SUPERMARKET, EL MONTE, SHUN FAT, TRAN'S FAMILY, and DOES 51-60 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

#### **Dried Seaweed**

87. Plaintiff repeats and incorporates by reference paragraphs 1 through 86 of this complaint as though fully set forth herein.

88. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Round Shaped Dried Seaweed ("Round Dried Seaweed II"), including but not limited to "• "GROVE GROW NOTES;" Round Shaped Dried Seaweed;" "NET WT: 65g(2.3OZ);" "Product Name: Round Shaped Dried Seaweed;" "S&M(HK) ENTERPRISE LTD. RM3.8/F., YUEXIU BLDG., 160-174 LOCKHART ROAD, WAN CHAI, HK.;" "DISTRIBUTOR:CHANG RONG INTERNATIONAL BROOKLYN NY 11213;" "PRODUCT OF CHINA;" "6 926265 022417;"

89. Round Dried Seaweed II contains Lead, Arsenic, and Cadmium.

1 90. Defendants knew or should have known that Lead, Arsenic, and Cadmium has been  
2 identified by the State of California as a chemical known to cause cancer, and  
3 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
4 Defendants were also informed of the presence of Lead, Arsenic, and Cadmium in  
5 Round Dried Seaweed II within Plaintiff's notice of alleged violations further discussed  
6 above at Paragraph 26f.

7 91. Plaintiff's allegations regarding Round Dried Seaweed II concerns "[c]onsumer products  
8 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
9 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
10 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §  
11 25602(b). Round Dried Seaweed II is/are consumer products, and, as mentioned herein,  
12 exposures to Lead, Arsenic, and Cadmium took place as a result of such normal and  
13 foreseeable consumption and use.

14 92. Plaintiff is informed, believes, and thereon alleges that between February 14, 2017 the  
15 present, each of the Defendants knowingly and intentionally exposed California  
16 consumers and users of Round Dried Seaweed II, which Defendants manufactured,  
17 distributed, or sold as mentioned above, to Lead, Arsenic, and Cadmium, without first  
18 providing any type of clear and reasonable warning of such to the exposed persons  
19 before the time of exposure. Defendants have distributed and sold Round Dried  
20 Seaweed II in California. Defendants know and intend that California consumers will  
21 use and consume Round Dried Seaweed II, thereby exposing them to Lead, Arsenic, and  
22 Cadmium. Defendants thereby violated Proposition 65.

23 93. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
24 Persons sustain exposures by handling Round Dried Seaweed II without wearing gloves  
25 or any other personal protective equipment, or by touching bare skin or mucous  
26 membranes with gloves after handling Round Dried Seaweed II, as well as through direct  
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1 and indirect hand to mouth contact, hand to mucous membrane, or breathing in  
2 particulate matter dispersed from Round Dried Seaweed II.

3 94. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
4 Proposition 65 as to Round Dried Seaweed II have been ongoing and continuous, as  
5 Defendants engaged and continue to engage in conduct which violates Health and Safety  
6 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of  
7 Round Dried Seaweed II, so that a separate and distinct violation of Proposition 65  
8 occurred each and every time a person was exposed to Lead, Arsenic, and Cadmium by  
9 Round Dried Seaweed II as mentioned herein.

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

13 96. Based on the allegations herein, Defendants are liable for civil penalties of up to  
14 \$2,500.00 per day per individual exposure to Lead, Arsenic, and Cadmium from Round  
15 Dried Seaweed II, pursuant to Health and Safety Code Section 25249.7(b).

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

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20 **SEVENTH CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against SF SUPERMARKET,**  
22 **SHUN FAT, TRANS GROUP, TRAN'S FAMILY and DOES 61-70 for Violations of**  
23 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**  
24 ***(Health & Safety Code, §§ 25249.5, et seq.)*)**

25 **Dried Seaweed**

26 98. Plaintiff repeats and incorporates by reference paragraphs 1 through 97 of this complaint  
27 as though fully set forth herein.

