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8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

03/14/2024
Clerk of the Court
BY: SHENEQUA GLADNEY
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CGC-24-613095

9 GABRIEL ESPINOZA,

10 Plaintiff,

11 vs.

12 SONG HY SUPERMARKET, INC.,

13 Defendant.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

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

14 Plaintiff Gabriel Espinoza (“Plaintiff”), by and through his attorneys, alleges the following
15 cause of action in the public interest of the citizens of the State of California.

16 **BACKGROUND OF THE CASE**

17 1. Plaintiff brings this representative action on behalf of all California citizens to
18 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
19 the Health and Safety Code § 25249.5 et seq (“Proposition 65”), which reads, in relevant part,
20 “[n]o person in the course of doing business shall knowingly and intentionally expose any
21 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
22 giving clear and reasonable warning to such individual ...”. Health & Safety Code § 25249.6.

23 2. This complaint is a representative action brought by Plaintiff in the public interest
24 of the citizens of the State of California to enforce the People’s right to be informed of the health
25 hazards caused by exposure to lead, a toxic chemical found in (a) Marco Polo BBQ shrimp snacks,
26 UPC # 024628510833, (b) *Happy Elephant*® dried baby crabs with vegetable sauce, UPC #
27 813760016293, (c) Por Kwan mince crabs in spices, UPC # 8850643004642, (d) *Van Tho*™
28 Vietnamese brown rice vermicelli, UPC # 737483779054, (e) *Super Brand*® dried ginger slices,

1 UPC # 610232012551, and (f) Butterfly Brand sweeten mangoes, UPC # 8852740500119 sold
2 and/or distributed by defendant Song Hy Supermarkets, Inc. (“Song Hy” or “Defendant”) in
3 California.

4 3. Lead is a harmful chemical known to the State of California to cause cancer and
5 birth defects or other reproductive harm. On October 1, 1992, the state of California listed lead as
6 a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations
7 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
8 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to
9 cause birth defects or other reproductive harm.

10 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
11 within California or sell products therein to comply with Proposition 65 regulations. Included in
12 such regulations is the requirement that businesses must label any product containing a Proposition
13 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
14 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
15 chemical.

16 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
17 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
18 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
19 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
20 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
21 25249.7.

22 6. Plaintiff alleges that Defendant distributes and/or offers for sale in California,
23 without a requisite exposure warning, (a) Marco Polo BBQ shrimp snacks, UPC # 024628510833,
24 (b) *Happy Elephant*® dried baby crabs with vegetable sauce, UPC # 813760016293, (c) Por Kwan
25 mince crabs in spices, UPC # 8850643004642, (d) *Van Tho*™ Vietnamese brown rice vermicelli,
26 UPC # 737483779054, (e) *Super Brand*® dried ginger slices, UPC # 610232012551, and (f)
27 Butterfly Brand sweeten mangoes, UPC # 8852740500119 (collectively, the “Products” and each
28 a ”Product”) that expose persons to lead when used for their intended purpose.

1
2 7. Defendant's failure to warn consumers and other individuals in California of the
3 health hazards associated with exposure to lead in conjunction with the sale and/or distribution of
4 the Products is a violation of Proposition 65 and subjects Defendant to the enjoinder and civil
5 penalties described herein.

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

8 9. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring
9 Defendant to provide purchasers or users of the Products with required warnings related to the
10 dangers and health hazards associated with exposure to lead pursuant to Health and Safety Code §
11 25249.7(a).

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

13 **PARTIES**

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

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

23 **VENUE AND JURISDICTION**

24 13. Venue is proper in the County of San Francisco because one or more of the
25 instances of wrongful conduct occurred, and continue to occur in this county and/or because
26 Defendant conducted, and continues to conduct, business in the County of San Francisco with
27 respect to the Products.
28

1 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a
2 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the
3 course of doing business ... shall provide a warning to any person to whom the product is sold or
4 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

5 19. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
6 more of the following methods individually or in combination:¹

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

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

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

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

18 20. Proposition 65 provides that any “person who violates or threatens to violate” the
19 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
20 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
21 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
22 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
23 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

24
25
26
27 ¹ Alternatively, a person in the course of doing business may elect to comply with the warning
28 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 **FACTUAL BACKGROUND**

2 21. On October 1, 1992, the state of California listed lead as a chemical known to cause
3 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
4 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
5 1987, the State of California listed lead as a chemical known to cause birth defects or other
6 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
7 State to cause cancer and birth defects or other reproductive harm.

