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*Attorneys for Plaintiff*

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**03/14/2025**  
Clerk of the Court  
BY: MARK UDAN  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

PRECILA BALABBO,

Plaintiff,

vs.

THE TJX COMPANIES, INC.,

Defendant.

Case No.: CGC-23-608550

**SECOND AMENDED COMPLAINT FOR  
CIVIL PENALTIES AND INJUNCTIVE  
RELIEF**

**(Violation of Health & Safety Code § 25249.5 et  
seq.)**

Plaintiff Precila Balabbo ("Plaintiff"), by and through her attorneys, alleges the following cause of action in the public interest of the citizens of the State of California.

**BACKGROUND OF THE CASE**

1. Plaintiff brings this representative action on behalf of all California citizens to enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part, "[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.

2. This second amended complaint is a representative action brought by Plaintiff in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazards caused by exposure to lead a toxic chemical found in products sold and/or distributed by defendant The TJX Companies, Inc. ("TJX") in California.

1           3.       Lead<sup>1</sup> is a harmful chemical known to the State of California to cause cancer and  
2 birth defects or other reproductive harm.

3           4.       Proposition 65 requires all businesses with ten (10) or more employees that operate  
4 within California or sell products therein to comply with Proposition 65 regulations. Included in  
5 such regulations is the requirement that businesses must label any product containing a Proposition  
6 65-listed chemical that will create an exposure above safe harbor levels with a “clear and  
7 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed  
8 chemical.

9           5.       Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation  
10 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be  
11 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code  
12 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the  
13 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §  
14 25249.7.

15          6.       Plaintiff alleges that Defendant distributes and/or offers for sale in California,  
16 without a requisite exposure warning, (a) *Eaton Fine Dining*® mug and bowl sets, # 1280-  
17 105710116-00599-07-6, (lead), (b) *Cupcakes and Cashmere*® trays, # 81-2216-436974-000599-  
18 07-6, (lead), and (c) *Spring Collection by CornerRuby*® Easter candy tray, Style # 744327, (lead),  
19 (collectively, the “Products” and each a “Product”) that expose persons to lead when used for their  
20 intended purpose.

21          7.       Defendant’s failure to warn consumers and other individuals in California of the  
22 health hazards associated with exposure to lead in conjunction with the sale and/or distribution of  
23  
24

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25  
26 <sup>1</sup> On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and  
27 it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit.  
28 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State  
of California listed lead as a chemical known to cause birth defects or other reproductive harm.

1 the Products is a violation of Proposition 65 and subjects Defendant to the enjoinder and civil  
2 penalties described herein.

3 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65  
4 in accordance with Health and Safety Code § 25249.7(b).

5 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring  
6 Defendant to provide purchasers or users of the Products with required warnings related to the  
7 dangers and health hazards associated with exposure to lead pursuant to Health and Safety Code §  
8 25249.7(a).

9 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

### 10 **PARTIES**

11 11. Plaintiff is a citizen of the State of California acting in the interest of the general  
12 public to promote awareness of exposures to toxic chemicals in products sold in California and to  
13 improve human health by reducing hazardous substances contained in such items. She brings this  
14 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

15 12. Defendant TJX, through its business, effectively imports, distributes, sells, and/or  
16 offers the Products for sale or use in the State of California, or it implies by its conduct that it  
17 imports, distributes, sells, and/or offers the Products for sale or use in the State of California.  
18 Plaintiff alleges that defendant TJX is a "person" in the course of doing business within the  
19 meaning of Health & Safety Code sections 25249.6 and 25249.11.

### 20 **VENUE AND JURISDICTION**

21 13. Venue is proper in the County of San Francisco because one or more of the  
22 instances of wrongful conduct occurred, and continue to occur in this county and/or because  
23 Defendant conducted, and continues to conduct, business in the County of San Francisco with  
24 respect to the Products.

25 14. This Court has jurisdiction over this action pursuant to California Constitution  
26 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those  
27 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement  
28

1 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has  
2 jurisdiction over this lawsuit.

3 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of  
4 the State of California, has sufficient minimum contacts with the State of California, is registered  
5 with the California Secretary of State as foreign corporations authorized to do business in the State  
6 of California, and/or has otherwise purposefully availed itself of the California market. Such  
7 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and  
8 permissible with traditional notions of fair play and substantial justice.

