

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Teresa Beaudet

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Attorneys for Plaintiff
The Chemical Toxin Working Group Inc. doing
business as Healthy Living Foundation

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

THE CHEMICAL TOXIN WORKING
GROUP INC., a California non-profit
corporation, doing business as HEALTHY
LIVING FOUNDATION

Plaintiff,

vs.

NUTRITIONAL RESOURCES, INC. a
Delaware corporation;
DOCTORS WEIGHT LOSS & WELLNESS
CENTER LLC a Florida limited liability
company;
AMAZON.COM, INC. a Delaware
corporation;
AMAZON.COM SERVICES LLC a Delaware
limited liability company;
PEPSICO, INC. a North Carolina corporation;
FRITO-LAY, INC. a Delaware corporation;
FRITO-LAY NORTH AMERICA, INC. a
Delaware corporation;
IDEAL SNACKS CORPORATION a
Delaware corporation;
BFY BRANDS, LLC a Delaware limited
liability company;
BFY BRANDS, INC. a Delaware corporation;
and DOES 1-100,

Defendants.

CASE NO. **21STCV39057**

**COMPLAINT FOR INJUNCTIVE
RELIEF, CIVIL PENALTIES, AND
OTHER RELIEF UNDER HEALTH
AND SAFETY CODE SECTION 25249.5,
et seq
(PROPOSITION 65)**

1 Plaintiff The Chemical Toxin Working Group Inc. doing business as Healthy Living
2 Foundation (“Plaintiff” or “HLF”) hereby alleges the following on information and belief:

3 **INTRODUCTION**

4 1. This action seeks injunctive and declaratory relief and civil penalties to remedy
5 the continuing failure of Defendant NUTRITIONAL RESOURCES, INC. a Delaware
6 corporation (herein “NRI”); DOCTORS WEIGHT LOSS & WELLNESS CENTER LLC a
7 Florida limited liability company (herein “DWL”); AMAZON.COM, INC. a Delaware
8 corporation (herein “AMAZON.COM”); AMAZON.COM SERVICES LLC a Delaware limited
9 liability company (herein “AMAZON.COM SERVICES”); PEPSICO, INC. a North Carolina
10 corporation (herein “PEPSICO”); FRITO-LAY, INC. a Delaware corporation (herein “FRITO-
11 LAY”); FRITO-LAY NORTH AMERICA, INC. a Delaware corporation (herein “FRITO-LAY
12 NA”); IDEAL SNACKS CORPORATION a Delaware corporation (herein “IDEAL”); BFY
13 BRANDS, LLC a Delaware limited liability company (herein “BFY LLC”); BFY BRANDS,
14 INC. a Delaware corporation (herein “BFY INC.”), to warn consumers in California that they are
15 being exposed to acrylamide, a chemical known to the State of California to cause cancer and
16 reproductive toxicity, found in:

- 17 a. Health Wise Protein Chips Barbecue Crunch;
18 b. Health Wise Protein Chips Pizza Crunch;
19 c. Health Wise Protein Chips Ranch Crunch;
20 d. Health Wise Protein Chips Sea Salt & Vinegar. (together referred to as the
21 “Products”).

22 2. This action is brought in the public interest and is based on The Safe Drinking
23 Water and Toxic Enforcement Act of 1986 (Health and Safety Code § 25249.6 et seq.) also
24 known as “Proposition 65.” This statute mandates that any person in the course of doing business
25 must provide a clear and reasonable warning prior to exposing any individual to a chemical
known to the state to cause cancer, birth defects or other reproductive harm.

PARTIES

3. HLF is a non-profit consumer health organization that: implements measures to reduce the amount of chemical toxins in foods posing targeted dangers to fetuses, children, pregnant women and women of childbearing age; improves safety for workers by reducing their exposure to chemicals; publishes consumer health periodicals, books, and comparative test results. HLF's Chief Officer David W. Steinman is a publisher, a health journalist and a bestselling author of Diet For A Poisoned Planet (Crown Ed., 1990, Ballantine 2d Ed., 1992, Running Press 3d Ed., 2007); among his other books are: The Safe Shopper's Bible (Macmillan Ed., 1995, Wiley 2d Ed., 2000), The Breast Cancer Prevention Program (Macmillan Ed., 1997). Mr. Steinman represented the public interest at the National Academy of Sciences on the Safe Seafood Committee that produced Seafood Safety (Washington, D.C.: National Academies Press, 1991), advised Congress on related legislation, and has testified before Congress as an expert witness on food safety.

4. HLF is a person within the meaning of Health and Safety Code section 25249.11, subdivision (a). HLF, 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).

5. Defendant NRI is a Delaware corporation, doing business in the State of California at all relevant times herein.

6. Defendant DWL is a Florida limited liability company, doing business in the State of California at all relevant times herein.

7. Defendant AMAZON.COM is a Delaware corporation, doing business in the State of California at all relevant times herein.

8. Defendant AMAZON.COM SERVICES is a Delaware limited liability company, doing business in the State of California at all relevant times herein.

9. Defendant PEPSICO is a North Carolina corporation, doing business in the State of California at all relevant times herein.

10. Defendant FRITO-LAY is a Delaware corporation, doing business in the State of

1 California at all relevant times herein.

2 11. Defendant FRITO-LAY NA is a Delaware corporation, doing business in the
3 State of California at all relevant times herein.

4 12. Defendant IDEAL is a Delaware corporation, doing business in the State of
5 California at all relevant times herein.

6 13. Defendant BFY LLC is a Delaware limited liability company, doing business in
7 the State of California at all relevant times herein.

8 14. Defendant BFY INC. is a Delaware corporation, doing business in the State of
9 California at all relevant times herein.

10 15. Plaintiff is presently unaware of the true names and capacities of defendants
11 DOES 1-100, and therefore sues these defendants by such fictitious names. Plaintiff will amend
12 this complaint to allege their true names and capacities when ascertained. Plaintiff is informed,
13 believes, and thereon alleges that each fictitiously named defendant is responsible in some
14 manner for the occurrences herein alleged and the violations caused thereby. DOES 1-100 are
15 each a person in the course of doing business within the meaning of Health and Safety Code §§
16 25249.6 and 25249.11.

17 16. At all times mentioned herein, the term “Defendants” includes NRI, DWL,
18 AMAZON.COM, AMAZON.COM SERVICES, PEPSICO, FRITO-LAY, FRITO-LAY NA,
19 IDEAL, BFY LLC, BFY INC. and DOES 1-100.

20 17. Defendants employ ten or more persons and have employed ten or more persons
21 at all times relevant to this action, and are each a person in the course of doing business within
22 the meaning of Health and Safety Code §§ 25249.6 and 25249.11.

JURISDICTION AND VENUE

23 18. This Court has jurisdiction pursuant to California Constitution Article VI, Section
24 10, which grants the Superior Court original jurisdiction in all causes except those given by
25 statute to other trial courts. The statute under which this action is brought does not specify any
other basis for jurisdiction.

1 19. This Court has jurisdiction over this action pursuant to Health and Safety Code
2 section 25249.7, which allows enforcement of violations of Proposition 65 in any Court of
3 competent jurisdiction.

4 20. This Court has jurisdiction over Defendants because Defendants either reside or
5 are located in this State or are foreign corporations authorized to do business in California, are
6 registered with the California Secretary of State, or Defendants have sufficient minimum
7 contacts with California, and otherwise intentionally avail themselves of the California market
8 through the marketing, distribution, and/or sale of Products in the State of California, so as to
9 render the exercise of jurisdiction over Defendants by the California courts consistent with
10 traditional notions of fair play and substantial justice.

11 21. Venue is proper in the Los Angeles Superior Court because the cause of action
12 arises out of violations in the County of Los Angeles and/or because Defendants conducted, and
13 continue to conduct, business in the County of Los Angeles with respect to the consumer
14 products that are the subject of this action.

