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County of Alameda

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9 CONSUMER ADVOCACY GROUP, INC.

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

11 **COUNTY OF ALAMEDA**

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

14 Plaintiff,

15 v.

16 ASIA SUPERMARKET INC., a California
17 Corporation;
18 HONG SAR LLC DBA HINTHAR INC., an
19 Indiana Limited Liability Company;
20 HINTHAR INC., an Indiana Corporation;
21 AMAZON.COM, INC., a Delaware
22 Corporation;
23 AMAZON.COM SERVICES LLC, a
24 Delaware Limited Liability Company;
25 and DOES 1-50,

26 Defendants.

CASE NO. **24CV096313**

COMPLAINT FOR PENALTY AND
INJUNCTION

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

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$35,000)

27 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action
28 against defendants ASIA SUPERMARKET INC., HONG SAR LLC DBA HINTHAR INC.,
HINTHAR INC., AMAZON.COM, INC., AMAZON.COM SERVICES, LLC, and DOES 1-50
as follows:

1
2 **THE PARTIES**

- 3 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
4 organization qualified to do business in the State of California. CAG is a person within
5 the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting
6 as a private attorney general, brings this action in the public interest as defined under
7 Health and Safety Code Section 25249.7, subdivision (d).
- 8 2. Defendant ASIA SUPERMARKET INC. (“ASIA”) is a California Corporation, qualified
9 to do business in California, and doing business in the State of California at all relevant
10 times herein.
- 11 3. Defendant HONG SAR LLC DBA HINTHAR INC. (“HONG SAR”) is an Indiana
12 Limited Liability Company, qualified to do business in California, and doing business in
13 the State of California at all relevant times herein.
- 14 4. Defendant HINTHAR INC. (“HINTHAR”) is an Indiana Corporation, qualified to do
15 business in California, and doing business in the State of California at all relevant times
16 herein.
- 17 5. Defendant AMAZON.COM, INC. (“AMAZON”) is a Delaware Corporation, qualified
18 to do business in Delaware, and doing business in the State of California at all relevant
19 times herein.
- 20 6. Defendant AMAZON.COM SERVICES LLC (“AMAZON SERVICES”) is a Delaware
21 Limited Liability Company, qualified to do business in California, and doing business in
22 the State of California at all relevant times herein.
- 23 7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-50,
24 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
25 Complaint to allege their true names and capacities when ascertained. Plaintiff is
26 informed, believes, and thereon alleges that each fictitiously named defendant is
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1 responsible in some manner for the occurrences herein alleged and the damages caused
2 thereby.

3 8. At all times mentioned herein, the term “Defendants” includes ASIA, HONG SAR,
4 HINTHAR, AMAZON, AMAZON SERVICES and DOES 1-50.

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

7 10. Upon information and belief, at all times relevant to this action, each of the Defendants,
8 including DOES 1-50, was an agent, servant, or employee of each of the other
9 Defendants. In conducting the activities alleged in this Complaint, each of the
10 Defendants was acting within the course and scope of this agency, service, or
11 employment, and was acting with the consent, permission, and authorization of each of
12 the other Defendants. All actions of each of the Defendants alleged in this Complaint
13 were ratified and approved by every other Defendant or their officers or managing
14 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
15 alleged wrongful conduct of each of the other Defendants.

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

20 JURISDICTION

21 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
22 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
23 those given by statute to other trial courts. This Court has jurisdiction over this action
24 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
25 violations of Proposition 65 in any Court of competent jurisdiction.

26 13. This Court has jurisdiction over Defendants named herein because Defendants either
27 reside or are located in this State or are foreign corporations authorized to do business in
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1 California, are registered with the California Secretary of State, or who do sufficient
2 business in California, have sufficient minimum contacts with California, or otherwise
3 intentionally avail themselves of the markets within California through their
4 manufacture, distribution, promotion, marketing, or sale of their products within
5 California to render the exercise of jurisdiction by the California courts permissible
6 under traditional notions of fair play and substantial justice.

7 14. Venue is proper in the County of Alameda because one or more of the instances of
8 wrongful conduct occurred, and continues to occur, in the County of Alameda and/or
9 because Defendants conducted, and continue to conduct, business in the County of
10 Alameda with respect to the consumer product that is the subject of this action.

