

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Yolanda Orozco

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9 CONSUMER ADVOCACY GROUP, INC.

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12
13 **COUNTY OF LOS ANGELES**

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

16 Plaintiff,

17 v.

18 TAK SHING HONG INC., DBA T.S.
19 EMPORIUM, a California Corporation;
20 KIM SENG COMPANY DBA IHA
21 BEVERAGE; a California Corporation;
22 and DOES 1-90,

23 Defendants.

CASE NO. 20STCV32672

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)

24 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges nine causes of action
25 against defendants TAK SHING HONG INC., DBA T.S. EMPORIUM; KIM SENG
26 COMPANY DBA IHA BEVERAGE, and DOES 1-90 as follows:
27
28

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 TAK SHING HONG INC., DBA T.S. EMPORIUM (“TAK SHING”) is a California Corporation, qualified to do business and doing business in the State of California at all relevant times herein.
3. Defendant KIM SENG COMPANY DBA IHA BEVERAGE (“KIM SENG”) is a California Corporation, qualified to do business and doing business in the State of California at all relevant times herein.
4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-90, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
5. At all times mentioned herein, the term “Defendants” includes TAK SHING, KIM SENG and DOES 1-90.
6. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
7. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-90, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of

1 the other Defendants. All actions of each of the Defendants alleged in this Complaint
2 were ratified and approved by every other Defendant or their officers or managing
3 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
4 alleged wrongful conduct of each of the other Defendants.

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

9 **JURISDICTION**

- 10 9. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
11 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
12 those given by statute to other trial courts. This Court has jurisdiction over this action
13 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
14 violations of Proposition 65 in any Court of competent jurisdiction.
- 15 10. This Court has jurisdiction over Defendants named herein because Defendants either
16 reside or are located in this State or are foreign corporations authorized to do business in
17 California, are registered with the California Secretary of State, or who do sufficient
18 business in California, have sufficient minimum contacts with California, or otherwise
19 intentionally avail themselves of the markets within California through their
20 manufacture, distribution, promotion, marketing, or sale of their products within
21 California to render the exercise of jurisdiction by the California courts permissible
22 under traditional notions of fair play and substantial justice.
- 23 11. Venue is proper in the County of Los Angeles because one or more of the instances of
24 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
25 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.

27 **BACKGROUND AND PRELIMINARY FACTS**

- 1 12. In 1986, California voters approved an initiative to address growing concerns about
2 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
3 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
4 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
5 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
6 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
7 from contamination, to allow consumers to make informed choices about the products
8 they buy, and to enable persons to protect themselves from toxic chemicals as they see
9 fit.
- 10 13. Proposition 65 requires the Governor of California to publish a list of chemicals known
11 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
12 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
13 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
14 other controls that apply to Proposition 65-listed chemicals.
- 15 14. All businesses with ten (10) or more employees that operate or sell products in California
16 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
17 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
18 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
19 reasonable” warnings before exposing a person, knowingly and intentionally, to a
20 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
- 21 15. Proposition 65 provides that any person "violating or threatening to violate" the statute
22 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
23 25249.7. "Threaten to violate" means "to create a condition in which there is a
24 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
25 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
26 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).
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1 16. Plaintiff identified certain practices of manufacturers and distributors of Seaweed, Kelp,
2 Laver, and Ginger Powder of exposing, knowingly and intentionally, persons in
3 California to Lead and Lead Compounds, Cadmium and Cadmium Compounds,
4 and Inorganic Arsenic Compounds) of such products without first providing clear and
5 reasonable warnings of such to the exposed persons prior to the time of exposure.
6 Plaintiff later discerned that Defendants engaged in such practice.

7 17. On October 1, 1992 the Governor of California added Lead and Lead Compounds
8 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
9 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
10 twenty (20) months after addition of Lead to the list of chemicals known to the State to
11 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
12 discharge prohibitions.

13 18. On February 27, 1987, the Governor of California added Lead to the list of chemicals
14 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
15 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
16 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
17 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
18 the State to cause developmental and reproductive toxicity, Lead became fully subject to
19 Proposition 65 warning requirements and discharge prohibitions.

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

26 20. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
27 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
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1 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
2 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
3 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
4 to the State to cause developmental and reproductive toxicity, Cadmium became fully
5 subject to Proposition 65 warning requirements and discharge prohibitions.

6 21. On February 27, 1987 the Governor of California added Inorganic Arsenic Compounds
7 to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, §
8 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty
9 (20) months after addition of Inorganic Arsenic Compounds to the list of chemicals
10 known to the State to cause cancer, Inorganic Arsenic Compounds (“Arsenic”) became
11 fully subject to Proposition 65 warning requirements and discharge prohibitions.