15 22. Plaintiffs seek injunctive and declaratory relief and civil penalties from
16 Defendants' violations of the prohibitions of Proposition 65 (Health and Safety Code § 25249.5
17 et seq.)

18 **STATUTORY BACKGROUND**

19 23. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative
20 statute passed as "Proposition 65" by close to a two-to-one voting margin. Proposition 65 is
21 referred to as a "right-to-know" law intended to inform consumers of the potential for exposure
22 to toxic chemicals and thereby empower them with the information needed to avoid the
23 exposure.

24 24. Proposition 65 requires that individuals be provided with a "clear and reasonable
25 warning" before being exposed to substances listed by the State of California as causing cancer
or reproductive toxicity. The warning requirement of Proposition 65 is contained in Health &
Safety Code § 25249.6, which provides,

1 No person in the course of doing business shall knowingly and intentionally
2 expose any individual to a chemical known to the state to cause cancer or
3 reproductive toxicity without first giving clear and reasonable warning to such
4 individual....

5 25. In this case, the exposures are caused by consumer products. "Consumer
6 product" means any article, or component part thereof, including food, that is produced,
7 distributed, or sold for the personal use, consumption or enjoyment of a consumer. (27
8 California Code of Regulations § 25600.1(d)) "Consumer product exposure" means an exposure
9 that results from a person's acquisition, purchase, storage, consumption, or any reasonably
10 foreseeable use of a consumer product, including consumption of a food. (27 California Code of
11 Regulations § 25600.1(e)).

12 26. Proposition 65 requires the State to publish a list of chemicals known to cause
13 cancer or birth defects or other reproductive harm (Health and Safety Code §25249.8.) This list
14 now comprises over 800 chemicals.

15 27. Proposition 65 establishes a procedure by which the State is to develop a list of
16 chemicals "known to the State to cause cancer or reproductive toxicity." (Health & Safety, §
17 25249.8.)

18 28. Acrylamide was listed as a chemical known to the State of California to cause
19 cancer on January 1, 1990. Acrylamide became subject to the warning requirement one year later
20 and was therefore subject to the "clear and reasonable" warning requirements of Proposition 65
21 beginning on January 1, 1991. (27 California Code of Regulations § 25000, et seq.; Health &
22 Safety Code §25249.5, et seq.). Due to the carcinogenicity of Acrylamide, the no significant risk
23 level is 0.2 micrograms a day. (27 California Code of Regulations § 25705(c)(2).) As a point of
24 reference, one microgram is equal to one millionth of a gram (1 microgram = 1/1,000,000 gram).

25 29. Acrylamide was listed as a chemical known to the State of California to cause
reproductive toxicity on February 25, 2011. Acrylamide became subject to the warning
requirement one year later and was therefore subject to the "clear and reasonable" warning
requirements of Proposition 65 beginning on February 25, 2012. (27 California Code of

1 Regulations § 25000, et seq.; Health & Safety Code § 25249.5, et seq.). Due to the toxicity of
2 Acrylamide, the maximum allowable dose level is 140 micrograms a day. (27 California Code of
3 Regulations § 25805(b).)

4 30. Proposition 65 provides that any “person who violates or threatens to violate” the
5 statute “may be enjoined in a court of competent jurisdiction.” (Health & Safety Code §
6 25249.7). Violators are liable for civil penalties of up to \$2,500 per day for each violation of the
7 Act. (Health & Safety Code §25249.7(b)(1).)

8 31. Violations of Proposition 65 may be enforced by any person in the public interest,
9 after providing a 60-day notice of the violations of the Attorney General, appropriate District
10 Attorneys and City Attorneys and the alleged violator. (Health and Safety Code § 25249.7(d)(1).)
11 Remedies include injunctive relief to prevent actual or threatened violations, and penalties up to
12 \$2,500 per day per violation. (Health and Safety Code §25249.7(a) and (b).)

13 32. Proposition 65 may be enforced by any person who provides notice sixty days
14 before filing suit to both the violator and designated law enforcement officials. When the law
15 enforcement officials do not file a timely Complaint, this enables a citizen suit to be filed
16 pursuant to Health & Safety Code section 25249.7, subdivisions (c) and (d).

17 **FOODS AND PROPOSITION 65**

18 33. The United States does not have a pre-market approval of foods and consumer
19 products. Popular foods advertised as “natural,” “health foods,” and sold in “health food” stores
20 like Whole Foods may contain up to nearly 1000 ppb of acrylamide and appeared in notices of
21 violation of the California Health & Safety Code with egregious amounts of lead, cadmium,
22 acrylamide, carbaryl. The lobbyists, instead of cleaning their supply sources, fight back by
23 pouring resources into stigmatizing enforcers and spread negativity against Proposition 65
24 without acknowledging the significant public benefit the law achieves. Prosecuting one toxin in
25 one product takes massive effort, expertise, and time, at a cost unattainable for a consumer. An
avenue for a consumer to know about the toxic content of each food is non-existent, unless a
label warning discloses it. Proposition 65 influences the most egregious manufacturing practices,

1 inducing violators to self-test and reformulate products or put warnings on the labels, and
2 shifting the consumer demand towards violators' competition with safer practices, proving such
3 feasibility.

4 **FACTUAL BACKGROUND**

5 34. Defendants are businesses that develop, manufacture, package, distribute, market,
6 offer for sale and/or sell the Products in the State of California.

7 35. Plaintiff hired a well-respected and accredited testing laboratory to test
8 Defendant's Products for acrylamide. The results of the testing show that the Products contain
9 acrylamide.

10 36. Individuals are exposed to the acrylamide from the reasonable anticipated use of
11 the Products or when they ingest the Products.

12 37. The Products continue to be offered for sale, sold and/or otherwise made available
13 for use and/or handling to persons in California, without a warning about the cancer or
14 reproductive toxicity risk required by Proposition 65. (Health and Safety Code § 25249.6; 27
15 CCR § 25600 et seq.)

16 38. At all times relevant to this action, Defendants, therefore, have knowingly and
17 intentionally exposed the users of the Products to acrylamide without first giving a clear and
18 reasonable warning to such individuals. The Products continue to be distributed and sold in
19 California without providing the requisite warning, and thus the violations are ongoing and
20 continuous and will continue to occur into the future.

21 39. As a proximate result of acts by Defendants, persons in the course of doing
22 business within the meaning of Health & Safety Code § 25249.11(b), individuals throughout the
23 State of California, including in the County of Los Angeles, have been exposed to acrylamide
24 without a clear and reasonable warning.

25 **SATISFACTION OF 60 DAY NOTICE**

26 40. On October 2, 2020, Plaintiff served NRI and each appropriate public
27 enforcement agency with a Proposition 65 Notice, a document entitled "Sixty-Day Notice of

1 Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986”
2 (“October 2, 2020 Notice I”) that provided NRI and the public enforcement agency with notice
3 that NRI was in violation of Proposition 65 for failing to warn purchasers and consumers of
4 Health Wise Protein Chips Barbecue Crunch, Health Wise Protein Chips Pizza Crunch, and
5 Health Wise Protein Chips Ranch Crunch that ingestion of these products exposes them to
6 acrylamide, a chemical known to the State of California to cause cancer. The October 2, 2020
7 Notice I is designated with Attorney General number 2020-02594. The October 2, 2020 Notice I
8 constitutes adequate notice to NRI because it provided adequate information to allow NRI to
9 assess the nature of the alleged violations. A certificate of merit and a certificate of service
10 accompanied the October 2, 2020 Notice I, and both certificates comply with Proposition 65 and
11 its implementing regulations. A true and correct copy of the October 2, 2020 Notice I is attached
here as Exhibit A and is incorporated herein by reference.

