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8 Attorneys for Plaintiff,

9 CONSUMER ADVOCACY GROUP, INC.

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

11 **COUNTY OF ALAMEDA**

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

14 Plaintiff,

15 v.

16 WORLD MARKET MANAGEMENT
17 SERVICES, LLC, a California Limited
18 Liability Company;
19 and DOES 1-10,

20 Defendants.

CASE NO. **24CV101854**

COMPLAINT FOR PENALTY AND
INJUNCTION

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

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

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25 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges one cause of action against
26 defendants WORLD MARKET MANAGEMENT SERVICES, LLC, and DOES 1-10 as
27 follows:
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THE PARTIES

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).
2. Defendant WORLD MARKET MANAGEMENT SERVICES, LLC (“WORLD MARKET”) is a California Limited Liability Company, qualified to do business in California, and doing business in the State of California at all relevant times herein.
3. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-10, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
4. At all times mentioned herein, the term “Defendants” includes WORLD MARKET, and DOES 1-10.
5. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
6. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-10, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of the other Defendants. All actions of each of the Defendants alleged in this Complaint were ratified and approved by every other Defendant or their officers or managing

1 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
2 alleged wrongful conduct of each of the other Defendants.

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

7 **JURISDICTION**

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

- 13 9. This Court has jurisdiction over Defendants named herein because Defendants either
14 reside or are located in this State or are foreign corporations authorized to do business in
15 California, are registered with the California Secretary of State, or who do sufficient
16 business in California, have sufficient minimum contacts with California, or otherwise
17 intentionally avail themselves of the markets within California through their
18 manufacture, distribution, promotion, marketing, or sale of their products within
19 California to render the exercise of jurisdiction by the California courts permissible
20 under traditional notions of fair play and substantial justice.

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

25 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

19 14. Proposition 65 provides that any person "violating or threatening to violate" the statute
20 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §
21 25249.7. "Threaten to violate" means "to create a condition in which there is a
22 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
23 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
24 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

25 15. Plaintiff identified certain practices of manufacturers and distributors of Sardine Paste of
26 exposing, knowingly and intentionally, persons in California to Cadmium and Cadmium
27 Compounds, of such products without first providing clear and reasonable warnings of
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1 such to the exposed persons prior to the time of exposure. Plaintiff later discerned that
2 Defendants engaged in such practice.

3 16. 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 17. 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 18. 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 February 29, 2024, 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 WORLD MARKET, and to the
22 California Attorney General, County District Attorneys, and City Attorneys for
23 each city containing a population of at least 750,000 people in whose
24 jurisdictions the violations allegedly occurred, concerning the Sardine Paste.
- 25 b. On or about April 1, 2024, Plaintiff gave notice of alleged violations of Health
26 and Safety Code Section 25249.6, concerning consumer products exposures
27 subject to a private action to WORLD MARKET, and to the California Attorney
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1 General, County District Attorneys, and City Attorneys for each city containing
2 a population of at least 750,000 people in whose jurisdictions the violations
3 allegedly occurred, concerning the Sardine Paste.

4 19. Before sending the notice of alleged violations, Plaintiff investigated the consumer
5 products involved, the likelihood that such products would cause users to suffer
6 significant exposures to Cadmium, and the corporate structure of each of the Defendants.

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

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

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

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

25 **FIRST CAUSE OF ACTION**

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

1 **Condiments**

2 24. Plaintiff repeats and incorporates by reference paragraphs 1 through 23 of this complaint
3 as though fully set forth herein.

4 25. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
5 distributor, promoter, or retailer of Sardine Paste, including but not limited to:
6 “MINERVA”; “SINCE 1942”; “SARDINE PASTE”; “NET WEIGHT: 2.64 OZ (75g)”;
7 “PRODUCED IN PORTUGAL”; “UPC 528661110000”.

8 26. Sardine Paste contains Cadmium.

9 27. Defendants knew or should have known that Cadmium has been identified by the State
10 of California as a chemical known to cause cancer, and reproductive toxicity and
11 therefore was subject to Proposition 65 warning requirements. Defendants were also
12 informed of the presence of relevant chemical in Sardine Paste within Plaintiff’s notice of
13 alleged violations further discussed above at Paragraph 18a and 18b.

14 28. Plaintiff’s allegations regarding Sardine Paste 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)*. Sardine Paste is a consumer product, and, as mentioned herein, exposures to
19 Cadmium took place as a result of such normal and foreseeable consumption and use.

20 29. Plaintiff is informed, believes, and thereon alleges that between February 29, 2020 and
21 the present, each of the Defendants knowingly and intentionally exposed California
22 consumers and users of Sardine Paste, which Defendants manufactured, distributed, or
23 sold as mentioned above, to Cadmium, without first providing any type of clear and
24 reasonable warning of such to the exposed persons before the time of exposure.

25 Defendants have distributed and sold Sardine Paste in California. Defendants know and
26 intend that California consumers will use and consume Sardine Paste, thereby exposing
27 them to Cadmium. Further, Plaintiff is

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

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

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

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

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

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

26 **PRAYER FOR RELIEF**

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

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7 Dated: December 2, 2024

YEROUSHALMI & YEROUSHALMI*

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10 */s/ Reuben Yeroushalmi*
11 Reuben Yeroushalmi
12 Attorneys for Plaintiff,
13 CONSUMER ADVOCACY GROUP, INC.
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