

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Stephen Goorvitch

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5 Attorneys for Plaintiff,

6 CONSUMER ADVOCACY GROUP, INC.

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

8 **COUNTY OF LOS ANGELES**

10  
11 CONSUMER ADVOCACY GROUP, INC.,  
12 in the public interest,

13 Plaintiff,

14 v.

15 KIM SENG COMPANY DBA IHA  
16 BEVERAGE, a California Corporation;  
17 BOLSABUY, INC., a California  
18 Corporation;  
19 GOOD FORTUNE SUPERMARKET  
20 GROUP (CA), INC., a California  
21 Corporation;  
22 AMAZON.COM, INC., a Delaware  
23 Corporation;  
24 and DOES 1-40,

25 Defendants.

CASE NO. **21STCV43592**

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)

26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action  
27 against defendant KIM SENG COMPANY DBA IHA BEVERAGE, BOLSABUY, INC.,  
28 GOOD FORTUNE SUPERMARKET GROUP (CA), INC., AMAZON.COM, INC.; and  
DOES 1-40 as follows:

**THE PARTIES**

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, 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).
2. Defendant KIM SENG COMPANY DBA IHA BEVERAGE (“KIM SENG”) is a California Corporation, doing business in the State of California at all relevant times herein.
3. Defendant BOLSABUY, INC. (“BOLSABUY”) is a California Corporation, doing business in the State of California at all relevant times herein.
4. Defendant GOOD FORTUNE SUPERMARKET GROUP (CA), INC (“GOOD FORTUNE”) is a California Corporation, doing business in the State of California at all relevant times herein.
5. Defendant AMAZON.COM, INC. (“AMAZON”) is a Delaware Corporation, doing business in the State of California at all relevant times herein.
6. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-40, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
7. At all times mentioned herein, the term “Defendants” includes KIM SENG, BOLSABUY, GOOD FORTUNE, AMAZON and DOES 1-40.
8. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.

- 1 9. Upon information and belief, at all times relevant to this action, each of the Defendants,  
2 including DOES 1-40, was an agent, servant, or employee of each of the other  
3 Defendants. In conducting the activities alleged in this Complaint, each of the  
4 Defendants was acting within the course and scope of this agency, service, or  
5 employment, and was acting with the consent, permission, and authorization of each of  
6 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
7 were ratified and approved by every other Defendant or their officers or managing  
8 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
9 alleged wrongful conduct of each of the other Defendants.
- 10 10. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the  
11 Defendants was a person doing business within the meaning of Health and Safety Code  
12 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more  
13 employees at all relevant times.

14 **JURISDICTION**

- 15 11. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
16 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
17 those given by statute to other trial courts. This Court has jurisdiction over this action  
18 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of  
19 violations of Proposition 65 in any Court of competent jurisdiction.
- 20 12. This Court has jurisdiction over Defendants named herein because Defendants either  
21 reside or are located in this State or are foreign corporations authorized to do business in  
22 California, are registered with the California Secretary of State, or who do sufficient  
23 business in California, have sufficient minimum contacts with California, or otherwise  
24 intentionally avail themselves of the markets within California through their  
25 manufacture, distribution, promotion, marketing, or sale of their products within  
26 California to render the exercise of jurisdiction by the California courts permissible  
27 under traditional notions of fair play and substantial justice.

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

5 **BACKGROUND AND PRELIMINARY FACTS**

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

15 15. Proposition 65 requires the Governor of California to publish a list of chemicals known  
16 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
17 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
18 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
19 other controls that apply to Proposition 65-listed chemicals.

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

26 17. Proposition 65 provides that any person "violating or threatening to violate" the statute  
27 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §

28

1 25249.7. "Threaten to violate" means "to create a condition in which there is a  
2 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
3 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
4 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

5 18. Plaintiff identified certain practices of manufacturers and distributors of PRODUCTS of  
6 exposing, knowingly and intentionally, persons in California to Lead of such products  
7 without first providing clear and reasonable warnings of such to the exposed persons  
8 prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such  
9 practice.

10 19. On October 1, 1992, the Governor of California added Lead ("Lead") to the list of  
11 chemicals known to the State to cause cancer, (*Cal. Code Regs.* tit. 27, § 27001(b)) and  
12 on February 27, 1987, the Governor added Lead to the list of chemicals known to the  
13 State to cause developmental toxicity, male reproductive toxicity and female  
14 reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and  
15 Safety Code sections 25249.9 and 25249.10, twenty (20) months after addition of Lead  
16 to the list of chemicals known to the State to cause reproductive toxicity, Lead became  
17 fully subject to Proposition 65 warning requirements and discharge prohibitions.