12 41. On October 2, 2020, Plaintiff served NRI and each appropriate public
13 enforcement agency with a Proposition 65 Notice, a document entitled “Sixty-Day Notice of
14 Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986”
15 (“October 2, 2020 Notice II”) that provided NRI and the public enforcement agency with notice
16 that NRI was in violation of Proposition 65 for failing to warn purchasers and consumers of
17 Health Wise Protein Chips Barbecue Crunch, Health Wise Protein Chips Pizza Crunch, and
18 Health Wise Protein Chips Ranch Crunch that ingestion of these products exposes them to
19 acrylamide, a chemical known to the State of California to cause cancer. The October 2, 2020
20 Notice II is designated with Attorney General number 2020-02595. The October 2, 2020 Notice
21 II constitutes adequate notice to NRI because it provided adequate information to allow NRI to
22 assess the nature of the alleged violations. A certificate of merit and a certificate of service
23 accompanied the October 2, 2020 Notice II, and both certificates comply with Proposition 65 and
its implementing regulations. A true and correct copy of the October 2, 2020 Notice II is attached
here as Exhibit B and is incorporated herein by reference.

24 42. On October 2, 2020, Plaintiff served NRI and each appropriate public

1 enforcement agency with a Proposition 65 Notice, a document entitled “Sixty-Day Notice of
2 Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986”
3 (“October 2, 2020 Notice III”) that provided NRI and the public enforcement agency with notice
4 that NRI was in violation of Proposition 65 for failing to warn purchasers and consumers of
5 Health Wise Protein Chips Barbecue Crunch, Health Wise Protein Chips Pizza Crunch, and
6 Health Wise Protein Chips Ranch Crunch that ingestion of these products exposes them to
7 acrylamide, a chemical known to the State of California to cause cancer. The October 2, 2020
8 Notice III is designated with Attorney General number 2020-02596. The October 2, 2020 Notice
9 III constitutes adequate notice to NRI because it provided adequate information to allow NRI to
10 assess the nature of the alleged violations. A certificate of merit and a certificate of service
11 accompanied the October 2, 2020 Notice III, and both certificates comply with Proposition 65
12 and its implementing regulations. A true and correct copy of the October 2, 2020 Notice III is
attached here as Exhibit C and is incorporated herein by reference.

13 43. On October 2, 2020, Plaintiff served NRI and each appropriate public
14 enforcement agency with a Proposition 65 Notice, a document entitled “Sixty-Day Notice of
15 Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986”
16 (“October 2, 2020 Notice IV”) that provided NRI and the public enforcement agency with notice
17 that NRI was in violation of Proposition 65 for failing to warn purchasers and consumers of
18 Health Wise Protein Chips Barbecue Crunch, Health Wise Protein Chips Pizza Crunch, and
19 Health Wise Protein Chips Ranch Crunch that ingestion of these products exposes them to
20 acrylamide, a chemical known to the State of California to cause cancer. The October 2, 2020
21 Notice IV is designated with Attorney General number 2020-02597. The October 2, 2020 Notice
22 IV constitutes adequate notice to NRI because it provided adequate information to allow NRI to
23 assess the nature of the alleged violations. A certificate of merit and a certificate of service
24 accompanied the October 2, 2020 Notice IV, and both certificates comply with Proposition 65
and its implementing regulations. A true and correct copy of the October 2, 2020 Notice IV is
attached here as Exhibit D and is incorporated herein by reference.

1 44. On January 20, 2021, Plaintiff served NRI, DWL, AMAZON.COM,
2 AMAZON.COM SERVICES and each appropriate public enforcement agency with a
3 Proposition 65 Notice, a document entitled “Sixty-Day Notice of Intent to Sue for Violation of
4 the Safe Drinking Water and Toxic Enforcement Act of 1986” (“January 20, 2021 Notice”) that
5 provided NRI, DWL, AMAZON.COM, AMAZON.COM SERVICES and the public
6 enforcement agency with notice that these entities were in violation of Proposition 65 for failing
7 to warn purchasers and consumers of the Products that ingestion of the Products exposes them to
8 acrylamide, a chemical known to the State of California to cause cancer and reproductive
9 toxicity. The January 20, 2021 Notice is designated with Attorney General number 2021-00089.
10 The January 20, 2021 Notice constitutes adequate notice to NRI, DWL, AMAZON.COM,
11 AMAZON.COM SERVICES because it provided adequate information to allow these entities to
12 assess the nature of the alleged violations. A certificate of merit and a certificate of service
13 accompanied the January 20, 2021 Notice, and both certificates comply with Proposition 65 and
14 its implementing regulations. A true and correct copy of the January 20, 2021 Notice is attached
15 here as Exhibit E and is incorporated herein by reference.

16 45. On March 2, 2021, Plaintiff served IDEAL and each appropriate public
17 enforcement agency with a Proposition 65 Notice, a document entitled “Sixty-Day Notice of
18 Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986”
19 (“March 2, 2021 Notice”) that provided IDEAL and the public enforcement agency with notice
20 that these entities were in violation of Proposition 65 for failing to warn purchasers and
21 consumers of the Products that ingestion of the Products exposes them to acrylamide, a chemical
22 known to the State of California to cause cancer. The March 2, 2021 Notice is designated with
23 Attorney General number 2021-00523. The March 2, 2021 Notice constitutes adequate notice to
24 IDEAL because it provided adequate information to allow these entities to assess the nature of
25 the alleged violations. A certificate of merit and a certificate of service accompanied the March
2, 2021 Notice, and both certificates comply with Proposition 65 and its implementing
regulations. A true and correct copy of the March 2, 2021 Notice is attached here as Exhibit F

1 and is incorporated herein by reference.

2 46. On July 8, 2021, Plaintiff served PEPSICO, FRITO-LAY, FRITO-LAY NA, BFY
3 LLC, BFY INC. and each appropriate public enforcement agency with a Proposition 65 Notice, a
4 document entitled “Sixty-Day Notice of Intent to Sue for Violation of the Safe Drinking Water
5 and Toxic Enforcement Act of 1986” (“July 8, 2021 Notice”) that provided PEPSICO, FRITO-
6 LAY, FRITO-LAY NA, BFY LLC, BFY INC. and the public enforcement agency with notice
7 that these entities were in violation of Proposition 65 for failing to warn purchasers and
8 consumers of the Products that ingestion of the Products exposes them to acrylamide, a chemical
9 known to the State of California to cause cancer. The July 8, 2021 Notice is designated with
10 Attorney General number 2021-01651. The July 8, 2021 Notice constitutes adequate notice to
11 PEPSICO, FRITO-LAY, FRITO-LAY NA, BFY LLC, BFY INC. because it provided adequate
12 information to allow these entities to assess the nature of the alleged violations. A certificate of
13 merit and a certificate of service accompanied the July 8, 2021 Notice, and both certificates
14 comply with Proposition 65 and its implementing regulations. A true and correct copy of the July
15 8, 2021 Notice is attached here as Exhibit G and is incorporated herein by reference.

16 47. More than 60 days have passed since Plaintiff served the October 2, 2020 Notice
17 I, October 2, 2020 Notice II, October 2, 2020 Notice III, and October 2, 2020 Notice IV, January
18 20, 2021 Notice, March 2, 2021 Notice, and July 8, 2021 Notice (together “Notices of
19 Violation”) and no public enforcement entity has filed a Complaint in this case.

20 48. Plaintiff is commencing this action more than sixty (60) days from the date that
21 Plaintiff served the Notices of Violation on the Defendants and the public prosecutors referenced
22 in the paragraphs above.

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

FIRST CAUSE OF ACTION

(Violation of Health & Safety Code § 25249.6, Failure to Provide Clear and Reasonable

1 **Warning under Proposition 65 – Against all Defendants)**

2 50. Plaintiff realleges and incorporates by reference Paragraphs 1 through 49,
3 inclusive, as if specifically set forth herein.

