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2 AS YOU SOW
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8 *Attorney for Plaintiff*

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ALAMEDA**

12 AS YOU SOW, a 501(c)(3) non-profit
13 corporation,

14 Plaintiff,

15 v.

16 AJINOMOTO FOODS NORTH AMERICA,
17 INC.; AJINOMOTO HEALTH &
18 NUTRITION NORTH AMERICA, INC.;
19 AJINOMOTO CAMBROOKE, INC.,

20 Defendants.

Case No.: RG21107508

21 **FIRST AMENDED COMPLAINT FOR CIVIL**
22 **PENALTIES AND INJUNCTIVE RELIEF**

23 (Health & Safety Code § 25249.6 et seq.)

INTRODUCTION

1. California’s Safe Drinking Water and Toxic Enforcement Act (“Toxic Enforcement Act” or “the Act”), Health & Safety Code § 25249.5 et seq., prohibits any person in the course of doing business from knowingly and intentionally exposing any individual to a chemical known to the State of California to cause cancer or reproductive toxicity, without first giving clear and reasonable warning of such exposure. Health & Safety Code § 25249.6. This prohibition applies with equal force against business entities that produce, distribute, or sell consumer products, where the reasonable intended use of such products would result in an exposure to a known carcinogen or reproductive toxin.

2. The State of California has officially listed lead as a chemical known to the State to cause cancer, developmental toxicity, and reproductive harm.

3. On information and belief, Defendants AJINOMOTO FOODS NORTH AMERICA, INC., AJINOMOTO HEALTH & NUTRITION NORTH AMERICA, INC. and AJINOMOTO CAMBROOKE, INC. manufacture, produce, package, import, supply, market, sell, and/or otherwise distribute in California Cambrooke Burger Patty Mix, Bagel Bars - French Toast, Bagels - Cinnamon Raisin, Bagels – Plain, Brookelyn Dogs, Creamy Garlic & Broccoli Rice, Gingerbread Mix, Instant Noodle Soup – Beef, Instant Noodle Soup – Chicken, Instant Stivaletti Alfredo, Medley Meals - Barbecue Bake, Pasta Solo – Elbows, Pierogi, Read-Dough, Seasoned Breadcrumbs, The Bigger Bagel - Apple Cinnamon, Toasted Pierogies, White Cheddar Mac, Yuca Tater Home Fries, Artisan Bread, Brookelyn Dog Buns, Burger Patty Mix, Camburger Buns, Cheese Pizza, Chicken Patty Mix, Cinnamon Raisin Swirl Bread, Corny Dogs, Creamy Hot Cereal – Cinnamon, Creamy Hot Cereal – Vanilla, Focaccia Sticks - Italian Style, Homestyle Sliced White Bread, PB&J Mini Pockets, Pita Pockets, Pizza Blanca, Pizza Mini Pockets, Pizza Primavera, Sausage Patty Mix, Seafood Patty Mix, Tuscan Pizza Crusts, and Tweekz (“Covered Products”), products that contain lead and are designed for use by individuals with certain medical conditions.

4. Consumers are exposed to lead when they ingest the Covered Products.

5. Defendants have failed to provide a clear and reasonable warning that ingestion of the Covered Products will result in exposure to lead, a chemical known to the State of California to cause cancer and developmental and reproductive toxicity. Accordingly, Plaintiff AS YOU SOW seeks an order requiring that Defendants take measures to ensure that California consumers ingesting the Covered Products are not exposed to harmful levels of lead, or provide a clear and reasonable warning as required under the Toxic Enforcement Act that ingestion of the Covered Products will result in exposure to lead.

PARTIES

6. Plaintiff AS YOU SOW is a 501(c)(3) non-profit corporation dedicated to, among other causes, the protection of the environment, toxics reduction, the promotion and improvement of human health, and the improvement of worker and consumer rights. AS YOU SOW has, since 1992, worked to bring manufacturers and whole industries into compliance with the Toxic Enforcement Act, as part of its work to ensure safer consumer products, promote corporate accountability, and create a sustainable marketplace that does not degrade human health or the planet. AS YOU SOW brings this action as a private attorney general in the public interest pursuant to Health & Safety Code section 25249.7, subdivision (d).