18  
19 **SATISFACTION OF PRIOR NOTICE**

20 20. On or about March 24, 2021, Plaintiff gave notice of alleged violations of Health and  
21 Safety Code Section 25249.6, concerning consumer products exposures subject to a  
22 private action to KIM SENG, BOLSABUY, INC. and to the California Attorney  
23 General, County District Attorneys, and City Attorneys for each city containing a  
24 population of at least 750,000 people in whose jurisdictions the violations allegedly  
25 occurred, concerning the Five Spices Powder and Galangal Powder (Spices).

26 21. On or about July 9, 2021, Plaintiff gave notice of alleged violations of Health and Safety  
27 Code Section 25249.6, concerning consumer products exposures subject to a private  
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1 action to KIM SENG, GOOD FORTUNE and to the California Attorney General,  
2 County District Attorneys, and City Attorneys for each city containing a population of at  
3 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning  
4 the Lamb Spice Seasoning.

5 22. On or about July 9, 2021, Plaintiff gave notice of alleged violations of Health and Safety  
6 Code Section 25249.6, concerning consumer products exposures subject to a private  
7 action to KIM SENG, AMAZON and to the California Attorney General, County  
8 District Attorneys, and City Attorneys for each city containing a population of at least  
9 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the  
10 Five Spice Powder.

11 23. On or about August 27, 2021, Plaintiff gave notice of alleged violations of Health and  
12 Safety Code Section 25249.6, concerning consumer products exposures subject to a  
13 private action to KIM SENG and to the California Attorney General, County District  
14 Attorneys, and City Attorneys for each city containing a population of at least 750,000  
15 people in whose jurisdictions the violations allegedly occurred, concerning the Dried  
16 Prickly Ash Powder.

17 24. Before sending the notice of alleged violations, Plaintiff investigated the Spices  
18 involved, the likelihood that such products would cause users to suffer significant  
19 exposures to Lead and the corporate structure of each of the Defendants.

20 25. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
21 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for  
22 Plaintiff who executed the certificate had consulted with at least one person with relevant  
23 and appropriate expertise who reviewed data regarding the exposures to Lead, the  
24 subject Proposition 65-listed chemical of this action. Based on that information, the  
25 attorney for Plaintiff who executed the Certificate of Merit believed there was a  
26 reasonable and meritorious case for this private action. The attorney for Plaintiff  
27  
28

1 attached to the Certificate of Merit served on the Attorney General the confidential  
2 factual information sufficient to establish the basis of the Certificate of Merit.

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

6 27. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
7 gave notice of the alleged violations to KIM SENG, BOLSABUY, GOOD FORTUNE,  
8 AMAZON and the public prosecutors referenced in Paragraph 20-23.

9 28. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
10 any applicable district attorney or city attorney has commenced and is diligently  
11 prosecuting an action against the Defendants.

12 **FIRST CAUSE OF ACTION**

13 **(By CONSUMER ADVOCACY GROUP, INC. against KIM SENG, BOLSABUY**  
14 **and DOES 1-10 for Violations of Proposition 65, The Safe Drinking Water and**  
15 **Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

16 **FIVE SPICES POWDER**

17 29. Plaintiff repeats and incorporates by reference paragraphs 1 through 28 of this complaint  
18 as though fully set forth herein.

19 30. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
20 distributor, promoter, or retailer of Five Spice Powder ("Spices"), identified as "**Super**  
21 **Brand**"; "**Ngu Vi Huong**"; "**Five Spice Powder**"; "**Net Wt: 3oz (85g)**"; "**UPC 6**  
22 **10232 01233 9**"; "**Product of China**"

23 The scope of this cause of action is limited to the Stock Keeping Unit ("SKU") and/or  
24 Universal Product Code ("UPC") number of Five Spice Powder.

25 31. Spices contains Lead.

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

1 the presence of Lead in Product within Plaintiff's notice of alleged violations further  
2 discussed above at Paragraph 20.

3 33. Plaintiff's allegations regarding Spices 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 Spices are consumer products, and, as mentioned herein, exposures to Lead took place as  
8 a result of such normal and foreseeable consumption and use.