4 51. By committing the acts alleged above, Defendants have, in the course of doing
5 business, knowingly and intentionally exposed consumers of the Health Wise Protein Chips
6 Barbecue Crunch to acrylamide, a chemical known to the State of California to cause cancer and
7 reproductive toxicity, without first giving clear and reasonable warning to such individuals
8 within the meaning of Health & Safety Code § 25249.6, and continue to violate the statute as the
9 Health Wise Protein Chips Barbecue Crunch continue to be sold in California.

10 52. Said violations render Defendants liable for civil penalties, up to \$2,500 per day
11 for each violation, and subject Defendants to injunction.

12 **SECOND CAUSE OF ACTION**

13 **(Violation of Health & Safety Code § 25249.6, Failure to Provide Clear and Reasonable**

14 **Warning under Proposition 65 – Against all Defendants)**

15 53. Plaintiff realleges and incorporates by reference Paragraphs 1 through 52,
16 inclusive, as if specifically set forth herein.

17 54. By committing the acts alleged above, Defendants have, in the course of doing
18 business, knowingly and intentionally exposed consumers of the Health Wise Protein Chips
19 Pizza Crunch to acrylamide, a chemical known to the State of California to cause cancer and
20 reproductive toxicity without first giving clear and reasonable warning to such individuals within
21 the meaning of Health & Safety Code § 25249.6, and continue to violate the statute as the Health
22 Wise Protein Chips Pizza Crunch continue to be sold in California.

23 55. Said violations render Defendants liable for civil penalties, up to \$2,500 per day
24 for each violation, and subject Defendants to injunction.

25 **THIRD CAUSE OF ACTION**

(Violation of Health & Safety Code § 25249.6, Failure to Provide Clear and Reasonable

Warning under Proposition 65 – Against all Defendants)

1 56. Plaintiff realleges and incorporates by reference Paragraphs 1 through 55,
2 inclusive, as if specifically set forth herein.

3 57. By committing the acts alleged above, Defendants have, in the course of doing
4 business, knowingly and intentionally exposed consumers of the Health Wise Protein Chips
5 Ranch Crunch to acrylamide, a chemical known to the State of California to cause cancer and
6 reproductive toxicity without first giving clear and reasonable warning to such individuals within
7 the meaning of Health & Safety Code § 25249.6, and continue to violate the statute as the Health
8 Wise Protein Chips Ranch Crunch continue to be sold in California.

9 58. Said violations render Defendants liable for civil penalties, up to \$2,500 per day
10 for each violation, and subject Defendants to injunction.

11 **FOURTH CAUSE OF ACTION**

12 **(Violation of Health & Safety Code § 25249.6, Failure to Provide Clear and Reasonable
13 Warning under Proposition 65 – Against all Defendants)**

14 59. Plaintiff realleges and incorporates by reference Paragraphs 1 through 58,
15 inclusive, as if specifically set forth herein.

16 60. By committing the acts alleged above, Defendants have, in the course of doing
17 business, knowingly and intentionally exposed consumers of the Health Wise Protein Chips Sea
18 Salt & Vinegar to acrylamide, a chemical known to the State of California to cause cancer and
19 reproductive toxicity without first giving clear and reasonable warning to such individuals within
20 the meaning of Health & Safety Code § 25249.6, and continue to violate the statute as the Health
21 Wise Protein Chips Sea Salt & Vinegar continue to be sold in California.

22 61. Said violations render Defendants liable for civil penalties, up to \$2,500 per day
23 for each violation, and subject Defendants to injunction.

24 **PRAYER**

25 Wherefore, Plaintiff accordingly prays for the following relief:

 62. For civil penalties pursuant to Health & Safety Code § 25249.7(b), against
Defendants in the amount of \$2,500 per day for each violation of Proposition 65;

1 63. An injunctive order, pursuant to Health & Safety Code § 25249.7(a), for such
2 temporary restraining orders, preliminary and permanent injunctive orders as are necessary to
3 prevent Defendants from exposing individuals to acrylamide without providing a clear and
4 reasonable warning for the Product;

5 64. On all Causes of Action, an award to Plaintiff of its reasonable attorneys' fees and
6 costs;

7 65. For such other relief as the Court may deem just and proper.

8 DATED: October 22, 2021

POULSEN LAW P.C.

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11 Aida Poulsen
12 Peter T. Sato
13 Attorney for Plaintiff
14 The Chemical Toxin Working Group Inc. doing
15 business as Healthy Living Foundation
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EXHIBIT A



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

October 2, 2020

Re: Violations of Proposition 65 concerning food products containing Acrylamide

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents The Chemical Toxin Working Group, Inc., a California non-profit corporation, aka The Healthy Living Foundation (“HLF”), an organization dedicated to reducing the amount of chemicals toxins in consumer products, the promotion of human health, environmental safety, and improvement of work and consumer safety. David Steinman created HLF to effectuate his commitments as an environmentalist, journalist, consumer health advocate, publisher and author. His major books include “Diet for a Poisoned Planet” (1990, 2007); “The Safe Shopper’s Bible” (1995); “Living Healthy in a Toxic world” (1996); and “Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown” (2007), along with his many publications as the publisher of the “California Healthy Living Magazine” and its associated websites and periodicals.

HLF has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of HLF 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Nutritional Resources, Inc.

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Health Wise Protein Chips Barbecue Crunch OCT2720A6**
- 2. Health Wise Protein Chips Pizza Crunch NOV2620C32**
- 3. Health Wise Protein Chips Ranch Crunch APR1321E3**
- 4. Health Wise Protein Chips Barbecue Crunch MAY1121D6**

On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.

It should be noted that HLF may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

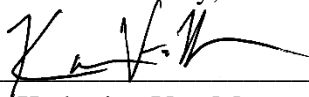
Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least March 16, 2020 as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, HLF is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

HLF has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Katherine Van Meurs

Associate Attorney

Davitt, Lalley, Dey, & McHale, PC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutritional Resources, Inc. and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations by Nutritional Resources, Inc.

I, Katherine Van Meurs, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

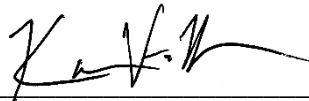
2. I am an Associate Attorney of Davitt, Lalley, Dey, & McHale, PC, attorneys for the noticing party.

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

4. Based on the information obtained through those consultants, and on 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 Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), 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: October 2, 2020



Katherine Van Meurs

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 of age. My business address is 707 17th Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail.

Current President or CEO
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

James Mathews
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

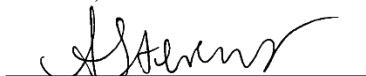
Corporation Service Company
Agent for Service of Process for
Nutritional Resources, Inc.
251 Little Falls Drive
Wilmington, DE 19808

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(1) or via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such an envelope to a United States Postal Service Representative.

Executed on October 2, 2020, in Denver, CO



Davitt, Lalley, Dey, & McHale, PC || 713-824-5982 || katherine.yuna@dldmlaw.com ||
1411 Cortez Street #21948, Denver, CO 80221

Allison Stevens

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@saniego.gov
San Diego County District Attorney CityAttyCrimProp65@saniego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

EXHIBIT B



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

October 2, 2020

Re: Violations of Proposition 65 concerning food products containing Acrylamide

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents The Chemical Toxin Working Group, Inc., a California non-profit corporation, aka The Healthy Living Foundation (“HLF”), an organization dedicated to reducing the amount of chemicals toxins in consumer products, the promotion of human health, environmental safety, and improvement of work and consumer safety. David Steinman created HLF to effectuate his commitments as an environmentalist, journalist, consumer health advocate, publisher and author. His major books include “Diet for a Poisoned Planet” (1990, 2007); “The Safe Shopper’s Bible” (1995); “Living Healthy in a Toxic world” (1996); and “Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown” (2007), along with his many publications as the publisher of the “California Healthy Living Magazine” and its associated websites and periodicals.

HLF has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of HLF 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Nutritional Resources, Inc.