7. Defendant AJINOMOTO FOODS NORTH AMERICA, INC. is, on information and belief, a business entity with ten or more employees that has manufactured, produced, packaged, imported, supplied, marketed, sold, and/or otherwise distributed in California, including via the internet, the Covered Products.

8. Defendant AJINOMOTO HEALTH & NUTRITION NORTH AMERICA, INC. is, on information and belief, a business entity with ten or more employees that has manufactured, produced, packaged, imported, supplied, marketed, sold, and/or otherwise distributed in California, including via the internet, the Covered Products.

9. Defendant AJINOMOTO CAMBROOKE, INC. is, on information and belief, a business entity with ten or more employees that has manufactured, produced, packaged, imported, supplied, marketed, sold, and/or otherwise distributed in California, including via the internet, the Covered Products. According to the company’s website: “Ajinomoto Cambrooke

1 recognizes the critical nature of managing serious medical disorders through medically based
2 nutrition therapies.”¹

4 **JURISDICTION AND VENUE**

5 10. This Court has jurisdiction over this action pursuant to Health and Safety Code,
6 section 25249.7, which allows enforcement of the Toxic Enforcement Act in any court of
7 competent jurisdiction, and pursuant to California Constitution, Article VI, Section 10, because
8 this case does not present a cause given by statute to other trial courts.

9 11. This Court has jurisdiction over Defendants because they are business entities that
10 conduct sufficient business, have sufficient minimum contacts in, or otherwise intentionally avail
11 themselves of the market in California.

12 12. Venue is proper in the Superior Court of California, Alameda County, pursuant to
13 Code of Civil Procedure sections 393 and 395, because this court is a court of competent
14 jurisdiction, because Plaintiff seeks civil penalties against Defendant, because one or more
15 instances of wrongful conduct occurred and continues to occur in Alameda County, and/or
16 because Defendants conducted and continue to conduct business in this county with respect to
17 the consumer products at issue in this case.

18 13. Plaintiff has met the statutory requirements for notice to bring this citizen suit
19 enforcement action under Health and Safety Code section 25249.7 and its implementing
20 regulations.

21 **LEGAL BACKGROUND**

22 14. In 1986, the voters of California overwhelmingly enacted the Safe Drinking
23 Water and Toxic Enforcement Act.

24 15. The Preamble to the Toxic Enforcement Act ballot measure provides a clear
25 statement of the purpose of the Act:

26 The people of California find that hazardous chemicals pose a serious potential
27 threat to their health and well-being, that state government agencies have failed to
28 provide them with adequate protection, and that these failures have been serious

¹ <https://www.cambrooke.com/about/#.YNtmVuhKg2w> (accessed June 29, 2021).

1 enough to lead to investigations by federal agencies of the administration of
2 California's toxic protection programs. The people therefore declare their rights:

3 (a) To protect themselves and the water they drink against-chemicals that
4 cause cancer, birth defects, or other reproductive harm.

5 (b) To be informed about exposures to chemicals that cause cancer, birth
6 defects, or other reproductive harm.

7 (c) To secure strict enforcement of the laws controlling hazardous
8 chemicals and deter actions that threaten public health and safety

9 16. Among other requirements, the Toxic Enforcement Act provides that “[n]o person
10 in the course of doing business shall knowingly and intentionally expose any individual to a
11 chemical known to the State to cause cancer or reproductive toxicity without first giving clear
12 and reasonable warning to such individual, except as provided in Section 25249.10.” (Health &
13 Safety Code § 25249.6.)

14 17. The Toxic Enforcement Act establishes a procedure by which the State develops a
15 list of chemicals “known to the State to cause cancer or reproductive toxicity.” (Health & Safety
16 Code § 25249.8.) No warning is required for a chemical until one year after the State lists the
17 chemical. (Health & Safety Code § 25249.10(b).)

18 18. The Office of Environmental Health Hazard Assessment (OEHHA), which is part
19 of the California Environmental Protection Agency (CalEPA), is the lead agency charged with
20 implementing the Toxic Enforcement Act. (Health & Safety Code § 25249.12.) OEHHA has
21 promulgated regulations implementing the Toxic Enforcement Act. (*See* 27 CCR § 25102 *et*
22 *seq.*)

23 19. On February 27, 1987, OEHHA listed lead as a chemical known to the State to
24 cause developmental toxicity, male reproductive toxicity, and female reproductive toxicity. (27
25 CCR § 27001(b).)

