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Attorneys for Plaintiff
Environmental Health Advocates, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

ENVIRONMENTAL HEALTH
ADVOCATES, INC.,

Plaintiff,

v.

LIAN HWA FOODS (USA), INC., a
California corporation, LIAN HWA FOODS
CORP., a Taiwanese corporation, 99 RANCH
MARKET, INC., a California corporation, and
DOES 1 through 100, inclusive,

Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

FILED BY FAX
ALAMEDA COUNTY
November 03, 2020

CLERK OF
THE SUPERIOR COURT
By Cheryl Clark, Deputy

CASE NUMBER:
RG20078863

I.
INTRODUCTION

1
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 Cadina Texas Fries Tomato Flavor (“Products”). Defendants know and intend that
7 customers will 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 in February
15 of 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

23
24 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
25 corporation organized in the State of California dedicated to protecting the health of California citizens
26 through the elimination or reduction of toxic exposure from consumer products. It brings this action in
27 the public interest pursuant to Health and Safety Code, section 25249.7.
28

1 21. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
2 60-Day Notice of Violation (“Notice”) as required by and in compliance with Proposition 65. Plaintiff
3 provided the Notice to the various required public enforcement agencies along with a certificate of
4 merit. The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn
5 consumers in California of the health hazards associated with exposures to acrylamide contained in
6 the Products.

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

9 23. Individuals exposed to acrylamide contained in Products through direct ingestion
10 resulting from reasonably foreseeable use of the Products have suffered and continue to suffer
11 irreparable harm. There is no other plain, speedy, or adequate remedy at law.

12 24. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
13 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
14 appropriate pursuant to Health and Safety Code, section 25249.7(a).

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1 **PRAYER FOR RELIEF**

2 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as follows:

3 1. Civil penalties in the amount of \$2,500 per day for each violation;

4 2. A preliminary and permanent injunction against Defendants from manufacturing,
5 importing, selling, and/or distributing Products in California without providing a clear and reasonable
6 warning as required by Proposition 65 and related Regulations;


7 3. Reasonable attorney’s fees and costs of suit; and

8 4. Such other and further relief as may be just and proper.

9
10 Respectfully submitted:

11 Dated: October 13, 2020

NICHOLAS & TOMASEVIC, LLP.

12
13
14
15 By: 
16 _____
17 Jake Schulte
18 Craig Nicholas

GLICK LAW GROUP, PC.

Noam Glick

Attorney for Plaintiff