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County of Alameda

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Environmental Health Advocates, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

Plaintiff,

v.

KHAN E-COMMERCE LLC, a Wyoming
limited liability company; AMAZON.COM,
INC., a Delaware corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: **24CV084966**

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.
INTRODUCTION

1
2 1. This Complaint is a representative action brought by Environmental Health Advocates,
3 Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff
4 seeks to remedy Defendants' failure to inform the People of exposure to lead, a known carcinogen and
5 developmental/reproductive toxin. Defendants expose consumers to lead by manufacturing, importing,
6 selling, and/or distributing dietary supplement powder including, but not limited to, USA Flava Organic
7 Hibiscus Powder (“Products”). Defendants know and intend that customers will ingest Products
8 containing lead.

9 2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California
10 Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing
11 business shall knowingly and intentionally expose any individual to a chemical known to the state to
12 cause cancer or reproductive toxicity without first giving clear and reasonable warning to such
13 individual. . . .” (Health & Safety Code, § 25249.6.)

14 3. California identified and listed lead as a chemical known to cause cancer as early as
15 October 1, 1992, and as a chemical known to cause developmental/reproductive toxicity on February
16 27, 1987.

17 4. Defendants failed to sufficiently warn consumers and individuals in California about
18 potential exposure to lead in connection with Defendants' manufacture, import, sale, or distribution of
19 Products. This is a violation of Proposition 65.

20 5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers
21 in California before exposing them to lead in Products. (Health & Safety Code, § 25249.7(a).) Plaintiff
22 also seeks civil penalties against Defendants for violations of Proposition 65 along with attorney’s fees
23 and costs. (Health & Safety Code, § 25249.7(b).)

II.
PARTIES

24
25 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
26 corporation in the State of California dedicated to protecting the health of California citizens through
27 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
28 interest pursuant to Health and Safety Code, section 25249.7.

1 21. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
2 60-Day Notice of Violation (“Notice”) as required by and in compliance with Proposition 65. Plaintiff
3 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
4 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
5 California of the health hazards associated with exposures to lead contained in the Products.

6 22. The appropriate public enforcement agencies provided with the Notice failed to
7 commence and diligently prosecute a cause of action against Defendants.

8 23. Individuals exposed to lead contained in Products through direct ingestion resulting
9 from reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm.
10 There is no other plain, speedy, or adequate remedy at law.

11 24. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
12 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
13 appropriate pursuant to Health and Safety Code, section 25249.7(a).

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1 **PRAYER FOR RELIEF**

2 Wherefore, Plaintiff prays for judgment against Defendants as follows:

- 3 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that
4 damages total a minimum of \$1,000,000;
- 5 2. A preliminary and permanent injunction against Defendants from manufacturing,
6 importing, selling, and/or distributing Products in California without providing a clear and reasonable
7 warning as required by Proposition 65 and related Regulations;
- 8 3. Reasonable attorney’s fees and costs of suit; and
- 9 4. Such other and further relief as may be just and proper.
- 10

11 Respectfully submitted:

12 Dated: July 26, 2024

ENTORNO LAW, LLP

13
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19 Attorneys for Plaintiff
20 Environmental Health Advocates, Inc.

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