9 **STATUTORY BACKGROUND**

10 16. The people of the State of California declared in Proposition 65 their right “[t]o be  
11 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
12 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

13 17. To effect this goal, Proposition 65 requires that individuals be provided with a  
14 “clear and reasonable warning” before being exposed to substances listed by the State of California  
15 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in  
16 pertinent part:

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

19 18. An exposure to a chemical in a consumer product is one “which results from a  
20 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a  
21 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §  
22 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...  
23 shall provide a warning to any person to whom the product is sold or transferred unless the product  
24 is packaged or labeled with a clear and reasonable warning.”  
25  
26  
27  
28

19. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or more of the following methods individually or in combination:<sup>2</sup>

a. A warning that appears on a product's label or other labeling.

b. Identification of the product at the retail outlet in a manner which provides a warning. Identification may be through shelf labeling, signs, menus, or a combination thereof.

c. The warnings provided pursuant to subparagraphs (a) and (b) shall be prominently placed upon a product's labels or other labeling or displayed at the retail outlet with such conspicuousness, as compared with other words, statements, designs, or devices in the label, labeling or display as to render it likely to be read and understood by an ordinary individual under customary conditions of purchase or use.

d. A system of signs, public advertising identifying the system and toll-free information services, or any other system that provides clear and reasonable warnings.

20. Proposition 65 provides that any “person who violates or threatens to violate” the statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase “threaten to violate” is defined to mean creating “a condition in which there is a substantial probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

## FACTUAL BACKGROUND

21. On October 1, 1992, the state of California listed lead as a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to cause birth defects or other

<sup>2</sup> Alternatively, a person in the course of doing business may elect to comply with the warning requirements set out in the amended version of 27 CCR 25601, *et.seq.*, as amended on August 30, 2016, and operative on August 30, 2018.

1 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the  
2 State to cause cancer and birth defects or other reproductive harm.

3 22. The exposures that are the subject of the Notices result from the purchase,  
4 acquisition, handling, and recommended use of the Products. The primary route of exposure to  
5 lead is through dermal absorption directly through the skin when consumers use, touch, or handle  
6 the Products. Exposure through ingestion will occur by touching the Product with subsequent  
7 touching of the user's hand to mouth. No clear and reasonable warning is provided with the  
8 Products regarding the health hazards of exposure.

9 23. Defendant has processed, marketed, distributed, offered to sell and/or sold the  
10 Products in California since at least August 23, 2022 with respect to the *Eaton Fine Dining®*  
11 Product; since at least September 22, 2022 with respect to the *Cupcakes and Cashmere®* Product;  
12 since at least April 17, 2023 with respect to the *Spring Collection by CornerRuby®* Product. The  
13 Products continue to be distributed and sold in California without the requisite warning  
14 information.

15 24. At all times relevant to this action, Defendant has knowingly and intentionally  
16 exposed users and/or consumers of the Products to lead without first giving a clear and reasonable  
17 exposure warning to such individuals.

18 25. As a proximate result of acts by Defendant, as a person in the course of doing  
19 business within the meaning of H&S Code § 25249.11, individuals throughout the State of  
20 California, including in San Francisco County, have been exposed to lead without a clear and  
21 reasonable warning on the Products. The individuals subject to the violative exposures include  
22 normal and foreseeable users and consumers that use the Products, as well as all others exposed to  
23 the Products.

#### 24 SATISFACTION OF NOTICE REQUIREMENTS

25 26. Plaintiff purchased the Products from TJX. At the time of purchase, Defendant did  
26 not provide a Proposition 65 exposure warning for lead or any other Proposition 65 listed chemical  
27 in a manner consistent with H&S Code § 25603.1 as described *supra*.

1           27.     The *Eaton Fine Dining*® Product, the *Cupcakes and Cashmere*® Product, and the  
2 *Spring Collection by CornerRuby*® Product were sent to a testing laboratory to determine if, and  
3 what amount of, lead would migrate and/or leach from the Products.

4           28.     For each Product that was sent to the laboratory, Plaintiff received a chemical test  
5 report (collectively, the “Chemical Test Reports” and each a “Chemical Test Report”). The  
6 Chemical Test Reports findings determined the *Eaton Fine Dining*® Product, the *Cupcakes and*  
7 *Cashmere*® Product, and the *Spring Collection by CornerRuby*® Product exposes users to lead.

8           29.     Plaintiff provided each Chemical Test Report and each Product to an analytical  
9 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable  
10 and foreseeable use of the Products, exposure to lead will occur at levels that require Proposition  
11 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of the California  
12 Code of Regulations.

13           30.     On August 23, 2022, Plaintiff received from the analytical chemist an exposure  
14 assessment report for the *Eaton Fine Dining*® Product that concluded that persons in California  
15 who use the *Eaton Fine Dining*® Product will be exposed to levels of lead that require a  
16 Proposition 65 exposure warning. On September 22, 2022, Plaintiff received from the analytical  
17 chemist an exposure assessment report for the *Cupcakes and Cashmere*® Product that concluded  
18 that persons in California who use the *Cupcakes and Cashmere*® Product will be exposed to levels  
19 of lead that require a Proposition 65 exposure warning. On April 17, 2023, Plaintiff received from  
20 the analytical chemist an exposure assessment report for the *Spring Collection by CornerRuby*®  
21 Product that concluded that persons in California who use the *Spring Collection by CornerRuby*®  
22 Product will be exposed to levels of lead that require a Proposition 65 exposure warning.

