

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Randolph Hammock

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CONSUMER ADVOCACY GROUP, INC.

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF LOS ANGELES**

11 CONSUMER ADVOCACY GROUP, INC.,
12 in the public interest,

13 Plaintiff,

14 v.

15 BOLSABUY, INC., a California
16 Corporation;
17 VINH SANH TRADING CORP, a California
18 Corporation;
19 ROCKMAN COMPANY (USA), INC., a
20 California Corporation;
21 and DOES 1-40,

22 Defendants.

CASE NO. 21STCV46801

COMPLAINT FOR PENALTY AND
INJUNCTION

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (*Health & Safety Code*, §
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000)

23 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action
24 against defendants BOLSABUY, INC., VIN SANH TRADING CORP., ROCKMAN
25 COMPANY (USA), INC. and DOES 1-40 as follows:

26 **THE PARTIES**

- 1 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
2 organization qualified to do business in the State of California. CAG is a person within
3 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
4 as a private attorney general, brings this action in the public interest as defined under
5 Health and Safety Code Section 25249.7, subdivision (d).
- 6 2. Defendant BOLSABUY, INC. (“BOLSABUY”) is a California Corporation qualified to
7 do business in California, and doing business in the State of California at all relevant
8 times herein.
- 9 3. Defendant VINH SANH TRADING CORP., (“VIN SANH”) is a California Corporation
10 qualified to do business in California, and doing business in the State of California at all
11 relevant times herein.
- 12 4. Defendant ROCKMAN COMPANY (USA), INC (“ROCKMAN”) is a California
13 Corporation qualified to do business in California, and doing business in the State of
14 California at all relevant times herein.
- 15 5. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-40,
16 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
17 Complaint to allege their true names and capacities when ascertained. Plaintiff is
18 informed, believes, and thereon alleges that each fictitiously named defendant is
19 responsible in some manner for the occurrences herein alleged and the damages caused
20 thereby.
- 21 6. At all times mentioned herein, the term “Defendants” includes BOLSABUY,
22 ROCKMAN, VINH SANH, and DOES 1-40.
- 23 7. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
24 times mentioned herein have conducted business within the State of California.
- 25 8. Upon information and belief, at all times relevant to this action, each of the Defendants,
26 including DOES 1-40, was an agent, servant, or employee of each of the other
27 Defendants. In conducting the activities alleged in this Complaint, each of the
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1 Defendants was acting within the course and scope of this agency, service, or
2 employment, and was acting with the consent, permission, and authorization of each of
3 the other Defendants. All actions of each of the Defendants alleged in this Complaint
4 were ratified and approved by every other Defendant or their officers or managing
5 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
6 alleged wrongful conduct of each of the other Defendants.

7 9. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
8 Defendants was a person doing business within the meaning of Health and Safety Code
9 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
10 employees at all relevant times.

11 **JURISDICTION**

12 10. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
13 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
14 those given by statute to other trial courts. This Court has jurisdiction over this action
15 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
16 violations of Proposition 65 in any Court of competent jurisdiction.

17 11. This Court has jurisdiction over Defendants named herein because Defendants either
18 reside or are located in this State or are foreign corporations authorized to do business in
19 California, are registered with the California Secretary of State, or who do sufficient
20 business in California, have sufficient minimum contacts with California, or otherwise
21 intentionally avail themselves of the markets within California through their
22 manufacture, distribution, promotion, marketing, or sale of their products within
23 California to render the exercise of jurisdiction by the California courts permissible
24 under traditional notions of fair play and substantial justice.

25 12. Venue is proper in the County of Los Angeles because one or more of the instances of
26 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
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1 because Defendants conducted, and continue to conduct, business in the County of Los
2 Angeles with respect to the consumer product that is the subject of this action.

3 **BACKGROUND AND PRELIMINARY FACTS**

4 13. In 1986, California voters approved an initiative to address growing concerns about
5 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
6 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
7 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
8 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
9 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
10 from contamination, to allow consumers to make informed choices about the products
11 they buy, and to enable persons to protect themselves from toxic chemicals as they see
12 fit.

13 14. Proposition 65 requires the Governor of California to publish a list of chemicals known
14 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
15 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
16 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
17 other controls that apply to Proposition 65-listed chemicals.