26 20. For many of the chemicals listed under the Act, OEHHA has established “safe
27 harbor levels,” which include No Significant Risk Levels (NSRLs) for cancer-causing chemicals
28 and Maximum Allowable Dose Levels (MADLs) for chemicals causing reproductive toxicity.
The established MADL for lead is 0.5 µg/day. (27 CCR § 25805.)

1 21. According to applicable regulations, a warning for consumer product exposure is
2 “clear and reasonable” if it is “prominently displayed on a label, labeling, or sign, ... with such
3 conspicuousness as compared with other words, statements, designs or devices on the label,
4 labeling, or sign, as to render the warning likely to be read and understood by an ordinary
5 individual under customary conditions of purchase or use.” (27 CCR § 25601(c).)”

6 22. According to applicable regulations, for internet purchases, a warning “must be
7 provided by including either the warning or a clearly marked hyperlink using the word
8 ‘**WARNING**’ on the product display page, or by otherwise prominently displaying the warning
9 to the purchaser prior to completing the purchase.” (27 CCR § 25602(b) (bold in original).)

10 23. According to applicable regulations, a warning for consumer product exposure
11 must include the following elements:

12 (1) A symbol consisting of a black exclamation point in a yellow
13 equilateral triangle with a bold black outline. Where the sign, label or labeling for the
14 product is not printed using the color yellow, the symbol may be printed in black and
15 white. The symbol shall be placed to the left of the text of the warning, in a size no
16 smaller than the height of the word “WARNING”.

17 (2) The word “WARNING” in all capital letters and bold print, and:
18 . . . (B) For exposures to listed reproductive toxicants, the words, “This product can
19 expose you to [name of one or more chemicals], a chemical [or chemicals] known to the
20 State of California to cause birth defects or other reproductive harm. For more
21 information go to www.P65Warnings.ca.gov/product.” 27 CCR 25603(a).

22 24. A consumer product exposure is “an exposure that results from a person’s
23 acquisition, purchase, storage, consumption, or any reasonably foreseeable use of a consumer
24 product, including consumption of a food.” (27 CCR § 25600.1(d).)

25 25. An exposure is knowing if the person or entity responsible for the exposure had or
26 has “knowledge of the fact that . . . exposure to a chemical listed pursuant to Section 24249.8(a)
27 of the Act is occurring.” (27 CCR § 25102(n).)

26. This Court has authority to enjoin “[a]ny person that violates or threatens to violate [Health & Safety Code § 25249.6],” and to impose civil penalties “not to exceed two thousand five hundred dollars (\$2,500) per day for each violation in addition to any other penalty established by law.” (Health & Safety Code § 25249.7.) “Threaten to violate” is defined to mean “to create a condition in which there is a substantial probability that the violation will occur. (Health and Safety Code § 25249.11((e).)

27. Private parties are entitled to bring an action to enforce the Act under Health & Safety Code § 25249.7(d).

FACTUAL BACKGROUND

28. The Covered Products are manufactured, distributed, and/or sold by Defendant, designed for use by individuals with certain medical conditions, and contain lead.

29. Testing obtained by Plaintiff from an independent laboratory demonstrates that the Covered Products contain lead.

30. Since at least July 15, 2019, Defendants have marketed, manufactured, produced, packaged, imported, sold, and/or otherwise distributed the Covered Products in the State of California.

31. On information and belief, Defendants have had knowledge that the Covered Products contain lead since at least July 15, 2019.

32. The primary route of exposure to lead from Defendants' products is ingestion. This exposure to hazardous lead results from the intended and reasonably foreseeable use of the Covered Products.

33. On July 15, 2020, Plaintiff served Defendants with a written notice of violation stating that Defendants had violated the Toxic Enforcement Act by exposing individuals to lead in Cambrooke Burger Patty Mix without providing a clear and reasonable warning. True and correct copies of Plaintiff's sixty-day notice are attached as Exhibit 1 to this FAC.

1 34. On July 15, 2020, Plaintiff provided notice of the violation to the Attorney
2 General and the district attorneys and city attorneys in whose jurisdiction the violations are
3 alleged to have occurred.