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Health Wise Protein Chips Barbecue Crunch OCT2720A6**
- 2. Health Wise Protein Chips Pizza Crunch NOV2620C32**
- 3. Health Wise Protein Chips Ranch Crunch APR1321E3**
- 4. Health Wise Protein Chips Barbecue Crunch MAY1121D6**

On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.

It should be noted that HLF may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

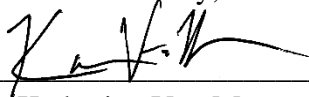
Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least March 16, 2020 as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, HLF is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

HLF has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Katherine Van Meurs

Associate Attorney

Davitt, Lalley, Dey, & McHale, PC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutritional Resources, Inc. and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations by Nutritional Resources, Inc.

I, Katherine Van Meurs, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

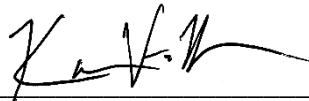
2. I am an Associate Attorney of Davitt, Lalley, Dey, & McHale, PC, attorneys for the noticing party.

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

4. Based on the information obtained through those consultants, and on 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 Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), 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: October 2, 2020



Katherine Van Meurs

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 of age. My business address is 707 17th Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail.

Current President or CEO
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

James Mathews
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

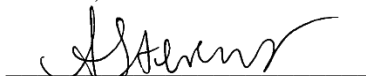
Corporation Service Company
Agent for Service of Process for
Nutritional Resources, Inc.
251 Little Falls Drive
Wilmington, DE 19808

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(1) or via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such an envelope to a United States Postal Service Representative.

Executed on October 2, 2020, in Denver, CO



Davitt, Lalley, Dey, & McHale, PC || 713-824-5982 || katherine.yuna@dldmlaw.com ||
1411 Cortez Street #21948, Denver, CO 80221

Allison Stevens

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@saniego.gov
San Diego County District Attorney CityAttyCrimProp65@saniego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
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District Attorney, Orange County
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District Attorney, Placer County
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San Bernardino, CA 92415

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District Attorney, San Mateo County
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Redwood City, CA 94063

District Attorney, Shasta County
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District Attorney, Sutter County
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District Attorney, Tehama County
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District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

EXHIBIT C



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

October 2, 2020

Re: Violations of Proposition 65 concerning food products containing Acrylamide

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents The Chemical Toxin Working Group, Inc., a California non-profit corporation, aka The Healthy Living Foundation (“HLF”), an organization dedicated to reducing the amount of chemicals toxins in consumer products, the promotion of human health, environmental safety, and improvement of work and consumer safety. David Steinman created HLF to effectuate his commitments as an environmentalist, journalist, consumer health advocate, publisher and author. His major books include “Diet for a Poisoned Planet” (1990, 2007); “The Safe Shopper’s Bible” (1995); “Living Healthy in a Toxic world” (1996); and “Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown” (2007), along with his many publications as the publisher of the “California Healthy Living Magazine” and its associated websites and periodicals.

HLF has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of HLF 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Nutritional Resources, Inc.

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Health Wise Protein Chips Barbecue Crunch OCT2720A6**
- 2. Health Wise Protein Chips Pizza Crunch NOV2620C32**
- 3. Health Wise Protein Chips Ranch Crunch APR1321E3**
- 4. Health Wise Protein Chips Barbecue Crunch MAY1121D6**

On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.

It should be noted that HLF may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

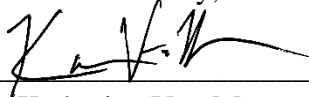
Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least March 16, 2020 as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, HLF is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

HLF has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Katherine Van Meurs

Associate Attorney

Davitt, Lalley, Dey, & McHale, PC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutritional Resources, Inc. and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations by Nutritional Resources, Inc.

I, Katherine Van Meurs, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

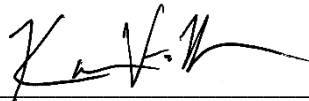
2. I am an Associate Attorney of Davitt, Lalley, Dey, & McHale, PC, attorneys for the noticing party.

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

4. Based on the information obtained through those consultants, and on 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 Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), 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: October 2, 2020



Katherine Van Meurs

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 of age. My business address is 707 17th Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail.

Current President or CEO
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

James Mathews
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

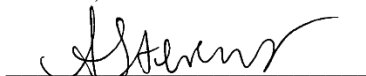
Corporation Service Company
Agent for Service of Process for
Nutritional Resources, Inc.
251 Little Falls Drive
Wilmington, DE 19808

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(1) or via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such an envelope to a United States Postal Service Representative.

Executed on October 2, 2020, in Denver, CO



Davitt, Lalley, Dey, & McHale, PC || 713-824-5982 || katherine.yuna@dldmlaw.com ||
1411 Cortez Street #21948, Denver, CO 80221

Allison Stevens

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@saniego.gov
San Diego County District Attorney CityAttyCrimProp65@saniego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

EXHIBIT D



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

October 2, 2020

Re: Violations of Proposition 65 concerning food products containing Acrylamide

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents The Chemical Toxin Working Group, Inc., a California non-profit corporation, aka The Healthy Living Foundation (“HLF”), an organization dedicated to reducing the amount of chemicals toxins in consumer products, the promotion of human health, environmental safety, and improvement of work and consumer safety. David Steinman created HLF to effectuate his commitments as an environmentalist, journalist, consumer health advocate, publisher and author. His major books include “Diet for a Poisoned Planet” (1990, 2007); “The Safe Shopper’s Bible” (1995); “Living Healthy in a Toxic world” (1996); and “Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown” (2007), along with his many publications as the publisher of the “California Healthy Living Magazine” and its associated websites and periodicals.

HLF has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of HLF 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Nutritional Resources, Inc.

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Health Wise Protein Chips Barbecue Crunch OCT2720A6**
- 2. Health Wise Protein Chips Pizza Crunch NOV2620C32**
- 3. Health Wise Protein Chips Ranch Crunch APR1321E3**
- 4. Health Wise Protein Chips Barbecue Crunch MAY1121D6**

On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.

It should be noted that HLF may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

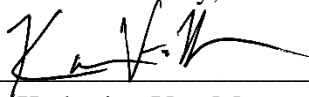
Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least March 16, 2020 as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, HLF is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

HLF has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Katherine Van Meurs

Associate Attorney

Davitt, Lalley, Dey, & McHale, PC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutritional Resources, Inc. and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations by Nutritional Resources, Inc.

I, Katherine Van Meurs, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

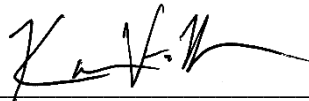
2. I am an Associate Attorney of Davitt, Lalley, Dey, & McHale, PC, attorneys for the noticing party.

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

4. Based on the information obtained through those consultants, and on 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 Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), 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: October 2, 2020



Katherine Van Meurs

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 of age. My business address is 707 17th Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail.

Current President or CEO
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

James Mathews
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

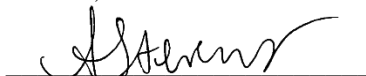
Corporation Service Company
Agent for Service of Process for
Nutritional Resources, Inc.
251 Little Falls Drive
Wilmington, DE 19808

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On October 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(1) or via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such an envelope to a United States Postal Service Representative.