12 **SATISFACTION OF PRIOR NOTICE**

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

- 15 a. On or about December 9, 2019 Plaintiff gave notice of alleged violations of
16 Health and Safety Code Section 25249.6, concerning consumer products
17 exposures subject to a private action to TAK SHING and to the California
18 Attorney General, County District Attorneys, and City Attorneys for each city
19 containing a population of at least 750,000 people in whose jurisdictions the
20 violations allegedly occurred, concerning the Roasted Seaweed.
- 21 b. On or about December 11, 2019 Plaintiff gave notice of alleged violations of
22 Health and Safety Code Section 25249.6, concerning consumer products
23 exposures subject to a private action to TAK SHING and to the California
24 Attorney General, County District Attorneys, and City Attorneys for each city
25 containing a population of at least 750,000 people in whose jurisdictions the
26 violations allegedly occurred, concerning the Roasted Seaweed.

- 1 c. On or about December 16, 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 TAK SHING, KIM SENG and to the
4 California Attorney General, County District Attorneys, and City Attorneys for
5 each city containing a population of at least 750,000 people in whose
6 jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.
- 7 d. On or about December 23, 2019 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 TAK SHING and to the California
10 Attorney General, County District Attorneys, and City Attorneys for each city
11 containing a population of at least 750,000 people in whose jurisdictions the
12 violations allegedly occurred, concerning the Dried Seaweed.
- 13 e. On or about January 29, 2020 Plaintiff gave notice of alleged violations of
14 Health and Safety Code Section 25249.6, concerning consumer products
15 exposures subject to a private action to TAK SHING, KIM SENG, and to the
16 California Attorney General, County District Attorneys, and City Attorneys for
17 each city containing a population of at least 750,000 people in whose
18 jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.
- 19 f. On or about February 10, 2020 Plaintiff gave notice of alleged violations of
20 Health and Safety Code Section 25249.6, concerning consumer products
21 exposures subject to a private action to TAK SHING and to the California
22 Attorney General, County District Attorneys, and City Attorneys for each city
23 containing a population of at least 750,000 people in whose jurisdictions the
24 violations allegedly occurred, concerning the Dried Kelp.
- 25 g. On or about March 13, 2020 Plaintiff gave notice of alleged violations of Health
26 and Safety Code Section 25249.6, concerning consumer products exposures
27 subject to a private action to TAK SHING, KIM SENG, and to the California
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1 Attorney General, County District Attorneys, and City Attorneys for each city
2 containing a population of at least 750,000 people in whose jurisdictions the
3 violations allegedly occurred, concerning the Seaweed.

4 h. On or about March 17, 2020 Plaintiff gave notice of alleged violations of Health
5 and Safety Code Section 25249.6, concerning consumer products exposures
6 subject to a private action to TAK SHING and to the California Attorney
7 General, County District Attorneys, and City Attorneys for each city containing
8 a population of at least 750,000 people in whose jurisdictions the violations
9 allegedly occurred, concerning the Laver.

10 i. On or about June 8, 2020 Plaintiff gave notice of alleged violations of Health
11 and Safety Code Section 25249.6, concerning consumer products exposures
12 subject to a private action to TAK SHING and to the California Attorney
13 General, County District Attorneys, and City Attorneys for each city containing
14 a population of at least 750,000 people in whose jurisdictions the violations
15 allegedly occurred, concerning the Ginger Powder.

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

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

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

6 26. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
7 gave notice of the alleged violations to TAK SHING, KIM SENG, and the public
8 prosecutors referenced in Paragraph 22.

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

12 **FIRST CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING, and**
14 **DOES 1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
15 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

16 **Roasted Seaweed**

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

19 29. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Roasted Seaweed ("Roasted Seaweed I"), including
21 but not limited to • "AKEBONO;" "SUPER YAKI NORI (ROASTED SEAWEED);"
22 "NET WT

23 30. 4.94 OZ. (140G) 50 SHEETS.;" "Packed for Well Luck Co., Inc. Jersey City, NJ
24 07305;" "Product of China;" "0 89067 43436 2;"

25 31. Roasted Seaweed I contains Arsenic, Lead, and Cadmium.

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

1 Defendants were also informed of the presence of in Roasted Seaweed I within Plaintiff's
2 notice of alleged violations further discussed above at Paragraph 22a.

