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8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF ALAMEDA**

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

14 Plaintiff,

15 v.

16 WISMETTAC ASIAN FOODS, INC., a

17 California Corporation;

18 HANAMARU JAPANESE

19 MARKETPLACE, a New York Company;

20 SHIBUYA-MART, a California Company;

21 and DOES 1-40,

22 Defendants.

CASE NO. **25CV114048**

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 \$35,000)

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24  
25 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges four causes of action  
26 against defendants WISMETTAC ASIAN FOODS, INC., HANAMARU JAPANESE  
27 MARKETPLACE, and SHIBUYA-MART and DOES 1-40 as follows:  
28

**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 WISMETTAC ASIAN FOODS, INC. (“WISMETTAC”) is a California Corporation qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Defendant HANAMARU JAPANESE MARKETPLACE (“HANAMARU”) is a New York Company, and doing business in the State of California at all relevant times herein.
4. Defendant SHIBUYA-MART (“SHIBUYA”) is a California Company, and doing business in the State of California at all relevant times herein.
5. 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.
6. At all times mentioned herein, the term “Defendants” includes WISMETTAC, HANAMARU, SHIBUYA, and DOES 1-40.
7. 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.
8. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-40, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or

1 employment, and was acting with the consent, permission, and authorization of each of  
2 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
3 were ratified and approved by every other Defendant or their officers or managing  
4 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
5 alleged wrongful conduct of each of the other Defendants.

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

10 **JURISDICTION**

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

1 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

22 16. Proposition 65 provides that any person "violating or threatening to violate" the statute  
23 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
24 25249.7. "Threaten to violate" means "to create a condition in which there is a  
25 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).  
26 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
27 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

28

- 1 17. Plaintiff identified certain practices of manufacturers and distributors of Dried Seaweed  
2 of exposing, knowingly and intentionally, persons in California to Lead and Lead  
3 Compounds, Cadmium and Cadmium Compounds of such products without first  
4 providing clear and reasonable warnings of such to the exposed persons prior to the time  
5 of exposure. Plaintiff later discerned that Defendants engaged in such practice.
- 6 18. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
7 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
8 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
9 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
10 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
11 discharge prohibitions.
- 12 19. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
13 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
14 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
15 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
16 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
17 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
18 Proposition 65 warning requirements and discharge prohibitions.
- 19 20. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals  
20 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
21 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male  
22 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
23 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known  
24 to the State to cause developmental and reproductive toxicity, Cadmium became fully  
25 subject to Proposition 65 warning requirements and discharge prohibitions.

26 **SATISFACTION OF PRIOR NOTICE**

27

28

1 21. Plaintiff served the following notices for alleged violations of Health and Safety Code  
2 Section 25249.6, concerning consumer products exposures:

- 3 a. On or about June 13, 2023, Plaintiff gave notice of alleged violations of Health  
4 and Safety Code Section 25249.6, concerning consumer products exposures  
5 subject to a private action to WISMETTAC, SHIBUYA, and to the California  
6 Attorney General, County District Attorneys, and City Attorneys for each city  
7 containing a population of at least 750,000 people in whose jurisdictions the  
8 violations allegedly occurred, concerning the Dried Seaweed.
- 9 b. On or about March 14, 2024, Plaintiff gave notice of alleged violations of  
10 Health and Safety Code Section 25249.6, concerning consumer products  
11 exposures subject to a private action to WISMETTAC, and to the California  
12 Attorney General, County District Attorneys, and City Attorneys for each city  
13 containing a population of at least 750,000 people in whose jurisdictions the  
14 violations allegedly occurred, concerning the Dried Seaweed.
- 15 c. On or about November 4, 2024, Plaintiff gave notice of alleged violations of  
16 Health and Safety Code Section 25249.6, concerning consumer products  
17 exposures subject to a private action to WISMETTAC, HANAMARU, and to  
18 the California Attorney General, County District Attorneys, and City Attorneys  
19 for each city containing a population of at least 750,000 people in whose  
20 jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.
- 21 d. On or about November 12, 2024, Plaintiff gave notice of alleged violations of  
22 Health and Safety Code Section 25249.6, concerning consumer products  
23 exposures subject to a private action to WISMETTAC, HANAMARU, and to  
24 the California Attorney General, County District Attorneys, and City Attorneys  
25 for each city containing a population of at least 750,000 people in whose  
26 jurisdictions the violations allegedly occurred, concerning the Dried Seaweed.