Executed on October 2, 2020, in Denver, CO



Davitt, Lalley, Dey, & McHale, PC || 713-824-5982 || katherine.yuna@dldmlaw.com ||
1411 Cortez Street #21948, Denver, CO 80221

Allison Stevens

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@saniego.gov
San Diego County District Attorney CityAttyCrimProp65@saniego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
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Quincy, CA 95971

District Attorney, San Benito County
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Hollister, CA 95023

District Attorney, San Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
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District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
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District Attorney, Stanislaus County
832 12th Street, Ste 300
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463 2nd Street
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District Attorney, Tehama County
Post Office Box 519
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District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

EXHIBIT E



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

January 20, 2021

Re: Violations of Proposition 65 concerning food products containing Acrylamide

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents The Chemical Toxin Working Group, Inc., a California non-profit corporation, aka The Healthy Living Foundation (“HLF”), located at 1801 Chart Trail, Topanga, CA 90290, an organization dedicated to reducing the amount of chemicals toxins in consumer products, the promotion of human health, environmental safety, and improvement of work and consumer safety. David Steinman created HLF to effectuate his commitments as an environmentalist, journalist, consumer health advocate, publisher and author. His major books include “Diet for a Poisoned Planet” (1990, 2007); “The Safe Shopper’s Bible” (1995); “Living Healthy in a Toxic world” (1996); and “Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown” (2007), along with his many publications as the publisher of the “Healthy Living Magazine” and its associated websites and periodicals.

HLF has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of HLF 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Nutritional Resources, Inc.
Amazon.com, Inc.
Amazon.com Services LLC
Doctors Weight Loss & Wellness Center LLC

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified are High Protein Chips including but not limited to:

1. **Health Wise Protein Chips Barbecue Crunch OCT0821D1**
2. **Health Wise Protein Chips Pizza Crunch APR1321A1**
3. **Health Wise Protein Chips Ranch Crunch DEC142131**
4. **Health Wise Protein Chips Sea Salt & Vinegar DEC132131**

On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.

On February 25, 2011, the State of California officially listed acrylamide as a chemical known to cause reproductive toxicity.

It should be noted that HLF may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least January 20, 2021 as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, HLF is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

HLF has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Peter T. Sato

Associate Attorney
Davitt, Lalley, Dey, & McHale, PC

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to the alleged violators only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations by Nutritional Resources, Inc., Amazon.com, Inc., Amazon.com Services LLC, and Doctors Weight Loss & Wellness Center LLC

I, Peter T. Sato, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an Associate Attorney of Davitt, Lalley, Dey, & McHale, PC, attorneys for the noticing party.

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

4. 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 plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), 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 20, 2021



Peter T. Sato

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 of age. My business address is 707 17th Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On January 20, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail.

Current President or CEO
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

James Mathews or Current President
or CEO
Nutritional Resources, Inc.
5003 Wrightsboro Road
Grovetown, GA 30813

Corporation Service Company
Agent for Service of Process for
Nutritional Resources, Inc.
251 Little Falls Drive
Wilmington, DE 19808

Current President or CEO
Amazon.com, Inc. and
Amazon.com Services LLC
c/o Corporation Service Company
251 Little Falls Dr.
Wilmington, DE 19808

Michael D. Deal or Current
President or CEO
Amazon.com Services LLC
410 Terry Avenue N.
Seattle, Washington 98109

Doctors Weight Loss & Wellness
Center LLC
911 NW 209th Avenue, Suite 114
Pembroke Pines, FL 33029

On January 20, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On January 20, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(I) or via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such an envelope to a United States Postal Service Representative.

Executed on January 20, 2021, in Denver, CO


Allison Stevens

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@saniego.gov
San Diego County District Attorney CityAttyCrimProp65@saniego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

EXHIBIT F



SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986
(*Cal. Health & Safety Code § 25249.5, et seq.*) (“Proposition 65”)

March 2, 2021

Re: Violations of Proposition 65 concerning food products containing Acrylamide

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

Davitt, Lalley, Dey, & McHale, PC (“DLDM”) represents The Chemical Toxin Working Group, Inc., a California non-profit corporation, aka The Healthy Living Foundation (“HLF”), located at 1801 Chart Trail, Topanga, CA 90290, an organization dedicated to reducing the amount of chemicals toxins in consumer products, the promotion of human health, environmental safety, and improvement of work and consumer safety. David Steinman created HLF to effectuate his commitments as an environmentalist, journalist, consumer health advocate, publisher and author. His major books include “Diet for a Poisoned Planet” (1990, 2007); “The Safe Shopper’s Bible” (1995); “Living Healthy in a Toxic world” (1996); and “Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown” (2007), along with his many publications as the publisher of the “Healthy Living Magazine” and its associated websites and periodicals.

HLF has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, DLDM intends to file a private enforcement action on behalf of HLF 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Ideal Snacks Corporation

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified are High Protein Chips including but not limited to:

1. Health Wise Protein Chips Barbecue Crunch OCT2720A6
2. Health Wise Protein Chips Pizza Crunch NOV2620C32
3. Health Wise Protein Chips Ranch Crunch APR1321E3

4. **Health Wise Protein Chips Barbecue Crunch MAY1121D6**
5. **Health Wise Protein Chips Barbecue Crunch OCT0821D1**
6. **Health Wise Protein Chips Pizza Crunch APR1321A1**
7. **Health Wise Protein Chips Ranch Crunch DEC142131**
8. **Health Wise Protein Chips Sea Salt & Vinegar DEC132131**

On January 1, 1990, the State of California officially listed acrylamide as a chemical known to cause cancer.

On February 25, 2011, the State of California officially listed acrylamide as a chemical known to cause reproductive toxicity.

It should be noted that HLF may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least March 2, 2018 as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, HLF is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

(continues on next page)

HLF has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated below.

Sincerely,



Peter T. Sato
Associate Attorney
Davitt, Lalley, Dey, & McHale, PC

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to the alleged violators only)
- Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Davitt, Lalley, Dey, & McHale, PC's Notice of Proposition 65 Violations by Ideal Snacks Corporation

I, Peter T. Sato, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an Associate Attorney of Davitt, Lalley, Dey, & McHale, PC, attorneys for the noticing party.

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

4. 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 plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), 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: March 2, 2021



Peter T. Sato

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 of age. My business address is 707 17th Street, Denver, CO. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Denver, CO.

On March 2, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail.

Paul Nardone, Dan Morgan, or	Paul Nardone, Dan Morgan, or
Current President or CEO	Current President or CEO
Ideal Snacks Corporation	Ideal Snacks Corporation
89 Mill Street	c/o The Corporation Trust
Liberty, NY 12754	Company
	Corporation Trust Center 1206
	Orange St.
	Wilmington, DE 19801

On March 2, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents
NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1) were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On March 2, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents:
NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;
CERTIFICATE OF MERIT; on each of the parties on the Service List attached hereto by placing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, §25903(c)(1) or via First Class Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such an envelope to a United States Postal Service Representative.

Executed on March 2, 2021, in Denver, CO


Allison Stevens

List for Service by Electronic Mail

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@sandiego.gov
San Diego County District Attorney CityAttyCrimProp65@saniego.gov	San Francisco County District Attorney Gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

List for Service by Mail

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St.
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice 211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East 200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

EXHIBIT G

**VIA CERTIFIED FIRST CLASS MAIL**

Nooyi K. Indra or Current President or CEO
PepsiCo, Inc.
c/o Amanda Garcia, Gabriela Sanchez, or Daisy
Montenegro
CT Corporation System
330 N Brand Blvd Ste 700
Glendale, CA 91203

Nooyi K. Indra or Current President or CEO
PepsiCo, Inc.
700 Anderson Hill Road
Purchase, New York 10577

Steven Williams or Current President or CEO
Frito-Lay, Inc. and Frito-Lay North America,
Inc.
c/o Amanda Garcia, Gabriela Sanchez, or Daisy
Montenegro
CT Corporation System
330 N Brand Blvd Ste 700
Glendale, CA 91203

Steven Williams or Current President or CEO
Frito-Lay, Inc. and Frito-Lay North America,
Inc.
7701 Legacy Drive
Plano, Texas 75024

Current President or CEO
BFY Brands, LLC
c/o The Corporation Trust Company
Corporation Trust Center 1209 Orange St.
Wilmington, DE 19801

Paul Nardone or Current President or CEO
BFY Brands, Inc.
c/o Amanda Garcia, Gabriela Sanchez, or Daisy
Montenegro
CT Corporation System
330 N Brand Blvd Ste 700
Glendale, CA 91203

Current President or CEO
BFY Brands, LLC and BFY Brands, Inc.
79 Industrial Place
Middletown, NY 10940

VIA ELECTRONIC FILING

State of California Department of Justice

Office of Attorney General of California
Filing link: oag.ca.gov/prop65

VIA FIRST CLASS MAIL

District Attorneys of California Counties
and City Attorneys, as in the Certificate of
Service

VIA E-MAIL

District Attorneys of California Counties
and City Attorneys, as in the Certificate of
Service



RE: Acrylamide High Protein Chips products
in

July 8, 2021

60-DAY NOTICE OF INTENT TO SUE

for violations of the Safe Drinking Water and Toxic Enforcement Act of 1986

Dear alleged violators and public enforcement agencies,

Poulsen Law P.C. represents The Chemical Toxin Working Group, Inc., a California non-profit corporation, doing business as Healthy Living Foundation Inc. (“HLF,” “Noticing Party”), a non-profit consumer health organization engaged in supporting public health, implementing measures reducing the amount of chemical toxins in consumer products, improvement of worker and consumer safety from chemical exposures. as well as publishing comparative results of testing foods and consumer products and educating public.