23           31.     On August 23, 2022 (*Eaton Fine Dining*® mug and bowl sets), September 22, 2022  
24 (*Cupcakes and Cashmere*® trays), and April 17, 2023 (*Spring Collection by CornerRuby*® Easter  
25 candy tray), Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6  
26 (collectively, the “Notices”) to Defendant concerning the exposure of California citizens to lead  
27 contained in the Products without proper warning, subject to a private action to Defendant and to  
28 the California Attorney General’s office and the offices of the County District attorneys and City

1 Attorneys for each city with a population greater than 750,000 persons wherein the herein  
2 violations allegedly occurred. See attached at Exhibits “A” – “C” a true and correct copy of the  
3 Notices.

4 32. The Notices complied with all procedural requirements of Proposition 65 including  
5 the attachment of a Certificate of Merit affirming that Plaintiff’s counsel had consulted with at  
6 least one person with relevant and appropriate expertise who reviewed relevant data regarding lead  
7 exposure, and that counsel believed there was meritorious and reasonable cause for a private  
8 action.

9 33. After receiving the Notices, and to Plaintiff’s best information and belief, none of  
10 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a  
11 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are  
12 the subject of the Notices.

13 34. Plaintiff is commencing this action more than sixty (60) days from the date of each  
14 Notice to Defendant, as required by law.

15 **FIRST CAUSE OF ACTION**

16 **(By Plaintiff against Defendant for the Violation of Proposition 65)**

17 35. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 34 of  
18 this Second Amended Complaint as though fully set forth herein.

19 36. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of  
20 the Products.

21 37. Use of the Products will expose users to lead, a hazardous chemical found on the  
22 Proposition 65 list of chemicals known to be hazardous to human health.

23 38. The Products do not comply with the Proposition 65 warning requirements.

24 39. Plaintiff, based on her best information and belief, avers that at all relevant times  
25 herein, and at least since at least August 23, 2022 with respect to the *Eaton Fine Dining®* Product;  
26 since at least September 22, 2022 with respect to the *Cupcakes and Cashmere®* Product; and  
27 since at least April 17, 2023 with respect to the *Spring Collection by CornerRuby®* Product,  
28 continuing until the present, that Defendant has continued to knowingly and intentionally expose



1 California users and consumers of the Products to lead without providing required warnings under  
2 Proposition 65.

3 40. The exposures that are the subject of the Notices result from the purchase,  
4 acquisition, handling and recommended use of the Products. The primary route of exposure to lead  
5 is through dermal absorption directly through the skin when consumers use, touch, or handle the  
6 Products. Exposure through ingestion will occur by touching the Product with subsequent touching  
7 of the user's hand to mouth. No clear and reasonable warning is provided with the Products  
8 regarding the health hazards of exposure.

9 41. Plaintiff, based on her best information and belief, avers that such exposures will  
10 continue every day until clear and reasonable warnings are provided to purchasers and users or  
11 until these known toxic chemicals are removed from the Products.

12 42. Defendant has knowledge that the normal and reasonably foreseeable use of the  
13 Products expose individuals to lead, and Defendant intends that exposures to lead will occur by its  
14 deliberate, non-accidental participation in the importation, distribution, sale and offering of the  
15 Products to consumers in California.

16 43. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this  
17 Second Amended Complaint.

18 44. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above  
19 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

20 45. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically  
21 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following  
3 relief:

4 A. That the court assess civil penalties against Defendant in the amount of \$2,500 per  
5 day for each violation for up to 365 days (up to a maximum civil penalty amount per  
6 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendant mandating  
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the  
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: March 14, 2025

BRODSKY SMITH

13 By: 

14 Evan J. Smith (SBN242352)

15 Ryan P. Cardona (SBN302113)

16 9465 Wilshire Boulevard, Suite 300

17 Beverly Hills, CA 90212

18 Telephone: (877) 534-2590

19 Facsimile: (310) 247-0160

20 *Attorneys for Plaintiff*

# EXHIBIT "A"

LAW OFFICES  
**BRODSKY & SMITH, LLC**

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BEVERLY HILLS, CA 90212  
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www.brodskysmith.com

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CHERRY HILL, NJ 08934  
856.795.7250

**NEW YORK OFFICE**  
240 MINEOLA BOULEVARD  
MINEOLA, NY 11501  
516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