1 22. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
2 products involved, the likelihood that such products would cause users to suffer  
3 significant exposures to Lead and Cadmium, and the corporate structure of each of the  
4 Defendants.

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

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

18 25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
19 gave notice of the alleged violations to WISMETTAC, HANAMARU, SHIBUYA, and  
20 the public prosecutors referenced in Paragraph 21.

21 26. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
22 any applicable district attorney or city attorney has commenced and is diligently  
23 prosecuting an action against the Defendants.

24 **FIRST CAUSE OF ACTION**

25 **(By CONSUMER ADVOCACY GROUP, INC. and against WISMETTAC,**  
26 **SHIBUYA, and DOES 1-10 for Violations of Proposition 65, The Safe Drinking**  
27 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, et**  
28 **seq.))**

**Seaweed I**

1  
2 27. Plaintiff repeats and incorporates by reference paragraphs 1 through 26 of this complaint  
3 as though fully set forth herein.

4 28. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
5 distributor, promoter, or retailer of Dried Seaweed (“Dried Seaweed I”).

6 29. Dried Seaweed I contains Lead and Cadmium.

7 30. Defendants knew or should have known that the State of California has identified Lead  
8 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,  
9 and Cadmium as a chemical known to cause reproductive and developmental toxicity  
10 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
11 informed of the presence of Lead and Cadmium in Dried Seaweed I within Plaintiff’s  
12 notice of alleged violations further discussed above at Paragraph 21a.

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

20 32. Plaintiff is informed, believes, and thereon alleges that between June 13, 2020 and the  
21 present, each of the Defendants knowingly and intentionally exposed California  
22 consumers and users of Dried Seaweed I, which Defendants manufactured, distributed,  
23 or sold as mentioned above, to Lead and Cadmium, without first providing any type of  
24 clear and reasonable warning of such to the exposed persons before the time of exposure.  
25 Defendants have distributed and sold Dried Seaweed I in California. Defendants know  
26 and intend that California consumers will use and consume Dried Seaweed I, thereby  
27 exposing them to Lead and Cadmium. Further, Plaintiff is informed, believes, and  
28

1 thereon alleges that Defendants are selling Dried Seaweed I under a brand or trademark  
2 that is owned or licensed by the Defendants or an entity affiliated thereto; have  
3 knowingly introduced Lead and Cadmium into Dried Seaweed I or knowingly caused  
4 Lead and Cadmium to be created in Dried Seaweed I; have covered, obscured or altered  
5 a warning label that has been affixed to Dried Seaweed I by the manufacturer, producer,  
6 packager, importer, supplier or distributor of Dried Seaweed I; have received a notice  
7 and warning materials for exposure from Dried Seaweed I without conspicuously posting  
8 or displaying the warning materials; and/or have actual knowledge of potential exposure  
9 to Lead and Cadmium from Dried Seaweed I. Defendants thereby violated Proposition  
10 65.

11 33. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.  
12 Persons sustain exposures by eating and consuming Dried Seaweed I.

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

20 35. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
21 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
22 violations alleged herein will continue to occur into the future.

23 36. Based on the allegations herein, Defendants are liable for civil penalties of up to  
24 \$2,500.00 per day per individual exposure to Lead and Cadmium from Dried Seaweed I,  
25 pursuant to Health and Safety Code Section 25249.7(b).

26 37. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
27 filing this Complaint.

28

1 **SECOND CAUSE OF ACTION**

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

5 **Seaweed II**

6 38. Plaintiff repeats and incorporates by reference paragraphs 1 through 37 of this complaint  
7 as though fully set forth herein.

8 39. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
9 distributor, promoter, or retailer of Dried Seaweed (“Dried Seaweed II”), identified as:  
10 “Dried Seaweed”; “Kaiso Ryori Mehijiki Fujicco Br.”; “Product of South Korea”;  
11 “Distributed By Wismettac Asian Foods, Inc.”; “Net Wt. 0.7 oz (20 g)”;  
12 “Best Before: 2022.11”; “UPC 074410495077”.

13 40. Dried Seaweed II contains Lead and Cadmium.