3 33. Plaintiff's allegations regarding Roasted Seaweed I 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)*. Roasted Seaweed I is/are consumer products, and, as mentioned herein,
8 exposures to Arsenic, Lead, and Cadmium took place as a result of such normal and
9 foreseeable consumption and use.

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

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

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

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

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

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

13
14 **SECOND CAUSE OF ACTION**

15 **(By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING, and**
16 **DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
17 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

18 **Roasted Seaweed**

19 40. Plaintiff repeats and incorporates by reference paragraphs 1 through 39 of this complaint
20 as though fully set forth herein.

21 41. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
22 distributor, promoter, or retailer of Roasted Seaweed (“Roasted Seaweed II”), including
23 but not limited to: • “B & C;” “ROASTED SEaweEDS;” “YAKI SUSHI NORI;”
24 “GOLD;” “NET W T. 5.0 OZ (140g) 50 SHEETS;” “PRODUCT OF CHINA;”
25 “PACKED BY: B&C FOOD CO.,” “BEST BEFORE 09 26 2020;” “6 920423 929792;”
26 “PRODUCT OF CHINA;”

27 42. Roasted Seaweed II contains Arsenic, Lead, and Cadmium.

28 43. Defendants knew or should have known that Arsenic, Lead, and Cadmium has been
identified by the State of California as a chemical known to cause cancer, and

1 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
2 Defendants were also informed of the presence of in Roasted Seaweed II within
3 Plaintiff's notice of alleged violations further discussed above at Paragraph 22b.

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

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

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

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

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

9 49. Based on the allegations herein, Defendants are liable for civil penalties of up to
10 \$2,500.00 per day per individual exposure to Arsenic, Lead, and Cadmium from Roasted
11 Seaweed II, pursuant to Health and Safety Code Section 25249.7(b).

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

14
15 **THIRD CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING, KIM
17 SENG and DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water
18 and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

19
20 **Seaweed**

21 51. Plaintiff repeats and incorporates by reference paragraphs 1 through 50 of this complaint
22 as though fully set forth herein.

23 52. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Dried Seaweed (“Dried Seaweed I”), including but
25 not limited to: • “KOTASHIMA;” “KOTASHIMA BRAND;” “DRIED SEAWEED;”
26 “NET WT: 4 oz (113g);” “INGREDIENTS: SEAWEED, SULFITE AS
27 PRESERVATIVE;” “DISTRIBUTOR: KOTASHIMA INTERNATIONAL
28 COMMERCE, CA 90040;” “PRODUCT OF CHINA;” “6 10232 02339 7;”

53. Dried Seaweed I contains Arsenic and Lead.

1 54. Defendants knew or should have known that Arsenic, and Lead 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 in Dried Seaweed I within Plaintiff's notice of alleged
5 violations further discussed above at Paragraph 22c.

6 55. Plaintiff's allegations regarding Dried Seaweed I 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)*. Dried Seaweed I is/are consumer products, and, as mentioned herein,
11 exposures to Arsenic, and Lead took place as a result of such normal and foreseeable
12 consumption and use.

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

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

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

8 59. 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 60. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to Arsenic, and Lead from Dried Seaweed I,
13 pursuant to Health and Safety Code Section 25249.7(b).

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

16 **FOURTH CAUSE OF ACTION**

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

20 **Roasted Seaweed**

21 62. Plaintiff repeats and incorporates by reference paragraphs 1 through 61 of this complaint
22 as though fully set forth herein.

23 63. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Dried Seaweed ("Dried Seaweed II"), including but
25 not limited to: • "Organic Health, Fresh of Delicious, Nutrient-Rich, The Taste is Great";
26 "Seaweed Net Weight 2.8 oz (80g)"; "Distributed by CACA Food Group Inc."; "Product
27 of China"; "UPC 6 946886 250037"

28 64. Dried Seaweed II contains Arsenic, Lead, and Cadmium.

1 65. Defendants knew or should have known that Arsenic, Lead, 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 in Dried Seaweed II within Plaintiff's
5 notice of alleged violations further discussed above at Paragraph 22d.

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

13 67. Plaintiff is informed, believes, and thereon alleges that between December 23, 2016 and
14 the present, each of the Defendants knowingly and intentionally exposed California
15 consumers and users of Dried Seaweed II, which Defendants manufactured, distributed,
16 or sold as mentioned above, to Arsenic, Lead, and Cadmium, without first providing any
17 type of clear and reasonable warning of such to the exposed persons before the time of
18 exposure. Defendants have distributed and sold Dried Seaweed II in California.
19 Defendants know and intend that California consumers will use and consume Dried
20 Seaweed II, thereby exposing them to Arsenic, Lead, and Cadmium. Defendants thereby
21 violated Proposition 65.

