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ENVIRONMENTAL HEALTH ADVOCATES, INC.

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

ENVIRONMENTAL HEALTH ADVOCATES, INC.,

Plaintiff,

v.

BRISTOL FARMS, a California corporation,
KII NATURALS, INC. a Canada corporation,
and DOES 1 through 100, inclusive,

Defendants.

Case No.:
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

FILED BY FAX
ALAMEDA COUNTY
June 10, 2021
CLERK OF
THE SUPERIOR COURT
By Milagros Cortez, Deputy
CASE NUMBER:
RG21101700

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I.
INTRODUCTION

1. This Complaint is a representative action brought by Environmental Health Advocates, Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff seeks to remedy Defendants’ failure to inform the People of exposure to acrylamide, a known carcinogen. Defendants exposed consumers to acrylamide by manufacturing, importing, selling, and/or distributing Kii Naturals Organic Artisan Crisps (“Product”). Defendants know and intend that customers will ingest Products containing acrylamide.

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

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

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

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

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II.
PARTIES

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

1 consumers in California of the health hazards associated with exposures to acrylamide contained in the
2 Products.

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

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

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

11 **PRAYER FOR RELIEF**

12 Wherefore, Plaintiff prays for judgment against Defendants as follows:

13 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that
14 damages total a minimum of \$1,000,000.

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

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- 3. Reasonable attorney's fees and costs of suit; and
- 4. Such other and further relief as may be just and proper.

Respectfully submitted:

Dated: June 9, 2021

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By: 
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