14 41. Defendants knew or should have known that the State of California has identified Lead  
15 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,  
16 and Cadmium as a chemical known to cause reproductive and developmental toxicity  
17 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
18 informed of the presence of Lead and Cadmium in Dried Seaweed II within Plaintiff’s  
19 notice of alleged violations further discussed above at Paragraph 21b.

20 42. Plaintiff’s allegations regarding Dried Seaweed II concerns “[c]onsumer products  
21 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
22 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
23 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*  
24 *25602(b)*. Dried Seaweed II are consumer products, and, as mentioned herein, exposures  
25 to Lead and Cadmium took place as a result of such normal and foreseeable consumption  
26 and use.

27 43. Plaintiff is informed, believes, and thereon alleges that between March 14, 2021 and the  
28 present, each of the Defendants knowingly and intentionally exposed California

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

17 44. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.  
18 Persons sustain exposures by eating and consuming Dried Seaweed II.

19 45. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
20 Proposition 65 as to Dried Seaweed II have been ongoing and continuous, as Defendants  
21 engaged and continue to engage in conduct which violates Health and Safety Code  
22 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried  
23 Seaweed II, so that a separate and distinct violation of Proposition 65 occurred each and  
24 every time a person was exposed to Lead and Cadmium by Dried Seaweed II as  
25 mentioned herein.  
26  
27  
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1 46. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
2 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
3 violations alleged herein will continue to occur into the future.

4 47. Based on the allegations herein, Defendants are liable for civil penalties of up to  
5 \$2,500.00 per day per individual exposure to Lead and Cadmium from Dried Seaweed II,  
6 pursuant to Health and Safety Code Section 25249.7(b).

7 48. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
8 filing this Complaint.

9  
10 **THIRD CAUSE OF ACTION**

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

15 **Seaweed III**

16 49. Plaintiff repeats and incorporates by reference paragraphs 1 through 48 of this complaint  
17 as though fully set forth herein.

18 50. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
19 distributor, promoter, or retailer of Dried Seaweed (“Dried Seaweed III”).

20 51. Dried Seaweed III contains Lead and Cadmium.

21 52. Defendants knew or should have known that the State of California has identified Lead  
22 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,  
23 and Cadmium as a chemical known to cause reproductive and developmental toxicity  
24 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
25 informed of the presence of Lead and Cadmium in Dried Seaweed III within Plaintiff’s  
26 notice of alleged violations further discussed above at Paragraph 21d.

27 53. Plaintiff’s allegations regarding Dried Seaweed III concerns “[c]onsumer products  
28 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
storage, consumption, or other reasonably foreseeable use of a consumer good, or any

1 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*  
2 25602(b). Dried Seaweed III are consumer products, and, as mentioned herein,  
3 exposures to Lead and Cadmium took place as a result of such normal and foreseeable  
4 consumption and use.

5 54. Plaintiff is informed, believes, and thereon alleges that between November 12, 2021 and  
6 the present, each of the Defendants knowingly and intentionally exposed California  
7 consumers and users of Dried Seaweed III, which Defendants manufactured, distributed,  
8 or sold as mentioned above, to Lead and Cadmium, without first providing any type of  
9 clear and reasonable warning of such to the exposed persons before the time of exposure.  
10 Defendants have distributed and sold Dried Seaweed III in California. Defendants know  
11 and intend that California consumers will use and consume Dried Seaweed III, thereby  
12 exposing them to Lead and Cadmium. Further, Plaintiff is informed, believes, and  
13 thereon alleges that Defendants are selling Dried Seaweed III under a brand or trademark  
14 that is owned or licensed by the Defendants or an entity affiliated thereto; have  
15 knowingly introduced Lead and Cadmium into Dried Seaweed III or knowingly caused  
16 Lead and Cadmium to be created in Dried Seaweed III; have covered, obscured or  
17 altered a warning label that has been affixed to Dried Seaweed III by the manufacturer,  
18 producer, packager, importer, supplier or distributor of Dried Seaweed III; have received  
19 a notice and warning materials for exposure from Dried Seaweed III without  
20 conspicuously posting or displaying the warning materials; and/or have actual  
21 knowledge of potential exposure to Lead and Cadmium from Dried Seaweed III.  
22 Defendants thereby violated Proposition 65.

23 55. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.  
24 Persons sustain exposures by eating and consuming Dried Seaweed III.