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

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

8 70. 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 71. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to Arsenic, Lead, and Cadmium from Dried
13 Seaweed II, pursuant to Health and Safety Code Section 25249.7(b).

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

16 **FIFTH CAUSE OF ACTION**

17 **(By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING, KIM**
18 **SENG and DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water**
19 **and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

20 **Seaweed**

21 73. Plaintiff repeats and incorporates by reference paragraphs 1 through 72 of this complaint
22 as though fully set forth herein.

23 74. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
24 distributor, promoter, or retailer of Dried Seaweed ("Dried Seaweed III"), including but
25 not limited to: •"DOUBLE PARROT;" "DRIED SEAWEED STRIP;" "NET WT: 3.5 oz
26 (100 g);" "PRODUCT OF CHINA;" "6 10232 02338 0;" "DISTRIBUTOR:IHA
27 BEVERAGE COMMERCE, CA 90040;"

28 75. Dried Seaweed III contains Arsenic and Lead.

1 76. Defendants knew or should have known that Arsenic, and Lead 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 in Dried Seaweed III within Plaintiff's notice of alleged
5 violations further discussed above at Paragraph 22e.

6 77. Plaintiff's allegations regarding Dried Seaweed III 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)*. Dried Seaweed III is/are consumer products, and, as mentioned herein,
11 exposures to Arsenic, and Lead took place as a result of such normal and foreseeable
12 consumption and use.

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

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

1 80. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
2 Proposition 65 as to Dried Seaweed III 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 Dried Seaweed III, so that a separate and distinct violation of Proposition 65 occurred
6 each and every time a person was exposed to Arsenic, and Lead by Dried Seaweed III as
7 mentioned herein.

8 81. 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 82. Based on the allegations herein, Defendants are liable for civil penalties of up to
12 \$2,500.00 per day per individual exposure to Arsenic, and Lead from Dried Seaweed III,
13 pursuant to Health and Safety Code Section 25249.7(b).

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

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17 **SIXTH CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING and**
19 **DOES 51-60 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
20 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

21 **Dried Kelp**

22 84. Plaintiff repeats and incorporates by reference paragraphs 1 through 83 of this complaint
23 as though fully set forth herein.

24 85. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Dried Kelp ("Dried Kelp"), including but not limited
26 to: • "Good Taste!!;" "DRIED KELP Varech Séché;" "Net Wt / Poids Net: 100g (3.5
27 oz);" "Product of China;" "DISTRIBUTED BY: KOWA TRADING CO.;"
28 "MONTEBELLO, CA 90640;" "UNDER THE SUPERVISION OF: KAXING
TRADING HONG KONG LIMITED UNIT 2.22/F. AUSTIN PLAZA, 83 AUSTIN

1 ROAD, TSIM SA TSUI, KOWLOON, KONG KONG;” “BEST BEFORE: 2020 – DEC
2 – 30;” “6 941882 511793;”

3 86. Dried Kelp contains Arsenic and Lead.

4 87. Defendants knew or should have known that Arsenic, and Lead has been identified by
5 the State of California as a chemical known to cause cancer, and reproductive toxicity
6 and therefore was subject to Proposition 65 warning requirements. Defendants were also
7 informed of the presence of in Dried Kelp within Plaintiff’s notice of alleged violations
8 further discussed above at Paragraph 22f.

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

15 89. Plaintiff is informed, believes, and thereon alleges that between February 10, 2017 and
16 the present, each of the Defendants knowingly and intentionally exposed California
17 consumers and users of Dried Kelp, which Defendants manufactured, distributed, or sold
18 as mentioned above, to Arsenic and Lead, without first providing any type of clear and
19 reasonable warning of such to the exposed persons before the time of exposure.
20 Defendants have distributed and sold Dried Kelp in California. Defendants know and
21 intend that California consumers will use and consume Dried Kelp, thereby exposing
22 them to Arsenic and Lead. Defendants thereby violated Proposition 65.

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

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

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

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

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

17 **SEVENTH CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING, KIM**
19 **SENG, and DOES 61-70 for Violations of Proposition 65, The Safe Drinking Water**
20 **and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

21 **Seaweed**

22 95. Plaintiff repeats and incorporates by reference paragraphs 1 through 94 of this complaint
23 as though fully set forth herein.