18 15. All businesses with ten (10) or more employees that operate or sell products in California
19 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
20 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
21 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
22 reasonable” warnings before exposing a person, knowingly and intentionally, to a
23 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

24 16. Proposition 65 provides that any person "violating or threatening to violate" the statute
25 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
26 25249.7. "Threaten to violate" means "to create a condition in which there is a
27 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

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1 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
2 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

3 17. Plaintiff identified certain practices of manufacturers and distributors of food products of
4 exposing, knowingly and intentionally, persons in California to Lead and Lead
5 Compounds, Cadmium and Cadmium Compounds, and Inorganic Arsenic of such
6 products without first providing clear and reasonable warnings of such to the exposed
7 persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged
8 in such practice.

9 18. On October 1, 1992 the Governor of California added Lead and Lead Compounds
10 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
11 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
12 twenty (20) months after addition of Lead to the list of chemicals known to the State to
13 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
14 discharge prohibitions.

15 19. On February 27, 1987, the Governor of California added Lead to the list of chemicals
16 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
17 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
18 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
19 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
20 the State to cause developmental and reproductive toxicity, Lead became fully subject to
21 Proposition 65 warning requirements and discharge prohibitions.

22 20. On October 1, 1987 the Governor of California added Cadmium and Cadmium
23 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer
24 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections
25 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of
26 chemicals known to the State to cause cancer, Cadmium became fully subject to
27 Proposition 65 warning requirements and discharge prohibitions.

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- 1 21. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
2 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
3 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male
4 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
5 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
6 to the State to cause developmental and reproductive toxicity, Cadmium became fully
7 subject to Proposition 65 warning requirements and discharge prohibitions.
- 8 22. On February 27, 1987 the Governor of California added Inorganic Arsenic Compounds
9 to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, §
10 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty
11 (20) months after addition of Inorganic Arsenic Compounds to the list of chemicals
12 known to the State to cause cancer, Inorganic Arsenic Compounds became fully subject
13 to Proposition 65 warning requirements and discharge prohibitions.
- 14 23. On May 1, 1997, the Governor of California added Inorganic Arsenic Oxides to the list
15 of chemicals known to the State to cause developmental toxicity (*Cal. Code Regs.* tit. 27,
16 § 27001(c)). Inorganic Arsenic Oxides is known to the State to cause developmental,
17 toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty
18 (20) months after addition of Inorganic Arsenic Oxides to the list of chemicals known to
19 the State to cause developmental toxicity, Inorganic Arsenic Oxides became fully subject
20 to Proposition 65 warning requirements and discharge prohibitions. Inorganic Arsenic
21 Compounds and Inorganic Arsenic Oxides is hereinafter referred to as “Arsenic”.

22 **SATISFACTION OF PRIOR NOTICE**

- 23 24. Plaintiff served the following notices for alleged violations of Health and Safety Code
24 Section 25249.6, concerning consumer products exposures:
- 25 a. On or about April 23, 2021 Plaintiff gave notice of alleged violations of Health
26 and Safety Code Section 25249.6, concerning consumer products exposures
27 subject to a private action to BOLSABUY, and VINH SANH, and to the
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1 California Attorney General, County District Attorneys, and City Attorneys for
2 each city containing a population of at least 750,000 people in whose
3 jurisdictions the violations allegedly occurred, concerning the Shrimp Sauce.

4 b. On or about April 30, 2021, Plaintiff gave notice of alleged violations of Health
5 and Safety Code Section 25249.6, concerning consumer products exposures
6 subject to a private action to BOLSABUY, ROCKMAN, and to the California
7 Attorney General, County District Attorneys, and City Attorneys for each city
8 containing a population of at least 750,000 people in whose jurisdictions the
9 violations allegedly occurred, concerning the Shrimp Sauce.

10 c. On or about May 28, 2021 Plaintiff gave notice of alleged violations of Health
11 and Safety Code Section 25249.6, concerning consumer products exposures
12 subject to a private action to BOLSABUY, and to the California Attorney
13 General, County District Attorneys, and City Attorneys for each city containing
14 a population of at least 750,000 people in whose jurisdictions the violations
15 allegedly occurred, concerning the Oriental Special Five Spices and Oriental
16 Beef Spices.