8 22. The exposures that are the subject of the Notices result from the purchase,
9 acquisition, and recommended use of the Products. The primary route of exposure to lead is
10 through ingestion. When foods contaminated with lead are consumed, ingestion of lead will occur
11 which will increase blood lead levels. No clear and reasonable warning is provided with the
12 Products regarding the health hazards of exposure.

13 23. Defendant has processed, marketed, distributed, offered to sell and/or sold the
14 Products in California since at least September 14, 2023 with respect to the Marco Polo BBQ
15 shrimp snacks, the *Happy Elephant*® dried baby crabs with vegetable sauce, the Por Kwan mince
16 crabs in spices, and the *Van Tho*™ Vietnamese brown rice vermicelli; and since at least September
17 18, 2023 with respect to the *Super Brand*® dried ginger slices and the Butterfly Brand sweeten
18 mangoes. The Products continue to be distributed and sold in California without the requisite
19 warning information.

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

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

1
2 **SATISFACTION OF NOTICE REQUIREMENTS**

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

6 27. The Products were sent to a testing laboratory to determine if, and what amount of,
7 lead a consumer would be exposed to per serving size.

8 28. The laboratory provided the results of its analysis. Results of these tests determined
9 the Products expose users to lead (collectively, the “Chemical Test Reports” and each a “Chemical
10 Test Report”).

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

16 30. On September 14, 2023, Plaintiff received from the analytical chemist an exposure
17 assessment report which concluded that persons in California who use the Marco Polo BBQ shrimp
18 snacks, the *Happy Elephant*® dried baby crabs with vegetable sauce, the Por Kwan mince crabs
19 in spices, and the *Van Tho*™ Vietnamese brown rice vermicelli will be exposed to levels of lead
20 that require a Proposition 65 exposure warning. On September 18, 2023, Plaintiff received from
21 the analytical chemist an exposure assessment report which concluded that persons in California
22 who use the *Super Brand*® dried ginger slices and the Butterfly Brand sweeten mangoes will be
23 exposed to levels of lead that require a Proposition 65 exposure warning.

24 31. On September 14, 2023 (Marco Polo BBQ shrimp snacks, the *Happy Elephant*®
25 dried baby crabs with vegetable sauce, the Por Kwan mince crabs in spices, and the *Van Tho*™
26 Vietnamese brown rice vermicelli) and September 18, 2023 (*Super Brand*® dried ginger slices and
27 the Butterfly Brand sweeten mangoes), Plaintiff gave notice of alleged violation of Health and
28 Safety Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendant concerning

1 the exposure of California citizens to lead contained in the Products without proper warning,
2 subject to a private action to Defendant and to the California Attorney General's office and the
3 offices of the County District attorneys and City Attorneys for each city with a population greater
4 than 750,000 persons wherein the herein violations allegedly occurred. See attached at Exhibits
5 "A" – "F" a true and correct copy of each Notice.

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

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

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

17 **FIRST CAUSE OF ACTION**

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

19 35. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 34 of
20 this Complaint as though fully set forth herein.

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

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

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

26 39. Plaintiff, based on his best information and belief, avers that at all relevant times
27 herein, and since at least September 14, 2023 with respect to the Marco Polo BBQ shrimp snacks,
28 the *Happy Elephant*® dried baby crabs with vegetable sauce, the Por Kwan mince crabs in spices,

1 and the *Van Tho*TM Vietnamese brown rice vermicelli; and since at least September 18, 2023 with
2 respect to the *Super Brand*[®] dried ginger slices and the Butterfly Brand sweeten mangoes,
3 continuing until the present, that Defendant has continued to knowingly and intentionally expose
4 California users and consumers of the Product to lead without providing required warnings under
5 Proposition 65.