28 99. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
distributor, promoter, or retailer of Dried Seaweed ("Dried Seaweed II"), including but

not limited to “FLOWER;” “PRODUCT OF CHINA;” “Dried Seaweed;” “Net Wt: 4 oz (114g);” “MANUFACTURER: KIMSPRING NOMINEES LTD.H.K. TEL:(852)3617 9104;” “IMPORTED BY: EVERGROW TRADING INC. SCARBOROUGH, ONT MIV 5J1;” “7 09888 50052 6;”

100. Dried Seaweed II contains Lead, Arsenic, and Cadmium.

101. Defendants knew or should have known that Lead, Arsenic, and Cadmium has been identified by the State of California as a chemical known to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead, Arsenic, and Cadmium in Dried Seaweed II within Plaintiff's notice of alleged violations further discussed above at Paragraph 26g.

102. Plaintiff's allegations regarding Dried Seaweed II concerns “[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)*. Dried Seaweed II is/are consumer products, and, as mentioned herein, exposures to Lead, Arsenic, and Cadmium took place as a result of such normal and foreseeable consumption and use.

103. Plaintiff is informed, believes, and thereon alleges that between March 17, 2017 the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Dried Seaweed II, which Defendants manufactured, distributed, or sold as mentioned above, to Lead, Arsenic, and Cadmium, 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 Dried Seaweed II in California. Defendants know and intend that California consumers will use and consume Dried Seaweed II, thereby exposing them to Lead, Arsenic, and Cadmium. Defendants thereby violated Proposition 65.

1 104. The principal routes of exposure are through dermal contact, ingestion and inhalation.

2 Persons sustain exposures by handling Dried Seaweed II without wearing gloves or any  
3 other personal protective equipment, or by touching bare skin or mucous membranes  
4 with gloves after handling Dried Seaweed II, as well as through direct and indirect hand  
5 to mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed  
6 from Dried Seaweed II.

7 105. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations  
8 of Proposition 65 as to Dried Seaweed II have been ongoing and continuous, as  
9 Defendants engaged and continue to engage in conduct which violates Health and Safety  
10 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of  
11 Dried Seaweed II, so that a separate and distinct violation of Proposition 65 occurred  
12 each and every time a person was exposed to Lead, Arsenic, and Cadmium by Dried  
13 Seaweed II as mentioned herein.

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

17 107. Based on the allegations herein, Defendants are liable for civil penalties of up to  
18 \$2,500.00 per day per individual exposure to Lead, Arsenic, and Cadmium from Dried  
19 Seaweed II, pursuant to Health and Safety Code Section 25249.7(b).

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

## 22 **EIGHTH CAUSE OF ACTION**

23 **(By CONSUMER ADVOCACY GROUP, INC. and against SF SUPERMARKET,**  
24 **TRANS GROUP, TRAN'S FAMILY and DOES 71-80 for Violations of Proposition**  
25 **65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety***  
***Code, §§ 25249.5, et seq.))***

26 **Seaweed**



1 109. Plaintiff repeats and incorporates by reference paragraphs 1 through 108 of this  
2 complaint as though fully set forth herein.

3 110. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
4 distributor, promoter, or retailer of Roasted Seaweed (“Roasted Seaweed”), including but  
5 not limited to “B&C”; “Roasted Seaweeds”; “Yaki Sushi Nori”; “Gold”; “Net Wt. 5.0  
6 oz (140g) 50 Sheets”; “Packed by B&C Food Co.”; “UPC 6 920423 929792”; “Product  
7 of China”

8 111. Roasted Seaweed contains Lead, Arsenic, and Cadmium.

9 112. Defendants knew or should have known that Lead, Arsenic, and Cadmium has been  
10 identified by the State of California as a chemical known to cause cancer, and  
11 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
12 Defendants were also informed of the presence of Lead, Arsenic, and Cadmium in  
13 Roasted Seaweed within Plaintiff’s notice of alleged violations further discussed above at  
14 Paragraph 26h.

15 113. Plaintiff’s allegations regarding Roasted Seaweed concerns “[c]onsumer products  
16 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
17 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
18 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §  
19 25602(b). Roasted Seaweed is/are consumer products, and, as mentioned herein,  
20 exposures to Lead, Arsenic, and Cadmium took place as a result of such normal and  
21 foreseeable consumption and use.