17 d. On or about July 16, 2021 Plaintiff gave notice of alleged violations of Health
18 and Safety Code Section 25249.6, concerning consumer products exposures
19 subject to a private action to BOLSABUY, and to the California Attorney
20 General, County District Attorneys, and City Attorneys for each city containing
21 a population of at least 750,000 people in whose jurisdictions the violations
22 allegedly occurred, concerning the Dried Octopus.

23 25. Before sending the notice of alleged violations, Plaintiff investigated the consumer
24 products involved, the likelihood that such products would cause users to suffer
25 significant exposures to relevant chemicals, and the corporate structure of each of the
26 Defendants.

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1 26. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
2 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
3 Plaintiff who executed the certificate had consulted with at least one person with relevant
4 and appropriate expertise who reviewed data regarding the exposures to relevant
5 chemicals, the subject Proposition 65-listed chemical of this action. Based on that
6 information, the attorney for Plaintiff who executed the Certificate of Merit believed
7 there was a reasonable and meritorious case for this private action. The attorney for
8 Plaintiff attached to the Certificate of Merit served on the Attorney General the
9 confidential factual information sufficient to establish the basis of the Certificate of
10 Merit.

11 27. Plaintiff's notice of alleged violations also included a Certificate of Service and a
12 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
13 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

14 28. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
15 gave notice of the alleged violations to BOLSABUY, VINH SANH, ROCKMAN, and
16 the public prosecutors referenced in Paragraph 24.

17 29. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
18 any applicable district attorney or city attorney has commenced and is diligently
19 prosecuting an action against the Defendants.

20 **FIRST CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against BOLSABUY, VINH**
22 **SANH and DOES 1-10 for Violations of Proposition 65, The Safe Drinking Water**
23 **and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

24 **Shrimp Sauce**

25 30. Plaintiff repeats and incorporates by reference paragraphs 1 through 29 of this complaint
26 as though fully set forth herein.

27 31. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
28 distributor, promoter, or retailer of Shrimp Sauce, including but not limited to "Three

1 Ladies Brand ®”; “Mam Ruoc”; “Shrimp Sauce in Brine”; “Net Weight: 14.1 oz
2 (400g)”; “UPC 7 37483 76611 5”; “Product of Vietnam”

3 32. Shrimp Sauce contains Lead.

4 33. Defendants knew or should have known that Lead has been identified by the State of
5 California as a chemical known to cause cancer, and reproductive toxicity and therefore
6 was subject to Proposition 65 warning requirements. Defendants were also informed of
7 the presence of Lead in Shrimp Sauce within Plaintiff’s notice of alleged violations
8 further discussed above at Paragraph 24a.

9 34. Plaintiff’s allegations regarding Shrimp Sauce concerns “[c]onsumer products
10 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
11 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
12 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
13 *25602(b)*. Shrimp Sauce is/are consumer products, and, as mentioned herein, exposures
14 to Lead took place as a result of such normal and foreseeable consumption and use. (

15 35. Plaintiff is informed, believes, and thereon alleges that between April 23, 2018 and the
16 present, each of the Defendants knowingly and intentionally exposed California
17 consumers and users of Shrimp Sauces, which Defendants manufactured, distributed, or
18 sold as mentioned above, to Lead, without first providing any type of clear and
19 reasonable warning of such to the exposed persons before the time of exposure.
20 Defendants have distributed and sold Shrimp Sauce in California. Defendants know and
21 intend that California consumers will use and consume Shrimp Sauce, thereby exposing
22 them to Lead. Further, Plaintiff is
23 informed, believes, and thereon alleges that Defendants are selling Shrimp Sauce under a
24 brand or trademark that is owned or licensed by the Defendants or an entity affiliated
25 thereto; have knowingly introduced Lead into Shrimp Sauce or knowingly caused Lead
26 to be created in Shrimp Sauce; have covered, obscured or altered a warning label that has
27 been affixed to Shrimp Sauce by the manufacturer, producer, packager, importer,

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1 supplier or distributor of Shrimp Sauce; have received a notice and warning materials for
2 exposure from Shrimp Sauce without conspicuously posting or displaying the warning
3 materials; and/or have actual knowledge of potential exposure to Lead from Shrimp
4 Sauce. Defendants thereby violated Proposition 65.