6 40. The exposures that are the subject of the Notices result from the purchase,
7 acquisition, and recommended use of the Products. The primary route of exposure to lead is
8 through ingestion. When foods contaminated with lead are consumed, ingestion of lead will occur
9 which will increase blood lead levels. No clear and reasonable warning is provided with the
10 Products regarding the health hazards of exposure.

11 41. Plaintiff, based on his best information and belief, avers that such exposures will
12 continue every day until clear and reasonable warnings are provided to purchasers and users or
13 until this known toxic chemical is removed from the Products.

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

18 43. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
19 Complaint.

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

22 45. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
23 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, 2024

BRODSKY SMITH

13 By:  _____

14 Evan J. Smith (SBN242352)
15 Ryan P. Cardona (SBN302113)
16 9595 Wilshire Boulevard, Suite 900
17 Beverly Hills, CA 90212
18 Telephone: (877) 534-2590
19 Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT “A”

LAW OFFICES
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www.brodskysmith.com

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CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
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MINEOLA, NY 11501
516.741.4977

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

September 14, 2023

President/CEO Golden Pacific Foods, Inc. c/o Ricky Lee 13895 Magnolia Ave. Chino, CA 91710	President/CEO Golden Pacific Foods, Inc. dba Marco Polo Brand c/o Ricky Lee 13895 Magnolia Ave. Chino, CA 91710
President/CEO Lucky Taro, Inc. dba Song Hy Supermarket c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	President/CEO Lucky Taro, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO/Owner Song Hy Supermarket, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA	Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

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 represents Gabriel Espinoza ("Espinoza"), 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, Espinoza 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.

¹ 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:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Golden Pacific Foods, Inc.; Golden Pacific Foods, Inc. dba Marco Polo Brand; Lucky Taro, Inc.; Lucky Taro, Inc. dba Song Hy Supermarket; Kim Heng Lao; Song Hy Supermarket, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 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 birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
BBQ Shrimp Snacks	Marco Polo BBQ Shrimp Snacks UPC# 024628510833

1. **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. 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 Espinoza 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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² 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 Espinoza'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.

Espinoza has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky Smith, 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 Action of 1986 (Proposition 65): A Summary

EXHIBIT “B”

LAW OFFICES
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516.741.4977

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

September 14, 2023

President/CEO Gulf Coast Sea Trade Corporation c/o Tuong Le 4483 Rowland Ave. El Monte, CA 91731	President/CEO Lucky Taro, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO Lucky Taro, Inc. dba Song Hy Supermarket c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO/Owner Song Hy Supermarket, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA	

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¹ 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:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
- 2. **Alleged Violator(s):** Gulf Coast Sea Trade Corporation; Lucky Taro, Inc.; Lucky Taro, Inc. dba Song Hy Supermarket; Kim Heng Lao; Song Hy Supermarket, Inc.
- 3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 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 birth defects or other reproductive harm.
- 5. **Product:**

Product²	Non- Exclusive Examples of the Product
Dried Baby Crabs with Vegetable Sauce	Happy Elephant Dried Baby Crabs with Vegetable Sauce UPC# 813760016293

- 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. 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

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Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza 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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² 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 Espinoza'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.

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Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

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

EXHIBIT “C”

LAW OFFICES
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PENNSYLVANIA OFFICE
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610.667.6200

September 14, 2023

President/CEO NR. Instant Produce Public Co., Ltd. No. 99/1 Moo 4 Sub District Kaerai Krathumban Samut Sakhon 74110 THAILAND	President/CEO Lucky Taro, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO Lucky Taro, Inc. dba Song Hy Supermarket c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO/Owner Song Hy Supermarket, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

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 represents Gabriel Espinoza ("Espinoza"), 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, Espinoza 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

¹ 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.