24 96. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Dried Seaweed ("Dried Seaweed IV"), including but
26 not limited to: "DOUBLE PARROT;" "DRIED SEAWEED;" "NET WT:1.40oz(40g);"

1 “PRODUCT OF CHINA;” “6 10232 00739 7;” “DISTRIBUTOR: IHA BEVERAGE
2 COMMERCE, CA 90040;”

3 97. Dried Seaweed IV contains Arsenic, Lead, and Cadmium.

4 98. Defendants knew or should have known that Arsenic, Lead, and Cadmium has been
5 identified by the State of California as a chemical known to cause cancer, and
6 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
7 Defendants were also informed of the presence of in Dried Seaweed IV within Plaintiff's
8 notice of alleged violations further discussed above at Paragraph 22g.

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

16 100. Plaintiff is informed, believes, and thereon alleges that between March 13, 2017 and the
17 present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Dried Seaweed IV, which Defendants manufactured, distributed,
19 or sold as mentioned above, to Arsenic, Lead, and Cadmium, without first providing any
20 type of clear and reasonable warning of such to the exposed persons before the time of
21 exposure. Defendants have distributed and sold Dried Seaweed IV in California.
22 Defendants know and intend that California consumers will use and consume Dried
23 Seaweed IV, thereby exposing them to Arsenic, Lead, and Cadmium. Defendants
24 thereby violated Proposition 65.

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

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

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

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

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

19 **EIGHTH CAUSE OF ACTION**

20 **(By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING, and**
21 **DOES 71-80 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
22 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*)**

23 **Seaweed**

24 106. Plaintiff repeats and incorporates by reference paragraphs 1 through 105 of this
25 complaint as though fully set forth herein.

26 107. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
27 distributor, promoter, or retailer of Laver including but not limited to: "Organic Food";
28 "015OP1200136"; "Laver"; "01517881018935487"; "food.cnca.cn"; "Dried Seaweed";

1 “Net Wt: 1.76oz (50g)”; Importer: New Way Import Inc.;“Product of China”; “UPC 6
2 946886 258484”

3 108. Laver contains Arsenic, Lead, and Cadmium.

4 109. Defendants knew or should have known that Arsenic, Lead, and Cadmium has been
5 identified by the State of California as a chemical known to cause cancer, and
6 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.
7 Defendants were also informed of the presence of in Laver within Plaintiff's notice of
8 alleged violations further discussed above at Paragraph 22h.

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

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

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

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

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

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

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

17 NINTH CAUSE OF ACTION

18 (By CONSUMER ADVOCACY GROUP, INC. and against TAK SHING, and
19 DOES 81-90 for Violations of Proposition 65, The Safe Drinking Water and Toxic
20 Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))

21 **Spices**

22 117. Plaintiff repeats and incorporates by reference paragraphs 1 through 116 of this
23 complaint as though fully set forth herein.

24 118. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Ginger Powder identified as: "NK"; "Ginger
26 Powder"; "Net Wt: 50g"; "Distributed by MTCI"; "UPC 6 924051 330449"; "Product of
27 China"
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1 119. Ginger Powder contains Lead.

2 120. Defendants knew or should have known that Lead has been identified by the State of
3 California as a chemical known to cause cancer, and reproductive toxicity and therefore
4 was subject to Proposition 65 warning requirements. Defendants were also informed of
5 the presence of in Ginger Powder within Plaintiff's notice of alleged violations further
6 discussed above at Paragraph 22i.

7 121. Plaintiff's allegations regarding Ginger Powder 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)*. Ginger Powder is/are consumer products, and, as mentioned herein, exposures
12 to Lead took place as a result of such normal and foreseeable consumption and use.

13 122. Plaintiff is informed, believes, and thereon alleges that between June 8, 2017 and the
14 present, each of the Defendants knowingly and intentionally exposed California
15 consumers and users of Ginger Powder, which Defendants manufactured, distributed, or
16 sold as mentioned above, to Lead, without first providing any type of clear and
17 reasonable warning of such to the exposed persons before the time of exposure.
18 Defendants have distributed and sold Ginger Powder in California. Defendants know
19 and intend that California consumers will use and consume Ginger Powder, thereby
20 exposing them to Lead. Defendants thereby violated Proposition 65.

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

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

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

10 126. Based on the allegations herein, Defendants are liable for civil penalties of up to
11 \$2,500.00 per day per individual exposure to Lead from Ginger Powder, pursuant to
12 Health and Safety Code Section 25249.7(b).

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

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17 **PRAYER FOR RELIEF**

18 Plaintiff demands against each of the Defendants as follows:

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

24
25 Dated: August 27, 2020

YEROUSHALMI & YEROUSHALMI*

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

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