HLF has enforced a large number of Cal. Health & Safety Code violations in the public interest and developed an extensive expertise in prosecuting manufacturers and distributors of food and consumer products for violations of health laws and consumer safety. These cases have resulted in significant public benefit, including reformulation of products to remove toxic chemicals to make them safer, and putting label warnings on products tested as contaminated with lead, cadmium, acrylamide, dioxane, or removing them from the California market.

HLF’s Chief Officer David Steinman is a journalist, a publisher and an author of a bestseller *Diet For A Poisoned Planet* (Crown ed., 1990, Ballantine 2d ed., 1992, Running Press 3d ed., 2007); his major books also include *The Safe Shopper’s Bible* (Macmillan ed., 1995, Wiley 2d ed., 2000), *The Breast Cancer Prevention Program* (Macmillan ed., 1997), *Living Healthy In A Toxic World* (Perseus ed., 1996), *Safe Trip To Eden: Ten Steps To Save The Planet Earth From The Global Warming Meltdown* (Running Press ed., 2007), along with many publications in periodicals and other media.

The Safe Drinking Water and Toxic Enforcement Act of 1986, codified in the California Health & Safety Code sections 25249.5, et seq. (“Proposition 65”), requires that a 60-day notice of intent to sue be provided to a violator of Cal. Health & Safety Code § 25249.6.

With this notice of violation (Notice), HLF gives a written notice of the alleged violation, bringing this action in the public interest as defined under the Cal. Health & Safety Code § 25249.7(d), seeking to prosecute the alleged continuing noncompliance and to warn consumers about their exposure to the violative chemical(s), or reduce and/or eliminate consumer exposures from product(s) (collectively, the “Specified Products” and each a “Specified Product”) listed in the table below, which are manufactured, distributed and/or sold by:

PepsiCo, Inc.
Frito-Lay, Inc.
Frito-Lay North America, Inc.

BFY Brands, LLC

BFY Brands, Inc. (referred to collectively as the “Noticed Parties”).

This Notice covers the violations of Proposition 65 that are currently known to the Noticing Party from information now available as specifically related to the violating products listed below and manufactured, distributed or/and sold by and through the Noticed Parties. HLF is continuing its investigation that may reveal further violations.

The Specified Product(s) subject to this Notice, the chemical(s) in the Specified Product(s) identified as exceeding allowable levels, and the Noticed Parties responsible for sales of the Specified Products, are as follows:

Specified Products	Violative chemical	Noticed Party
High Protein Chips including but not limited to: Health Wise Protein Chips Barbecue Crunch OCT2720A6	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.
High Protein Chips including but not limited to: Health Wise Protein Chips Pizza Crunch NOV2620C32	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.
High Protein Chips including but not limited to: Health Wise Protein Chips Ranch Crunch APR1321E3	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.
High Protein Chips including but not limited to: Health Wise Protein Chips Barbecue Crunch MAY1121D6	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.
High Protein Chips including but not limited to: Health Wise Protein Chips Barbecue Crunch OCT0821D1	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.
High Protein Chips including but not limited to: Health Wise Protein Chips Pizza Crunch APR1321A1	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.

High Protein Chips including but not limited to: Health Wise Protein Chips Ranch Crunch DEC142131	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.
High Protein Chips including but not limited to: Health Wise Protein Chips Sea Salt & Vinegar DEC132131	Acrylamide	PepsiCo, Inc. Frito-Lay, Inc. Frito-Lay North America, Inc. BFY Brands, LLC BFY Brands, Inc.

The primary route of exposure has been through ingestion.

Noticed Parties have manufactured, marketed, distributed and/or sold the Specified Products which, according to the test results, have exposed and continue to expose consumers within the State of California to acrylamide.

Acrylamide is listed pursuant to Proposition 65 as a chemical known to the State of California to cause developmental toxicity, reproductive toxicity and cancer. Cal. Health & Safety Code § 25249.6 requires that a “clear and reasonable” warning be provided prior to exposure to chemicals listed under Proposition 65. The Noticed Parties are in violation of Proposition 65 because the Noticed Parties have failed to provide a warning to consumers that they are being exposed to acrylamide. While in the course of doing business, the Noticed Parties are knowingly and intentionally exposing consumers to acrylamide without first providing a “clear and reasonable” warning.

The method of warning should be a warning that appears on the product’s label. See Cal. Code Regs. tit. 27, § 25602, subd. (a)(3), and subd. (b) for internet purchases also at the point of sale, as applicable. The Noticed Parties have not provided any Proposition 65 warnings as required by law or any other appropriate warnings that persons handling, ingesting and/or otherwise using the Specified Products are being exposed to acrylamide.

With respect to each Specified Product listed above, the violation commenced on the latter of the date that the Specified Product was first offered for sale in California or the date upon which California law codified the allowable level of the relevant chemical; has continued every day since the relevant date the violation commenced; and will continue every day henceforth until acrylamide is removed from each Specified Product, reduced to allowable levels, or until a “clear and reasonable” warning is provided to consumers by the Noticed Parties, as applicable, in accordance with the law.

Pursuant to Title 27, C.C.R. § 25903(b), copies of the following document is attached hereto for reference by the Notices Parties:

(i) Appendix A - “The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary,”

Pursuant to Title 11, C.C.R. § 3100, the “Certificate of Merit” is attached hereto.

HLF intends to file a lawsuit after 60 days based on the facts set forth in this Notice. Meanwhile we encourage a prompt resolution of this matter within the said period of 60 days where the Noticed Parties agree in a written agreement to (1) eliminate or reduce acrylamide to an allowable level in the Specified Products or, as an alternative, (2) provide a Proposition

65- compliant warning on the label of the Specified Products and at the point of sale; and (3) pay applicable civil penalties and costs of bringing this action.

Prompt action of the Noticed Parties on this Notice will prevent further consumer exposures to a dangerous chemical without warning, therefore rectifying these alleged ongoing violations of the California law and afford the Noticed Parties the opportunity to avoid increasing costs associated with noncompliance and costly litigation.

Please direct all communications regarding this Notice to my office.

Sincerely,



Aida Poulsen | Managing attorney | NY | CA

P o u l s e n l a w P.C.

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New York, New York, 10001
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Tel: +1 650 296 1014 Direct
ap@poulsenlaw.org
www.poulsenlaw.org

ATTACHMENTS

1. Certificate of Merit;
2. Confidential Factual Information supporting Certificate of Merit (to Attorney General only);
3. Appendix “A” - “The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary” (to the Noticed Parties only);
4. Certificate of Service;



To: California Attorney General
 Notice of Violation: July 8, 2021
 Noticing Party: Chemical Toxin Working Group Inc./Healthy Living Foundation Inc.
 Noticed Parties: PepsiCo, Inc.
 Frito-Lay, Inc.
 Frito-Lay North America, Inc.
 BFY Brands, LLC
 BFY Brands, Inc.