9 34. Plaintiff is informed, believes, and thereon alleges that between March 24, 2018, and the  
10 present, each of the Defendants knowingly and intentionally exposed California  
11 consumers and users of Spices, which Defendants manufactured, distributed, or sold as  
12 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 Spices in California. Defendants know and intend that California  
15 consumers will use and consume Spices, thereby exposing them to Lead. Further,  
16 Plaintiff is informed, believes, and thereon alleges that Defendants are selling Spices  
17 under a brand or trademark that is owned or licensed by the Defendants or an entity  
18 affiliated thereto; have knowingly introduced relevant chemical into product or  
19 knowingly caused relevant chemical to be created in Spices; have covered, obscured or  
20 altered a warning label that has been affixed to Product by the manufacturer, producer,  
21 packager, importer, supplier or distributor of Spices; have received a notice and warning  
22 materials for exposure from Spices without conspicuously posting or displaying the  
23 warning materials; and/or have actual knowledge of potential exposure to relevant  
24 chemical from Spices Defendants thereby violated Proposition 65.

25 35. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
26 Persons sustain exposures by handling Spices without wearing gloves or any other  
27 personal protective equipment, or by touching bare skin or mucous membranes with  
28



1 gloves after handling Spices, as well as through direct and indirect hand to mouth  
2 contact, hand to mucous membrane, or breathing in particulate matter dispersed from  
3 Spices.

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

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

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

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

18 **SECOND CAUSE OF ACTION**

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

23 **GALANGAL POWDER**

24 40. Plaintiff repeats and incorporates by reference paragraphs 1 through 39 of this complaint  
25 as though fully set forth herein.

26 41. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
27 distributor, promoter, or retailer of Galangal Powder ("Spices II"), identified as "**Super**  
28

1 **Brand”; “Dried Galangal Powder”; “Net Wt: 4oz (113g); “UPC 6 10232 02267 3-**  
2 **”; “Product of China”**

3 The scope of this cause of action is limited to the SKU and/or UPC number of Dried  
4 Galangal Powder.

5 42. Spices II contains Lead.

6 43. Defendants knew or should have known that Lead has been identified by the State of  
7 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
8 was subject to Proposition 65 warning requirements. Defendants were also informed of  
9 the presence of Lead in Product within Plaintiff’s notice of alleged violations further  
10 discussed above at Paragraph 20.

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

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

1 packager, importer, supplier or distributor of Spices II; have received a notice and  
2 warning materials for exposure from Spices II without conspicuously posting or  
3 displaying the warning materials; and/or have actual knowledge of potential exposure to  
4 relevant chemical from Spices II Defendants thereby violated Proposition 65.

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

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

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

17 48. 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 49. 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 Spices II, pursuant to Health and  
22 Safety Code Section 25249.7(b).

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

25 **THIRD CAUSE OF ACTION**

26 **(By CONSUMER ADVOCACY GROUP, INC. and against KIM SENG, GOOD**  
27 **FORTUNE and DOES 11-20 for Violations of Proposition 65, The Safe Drinking**  
28 **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 **LAMB SPICE SEASONING**

2 51. Plaintiff repeats and incorporates by reference paragraphs 1 through 50 of this complaint  
3 as though fully set forth herein.

4 52. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
5 distributor, promoter, or retailer of Lamb Spice Seasoning (“Lamb Spice”), identified as  
6 **“Spice-grains”; “L640”; “GIA VI NAU DE”; “Lamb Spice Seasoning”; “Net Wt.**  
7 **3oz (85.5g); “UPC 6 10232 03964 0”**

8 The scope of this cause of action is limited to the SKU and/or UPC number of Lamb  
9 Spice Seasoning.

10 53. Lamb Spice contains Lead.

11 54. Defendants knew or should have known that Lead has been identified by the State of  
12 California as a chemical known to cause cancer, and reproductive toxicity and therefore  
13 was subject to Proposition 65 warning requirements. Defendants were also informed of  
14 the presence of Lead in Product within Plaintiff’s notice of alleged violations further  
15 discussed above at Paragraph 21.