4 35. On August 3, 2021, Plaintiff filed its initial Complaint against Defendants in the
5 Alameda County Superior Court alleging that Defendants violated the Toxic Enforcement Act by
6 exposing individuals in California to lead without providing a warning as required under Health
7 & Safety Code §25249.6.

8 36. On January 28, 2022, Plaintiff served Defendants with a written notice of
9 violation stating that Defendants had violated the Toxic Enforcement Act by exposing
10 individuals to lead in the following products without providing a clear and reasonable warning:
11

12 Bagel Bars - French Toast, Bagels - Cinnamon Raisin, Bagels – Plain, Brookelyn Dogs,
13 Creamy Garlic & Broccoli Rice, Gingerbread Mix, Instant Noodle Soup – Beef, Instant
14 Noodle Soup – Chicken, Instant Stivaletti Alfredo, Medley Meals - Barbecue Bake, Pasta
15 Solo – Elbows, Pierogi, Read-Dough, Seasoned Breadcrumbs, The Bigger Bagel - Apple
16 Cinnamon, Toasted Pierogies, White Cheddar Mac, Yuca Tater Home Fries, Artisan
17 Bread, Brookelyn Dog Buns, Burger Patty Mix, Camburger Buns, Cheese Pizza, Chicken
Patty Mix, Cinnamon Raisin Swirl Bread, Corny Dogs, Creamy Hot Cereal – Cinnamon,
Creamy Hot Cereal – Vanilla, Focaccia Sticks - Italian Style, Homestyle Sliced White
Bread, PB&J Mini Pockets, Pita Pockets, Pizza Blanca, Pizza Mini Pockets, Pizza
Primavera, Sausage Patty Mix, Seafood Patty Mix, Tuscan Pizza Crusts, and Tweekz.

18 True and correct copies of Plaintiff's sixty-day notices are attached as Exhibit 2.

19
20 37. On January 28, 2022, Plaintiff provided notice of the violations to the Attorney
21 General and the district attorneys and city attorneys in whose jurisdiction the violations are
22 alleged to have occurred.

23 38. Defendants have knowingly and intentionally exposed consumers in California to
24 lead. The exposure has been knowing and intentional, because they result from Defendants'
25 marketing, manufacturing, producing, packaging, importing, sale, and/or distribution of the
26 Covered Products, which contain lead, with knowledge that reasonably foreseeable use of the
27 Covered Products will result in consumers' exposure to lead by way of ingestion.
28

1 39. In accordance with Health and Safety Code section 25249.7(d), this action is
2 being commenced more than 60 days from the date that *As You Sow* provided notice of the
3 violation of Health and Safety Code section 25249.6 alleged herein to the Attorney General and
4 the district attorneys and city attorneys in whose jurisdiction the violations are alleged to have
5 occurred, and to Defendants. The notices provided to Defendants included certificates of merit
6 that comply with the requirements of Health and Safety Code section 25249.7(d)(1). Factual
7 information sufficient to establish the basis of the certificate of merit was attached to the
8 certificate of merit served on the Attorney General.

9 40. Neither the Attorney General, nor any district attorney, city attorney, nor any
10 other public prosecutor has commenced and is diligently prosecuting an action based on the
11 violations alleged herein.

12
13 **FIRST CAUSE OF ACTION**
14 **(Violation of Health & Safety Code § 25249.6)**

15 41. Plaintiff re-alleges and incorporates by reference all the allegations set forth in
16 this First Amended Complaint.

17 42. By committing the acts alleged above, Defendants have, in the course of doing
18 business, knowingly and intentionally exposed individuals to chemicals known to the State of
19 California to cause developmental and reproductive toxicity without first giving clear and
20 reasonable warning to such individuals, within the meaning of Health and Safety Code section
21 25249.6.

22 43. These actions violate Health and Safety Code section 25249.6 and render
23 Defendants liable for civil penalties up to \$2,500 per day for each violation, as well as other
24 remedies.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff prays that the Court:

27 A. Grant civil penalties to be paid by Defendants for the violations of Health &
28 Safety Code § 25249.6;

B. Pursuant to Health and Safety Code §25249.7, enter such injunctions or other orders as are necessary to prevent Defendants from exposing persons within the State of California to known developmental and reproductive toxins resulting from the reasonably foreseeable use of the Covered Products without providing a clear and reasonable warning;

C. Award Plaintiff reasonable attorneys' fees and costs; and,

D. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Willeby

Dated: August 24, 2022

By:

Danielle Fugere

Attorney for Plaintiff
As You Sow

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1 I declare under penalty of perjury under the laws of the State of California that the above is true
2 and correct.