5 36. The principal routes of exposure are through dermal contact, ingestion and inhalation.
6 Persons sustain exposures by handling Shrimp Sauce without wearing gloves or any
7 other personal protective equipment, or by touching bare skin or mucous membranes
8 with gloves after handling Shrimp Sauce, as well as through direct and indirect hand to
9 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
10 from Shrimp Sauce.

11 37. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
12 Proposition 65 as to Shrimp Sauce have been ongoing and continuous, as Defendants
13 engaged and continue to engage in conduct which violates Health and Safety Code
14 Section 25249.6, including the manufacture, distribution, promotion, and sale of Shrimp
15 Sauce, so that a separate and distinct violation of Proposition 65 occurred each and every
16 time a person was exposed to Lead by Shrimp Sauce as mentioned herein.

17 38. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
18 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
19 violations alleged herein will continue to occur into the future.

20 39. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to Lead from Shrimp Sauce, pursuant to
22 Health and Safety Code Section 25249.7(b).

23 40. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
24 filing this Complaint.

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26 **SECOND CAUSE OF ACTION**

27 **(By CONSUMER ADVOCACY GROUP, INC. and against BOLSABUY,
28 ROCKMAN and DOES 11-20 for Violations of Proposition 65, The Safe Drinking
Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, et
seq.))**

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COMPLAINT FOR VIOLATION OF PROPOSITION 65, THE SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986 (HEALTH AND SAFETY CODE § 25249.5, ET SEQ.)

1 **Shrimp Sauce**

2 41. Plaintiff repeats and incorporates by reference paragraphs 1 through 40 of this complaint
3 as though fully set forth herein.

4 42. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of Shrimp Sauce (“Shrimp Sauce II”), including but not
6 limited to “Three Ladies Brand ®”; “Mam Ruoc”; “Shrimp Sauce in Brine”; “Net
7 Weight: 14.1 oz (400g)”; “LOT.MAY1624”; “UPC 7 07498 00627 1”; “Product of
8 Vietnam”

9 43. Shrimp Sauce II contains Lead.

10 44. Defendants knew or should have known that Lead has been identified by the State of
11 California as a chemical known to cause cancer, and reproductive toxicity and therefore
12 was subject to Proposition 65 warning requirements. Defendants were also informed of
13 the presence of Lead in Shrimp Sauce II within Plaintiff’s notice of alleged violations
14 further discussed above at Paragraph 24b.

15 45. Plaintiff’s allegations regarding Shrimp Sauce II concerns “[c]onsumer products
16 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
17 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
18 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
19 *25602(b)*. Shrimp Sauce II is/are consumer products, and, as mentioned herein,
20 exposures to Lead took place as a result of such normal and foreseeable consumption and
21 use.

22 46. Plaintiff is informed, believes, and thereon alleges that between April 30, 2018 and the
23 present, each of the Defendants knowingly and intentionally exposed California
24 consumers and users of Shrimp Sauce II, which Defendants manufactured, distributed, or
25 sold as mentioned above, to Lead, without first providing any type of clear and
26 reasonable warning of such to the exposed persons before the time of exposure.
27 Defendants have distributed and sold in California. Defendants know and intend that
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1 California consumers will use and consume Shrimp Sauce II, thereby exposing them to
2 Lead. Further, Plaintiff is
3 informed, believes, and thereon alleges that Defendants are selling Shrimp Sauce II
4 under a brand or trademark that is owned or licensed by the Defendants or an entity
5 affiliated thereto; have knowingly introduced Lead into Shrimp Sauce II or knowingly
6 caused Lead to be created in Shrimp Sauce II; have covered, obscured or altered a
7 warning label that has been affixed to Shrimp Sauce II by the manufacturer, producer,
8 packager, importer, supplier or distributor of Shrimp Sauce II; have received a notice and
9 warning materials for exposure from Shrimp Sauce II without conspicuously posting or
10 displaying the warning materials; and/or have actual knowledge of potential exposure to
11 Lead from Shrimp Sauce II. Defendants thereby violated Proposition 65.

12 47. The principal routes of exposure are through dermal contact, ingestion and inhalation.
13 Persons sustain exposures by handling Shrimp Sauce II without wearing gloves or any
14 other personal protective equipment, or by touching bare skin or mucous membranes
15 with gloves after handling Shrimp Sauce II, as well as through direct and indirect hand to
16 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
17 from Shrimp Sauce II.