August 23, 2022

President/CEO Eaton Dining Meicheng Holdings Ltd. No. 655-C Lianfeng Middle Road Haishu District Ningbo 315174 P.R. CHINA	President/CEO The TJX Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO The TJX Companies, Inc. dba Marshalls c/o CT Corporation System 155 Federal Street, Suite 700 Boston, MA 02110	

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith, LLC ("Brodsky Smith") represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

## **I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Precila Balabbo, 285 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Eaton Dining; The TJX Companies, Inc.; The TJX Companies, Inc. dba Marshalls
3. **Time Period of Exposure:** Violations have been occurring since at least August 23, 2022 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Bowl	Eaton Fine Dining Mug & Bowl Set

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion and dermal absorption exposure. When used for its intended purpose, the Product will be in contact with foods. The Listed Chemical will leach into the foods it comes into contact with. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

**Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, LLC, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskyamith.com.**

Sincerely,

A handwritten signature in blue ink, appearing to be 'EJ Smith', written over a horizontal line.

Evan J. Smith

**Attachments**

**Certificate of Merit**

**Certificate of Service**

**The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary**

# EXHIBIT “B”

LAW OFFICES  
**BRODSKY & SMITH, LLC**

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516.741.4977

**PENNSYLVANIA OFFICE**  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

September 22, 2022

<b>Member/Manager</b> Cupcakes and Cashmere LLC c/o Legalzoom.com, Inc. 101 N. Brand Blvd., 11 <sup>th</sup> Floor Glendale, CA 91203	<b>Member/Manager</b> Cupcakes and Cashmere LLC 101 N. Brand Blvd., 11 <sup>th</sup> Floor Glendale, CA 91203
<b>President/CEO</b> The TJX Companies, Inc. dba TJ Maxx c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	<b>President/CEO</b> The TJX Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

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With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

**I. DESCRIPTION OF THE VIOLATION**

<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.



1. **Enforcer:** Precila Balabbo, 285 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Cupcakes and Cashmere LLC.; The TJX Companies, Inc.; The TJX Companies, Inc. dba TJMaxx
3. **Time Period of Exposure:** Violations have been occurring since at least September 22, 2022 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Tray	Cupcakes and Cashmere Tray 81-2216-436974-000599-07-6

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion and dermal absorption exposure. When used for its intended purpose, the Product will be in contact with foods. The Listed Chemical will leach into the foods it comes into contact with. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

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## **III. RESOLUTION OF THE CLAIMS**

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

<sup>2</sup> The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

**Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, LLC, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,

  
Evan J. Smith

**Attachments**

**Certificate of Merit**

**Certificate of Service**

**The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary**

# EXHIBIT “C”

LAW OFFICES  
**BRODSKY & SMITH, LLC**

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BEVERLY HILLS, CA 90212  
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MINEOLA, NY 11501  
516.741.4977

PENNSYLVANIA OFFICE  
TWO BALA PLAZA, STE. 805  
BALA CYNWYD, PA 19004  
610.667.6200

April 17, 2023

Member/Manager CornerRuby International LLC c/o Mei Ha Erica Hui 8603 Augustine Road Irving, TX 75063	Member/Manager China Accent (HK) Limited Rm. 2505 25/F Wing Fung Industrial Bldg, 40-50 Sha Tsui Road Tsuen Wan Hong Kong
President/CEO Homegoods, Inc. c/o The Corporation Trust Company 1209 Orange St., Wilmington, DE 19801	President/CEO Homegoods, Inc. 770 Cochituate Rd., Framingham, MA 01701
President/CEO The TJX Companies, Inc. c/o The Corporation Trust Company 1209 Orange St., Wilmington, DE 19801	President/CEO The TJX Companies, Inc. dba HomeGoods c/o The Corporation Trust Company 1209 Orange St., Wilmington, DE 19801

**60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act<sup>1</sup>**

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith, LLC ("Brodsky Smith") represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[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 providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

<sup>1</sup> The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

## **I. DESCRIPTION OF THE VIOLATION**

1. **Enforcer:** Precila Balabbo, 285 6<sup>th</sup> Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** CornerRuby International LLC; China Accent (IHK) Limited; Homegoods, Inc.; The TJX Companies, Inc. dba HomeGoods; The TJX Companies, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least April 17, 2023 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product <sup>2</sup>	Non- Exclusive Examples of the Product
Tray	CornerRuby Spring Collection Easter Candy Tray

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion and dermal absorption exposure. When used for its intended purpose, the Product will be in contact with foods. The Listed Chemical will leach into the foods it comes into contact with. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

## **II. PROPOSITION 65 INFORMATION**

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

## **III. RESOLUTION OF THE CLAIMS**

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Sincerely,

  
Evan J. Smith

**Attachments**

Certificate of Merit

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The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary