

1 Reuben Yeroushalmi (SBN 193981)
2 reuben@yeroushalmi.com
3 **YEROUSHALMI & YEROUSHALMI***
4 9100 Wilshire Boulevard, Suite 240W
5 Beverly Hills, California 90212
6 Telephone: (310) 623-1926
7 Facsimile: (310) 623-1930
8
9 Attorneys for Plaintiff,
10 CONSUMER ADVOCACY GROUP, INC.

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/10/2024 10:48 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

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

8 **COUNTY OF LOS ANGELES**

9 CONSUMER ADVOCACY GROUP, INC.,
10 in the public interest,

11 Plaintiff,

12 v.

13 TRANSOCEAN RESOURCES
14 MANAGEMENT, INC. DBA YAMIBUY, a
15 Delaware Corporation;
16 and DOES 1-50,

17 Defendants.

CASE NO. **24STCV11859**

COMPLAINT FOR PENALTY AND
INJUNCTION

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

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

18
19
20
21 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action
22 against defendants TRANSOCEAN RESOURCES MANAGEMENT, INC. DBA YAMIBUY,
23 and DOES 1-50 as follows:

24 **THE PARTIES**

- 25 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
26 organization qualified to do business in the State of California. CAG is a person within
27 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
28

1 as a private attorney general, brings this action in the public interest as defined under
2 Health and Safety Code Section 25249.7, subdivision (d).

3 2. Defendant TRANSOCEAN RESOURCES MANAGEMENT, INC. DBA YAMIBUY
4 (“YAMIBUY”) is a Delaware Corporation, qualified to do business in California, and
5 doing business in the State of California at all relevant times herein.

6 3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-50,
7 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
8 Complaint to allege their true names and capacities when ascertained. Plaintiff is
9 informed, believes, and thereon alleges that each fictitiously named defendant is
10 responsible in some manner for the occurrences herein alleged and the damages caused
11 thereby.

12 4. At all times mentioned herein, the term “Defendants” includes YAMIBUY, and DOES
13 1-50.

14 5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
15 times mentioned herein have conducted business within the State of California.

16 6. Upon information and belief, at all times relevant to this action, each of the Defendants,
17 including DOES 1-50, was an agent, servant, or employee of each of the other
18 Defendants. In conducting the activities alleged in this Complaint, each of the
19 Defendants was acting within the course and scope of this agency, service, or
20 employment, and was acting with the consent, permission, and authorization of each of
21 the other Defendants. All actions of each of the Defendants alleged in this Complaint
22 were ratified and approved by every other Defendant or their officers or managing
23 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
24 alleged wrongful conduct of each of the other Defendants.

25 7. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
26 Defendants was a person doing business within the meaning of Health and Safety Code
27

28

1 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
2 employees at all relevant times.

3 **JURISDICTION**

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

21 **BACKGROUND AND PRELIMINARY FACTS**

- 22 11. In 1986, California voters approved an initiative to address growing concerns about
23 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
24 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
25 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
26 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
27 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
28

1 from contamination, to allow consumers to make informed choices about the products
2 they buy, and to enable persons to protect themselves from toxic chemicals as they see
3 fit.

4 12. Proposition 65 requires the Governor of California to publish a list of chemicals known
5 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
6 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
7 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
8 other controls that apply to Proposition 65-listed chemicals.

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

15 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
16 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
17 25249.7. "Threaten to violate" means "to create a condition in which there is a
18 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
19 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
20 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

21 15. Plaintiff identified certain practices of manufacturers and distributors of Dried Seaweed,
22 Wakame Seaweed, Kelp Knots, Salted Sprout, and Bamboo Shoot of exposing,
23 knowingly and intentionally, persons in California to Lead and Lead Compounds,
24 Cadmium and Cadmium Compounds, Inorganic Arsenic Compounds, and/or Inorganic
25 Arsenic Oxides of such products without first providing clear and reasonable warnings of
26 such to the exposed persons prior to the time of exposure. Plaintiff later discerned that
27 Defendants engaged in such practice.

28

1 16. On October 1, 1992 the Governor of California added Lead and Lead Compounds
2 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs. tit.*
3 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
4 twenty (20) months after addition of Lead to the list of chemicals known to the State to
5 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
6 discharge prohibitions.

7 17. On February 27, 1987, the Governor of California added Lead to the list of chemicals
8 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
9 *tit. 27, § 27001(c)*). Lead is known to the State to cause developmental, female, and
10 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
11 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
12 the State to cause developmental and reproductive toxicity, Lead became fully subject to
13 Proposition 65 warning requirements and discharge prohibitions.

14 18. On October 1, 1987 the Governor of California added Cadmium and Cadmium
15 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer
16 (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to Health and Safety Code Sections
17 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of
18 chemicals known to the State to cause cancer, Cadmium became fully subject to
19 Proposition 65 warning requirements and discharge prohibitions.

20 19. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
21 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
22 *tit. 27, § 27001(c)*). Cadmium is known to the State to cause developmental, and male
23 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
24 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
25 to the State to cause developmental and reproductive toxicity, Cadmium became fully
26 subject to Proposition 65 warning requirements and discharge prohibitions.

1 20. On May 1, 1997, the Governor of California added Inorganic Arsenic Oxides to the list
2 of chemicals known to the State to cause developmental toxicity (*Cal. Code Regs.* tit. 27,
3 § 27001(c)). Inorganic Arsenic Oxides is known to the State to cause developmental,
4 toxicity. Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty
5 (20) months after addition of Inorganic Arsenic Oxides to the list of chemicals known to
6 the State to cause developmental toxicity, Inorganic Arsenic Oxides became fully subject
7 to Proposition 65 warning requirements and discharge prohibitions. Inorganic Arsenic
8 Oxides is hereinafter referred to as “Arsenic”.

9 **SATISFACTION OF PRIOR NOTICE**

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

- 12 a. On or about July 28, 2023, Plaintiff gave notice of alleged violations of Health
13 and Safety Code Section 25249.6, concerning consumer products exposures
14 subject to a private action to YAMIBUY, and to the California Attorney
15 General, County District Attorneys, and City Attorneys for each city containing
16 a population of at least 750,000 people in whose jurisdictions the violations
17 allegedly occurred, concerning the Dried Seaweed.
- 18 b. On or about August 18, 2023, Plaintiff gave notice of alleged violations of
19 Health and Safety Code Section 25249.6, concerning consumer products
20 exposures subject to a private action to YAMIBUY, and to the California
21 Attorney General, County District Attorneys, and City Attorneys for each city
22 containing a population of at least 750,000 people in whose jurisdictions the
23 violations allegedly occurred, concerning the Wakame Seaweed.
- 24 c. On or about October 3, 2023, Plaintiff gave notice of alleged violations of
25 Health and Safety Code Section 25249.6, concerning consumer products
26 exposures subject to a private action to YAMIBUY, and to the California
27 Attorney General, County District Attorneys, and City Attorneys for each city

1 containing a population of at least 750,000 people in whose jurisdictions the
2 violations allegedly occurred, concerning the Kelp Knots.

3 d. On or about October 3, 2023, Plaintiff gave notice of alleged violations of
4 Health and Safety Code Section 25249.6, concerning consumer products
5 exposures subject to a private action to YAMIBUY, 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 Salted Sprout.

9 e. On or about October 26, 2023, 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 YAMIBUY, 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 Bamboo Shoot.

15 22. Before sending the notice of alleged violations, Plaintiff investigated the consumer
16 products involved, the likelihood that such products would cause users to suffer
17 significant exposures to Lead, Cadmium, and Arsenic, and the corporate structure of
18 each of the Defendants.

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

1 confidential factual information sufficient to establish the basis of the Certificate of
2 Merit.

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

6 25. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
7 gave notice of the alleged violations to YAMIBUY, and the public prosecutors
8 referenced in Paragraph 21.

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

12 **FIRST CAUSE OF ACTION**

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

16 **Seaweed**

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

19 28. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Dried Seaweed, including but not limited to,
21 "Pulmuone"; "Dried Seaweed"; "Net Wt. 3.5 oz (100 g)"; "Distributed by Pulmuone
22 Foods USA, Inc."; "Product of Republic of Korea"; "UPC 8801114136416".

