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10 Attorneys for Plaintiff  
 ENVIRONMENTAL HEALTH ADVOCATES, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF ALAMEDA**

13 ENVIRONMENTAL HEALTH ADVOCATES,  
 14 INC.,

15 Plaintiff,

16 v.

17 SHUN HO HONG INTERNATIONAL  
 CORPORATION (USA), a California  
 corporation, 99 RANCH MARKET, INC., a  
 18 California corporation, DOES 1 through 100,  
 inclusive,

19 Defendants.  
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**FILED BY FAX**

ALAMEDA COUNTY

October 13, 2020

CLERK OF  
 THE SUPERIOR COURT  
 By Shabra Iyamu, Deputy

CASE NUMBER:

**RG20076734**

Case No.:

**COMPLAINT FOR CIVIL PENALTIES  
 AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

**I.**  
**INTRODUCTION**

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2           1.       This Complaint is a representative action brought by Environmental Health Advocates,  
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff  
4 seeks to remedy Defendants’ failure to inform the People of exposure to acrylamide, a known  
5 carcinogen. Defendants expose consumers to acrylamide by manufacturing, importing, selling, and/or  
6 distributing Lonely God Potato Twists (“Products”). Defendants know and intend that customers will  
7 ingest Products containing acrylamide.

8           2.       Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California  
9 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing  
10 business shall knowingly and intentionally expose any individual to a chemical known to the state to  
11 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such  
12 individual. . . .” (Health & Safety Code, § 25249.6.)

13           3.       California identified and listed acrylamide as a chemical known to cause cancer as early  
14 as January 1, 1990, and as a chemical known to cause developmental/reproductive toxicity on February  
15 25, 2011.

16           4.       Defendants failed to sufficiently warn consumers and individuals in California about  
17 potential exposure to acrylamide in connection with Defendants’ manufacture, import, sale, or  
18 distribution of Products. This is a violation of Proposition 65.

19           5.       Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers  
20 in California before exposing them to acrylamide in Products. (Health & Safety Code, § 25249.7(a).)  
21 Plaintiff also seeks civil penalties against Defendants for its violations of Proposition 65 along with  
22 attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

**II.**  
**PARTIES**

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25           6.       Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a  
26 corporation in the State of California dedicated to protecting the health of California citizens through  
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public  
28 interest pursuant to Health and Safety Code, section 25249.7.

1           7.           Defendant SHUN HO HONG INTERNATIONAL CORPORATION (USA) (“Shun Ho  
2 Hong”) is a corporation organized and existing under the laws of California. Shun Ho Hong is registered  
3 to do business in California, and does business in the County of Alameda, within the meaning of Health  
4 and Safety Code, section 25249.11. Shun Ho Hong manufactures, imports, sells, or distributes the  
5 Products in California and Alameda County.

6           8.           Defendant 99 RANCH MARKET, INC. (“99 Ranch”) is a corporation organized and  
7 existing under the laws of California. 99 Ranch is registered to do business in California, and does  
8 business in the County of Alameda, within the meaning of Health and Safety Code, section 25249.11.  
9 99 Ranch manufactures, imports, sells, or distributes the Products in California and Alameda County.

10          9.           Plaintiff does not know the true names and/or capacities, whether individual, partners,  
11 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues  
12 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true  
13 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and  
14 thereon alleges that these defendants are responsible in whole or in part for Plaintiff’s alleged damages.

15   **III.**  
16   **VENUE AND JURISDICTION**

17          10.          California Constitution Article VI, Section 10 grants the Superior Court original  
18 jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code  
19 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court  
20 has jurisdiction.

21          11.          Venue is proper in Alameda County Superior Court pursuant to Code of Civil  
22 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this  
23 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

24          12.          Defendants have sufficient minimum contacts in the State of California or otherwise  
25 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would  
26 be consistent with traditional notions of fair play and substantial justice.  
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**IV.**  
**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**  
**(Violation of Proposition 65 – Against all Defendants)**

13. Plaintiff incorporates by reference each and every allegation contained above.

14. Proposition 65 mandates that citizens be informed about exposures to chemicals that cause cancer, birth defects, and other reproductive harm.

15. Defendants manufactured, imported, sold, and/or distributed Products containing acrylamide in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to occur into the future.

16. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to provide a clear and reasonable warning to consumers and individuals in California who may be exposed to acrylamide through reasonably foreseeable use of the Products.

17. Products expose individuals to acrylamide through direct ingestion. This exposure is a natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As such, Defendants intend that consumers will ingest Products, exposing them to acrylamide.

18. Defendants knew or should have known that the Products contained acrylamide and exposed individuals to acrylamide in the ways provided above. The Notice informed Defendants of the presence of acrylamide in the Products. Likewise, media coverage concerning acrylamide and related chemicals in consumer products provided constructive notice to Defendants.

19. Defendants' actions in this regard were deliberate and not accidental.

20. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff provided the Notice to the various required public enforcement agencies along with a certificate of merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to acrylamide contained in the Products.

21. The appropriate public enforcement agencies provided with the Notice failed to commence and diligently prosecute a cause of action against Defendants.