3 Executed at Berkeley, California, this 24th day of August, 2022

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5 _____
6 DANIELLE FUGERE
7 Attorney for Plaintiff AS YOU SOW
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EXHIBIT 1



July 15, 2020

Howard Lossing, CEO
Ajinomoto Cambrooke, Inc.
4 Copeland Dr
Ayer, Massachusetts, 01432-1751

Sumio Maeda, President
Ajinomoto Foods North America, Inc.
4200 E Concourse Street, Ste. 100
Ontario, CA 91764-4982

Tatsuya Sato, President
Ajinomoto Health & Nutrition North
America, Inc.
1300 N. Arlington Hts., Ste. 110
Itasca, IL 60143

Ajinomoto Cambrooke, Inc.
Ajinomoto Foods North America, Inc.
Ajinomoto Health & Nutrition North America,
Inc.
c/o Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Re: NOTICE OF VIOLATION OF CALIFORNIA HEALTH AND SAFETY CODE
SECTION 25249.5 ET SEQ.

To Whom It May Concern:

As You Sow ("AYS") is a 501(c)(3) non-profit corporation dedicated to, among other causes, toxics reduction, the promotion of and improvement of human health, the improvement of worker and consumer rights, environmental education and the protection of the environment, and corporate accountability. AYS is based in Berkeley, California, and was incorporated in 1992 under the laws of the State of California.

AYS has documented violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety Code §25249.5 et seq., by Ajinomoto Foods North America, Inc., Ajinomoto Health & Nutrition North America, Inc., and Ajinomoto Cambrooke, Inc. (collectively, the "Company"). This letter constitutes notice by AYS to the Company of these violations. Specifically, the Company has violated and is violating Section 25249.6, which provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Pursuant to section 25249.7(d) of the statute, AYS intends to bring an enforcement action sixty days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the notices served upon the violator(s). The specific details of the violations that are the subject of this notice are provided below.

Alleged violators. The names of the violators covered by this notice are:

- Ajinomoto Cambrooke, Inc.
- Ajinomoto Foods North America, Inc.
- Ajinomoto Health & Nutrition North America, Inc.

Chemical(s). These violations involve exposures to lead from the products listed below. The State of California has officially listed lead as a chemical known to cause cancer and reproductive harm.

Consumer products. The product that is the subject of this notice is **Cambrooke Burger Patty Mix** which contains lead and is, at any time, manufactured, distributed, or sold by the alleged violator.

Route of exposure. Use of the products identified in this notice result in human exposures to lead. The route of exposure is ingestion. No clear and reasonable warning is provided with the products regarding the hazards of lead.

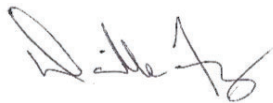
Duration of violation. These ongoing violations have occurred on every day since at least July 15, 2019, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, Cal. Code Regs. section 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify this ongoing violation of California law, *As You Sow* is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with *As You Sow* to discuss an early resolution of this matter by contacting:

Danielle Fugere
President
As You Sow
2150 Kittredge St. Suite 450
Berkeley, CA 94704
Tel: (510) 735-8141
Email: dfugere@asyousow.org

Sincerely,



Danielle Fugere

CERTIFICATE OF MERIT

(for *As You Sow*'s Notice of Proposition 65 Violation on Ajinomoto Foods North America, Inc., Ajinomoto Health & Nutrition North America, Inc., and Ajinomoto Cambrooke, Inc.)

I, Chelsea Linsley, declare:

This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties in the notice have violated section 25249.6 of the Health and Safety Code by failing to provide clear and reasonable warnings.

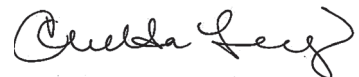
I am in-house counsel and Staff Attorney of the noticing party.

I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding exposure to the listed chemical that is the subject of the action.

Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

The copy of this Certificate of Merit served on the Attorney General has attached to it to it factual information sufficient to establish the basis for this certificate, including the information identified in section 25249.7(h)(2) of the Health and Safety Code, i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: July 15, 2020



Chelsea Linsley

Enclosure (For Attorney General Copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years. My business address is: 2150 Kittredge Street, Ste. 450, Berkeley, CA 94704.

On July 15, 2020, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit
- “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Howard Lossing, CEO
Ajinomoto Cambrooke, Inc.
4 Copeland Dr
Ayer, Massachusetts, 01432-1751

Sumio Maeda, President
Ajinomoto Foods North America, Inc.
4200 E Concourses Street, Ste.100
Ontario, CA 91764-4982

Tatsuya Sato, President
Ajinomoto Health & Nutrition North America,
Inc.
1300 N. Arlington Hts., Ste. 110
Itasca, IL 60143

Ajinomoto Cambrooke, Inc.
Ajinomoto Foods North America, Inc.
Ajinomoto Health & Nutrition North America, Inc.
c/o Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

On July 15, 2020, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit

on each of the District Attorneys on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto and depositing it at a United States Postal Service mail box for delivery by First Class Mail.

On July 15, 2020, I served the following documents on the Attorney General using the Attorney General’s Proposition 65 electronic Notice Filing Form (<https://oag.ca.gov/prop65/add-60-day-notice>):

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

Executed on July 15, 2020, at Berkeley, California.



Kwan Hong Teoh

EXHIBIT 2



JANUARY 28, 2021

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.**

Attorney General Rob Bonta
c/o Proposition 65
Coordinator
Office of the Attorney
General
P.O. Box 70550
Oakland, CA 94612-0550

Paul Taylor, General Counsel
Ajinomoto Cambrooke, Inc.
4 Copeland Dr
Ayer, Massachusetts, 01432-
1751

Ajinomoto Cambrooke, Inc.
Ajinomoto Foods North
America, Inc.
Ajinomoto Health &
Nutrition North America, Inc.
c/o Kerry Shea
505 Montgomery Street
Suite 800
San Francisco, CA 94111-
6533

Re: Lead in “Cambrooke” Brand Food Products

As You Sow (“AYS”) is a 501(c)(3) non-profit corporation dedicated to, among other causes, toxics reduction, the promotion of and improvement of human health, the improvement of worker and consumer rights, environmental education and the protection of the environment, and corporate accountability. AYS is based in Berkeley, California, and was incorporated in 1992 under the laws of the State of California.

AYS has documented violations of California’s Safe Drinking Water & Toxic Enforcement Act of 1986 (“Proposition 65”), codified at Health & Safety Code section 25249.5 et seq; specifically Section 25249.6, which provides that “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ...” This letter serves to provide AYS’s notification of these violations to Ajinomoto Foods North America, Inc., Ajinomoto Health & Nutrition North America, Inc., and Ajinomoto Cambrooke, Inc. (collectively, “the Company”) and public enforcement agencies. Pursuant to section 25249.7(d) of the statute, AYS intends to bring an enforcement action sixty days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the notices served upon the violator(s). The specific details of the violations that are the subject of this notice are provided below.

Alleged violator(s). The names of the violator(s) covered by this notice are:

- Ajinomoto Foods North America, Inc.
- Ajinomoto Health & Nutrition North America, Inc.

- Ajinomoto Cambrooke, Inc.

Chemical(s). These violations involve exposures to lead from the products listed below. The State of California has officially listed lead as known to cause cancer and birth defects or reproductive harm. *See* Chemicals Known to the State to Cause Cancer or Reproductive Toxicity, available at http://oehha.ca.gov/prop65/prop65_list/Newlist.html.

Consumer products. The products that are the subject of this notice are “Cambrooke” Brand Food Products that contain lead and are, at any time, manufactured, distributed, or sold by the alleged violator(s), including but not limited to the following:

SKU #	Product Description
10625	BAGEL BARS - FRENCH TOAST
10618	BAGELS - CINNAMON RAISIN
10622	BAGELS - PLAIN
10918	BROOKELYN DOGS
10410	CREAMY GARLIC & BROCCOLI RICE
10723	GINGERBREAD MIX
10821	INSTANT NOODLE SOUP - BEEF
10820	INSTANT NOODLE SOUP - CHICKEN
10431	INSTANT STIVALETTI ALFREDO
10920	MEDLEY MEALS - BARBECUE BAKE
10401	PASTA SOLO - ELBOWS
10412	PIEROGI
10345	READI-DOUGH
10340	SEASONED BREADCRUMBS
10631	THE BIGGER BAGEL - APPLE CINNAMON
10429	TOASTED PIEROGIES
10428	WHITE CHEDDAR MAC
10830	YUCA TATER HOME FRIES
10101	ARTISAN BREAD
10616	BROOKELYN DOG BUNS