11 **BACKGROUND AND PRELIMINARY FACTS**

12 15. In 1986, California voters approved an initiative to address growing concerns about
13 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
14 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
15 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
16 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
17 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
18 from contamination, to allow consumers to make informed choices about the products
19 they buy, and to enable persons to protect themselves from toxic chemicals as they see
20 fit.

21 16. Proposition 65 requires the Governor of California to publish a list of chemicals known
22 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*
23 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over
24 700 chemicals and chemical families. Proposition 65 imposes warning requirements and
25 other controls that apply to Proposition 65-listed chemicals.

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

5 18. Proposition 65 provides that any person "violating or threatening to violate" the statute
6 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
7 25249.7. "Threaten to violate" means "to create a condition in which there is a
8 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
9 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
10 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

11 19. Plaintiff identified certain practices of manufacturers and distributors of Shrimp Paste,
12 Fried Bombay Duck Fish, Fried Dragon Head Fish, Dried Shrimp, and Fried Anchovy
13 Fish Paste of exposing, knowingly and intentionally, persons in California to Lead and
14 Lead Compounds and Cadmium and Cadmium Compounds in such products without
15 first providing clear and reasonable warnings of such to the exposed persons prior to the
16 time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

17 20. On October 1, 1992, the Governor of California added Lead and Lead Compounds
18 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
19 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
20 twenty (20) months after addition of Lead to the list of chemicals known to the State to
21 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
22 discharge prohibitions.

23 21. On February 27, 1987, the Governor of California added Lead to the list of chemicals
24 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
25 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
26 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
27 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
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1 the State to cause developmental and reproductive toxicity, Lead became fully subject to
2 Proposition 65 warning requirements and discharge prohibitions.

3 22. On October 1, 1987 the Governor of California added Cadmium and Cadmium
4 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer
5 (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to Health and Safety Code Sections
6 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of
7 chemicals known to the State to cause cancer, Cadmium became fully subject to
8 Proposition 65 warning requirements and discharge prohibitions.

9 23. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
10 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*
11 *tit. 27, § 27001(c)*). Cadmium is known to the State to cause developmental, and male
12 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
13 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known
14 to the State to cause developmental and reproductive toxicity, Cadmium became fully
15 subject to Proposition 65 warning requirements and discharge prohibitions.

16 **SATISFACTION OF PRIOR NOTICE**

17 24. Plaintiff served the following notices for alleged violations of Health and Safety Code
18 Section 25249.6, concerning consumer products exposures:

- 19 a. On or about November 20, 2023, Plaintiff gave notice of alleged violations of
20 Health and Safety Code Section 25249.6, concerning consumer products
21 exposures subject to a private action to HINTHAR, AMAZON, AMAZON
22 SERVICES, and to the California Attorney General, County District Attorneys,
23 and City Attorneys for each city containing a population of at least 750,000
24 people in whose jurisdictions the violations allegedly occurred, concerning the
25 Shrimp Paste.
- 26 b. On or about November 20, 2023, Plaintiff gave notice of alleged violations of
27 Health and Safety Code Section 25249.6, concerning consumer products

1 exposures subject to a private action to ASIA, HINTHAR, and to the California
2 Attorney General, County District Attorneys, and City Attorneys for each city
3 containing a population of at least 750,000 people in whose jurisdictions the
4 violations allegedly occurred, concerning the Fried Bombay Duck Fish.

5 c. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
6 and Safety Code Section 25249.6, concerning consumer products exposures
7 subject to a private action to ASIA, HINTHAR, and to the California Attorney
8 General, County District Attorneys, and City Attorneys for each city containing
9 a population of at least 750,000 people in whose jurisdictions the violations
10 allegedly occurred, concerning the Fried Bombay Duck Fish.

11 d. On or about November 20, 2023, Plaintiff gave notice of alleged violations of
12 Health and Safety Code Section 25249.6, concerning consumer products
13 exposures subject to a private action to ASIA, HINTHAR, and to the California
14 Attorney General, County District Attorneys, and City Attorneys for each city
15 containing a population of at least 750,000 people in whose jurisdictions the
16 violations allegedly occurred, concerning the Fried Dragon Head Fish.