18 48. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
19 Proposition 65 as to Shrimp Sauce II have been ongoing and continuous, as Defendants
20 engaged and continue to engage in conduct which violates Health and Safety Code
21 Section 25249.6, including the manufacture, distribution, promotion, and sale of Shrimp
22 Sauce II, so that a separate and distinct violation of Proposition 65 occurred each and
23 every time a person was exposed to Lead by Shrimp Sauce II as mentioned herein.

24 49. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
25 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
26 violations alleged herein will continue to occur into the future.

1 50. Based on the allegations herein, Defendants are liable for civil penalties of up to
2 \$2,500.00 per day per individual exposure to Lead from Shrimp Sauce II, pursuant to
3 Health and Safety Code Section 25249.7(b).

4 51. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
5 filing this Complaint.

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7 **THIRD CAUSE OF ACTION**

8 **(By CONSUMER ADVOCACY GROUP, INC. and against BOLSABUY, and**
9 **DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
10 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

11 **Spices**

12 52. Plaintiff repeats and incorporates by reference paragraphs 1 through 51 of this complaint
13 as though fully set forth herein.

14 53. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Oriental Special Five Spices (“Five Spice”),
16 identified as "Ngu Vi Huong"; "Oriental Special Five Spices"; "Sing Kung Corp"; "UPC
17 6 41518 88167 7"; "Product of USA". The Scope of this Cause of action is limited to the
18 UPC and/or Lot Number of Five Spice.

19 54. Five Spice contains Lead and Arsenic.

20 55. Defendants knew or should have known that Lead and Arsenic has been identified by the
21 State of California as a chemical known to cause cancer, and reproductive toxicity and
22 therefore was subject to Proposition 65 warning requirements. Defendants were also
23 informed of the presence of Lead and Arsenic in Five Spice within Plaintiff's notice of
24 alleged violations further discussed above at Paragraph 24c.

25 56. Plaintiff's allegations regarding Five Spice concerns “[c]onsumer products exposure[s],”
26 which “is an exposure that results from a person’s acquisition, purchase, storage,
27 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
28 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b).*

1 Five Spice is/are consumer products, and, as mentioned herein, exposures to Lead and
2 Arsenic took place as a result of such normal and foreseeable consumption and use.

3 57. Plaintiff is informed, believes, and thereon alleges that between May 28, 2018 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Five Spice, which Defendants manufactured, distributed, or sold
6 as mentioned above, to Lead and Arsenic, without first providing any type of clear and
7 reasonable warning of such to the exposed persons before the time of exposure.
8 Defendants have distributed and sold in California. Defendants know and intend that
9 California consumers will use and consume Five Spice, thereby exposing them to Lead
10 and Arsenic. Further, Plaintiff is
11 informed, believes, and thereon alleges that Defendants are selling Five Spice under a
12 brand or trademark that is owned or licensed by the Defendants or an entity affiliated
13 thereto; have knowingly introduced Lead and Arsenic into Five Spice or knowingly
14 caused Lead and Arsenic to be created in Five Spice; have covered, obscured or altered a
15 warning label that has been affixed to Five Spice by the manufacturer, producer,
16 packager, importer, supplier or distributor of Five Spice; have received a notice and
17 warning materials for exposure from Five Spice without conspicuously posting or
18 displaying the warning materials; and/or have actual knowledge of potential exposure to
19 Lead and Arsenic from Five Spice. Defendants thereby violated Proposition 65.

20 58. The principal routes of exposure are through dermal contact, ingestion and inhalation.
21 Persons sustain exposures by handling Five Spice without wearing gloves or any other
22 personal protective equipment, or by touching bare skin or mucous membranes with
23 gloves after handling Five Spice, as well as through direct and indirect hand to mouth
24 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
25 Five Spice.

26 59. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
27 Proposition 65 as to Five Spice have been ongoing and continuous, as Defendants
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1 engaged and continue to engage in conduct which violates Health and Safety Code
2 Section 25249.6, including the manufacture, distribution, promotion, and sale of Five
3 Spice, so that a separate and distinct violation of Proposition 65 occurred each and every
4 time a person was exposed to Lead and Arsenic by Five Spice as mentioned herein.