22 114. Plaintiff is informed, believes, and thereon alleges that between May 20, 2017 the  
23 present, each of the Defendants knowingly and intentionally exposed California  
24 consumers and users of Roasted Seaweed, which Defendants manufactured, distributed,  
25 or sold as mentioned above, to Lead, Arsenic, and Cadmium, without first providing any  
26 type of clear and reasonable warning of such to the exposed persons before the time of  
27 exposure. Defendants have distributed and sold Roasted Seaweed in California.  
28 Defendants know and intend that California consumers will use and consume Roasted

Seaweed, thereby exposing them to Lead, Arsenic, and Cadmium. Defendants thereby violated Proposition 65.

115. The principal routes of exposure are through dermal contact, ingestion and inhalation.

Persons sustain exposures by handling Roasted Seaweed without wearing gloves or any other personal protective equipment, or by touching bare skin or mucous membranes with gloves after handling Roasted Seaweed, as well as through direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed from Roasted Seaweed.

116. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of Proposition 65 as to Roasted Seaweed have been ongoing and continuous, 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 Roasted Seaweed, so that a separate and distinct violation of Proposition 65 occurred each and every time a person was exposed to Lead, Arsenic, and Cadmium by Roasted Seaweed as mentioned herein.

117. 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.

118. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to Lead, Arsenic, and Cadmium from Roasted Seaweed, pursuant to Health and Safety Code Section 25249.7(b).

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

#### **NINTH CAUSE OF ACTION**

**(By CONSUMER ADVOCACY GROUP, INC. and against SF SUPERMARKET, EL MONTE, TRAN'S FAMILY and DOES 81-90 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

## Squid

120. Plaintiff repeats and incorporates by reference paragraphs 1 through 119 of this complaint as though fully set forth herein.

121. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Squid (“Squid”), including but not limited to “DRIED SQUIDS;” “MUC KIM TIEN;” “NET WEIGHT: 3.5 OZ (100gr);” “Distributed by: NEXT GENERATION dba: NDR TRADING 2703 STINGLE AVE. ROSEMEAD, CA 91770;” “Product of Viet Nam;” “8 936015 501985;”

122. Squid contains Lead, Arsenic, and Cadmium.

123. Defendants knew or should have known that Lead, Arsenic, and Cadmium has been identified by the State of California as a chemical known to cause cancer, and reproductive toxicity and therefore was subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead, Arsenic, and Cadmium in Squid within Plaintiff’s notice of alleged violations further discussed above at Paragraph 26i.

124. Plaintiff’s allegations regarding Squid concerns “[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)*. Squid is/are consumer products, and, as mentioned herein, exposures to Lead, Arsenic, and Cadmium took place as a result of such normal and foreseeable consumption and use.

125. Plaintiff is informed, believes, and thereon alleges that between May 20, 2017 the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Squid, which Defendants manufactured, distributed, or sold as mentioned above, to Lead, Arsenic, and Cadmium, 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 Squid in California. Defendants know and intend

1 that California consumers will use and consume Squid, thereby exposing them to Lead,  
2 Arsenic, and Cadmium. Defendants thereby violated Proposition 65.

3 126. The principal routes of exposure are through dermal contact, ingestion and inhalation.

4 Persons sustain exposures by handling Squid without wearing gloves or any other  
5 personal protective equipment, or by touching bare skin or mucous membranes with  
6 gloves after handling Squid, as well as through direct and indirect hand to mouth contact,  
7 hand to mucous membrane, or breathing in particulate matter dispersed from Squid.

8 127. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations  
9 of Proposition 65 as to Squid have been ongoing and continuous, as Defendants engaged  
10 and continue to engage in conduct which violates Health and Safety Code Section  
11 25249.6, including the manufacture, distribution, promotion, and sale of Squid, so that a  
12 separate and distinct violation of Proposition 65 occurred each and every time a person  
13 was exposed to Lead, Arsenic, and Cadmium by Squid as mentioned herein.

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

17 129. Based on the allegations herein, Defendants are liable for civil penalties of up to  
18 \$2,500.00 per day per individual exposure to Lead, Arsenic, and Cadmium from Squid,  
19 pursuant to Health and Safety Code Section 25249.7(b).

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

## 22 **PRAYER FOR RELIEF**

23 Plaintiff demands against each of the Defendants as follows:

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

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2 Dated: August 28, 2020

YEROUSHALMI & YEROUSHALMI\*

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Reuben Yeroushalmi  
Attorneys for Plaintiff,  
CONSUMER ADVOCACY GROUP, INC.