10305	BURGER PATTY MIX
10124	CAMBURGER BUNS
10903	CHEESE PIZZA
10304	CHICKEN PATTY MIX
10111	CINNAMON RAISIN SWIRL BREAD
10915	CORNY DOGS
10638	CREAMY HOT CEREAL - CINNAMON
10639	CREAMY HOT CEREAL - VANILLA
10123	FOCACCIA STICKS - ITALIAN STYLE
10110	HOMESTYLE SLICED WHITE BREAD
10913	PB&J MINI POCKETS
10621	PITA POCKETS
10904	PIZZA BLANCA
10909	PIZZA MINI POCKETS
10908	PIZZA PRIMAVERA
10311	SAUSAGE PATTY MIX
10316	SEAFOOD PATTY MIX
10115	TUSCAN PIZZA CRUSTS
10902	TWEEKZ

Route of exposure. Use of the products identified in this notice result in human exposures to lead. The route of exposure is ingestion. No clear and reasonable warning is provided with the products regarding the health hazards of lead.

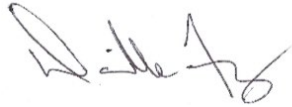
Duration of violation. These ongoing violations have occurred on every day since at least January 28, 2020, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, Cal. Code Regs. section 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify this ongoing violation of California law, *As You Sow* is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with *As You Sow* to discuss an early resolution of this matter by contacting:

Danielle Fugere
President
As You Sow
2150 Kittredge St. Suite 450
Berkeley, CA 94704
Tel: (510) 735-8141
Email: dfugere@asyousow.org

Sincerely,

A handwritten signature in dark ink, appearing to read 'Danielle Fugere', written in a cursive style.

Danielle Fugere

CERTIFICATE OF MERIT

(for *As You Sow*'s Notice of Proposition 65 Violation on Ajinomoto Foods North America, Inc.,
Ajinomoto Health & Nutrition North America, Inc., and Ajinomoto Cambrooke, Inc.)

I, Chelsea Linsley, declare:

This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties in the notice have violated section 25249.6 of the Health and Safety Code by failing to provide clear and reasonable warnings.

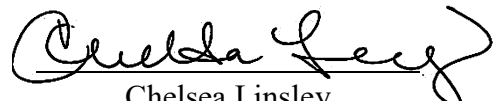
I am Staff Attorney of the noticing party.

I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding exposure to the listed chemical that is the subject of the action.

Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

The copy of this Certificate of Merit served on the Attorney General has attached to it to it factual information sufficient to establish the basis for this certificate, including the information identified in section 25249.7(h)(2) of the Health and Safety Code, i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: January 28, 2021


Chelsea Linsley

Enclosure (Attorney General Copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years. My business address is: Main Post Office, P.O. Box 751, Berkeley, CA 94701.

On January 28, 2021, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit
- “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”

on the following parties via email and by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Paul Taylor, General Counsel	Ajinomoto Cambrooke, Inc.
Ajinomoto Cambrooke, Inc.	Ajinomoto Foods North
4 Copeland Dr	America, Inc.
Ayer, Massachusetts, 01432-1751	Ajinomoto Health &
	Nutrition North America, Inc.
	c/o Kerry Shea
taylorp@ajiusa.com	505 Montgomery Street
	Suite 800
	San Francisco, CA 94111-6533
	kerryshea@dwt.com

On January 28, 2021, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit

on each of the District Attorneys on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto and depositing it at a United States Postal Service mail box for delivery by First Class Mail.

On January 28, 2021, I served the following documents on the Attorney General using the Attorney General’s Proposition 65 electronic Notice Filing Form (<https://oag.ca.gov/prop65/add-60-day-notice>):

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

Executed on January 28, 2021, at Berkeley, California.

A handwritten signature in black ink, appearing to read 'JD', enclosed within a light gray rectangular border.

Jesus Diaz