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

22 56. Plaintiff is informed, believes, and thereon alleges that between July 9, 2018, and the  
23 present, each of the Defendants knowingly and intentionally exposed California  
24 consumers and users of Lamb Spice, 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 Lamb Spice in California. Defendants know and  
28

1 intend that California consumers will use and consume Lamb Spice, thereby exposing  
2 them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that  
3 Defendants are selling Lamb Spice under a brand or trademark that is owned or licensed  
4 by the Defendants or an entity affiliated thereto; have knowingly introduced relevant  
5 chemical into product or knowingly caused relevant chemical to be created in Lamb  
6 Spice; have covered, obscured or altered a warning label that has been affixed to Product  
7 by the manufacturer, producer, packager, importer, supplier or distributor of Spices; have  
8 received a notice and warning materials for exposure from Lamb Spice without  
9 conspicuously posting or displaying the warning materials; and/or have actual  
10 knowledge of potential exposure to relevant chemical from Lamb Spice. Defendants  
11 thereby violated Proposition 65.

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

18 58. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
19 Proposition 65 as to Lamb Spice 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 Lamb  
22 Spice, so that a separate and distinct violation of Proposition 65 occurred each and every  
23 time a person was exposed to Lead by Lamb Spice as mentioned herein.

24 59. 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 60. 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 Spices, pursuant to Health and  
3 Safety Code Section 25249.7(b).

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

6  
7 **FOURTH CAUSE OF ACTION**

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

12 **FIVE SPICE POWDER**

13 62. Plaintiff repeats and incorporates by reference paragraphs 1 through 61 of this complaint  
14 as though fully set forth herein.

15 63. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
16 distributor, promoter, or retailer of Five Spice Powder (“Five Spice”), identified as  
17 **“Super Brand”; “Five Spice Powder”; “Net Wt: 3oz (85g)”; “UPC 6 10232 01233**  
18 **9”; “X000R8BSRF”; “Super Chinese 5 Spice Pow..ian Seasoning Mixed Spice”;**  
19 **“Product of China”**

20 The scope of this cause of action is limited to the SKU and/or UPC number of Five Spice  
21 Powder.

22 64. Five Spice contains Lead.

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

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

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

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

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

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

12 71. Based on the allegations herein, Defendants are liable for civil penalties of up to  
13 \$2,500.00 per day per individual exposure to Lead from Five Spice, pursuant to Health  
14 and Safety Code Section 25249.7(b).

15 72. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
16 filing this Complaint.

### 17 **FIFTH CAUSE OF ACTION**

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

### 21 **DRIED PRICKLY ASH POWDER**

22 73. Plaintiff repeats and incorporates by reference paragraphs 1 through 72 of this complaint  
23 as though fully set forth herein.

24 74. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
25 distributor, promoter, or retailer of Dried Prickly Ash Powder ("Prickly Ash Powder"),  
26 identified as **"Super Brand": "Dried Prickly Ash Powder"; "Net Wt: 4oz (113 g)";**  
27 **"Product of China"; "UPC 6 10232 01251 3."**



1 The scope of this cause of action is limited to the SKU and/or UPC number of Prickly  
2 Ash Powder.

3 75. Prickly Ash Powder contains Lead.

4 76. 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 Prickly Ash Powder within Plaintiff's notice of alleged violations  
8 further discussed above at Paragraph 23.

9 77. Plaintiff's allegations regarding Prickly Ash Powder 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)*. Prickly Ash Powder are consumer products, and, as mentioned herein,  
14 exposures to Lead took place as a result of such normal and foreseeable consumption and  
15 use.

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

1 or distributor of Prickly Ash Powder; have received a notice and warning materials for  
2 exposure from Prickly Ash Powder without conspicuously posting or displaying the  
3 warning materials; and/or have actual knowledge of potential exposure to relevant  
4 chemical from Prickly Ash Powder. Defendants thereby violated Proposition 65.

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

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

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

18 81. 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 82. 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 from Prickly Ash Powder, pursuant to  
23 Health and Safety Code Section 25249.7(b).

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

26  
27 **PRAYER FOR RELIEF**

1 Plaintiff demands against each of the Defendants as follows:

2 84. A permanent injunction mandating Proposition 65-compliant warnings;

3 85. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);

4 86. Costs of suit;

5 87. Reasonable attorney fees and costs; and

6 88. Any further relief that the court may deem just and equitable.

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8 Dated: November 29, 2021

YEROUSHALMI & YEROUSHALMI\*

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11 \_\_\_\_\_  
12 Reuben Yeroushalmi  
13 Attorneys for Plaintiff,  
14 CONSUMER ADVOCACY GROUP, INC.