5 60. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
6 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
7 violations alleged herein will continue to occur into the future.

8 61. Based on the allegations herein, Defendants are liable for civil penalties of up to
9 \$2,500.00 per day per individual exposure to Lead and Arsenic from Five Spice,
10 pursuant to Health and Safety Code Section 25249.7(b).

11 62. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
12 filing this Complaint.

13 **FOURTH CAUSE OF ACTION**

14 **(By CONSUMER ADVOCACY GROUP, INC. and against BOLSABUY, and**
15 **DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
16 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

17 **Spices**

18 63. Plaintiff repeats and incorporates by reference paragraphs 1 through 62 of this complaint
19 as though fully set forth herein.

20 64. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
21 distributor, promoter, or retailer of Oriental Beef Spices ("Beef Spice"), identified as "
22 "Oriental Beef Spices"; "Gia Vi Nau Bo Kho"; "Net Wt 2oz (56.7 Grams)" ; "SK-18";
23 "UPC 6 41518 88117 2"; "Product of USA"". The Scope of this Cause of action is
24 limited to the UPC and/or Lot Number of Beef Spice.

25 65. Beef Spice contains Lead.

26 66. Defendants knew or should have known that Lead has been identified by the State of
27 California as a chemical known to cause reproductive toxicity and therefore was subject
28 to Proposition 65 warning requirements. Defendants were also informed of the presence

1 of Lead in Beef Spice within Plaintiff's notice of alleged violations further discussed
2 above at Paragraph 24c.

3 67. Plaintiff's allegations regarding Beef Spice concerns "[c]onsumer products exposure[s],"
4 which "is an exposure that results from a person's acquisition, purchase, storage,
5 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
6 that results from receiving a consumer service." *Cal. Code Regs. tit. 27, § 25602(b)*.
7 Beef Spice is/are consumer products, and, as mentioned herein, exposures to Lead took
8 place as a result of such normal and foreseeable consumption and use.

9 68. Plaintiff is informed, believes, and thereon alleges that between May 28, 2018 and the
10 present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Beef Spice, which Defendants manufactured, distributed, or sold
12 as mentioned above, to Lead, without first providing any type of clear and reasonable
13 warning of such to the exposed persons before the time of exposure. Defendants have
14 distributed and sold in California. Defendants know and intend that California
15 consumers will use and consume Beef Spice, thereby exposing them to Lead. Further,
16 Plaintiff is
17 informed, believes, and thereon alleges that Defendants are selling Beef Spice under a
18 brand or trademark that is owned or licensed by the Defendants or an entity affiliated
19 thereto; have knowingly introduced Lead into Beef Spice or knowingly caused Lead to
20 be created in Beef Spice; have covered, obscured or altered a warning label that has been
21 affixed to Beef Spice by the manufacturer, producer, packager, importer, supplier or
22 distributor of Beef Spice; have received a notice and warning materials for exposure
23 from Beef Spice without conspicuously posting or displaying the warning materials;
24 and/or have actual knowledge of potential exposure to Lead from Beef Spice.

25 Defendants thereby violated Proposition 65.

26 69. The principal routes of exposure are through dermal contact, ingestion and inhalation.
27 Persons sustain exposures by handling Beef Spice without wearing gloves or any other

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1 personal protective equipment, or by touching bare skin or mucous membranes with
2 gloves after handling Beef Spice, as well as through direct and indirect hand to mouth
3 contact, hand to mucous membrane, or breathing in particulate matter dispersed from
4 Beef Spice.

5 70. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
6 Proposition 65 as to Beef Spice have been ongoing and continuous, as Defendants
7 engaged and continue to engage in conduct which violates Health and Safety Code
8 Section 25249.6, including the manufacture, distribution, promotion, and sale of Beef
9 Spice, so that a separate and distinct violation of Proposition 65 occurred each and every
10 time a person was exposed to Lead by Beef Spice as mentioned herein.

11 71. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
12 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
13 violations alleged herein will continue to occur into the future.

14 72. Based on the allegations herein, Defendants are liable for civil penalties of up to
15 \$2,500.00 per day per individual exposure to Lead from Beef Spice, pursuant to Health
16 and Safety Code Section 25249.7(b).

17 73. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
18 filing this Complaint.