23 29. Dried Seaweed contains Lead, Cadmium, and Arsenic.

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

1 Seaweed within Plaintiff's notice of alleged violations further discussed above at
2 Paragraph 21a.

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

10 32. Plaintiff is informed, believes, and thereon alleges that between July 28, 2020 and the
11 present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of Dried Seaweed, which Defendants manufactured, distributed, or
13 sold as mentioned above, to Lead, Cadmium, and Arsenic, without first providing any
14 type of clear and reasonable warning of such to the exposed persons before the time of
15 exposure. Defendants have distributed and sold Dried Seaweed in California.
16 Defendants know and intend that California consumers will use and consume Dried
17 Seaweed, thereby exposing them to Lead, Cadmium, and Arsenic. Further, Plaintiff is
18 informed, believes, and thereon alleges that Defendants are selling Dried Seaweed under
19 a brand or trademark that is owned or licensed by the Defendants or an entity affiliated
20 thereto; have knowingly introduced Lead, Cadmium, and Arsenic into Dried Seaweed or
21 knowingly caused Lead, Cadmium, and Arsenic to be created in Dried Seaweed; have
22 covered, obscured or altered a warning label that has been affixed to Dried Seaweed by
23 the manufacturer, producer, packager, importer, supplier or distributor of Dried
24 Seaweed; have received a notice and warning materials for exposure from Dried
25 Seaweed without conspicuously posting or displaying the warning materials; and/or have
26 actual knowledge of potential exposure to Lead, Cadmium, and Arsenic from Dried
27 Seaweed. Defendants thereby violated Proposition 65.

1 33. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
2 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by seating
3 and consuming Dried Seaweed, and additionally by handling Dried Seaweed without
4 wearing gloves or any other personal protective equipment, or by touching bare skin or
5 mucous membranes with gloves after handling Dried Seaweed, as well as through direct
6 and indirect hand to mouth contact, hand to mucous membrane, or breathing in
7 particulate matter dispersed from Dried Seaweed.

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

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

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

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

23 **SECOND CAUSE OF ACTION**

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

27 **Seaweed**

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

3 39. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
4 distributor, promoter, or retailer of Wakame Seaweed, including but not limited to,
5 “Bestore”; “Wakame Seaweed (Hot & Spicy)”; “Net Weight: 160 g/5.6 oz”; “US
6 Distributor: Kuiyi International Inc.”; “Exclusive Importer: Wuhan Holly Foods Co.,
7 Ltd”; “Product of China”; “UPC 6941297400958”.

8 40. Wakame Seaweed contains Lead.

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

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

21 43. Plaintiff is informed, believes, and thereon alleges that between August 18, 2020 and the
22 present, each of the Defendants knowingly and intentionally exposed California
23 consumers and users of Wakame Seaweed, which Defendants manufactured, distributed,
24 or sold as mentioned above, to Lead, without first providing any type of clear and
25 reasonable warning of such to the exposed persons before the time of exposure.
26 Defendants have distributed and sold Wakame Seaweed in California. Defendants know
27 and intend that California consumers will use and consume Wakame Seaweed, thereby

28

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

11 44. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
12 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by seating
13 and consuming Wakame Seaweed, and additionally by handling Wakame Seaweed
14 without wearing gloves or any other personal protective equipment, or by touching bare
15 skin or mucous membranes with gloves after handling Dried Seaweed, as well as through
16 direct and indirect hand to mouth contact, hand to mucous membrane, or breathing in
17 particulate matter dispersed from Wakame Seaweed.

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

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

28

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

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

6
7 **THIRD CAUSE OF ACTION**

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

11 **Seaweed**

12 48. Plaintiff repeats and incorporates by reference paragraphs 1 through 47 of this complaint
13 as though fully set forth herein.