25 56. Plaintiff is informed, believes, and thereon alleges that each of Defendants’ violations of  
26 Proposition 65 as to Dried Seaweed III have been ongoing and continuous, as  
27 Defendants engaged and continue to engage in conduct which violates Health and Safety  
28

1 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of  
2 Dried Seaweed III, so that a separate and distinct violation of Proposition 65 occurred  
3 each and every time a person was exposed to Lead and Cadmium by Dried Seaweed III  
4 as mentioned herein.

5 57. 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 58. 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 Cadmium from Dried Seaweed  
10 III, pursuant to Health and Safety Code Section 25249.7(b).

11 59. 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 WISMETTAC,**  
15 **HANAMARU, and DOES 31-40 for Violations of Proposition 65, The Safe**  
16 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***  
17 **25249.5, *et seq.*))**

18 **Seaweed IV**

19 60. Plaintiff repeats and incorporates by reference paragraphs 1 through 59 of this complaint  
20 as though fully set forth herein.

21 61. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
22 distributor, promoter, or retailer of Dried Seaweed (“Dried Seaweed IV”), identified as:  
23 “DRIED SEAWEED”; “ITEM# 49451”; “DISTRIBUTED BY Wismettac Asian Foods,  
24 Inc.”; “UPC 0 74410 49451 3”; “2024.09/JF”.

25 62. Dried Seaweed IV contains Lead and Cadmium.

26 63. Defendants knew or should have known that the State of California has identified Lead  
27 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,  
28 and Cadmium as a chemical known to cause reproductive and developmental toxicity

1 and therefore was subject to Proposition 65 warning requirements. Defendants were also  
2 informed of the presence of Lead and Cadmium in Dried Seaweed IV within Plaintiff's  
3 notice of alleged violations further discussed above at Paragraph 21c.

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

11 65. Plaintiff is informed, believes, and thereon alleges that between November 4, 2021 and  
12 the present, each of the Defendants knowingly and intentionally exposed California  
13 consumers and users of Dried Seaweed IV, which Defendants manufactured, distributed,  
14 or sold as mentioned above, to Lead and Cadmium, without first providing any type of  
15 clear and reasonable warning of such to the exposed persons before the time of exposure.  
16 Defendants have distributed and sold Dried Seaweed IV in California. Defendants know  
17 and intend that California consumers will use and consume Dried Seaweed IV, thereby  
18 exposing them to Lead and Cadmium. Further, Plaintiff is informed, believes, and  
19 thereon alleges that Defendants are selling Dried Seaweed IV under a brand or trademark  
20 that is owned or licensed by the Defendants or an entity affiliated thereto; have  
21 knowingly introduced Lead and Cadmium into Dried Seaweed IV or knowingly caused  
22 Lead and Cadmium to be created in Dried Seaweed IV; have covered, obscured or  
23 altered a warning label that has been affixed to Dried Seaweed IV by the manufacturer,  
24 producer, packager, importer, supplier or distributor of Dried Seaweed IV; have received  
25 a notice and warning materials for exposure from Dried Seaweed IV without  
26 conspicuously posting or displaying the warning materials; and/or have actual

1 knowledge of potential exposure to Lead and Cadmium from Dried Seaweed IV.

2 Defendants thereby violated Proposition 65.

3 66. The principal routes of exposure are through dermal contact, ingestion and inhalation.

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

9 67. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
10 Proposition 65 as to Dried Seaweed IV have been ongoing and continuous, as

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

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

19 69. Based on the allegations herein, Defendants are liable for civil penalties of up to  
20 \$2,500.00 per day per individual exposure to Lead and Cadmium from Dried Seaweed  
21 IV, pursuant to Health and Safety Code Section 25249.7(b).

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

24 **PRAYER FOR RELIEF**

25 Plaintiff demands against each of the Defendants as follows:

- 26 1. A permanent injunction mandating Proposition 65-compliant warnings;  
27 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);  
28 3. Costs of suit;

- 1 4. Reasonable attorney fees and costs; and
- 2 5. Any further relief that the court may deem just and equitable.

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4 Dated: March 10, 2025

YEROUSHALMI & YEROUSHALMI\*

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6 */s/ Reuben Yeroushalmi*  
7 \_\_\_\_\_  
8 Reuben Yeroushalmi  
9 Attorneys for Plaintiff,  
10 CONSUMER ADVOCACY GROUP, INC.  
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