19 **FIFTH CAUSE OF ACTION**

20 **(By CONSUMER ADVOCACY GROUP, INC. and against BOLSABUY, and**
21 **DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
22 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

23 **Dried Seafood**

24 74. Plaintiff repeats and incorporates by reference paragraphs 1 through 73 of this complaint
25 as though fully set forth herein.

26 75. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
27 distributor, promoter, or retailer of Dried Octopus, including but not limited to "SK
28 Dried Octopus"; "Dried Octopus"; "Net Wt: 142g (5oz)"; "UPC 4 893230 030062"

1 76. Dried Octopus contains Lead and Cadmium.

2 77. Defendants knew or should have known that Lead and Cadmium has been identified by
3 the State of California as a chemical known to cause cancer, and reproductive toxicity
4 and therefore was subject to Proposition 65 warning requirements. Defendants were also
5 informed of the presence of Lead and Cadmium in Dried Octopus within Plaintiff's
6 notice of alleged violations further discussed above at Paragraph 24d.

7 78. Plaintiff's allegations regarding Dried Octopus concerns "[c]onsumer products
8 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
9 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
10 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*
11 *25602(b)*. Dried Octopus is/are consumer products, and, as mentioned herein, exposures
12 to Lead and Cadmium took place as a result of such normal and foreseeable consumption
13 and use.

14 79. Plaintiff is informed, believes, and thereon alleges that between July 16, 2018 and the
15 present, each of the Defendants knowingly and intentionally exposed California
16 consumers and users of Dried Octopus, which Defendants manufactured, distributed, or
17 sold as mentioned above, to Lead and Cadmium, without first providing any type of clear
18 and reasonable warning of such to the exposed persons before the time of exposure.
19 Defendants have distributed and sold in California. Defendants know and intend that
20 California consumers will use and consume Dried Octopus, thereby exposing them to
21 Lead and Cadmium. Further, Plaintiff is
22 informed, believes, and thereon alleges that Defendants are selling Dried Octopus under
23 a brand or trademark that is owned or licensed by the Defendants or an entity affiliated
24 thereto; have knowingly introduced Lead and Cadmium into Dried Octopus or
25 knowingly caused Lead and Cadmium to be created in Dried Octopus; have covered,
26 obscured or altered a warning label that has been affixed to Dried Octopus by the
27 manufacturer, producer, packager, importer, supplier or distributor of Dried Octopus;

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1 have received a notice and warning materials for exposure from Dried Octopus without
2 conspicuously posting or displaying the warning materials; and/or have actual
3 knowledge of potential exposure to Lead and Cadmium from Dried Octopus.

4 Defendants thereby violated Proposition 65.

5 80. The principal routes of exposure are through dermal contact, ingestion and inhalation.

6 Persons sustain exposures by handling Dried Octopus without wearing gloves or any
7 other personal protective equipment, or by touching bare skin or mucous membranes
8 with gloves after handling Dried Octopus, as well as through direct and indirect hand to
9 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed
10 from Dried Octopus.

11 81. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of

12 Proposition 65 as to Dried Octopus have been ongoing and continuous, as Defendants
13 engaged and continue to engage in conduct which violates Health and Safety Code
14 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried
15 Octopus, so that a separate and distinct violation of Proposition 65 occurred each and
16 every time a person was exposed to Lead and Cadmium by Dried Octopus as mentioned
17 herein.

18 82. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65

19 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
20 violations alleged herein will continue to occur into the future.

21 83. Based on the allegations herein, Defendants are liable for civil penalties of up to

22 \$2,500.00 per day per individual exposure to Lead and Cadmium from Dried Octopus,
23 pursuant to Health and Safety Code Section 25249.7(b).

24 84. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.

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2 **PRAYER FOR RELIEF**

3 Plaintiff demands against each of the Defendants as follows:

- 4 1. A permanent injunction mandating Proposition 65-compliant warnings;
5 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
6 3. Costs of suit;
7 4. Reasonable attorney fees and costs; and
8 5. Any further relief that the court may deem just and equitable.

9
10 Dated: December 22, 2021

YEROUSHALMI & YEROUSHALMI*

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13 _____
14 Reuben Yeroushalmi
15 Attorneys for Plaintiff,
16 CONSUMER ADVOCACY GROUP, INC.