14 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
15 distributor, promoter, or retailer of Kelp Knots, including but not limited to, “HONlife
16 Select”; “Crisp Kelp Knots”; “Honlife Seaweed Spicy Flavor”; “Net Weight: 110 g (3.9
17 oz)”; “B2022/10/14”; “Product of China”; “Distributed by: ZB International LLC”;
18 “UPC 6973897360165”.

19 50. Kelp Knots contain Lead.

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

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

1 25602(b). Kelp Knots are consumer products, and, as mentioned herein, exposures to
2 Lead took place as a result of such normal and foreseeable consumption and use.

3 53. Plaintiff is informed, believes, and thereon alleges that between October 3, 2020 and the
4 present, each of the Defendants knowingly and intentionally exposed California
5 consumers and users of Kelp Knots, which Defendants manufactured, distributed, or sold
6 as mentioned above, to Lead, without first providing any type of clear and reasonable
7 warning of such to the exposed persons before the time of exposure. Defendants have
8 distributed and sold Kelp Knots in California. Defendants know and intend that
9 California consumers will use and consume Kelp Knots, thereby exposing them to Lead.
10 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
11 Kelp Knots under a brand or trademark that is owned or licensed by the Defendants or an
12 entity affiliated thereto; have knowingly introduced Lead into Kelp Knots or knowingly
13 caused Lead to be created in Kelp Knots; have covered, obscured or altered a warning
14 label that has been affixed to Kelp Knots by the manufacturer, producer, packager,
15 importer, supplier or distributor of Kelp Knots; have received a notice and warning
16 materials for exposure from Kelp Knots without conspicuously posting or displaying the
17 warning materials; and/or have actual knowledge of potential exposure to Lead from
18 Kelp Knots. Defendants thereby violated Proposition 65.

19 54. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
20 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by seating
21 and consuming Kelp Knots, and additionally by handling Kelp Knots without wearing
22 gloves or any other personal protective equipment, or by touching bare skin or mucous
23 membranes with gloves after handling Dried Seaweed, as well as through direct and
24 indirect hand to mouth contact, hand to mucous membrane, or breathing in particulate
25 matter dispersed from Kelp Knots.

26 55. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
27 Proposition 65 as to Kelp Knots have been ongoing and continuous, as Defendants
28

1 engaged and continue to engage in conduct which violates Health and Safety Code
2 Section 25249.6, including the manufacture, distribution, promotion, and sale of Kelp
3 Knots, so that a separate and distinct violation of Proposition 65 occurred each and every
4 time a person was exposed to Lead by Kelp Knots as mentioned herein.

5 56. 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 57. 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 from Kelp Knots, pursuant to Health
10 and Safety Code Section 25249.7(b).

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

17 **Sprouts**

18 58. Plaintiff repeats and incorporates by reference paragraphs 1 through 57 of this complaint
19 as though fully set forth herein.

20 59. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
21 distributor, promoter, or retailer of Salted Sprout, including but not limited to, "Salted
22 Xiangchun Sprout"; "Asia Foods Co."; "Best Before 02/01/2024"; "Net Wt. 12.33 oz
23 (350 g)"; "UPC 695589203906".

24 60. Salted Sprout contains Lead.

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

1 the presence of Lead in Salted Sprout within Plaintiff's notice of alleged violations
2 further discussed above at Paragraph 21d.

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

9 63. Plaintiff is informed, believes, and thereon alleges that between October 3, 2020 and the
10 present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Salted Sprout, which Defendants manufactured, distributed, or
12 sold as mentioned above, to Lead, without first providing any type of clear and
13 reasonable warning of such to the exposed persons before the time of exposure.
14 Defendants have distributed and sold Salted Sprout in California. Defendants know and
15 intend that California consumers will use and consume Salted Sprout, thereby exposing
16 them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
17 Defendants are selling Salted Sprout under a brand or trademark that is owned or
18 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
19 Lead into Salted Sprout or knowingly caused Lead to be created in Salted Sprout; have
20 covered, obscured or altered a warning label that has been affixed to Salted Sprout by the
21 manufacturer, producer, packager, importer, supplier or distributor of Salted Sprout;
22 have received a notice and warning materials for exposure from Salted Sprout without
23 conspicuously posting or displaying the warning materials; and/or have actual
24 knowledge of potential exposure to Lead from Salted Sprout. Defendants thereby
25 violated Proposition 65.

26 64. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
27 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by seating
28

1 and consuming Salted Sprout, and additionally by handling Salted Sprout without
2 wearing gloves or any other personal protective equipment, or by touching bare skin or
3 mucous membranes with gloves after handling Dried Seaweed, as well as through direct
4 and indirect hand to mouth contact, hand to mucous membrane, or breathing in
5 particulate matter dispersed from Salted Sprout.

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

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

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

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

20 **FIFTH CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against YAMIBUY, and**
22 **DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
23 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

24 **Bamboo Products**

25 68. Plaintiff repeats and incorporates by reference paragraphs 1 through 67 of this complaint
26 as though fully set forth herein.

27 69. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
28 distributor, promoter, or retailer of Bamboo Shoot, including but not limited to,

1 “HONLIFE”; “KELP CRISP BAMBOO SHOOTS”; “HONlife Select”; “Honlife
2 Seaweed & Bamboo Shoot Spicy Flavor”; “Net Weight: 110g (3.9oz)”; “2022/10/14”;
3 “Distributed by: ZB International LLC”; “6 973897 360158”

4 70. Bamboo Shoot contains Lead.

5 71. Defendants knew or should have known that Lead has been identified by the State of
6 California as a chemical known to cause cancer, and reproductive toxicity and therefore
7 was subject to Proposition 65 warning requirements. Defendants were also informed of
8 the presence of Lead in Bamboo Shoot within Plaintiff's notice of alleged violations
9 further discussed above at Paragraph 21e.

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

16 73. Plaintiff is informed, believes, and thereon alleges that between October 26, 2020 and
17 the present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Bamboo Shoot, which Defendants manufactured, distributed, or
19 sold as mentioned above, to Lead, without first providing any type of clear and
20 reasonable warning of such to the exposed persons before the time of exposure.
21 Defendants have distributed and sold Bamboo Shoot in California. Defendants know
22 and intend that California consumers will use and consume Bamboo Shoot, thereby
23 exposing them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
24 Defendants are selling Bamboo Shoot under a brand or trademark that is owned or
25 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
26 Lead into Bamboo Shoot or knowingly caused Lead to be created in Bamboo Shoot;
27 have covered, obscured or altered a warning label that has been affixed to Bamboo Shoot

28

1 by the manufacturer, producer, packager, importer, supplier or distributor of Bamboo
2 Shoot; have received a notice and warning materials for exposure from Bamboo Shoot
3 without conspicuously posting or displaying the warning materials; and/or have actual
4 knowledge of potential exposure to Lead from Bamboo Shoot. Defendants thereby
5 violated Proposition 65.

6 74. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
7 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by seating
8 and consuming Bamboo Shoot, and additionally by handling Bamboo Shoot without
9 wearing gloves or any other personal protective equipment, or by touching bare skin or
10 mucous membranes with gloves after handling Dried Seaweed, as well as through direct
11 and indirect hand to mouth contact, hand to mucous membrane, or breathing in
12 particulate matter dispersed from Bamboo Shoot.

13 75. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
14 Proposition 65 as to Bamboo Shoot 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 Bamboo
17 Shoot, so that a separate and distinct violation of Proposition 65 occurred each and every
18 time a person was exposed to Lead by Bamboo Shoot as mentioned herein.

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

22 77. Based on the allegations herein, Defendants are liable for civil penalties of up to
23 \$2,500.00 per day per individual exposure to Lead from Bamboo Shoot, pursuant to
24 Health and Safety Code Section 25249.7(b).

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

27 **PRAYER FOR RELIEF**

1 Plaintiff demands against each of the Defendants as follows:

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

7
8 Dated: May 10, 2024

YEROUSHALMI & YEROUSHALMI*

9
10 */s/ Reuben Yeroushalmi*

11 Reuben Yeroushalmi
12 Attorneys for Plaintiff,
13 CONSUMER ADVOCACY GROUP, INC.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28