17 e. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
18 and Safety Code Section 25249.6, concerning consumer products exposures
19 subject to a private action to ASIA, HINTHAR, and to the California Attorney
20 General, County District Attorneys, and City Attorneys for each city containing
21 a population of at least 750,000 people in whose jurisdictions the violations
22 allegedly occurred, concerning the Fried Dragon Head Fish.

23 f. On or about December 1, 2023, Plaintiff gave notice of alleged violations of
24 Health and Safety Code Section 25249.6, concerning consumer products
25 exposures subject to a private action to ASIA, HONG SAR, HINTHAR, and to
26 the California Attorney General, County District Attorneys, and City Attorneys

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1 for each city containing a population of at least 750,000 people in whose
2 jurisdictions the violations allegedly occurred, concerning the Dried Shrimp.

3 g. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
4 and Safety Code Section 25249.6, concerning consumer products exposures
5 subject to a private action to ASIA, HONG SAR, HINTHAR, and to the
6 California Attorney General, County District Attorneys, and City Attorneys for
7 each city containing a population of at least 750,000 people in whose
8 jurisdictions the violations allegedly occurred, concerning the Dried Shrimp.

9 h. On or about December 1, 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 ASIA, HONG SAR, HINTHAR, and to
12 the California Attorney General, County District Attorneys, and City Attorneys
13 for each city containing a population of at least 750,000 people in whose
14 jurisdictions the violations allegedly occurred, concerning the Fried Anchovy
15 Fish Paste.

16 i. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
17 and Safety Code Section 25249.6, concerning consumer products exposures
18 subject to a private action to ASIA, HONG SAR, HINTHAR, and to the
19 California Attorney General, County District Attorneys, and City Attorneys for
20 each city containing a population of at least 750,000 people in whose
21 jurisdictions the violations allegedly occurred, concerning the Fried Anchovy
22 Fish Paste.

23 25. Before sending the notice of alleged violations, Plaintiff investigated the consumer
24 products involved, the likelihood that such products would cause users to suffer
25 significant exposures to Lead and Cadmium, and the corporate structure of each of the
26 Defendants.

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

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

14 28. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
15 gave notice of the alleged violations to ASIA, HONG SAR, HINTHAR, AMAZON,
16 AMAZON SERVICES, and the public prosecutors referenced in Paragraph 24.

17 29. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
18 any applicable district attorney or city attorney has commenced and is diligently
19 prosecuting an action against the Defendants.

20 **FIRST CAUSE OF ACTION**

21 **(By CONSUMER ADVOCACY GROUP, INC. and against HINTHAR,**
22 **AMAZON, AMAZON SERVICES, and DOES 1-10 for Violations of Proposition**
23 **65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety***
Code, §§ 25249.5, et seq.))

24 **Condiments**

25 30. Plaintiff repeats and incorporates by reference paragraphs 1 through 29 of this complaint
26 as though fully set forth herein.

1 31. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
2 distributor, promoter, or retailer of Shrimp Paste, including but not limited to “SEIN
3 HINTAR”; “Shrimp Paste”; “Net Weight: 16 Oz (145 g)”; “Product of Myanmar”; “UPC
4 8834000127748”.

5 32. Shrimp Paste contains Lead and Cadmium.

6 33. Defendants knew or should have known that Lead and Cadmium has been identified by
7 the State of California as a chemical known to cause cancer, and reproductive toxicity
8 and therefore was subject to Proposition 65 warning requirements. Defendants were also
9 informed of the presence of Lead and Cadmium in Shrimp Paste within Plaintiff’s notice
10 of alleged violations further discussed above at Paragraph 24a.

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

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

9 36. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
10 Persons sustain exposures by eating and consuming Shrimp Paste.

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

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

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

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

25 **SECOND CAUSE OF ACTION**

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

Seafood Products I

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2 41. Plaintiff repeats and incorporates by reference paragraphs 1 through 40 of this complaint
3 as though fully set forth herein.

4 42. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of Fried Bombay Duck Fish (“Duck Fish”), including
6 but not limited to “SEIN HINTAR”; “Fried Bombay Duck Fish”; “Net Weight: 7 Oz
7 (200g)”; “Product of Myanmar”; “8 834000 186561”.

8 43. Duck Fish contains Lead.

9 44. 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 Duck Fish within Plaintiff’s notice of alleged violations further
13 discussed above at Paragraph 24b and 24c.