July 8, 2021

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

To the Notice of Violation

I, Aida Poulsen, attorney at law, hereby declare:

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

I am the attorney for the Noticing Party.

I have reviewed the facts of this case and have consulted with one or more persons with relevant and appropriate experience and expertise who have reviewed facts, studies, and/or other data regarding the alleged exposures to the listed chemical that is the subject of the attached Notice of Violation dated July 8, 2021 (the "Notice").

I have reviewed the laboratory testing results for the chemical subject to the Notice and rely on these results. The testing was conducted by a reputable accredited testing laboratory and by experienced scientists with doctoral and other degrees in relevant sciences. The facts, studies and other data derived through this investigation overwhelmingly demonstrate that the alleged violators have exposed persons to the listed chemical that is the subject of the Notice and is known to the State of California to cause reproductive and/or developmental harm, and/or cancer.

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 plaintiffs' case can be established and 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 attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), 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 8, 2021

By:

A handwritten signature in blue ink, appearing to read 'Aida Poulsen', with a stylized flourish at the end.

Aida Poulsen | Managing Attorney | NY | CA

P o u l s e n l a w P.C.

282 11th Avenue, Suite 2612
New York, New York, 10001
Tel: +1 650 296 1014 Direct
ap@poulsenlaw.org
www.poulsenlaw.org

CERTIFICATE OF SERVICE

I, Lucas Zahn, am over the age of eighteen years and am not a party to the action, process or case related to or arising out of the Notice of Violation being served under this Certificate of Service. My address is 1142 Hartzell Street, Pacific Palisades, CA 90272.

On July 8, 2021, between 11:00 a.m. and 5:00 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by PepsiCo, Inc., Frito-Lay, Inc., Frito-Lay North America, Inc., BFY Brands, LLC, and BFY Brands, Inc.;
2. Certificate of Merit;
3. Appendix "A" - "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 parties below, and causing it to be deposited at a United States Postal Service Office in Los Angeles County, California, for delivery by Certified Mail:

Nooyi K. Indra or Current President or CEO PepsiCo, Inc. c/o Amanda Garcia, Gabriela Sanchez, or Daisy Montenegro CT Corporation System 330 N Brand Blvd Ste 700 Glendale, CA 91203	Nooyi K. Indra or Current President or CEO PepsiCo, Inc. 700 Anderson Hill Road Purchase, New York 10577
Steven Williams or Current President or CEO Frito-Lay, Inc. and Frito-Lay North America, Inc. c/o Amanda Garcia, Gabriela Sanchez, or Daisy Montenegro CT Corporation System 330 N Brand Blvd Ste 700 Glendale, CA 91203	Steven Williams or Current President or CEO Frito-Lay, Inc. and Frito-Lay North America, Inc. 7701 Legacy Drive Plano, Texas 75024
Current President or CEO BFY Brands, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange St. Wilmington, DE 19801	Current President or CEO BFY Brands, LLC and BFY Brands, Inc. 79 Industrial Place Middletown, NY 10940
Paul Nardone or Current President or CEO BFY Brands, Inc. c/o Amanda Garcia, Gabriela Sanchez, or Daisy Montenegro CT Corporation System 330 N Brand Blvd Ste 700 Glendale, CA 91203	

On July 8, 2021, between 11:00 a.m. and 11:30 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by PepsiCo, Inc., Frito-Lay, Inc., Frito-Lay North America, Inc., and BFY Brands, LLC;
2. Certificate of Merit;

3. Confidential Factual Information and Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following parties by filing electronically a true and correct copy thereof as permitted through the website of the California Office of the Attorney General via link at oag.ca.gov/prop65:

State of California Department of Justice;
Office of the Attorney General of California.

On July 8, 2021, between 11:00 a.m. and 5:00 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by PepsiCo, Inc., Frito-Lay, Inc., Frito-Lay North America, Inc., BFY Brands, LLC and BFY Brands, Inc.;
2. Certificate of Merit

on the following parties below by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney offices listed below, and causing each envelope to be deposited at a United States Postal Service mail box for delivery by First Class Mail:

District Attorney Alpine County PO Box 248 Markleeville, CA 96120	District Attorney Lake County 255 North Forbes Street Lakeport, CA 95453	District Attorney Sierra County PO Box 457 Downieville, CA 95936
District Attorney Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney Los Angeles County Hall of Justice 211 West Temple St. Ste 1200 Los Angeles, CA 90012	District Attorney Siskiyou County Post Office Box 986 Yreka, CA 96097
District Attorney Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533
District Attorney Colusa County 310 6 th Street Colusa, CA 95932	District Attorney Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354
District Attorney Del Norte County 450 H Street, Suite 171 Crescent City, CA 95531	District Attorney Mendocino County PO Box 1000 Ukiah, CA 95482	District Attorney Sutter County 446 Second Street Yuba City, CA 95991
District Attorney EL Dorado County 778 Pacific Street Placerville, CA 95667	District Attorney Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney Tehama County PO Box 519 Red Bluff, CA 96080
District Attorney Fresno County 2220 Tulare Street	District Attorney Orange County 401 West Civic Center Drive	District Attorney Trinity County Post Office Box 310

Suite 1000 Fresno, CA 93721	Santa Ana, CA 92701	Weaverville, CA 96093
District Attorney Glenn County Post Office Box 430 Willows, CA 95988	District Attorney San Benito County 419 4 th Street Hollister, CA 95023	District Attorney Tuolumne County 423 North Washington St. Sonora, CA 95370
District Attorney Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney San Bernardino County 316 No. Mountain View Avenue San Bernardino, CA 92415	District Attorney Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney Imperial County 940 West Main Street, Suite 102 El Centro, CA 92243	District Attorney San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney Shasta County 1355 West Street Redding, CA 96001	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney Kings County 1400 West Lacey Blvd. Hanford, CA 93230	District Attorney Mono County Post Office Box 617 Bridgeport, CA 93517	

On July 8, 2021, between 11:00 a.m. and 11:30 p.m. Pacific Time, I served the following documents:

1. Notice of Violations of California Health & Safety Code Section 25249.5 et seq. by PepsiCo, Inc., Frito-Lay, Inc., Frito-Lay North America, Inc., BFY Brands, LLC, and BFY Brands, Inc.;
2. Certificate of Merit

on each of the parties below, all of which have requested electronic service only via the following email addresses:

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Mariposa County District Attorney mcda@mariposacounty.org
Merced County District Attorney Prop65@countyofmerced.com	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Nevada County District Attorney DA.Prop65@co.nevada.ca.us
Placer County District Attorney Prop65@placer.ca.gov	Plumas County District Attorney davidhollister@countyofplumas.com
Riverside County District Attorney Prop65@rivcoda.org	Sacramento County District Attorney Prop65@sacda.org

San Diego City Attorney CityAttyProp65@sandiego.gov	San Diego County District Attorney SanDiegoDAProp65@sdcdca.org
San Francisco County District Attorney alethea.sargent@sfgov.org	San Francisco City Attorney Valerie.Lopez@sfcityatty.org
San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org	San Luis Obispo County District Attorney edobroth@co.slo.ca.us
Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us	Santa Clara County District Attorney EPU@da.sccgov.org
Santa Cruz County District Attorney Prop65DA@santacruzcounty.us	Sonoma County District Attorney jbarnes@sonoma-county.org
Tulare County District Attorney Prop65@co.tulare.ca.us	Ventura County District Attorney daspecialops@ventura.org
Yolo County District Attorney cfepd@yolocounty.org	

I, Lucas Zahn, declare under penalty of perjury that the foregoing is true and correct.

Signature



1142 Hartzell Street,
Pacific Palisades, CA 90272

July 8, 2021