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

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** NR. Instant Produce Public Co., Ltd.; Lucky Taro, Inc.; Lucky Taro, Inc. dba Song Hy Supermarket; Kim Heng Lao; Song Hy Supermarket, Inc.;
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 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 birth defects or other reproductive harm.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Mince Crab in Spices	Por Kwan Mince Crab in Spices UPC# 8850643004642

1. **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. 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 Espinoza 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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² 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 Espinoza'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.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 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 Action of 1986 (Proposition 65): A Summary

EXHIBIT “D”

LAW OFFICES
BRODSKY SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
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

September 14, 2023

President/CEO Vinh-Sanh Trading Corporation c/o Timothy Chen 13500 E. Nelson Ave. City of Industry, CA 91746	President/CEO First World Asian Trading Corporation c/o Kon W. Chen 41888 Christy St. Fremont, CA 94538
President/CEO Pacific Eastern Trading Corporation c/o Timothy Chen 239 Arbolada Drive Arcadia, CA 91006	President/CEO Lucky Taro, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO Lucky Taro, Inc. dba Song Hy Supermarket c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO/Owner Song Hy Supermarket, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

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 represents Gabriel Espinoza ("Espinoza"), 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, Espinoza 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

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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

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Vinh-Sanh Trading Corporation; First World Asian Trading Corporation; Pacific Eastern Trading Corporation; Lucky Taro, Inc.; Lucky Taro, Inc. dba Song Hy Supermarket; Kim Heng Lao; Song Hy Supermarket, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 14, 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 birth defects or other reproductive harm.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Vietnamese Brown Rice Vermicelli	Van Tho Vietnamese Brown Rice Vermicelli UPC# 737483779054

1. **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. 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 Espinoza 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

² 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 Espinoza’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.

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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 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 Action of 1986 (Proposition 65): A Summary

EXHIBIT “E”

LAW OFFICES
BRODSKY SMITH

9595 WILSHIRE BLVD., STE 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
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

September 18, 2023

President/CEO Kim Seng Company c/o Jiayang Tsai 6121 Randolph Street Commerce, CA 90040	President/CEO Lucky Taro, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO Lucky Taro, Inc. dba Song Hy Supermarket c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	President/CEO Song Hy Supermarket, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

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 represents Gabriel Espinoza ("Espinoza"), 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, Espinoza 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.

¹ 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:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Kim Seng Company; Lucky Taro, Inc.; Lucky Taro, Inc. dba Song Hy Supermarket; Kim Heng Lao; Song Hy Supermarket, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 18, 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 birth defects or other reproductive harm.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Dried Ginger Slice	Super Brand Dried Ginger Slice UPC# 610232012551

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. 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 Espinoza 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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

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Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 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 Action of 1986 (Proposition 65): A Summary

EXHIBIT “F”

LAW OFFICES
BRODSKY SMITH

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 877.534.2590
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 1310 NORTH KINGS HIGHWAY
 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

September 18, 2023

President/CEO Tiao Peng Trading, Inc. c/o Danai Kietikul 31760 Hayman Street Hayward, CA 94544	President/CEO New Tiao Peng Trading, Inc. c/o Gordon Chen 3015 Leonis Blvd. Vernon, CA 90058
President/CEO Nongmon SMJ Products Co., Ltd. No. 37, 39, 41, 43 Netdi Road Sub District Saensuk District Mueng Chon Buri 20130 THAILAND	President/CEO Lucky Taro, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
President/CEO Lucky Taro, Inc. dba Song Hy Supermarket c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	President/CEO Song Hy Supermarket, Inc. c/o Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058
Kim Heng Lao 3385 Leonis Blvd. Vernon, CA 90058	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

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).

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With respect to the Product herein, Espinoza 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

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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

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Tiao Peng Trading, Inc.; New Tiao Peng Trading, Inc.; Nongmon SMJ Products Co., Ltd.; Lucky Taro, Inc.; Lucky Taro, Inc. dba Song Hy Supermarket; Kim Heng Lao; Song Hy Supermarket, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least September 18, 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 birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Sweeten Mango	Butterfly Brand Sweeten Mango UPC# 8852740500119

1. **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. 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 Espinoza against the alleged Violator(s) unless such Violator(s) agree in a

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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, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 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 Action of 1986 (Proposition 65): A Summary