14 45. Plaintiff’s allegations regarding Seafood Product I 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)*. Duck Fish is a consumer product, and, as mentioned herein, exposures to
19 Lead took place as a result of such normal and foreseeable consumption and use.

20 46. Plaintiff is informed, believes, and thereon alleges that between November 20, 2020 and
21 the present, each of the Defendants knowingly and intentionally exposed California
22 consumers and users of Duck Fish, which Defendants manufactured, distributed, or sold
23 as mentioned above, to Lead, without first providing any type of clear and reasonable
24 warning of such to the exposed persons before the time of exposure. Defendants have
25 distributed and sold Duck Fish in California. Defendants know and intend that
26 California consumers will use and consume Duck Fish, thereby exposing them to Lead.
27 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
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1 Duck Fish under a brand or trademark that is owned or licensed by the Defendants or an
2 entity affiliated thereto; have knowingly introduced Lead into product or knowingly
3 caused Lead to be created in Duck Fish; have covered, obscured or altered a warning
4 label that has been affixed to Duck Fish by the manufacturer, producer, packager,
5 importer, supplier or distributor of Duck Fish; have received a notice and warning
6 materials for exposure from Duck Fish without conspicuously posting or displaying the
7 warning materials; and/or have actual knowledge of potential exposure to Lead from
8 Duck Fish. Defendants thereby violated Proposition 65.

9 47. The principal routes of exposure are through ingestion, especially direct (oral) ingestion
10 and inhalation. Persons sustain exposures by eating and consuming Duck Fish.

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

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

20 50. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to Lead from Duck Fish, pursuant to Health
22 and Safety Code Section 25249.7(b).

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

25 **THIRD CAUSE OF ACTION**

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

1 **Seafood Products II**

2 52. Plaintiff repeats and incorporates by reference paragraphs 1 through 51 of this complaint
3 as though fully set forth herein.

4 53. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of Fried Dragon Head Fish (“Head Fish”), including but
6 not limited to “SEIN HINTAR”; “Fried Dragon Head Fish”; “Net Weight: 3.5 Oz
7 (100g)”; “8 834000 186318”.

8 54. Head Fish contains Lead.

9 55. 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 Head Fish within Plaintiff’s notice of alleged violations further
13 discussed above at Paragraph 24d and 24e.

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

20 57. Plaintiff is informed, believes, and thereon alleges that between November 20, 2020 and
21 the present, each of the Defendants knowingly and intentionally exposed California
22 consumers and users of Head Fish, which Defendants manufactured, distributed, or sold
23 as mentioned above, to Lead, without first providing any type of clear and reasonable
24 warning of such to the exposed persons before the time of exposure. Defendants have
25 distributed and sold Head Fish in California. Defendants know and intend that
26 California consumers will use and consume Head Fish, thereby exposing them to Lead.
27 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling
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1 Head Fish under a brand or trademark that is owned or licensed by the Defendants or an
2 entity affiliated thereto; have knowingly introduced Lead into product or knowingly
3 caused Lead to be created in Head Fish; have covered, obscured or altered a warning
4 label that has been affixed to Head Fish by the manufacturer, producer, packager,
5 importer, supplier or distributor of Head Fish; have received a notice and warning
6 materials for exposure from Head Fish without conspicuously posting or displaying the
7 warning materials; and/or have actual knowledge of potential exposure to Lead from
8 Head Fish. Defendants thereby violated Proposition 65.

9 58. The principal routes of exposure are through ingestion, especially direct (oral) ingestion
10 and inhalation. Persons sustain exposures by eating and consuming Head Fish.

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

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

20 61. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to Lead from Head Fish, pursuant to Health
22 and Safety Code Section 25249.7(b).

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

25 **FOURTH CAUSE OF ACTION**

26 **(By CONSUMER ADVOCACY GROUP, INC. and against ASIA, HONG SAR,**
27 **HINTHAR, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking**
28 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
***seq.*))**

Page 15 of 20

Seafood Products III

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2 63. Plaintiff repeats and incorporates by reference paragraphs 1 through 62 of this complaint
3 as though fully set forth herein.

4 64. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of Dried Shrimp, including but not limited to “SEIN
6 HINTAR”; “Dried Shrimp”; “Net Weight: 7 Oz (200g)”; “Manufactured by: SHWE
7 HINTHAR YEIK MON CO., LTD.”; “Distributed by: TIME MON CO., LTD.”;
8 “Imported by: Hong Sar LLC- Shwe Hinthar Inc.” “UPC 8834000198960”.

