

**FILED BY FAX**  
 ALAMEDA COUNTY  
 February 10, 2021  
 CLERK OF  
 THE SUPERIOR COURT  
 By Shabra Iyamu, Deputy  
 CASE NUMBER:  
**RG21088670**

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 ENVIRONMENTAL HEALTH ADVOCATES, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 12 **IN AND FOR THE COUNTY OF ALAMEDA**

13 ENVIRONMENTAL HEALTH ADVOCATES, INC.,  
 14 INC.,  
 15 Plaintiff,  
 16 v.  
 17 WIN WIN FOOD INDUSTRIES SDN. BHD.,  
 a Malaysian corporation, RICHIN TRADING,  
 18 INC., a California corporation, SFC  
 MARKETPLACE, INC., a California  
 19 corporation, and DOES 1 through 100,  
 inclusive,  
 20 Defendants.

Case No.:  
**COMPLAINT FOR CIVIL PENALTIES  
 AND INJUNCTIVE RELIEF**  
 (Health & Safety Code § 25249.6 et seq.)

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**I.**  
**INTRODUCTION**

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2           1.       This Complaint is a representative action brought by Environmental Health Advocates,  
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff  
4 seeks to remedy Defendants’ failure to inform the People of exposure to acrylamide, a known  
5 carcinogen. Defendants expose consumers to acrylamide by manufacturing, importing, selling, and/or  
6 distributing Win2 Baked Potato Crisp Tomato Flavour (“Products”). Defendants know and intend that  
7 customers will ingest Products containing acrylamide.

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

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

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

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

**II.**  
**PARTIES**

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





1 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in  
2 California of the health hazards associated with exposures to acrylamide contained in the Products.

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

5 23. 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 24. 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;

18 3. Reasonable attorney's fees and costs of suit; and

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

20 Respectfully submitted:

21 Dated: February 10, 2021

**NICHOLAS & TOMASEVIC, LLP**

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