9 65. Dried Shrimp contains Lead.

10 66. Defendants knew or should have known that Lead has been identified by the State of
11 California as a chemical known to cause cancer, and reproductive toxicity and therefore
12 was subject to Proposition 65 warning requirements. Defendants were also informed of
13 the presence of Lead in Dried Shrimp within Plaintiff’s notice of alleged violations
14 further discussed above at Paragraph 24f and 24g.

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

21 68. Plaintiff is informed, believes, and thereon alleges that between December 1, 2020 and
22 the present, each of the Defendants knowingly and intentionally exposed California
23 consumers and users of Dried Shrimp, which Defendants manufactured, distributed, or
24 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 Dried Shrimp in California. Defendants know and
27 intend that California consumers will use and consume Dried Shrimp, thereby exposing
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1 them to Lead. Further, Plaintiff is informed, believes, and thereon alleges that
2 Defendants are selling Dried Shrimp 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 product or knowingly caused Lead to be created in Dried Shrimp; have
5 covered, obscured or altered a warning label that has been affixed to Dried Shrimp by the
6 manufacturer, producer, packager, importer, supplier or distributor of Dried Shrimp;
7 have received a notice and warning materials for exposure from Dried Shrimp without
8 conspicuously posting or displaying the warning materials; and/or have actual
9 knowledge of potential exposure to Lead from Dried Shrimp. Defendants thereby
10 violated Proposition 65.

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

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

19 71. 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 72. 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 Dried Shrimp, pursuant to
24 Health and Safety Code Section 25249.7(b).

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

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28

1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against ASIA, HONG SAR,**
3 **HINTHAR, and DOES 41-50 for Violations of Proposition 65, The Safe Drinking**
4 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
5 ***seq.*))**

6 **Seafood Products IV**

7 74. Plaintiff repeats and incorporates by reference paragraphs 1 through 73 of this complaint
8 as though fully set forth herein.

9 75. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Fried Anchovy Fish Paste, including but not limited
11 to “SEIN HINTAR”; “Fried Anchovy Fish Paste”; “Net Weight 142g. 5 oz”; “Product of
12 Myanmar”; “Export Quality”; “UPC 8834000186301”.

13 76. Fried Anchovy Fish Paste contains Lead.

14 77. Defendants knew or should have known that Lead has been identified by the State of
15 California as a chemical known to cause cancer, and reproductive toxicity and therefore
16 was subject to Proposition 65 warning requirements. Defendants were also informed of
17 the presence of Lead in Fried Anchovy Fish Paste within Plaintiff's notice of alleged
18 violations further discussed above at Paragraph 24h and 24i.

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

26 79. Plaintiff is informed, believes, and thereon alleges that between December 1, 2020, and
27 the present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Fried Anchovy Fish Paste, which Defendants manufactured,
distributed, or sold as mentioned above, to Lead, without first providing any type of clear

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

15 80. The principal routes of exposure are through ingestion, especially direct (oral) ingestion
16 and inhalation. Persons sustain exposures by eating and consuming Fried Anchovy Fish
17 Paste.

18 81. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
19 Proposition 65 as to Fried Anchovy Fish Paste 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 Fried Anchovy Fish Paste, so that a separate and distinct violation of Proposition 65
23 occurred each and every time a person was exposed to Lead by Fried Anchovy Fish
24 Paste as mentioned herein.

25 82. 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 83. 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 Fried Anchovy Fish Paste,
3 pursuant to Health and Safety Code Section 25249.7(b).

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

6 **PRAYER FOR RELIEF**

7 Plaintiff demands against each of the Defendants as follows:

8 85. A permanent injunction mandating Proposition 65-compliant warnings;

9 86. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);

10 87. Costs of suit;

11 88. Reasonable attorney fees and costs; and

12 89. Any further relief that the court may deem just and equitable.

13
14
15 Dated: October 18, 2024

YEROUSHALMI & YEROUSHALMI*

16
17 */s/ Reuben Yeroushalmi*
18 Reuben Yeroushalmi
19 Attorneys for Plaintiff,
20 CONSUMER ADVOCACY GROUP, INC.