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9 CONSUMER ADVOCACY GROUP, INC.

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF LOS ANGELES**

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

15 Plaintiff,

16 v.

17 SPROUTS FARMERS MARKET, INC., a
18 Delaware Corporation;
19 and DOES 1-20,

20 Defendants.

CASE NO. **25STCV11302**

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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26 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges two causes of action
27 against defendants SPROUTS FARMERS MARKET, INC., and DOES 1-20 as 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 SPROUTS FARMERS MARKET, INC. (“SFM”) is a Delaware Corporation qualified to do business in Delaware, 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 1-20, 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 SFM and DOES 1-20.
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 1-20, 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 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged wrongful conduct of each of the other Defendants.

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

5 **JURISDICTION**

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

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

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

23 **BACKGROUND AND PRELIMINARY FACTS**

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

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

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

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

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

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

9 **SATISFACTION OF PRIOR NOTICE**

10 17. 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 November 22, 2024, Plaintiff gave notice of alleged violations of
13 Health and Safety Code Section 25249.6, concerning consumer products
14 exposures subject to a private action to SFM 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 Organic Roasted Seaweed.
- 18 b. On or about December 2, 2024, 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 SFM and to the California Attorney
21 General, County District Attorneys, and City Attorneys for each city containing
22 a population of at least 750,000 people in whose jurisdictions the violations
23 allegedly occurred, concerning the Organic Roasted Seaweed.

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

- 1 19. 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 Cadmium, the
5 subject Proposition 65-listed chemical of this action. Based on that information, the
6 attorney for Plaintiff who executed the Certificate of Merit believed there was a
7 reasonable and meritorious case for this private action. The attorney for Plaintiff
8 attached to the Certificate of Merit served on the Attorney General the confidential
9 factual information sufficient to establish the basis of the Certificate of Merit.
- 10 20. Plaintiff's notice of alleged violations also included a Certificate of Service and a
11 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
12 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).
- 13 21. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
14 gave notice of the alleged violations to SFM and the public prosecutors referenced in
15 Paragraph 17.
- 16 22. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
17 any applicable district attorney or city attorney has commenced and is diligently
18 prosecuting an action against the Defendants.

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20 **FIRST CAUSE OF ACTION**

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

24 **Seaweed I**

- 25 23. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint
26 as though fully set forth herein.
- 27 24. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
28 distributor, promoter, or retailer of Organic Roasted Seaweed ("Roasted Seaweed I").
25. Roasted Seaweed I contains Cadmium.

1 26. Defendants knew or should have known that Cadmium has been identified by the State
2 of California as a chemical known to cause reproductive toxicity and developmental
3 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
4 were also informed of the presence of Cadmium in Roasted Seaweed I within Plaintiff's
5 notice of alleged violations further discussed above at Paragraph 17b.

6 27. Plaintiff's allegations regarding Roasted Seaweed I concerns "[c]onsumer products
7 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
8 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
9 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
10 25602(b). Roasted Seaweed I are consumer products, and, as mentioned herein,
11 exposures to Cadmium took place as a result of such normal and foreseeable
12 consumption and use.

13 28. Plaintiff is informed, believes, and thereon alleges that between December 2, 2021 and
14 the present, each of the Defendants knowingly and intentionally exposed California
15 consumers and users of Roasted Seaweed I, which Defendants manufactured, distributed,
16 or sold as mentioned above, to Cadmium, without first providing any type of clear and
17 reasonable warning of such to the exposed persons before the time of exposure.
18 Defendants have distributed and sold Roasted Seaweed I in California. Defendants
19 know and intend that California consumers will use and consume Roasted Seaweed I,
20 thereby exposing them to Cadmium. Further, Plaintiff is informed, believes, and thereon
21 alleges that Defendants are selling Roasted Seaweed I under a brand or trademark that is
22 owned or licensed by the Defendants or an entity affiliated thereto; have knowingly
23 introduced Cadmium into Roasted Seaweed I or knowingly caused Cadmium to be
24 created in Roasted Seaweed I; have covered, obscured or altered a warning label that has
25 been affixed to Roasted Seaweed I by the manufacturer, producer, packager, importer,
26 supplier or distributor of Roasted Seaweed I; have received a notice and warning
27 materials for exposure from Roasted Seaweed I without conspicuously posting or
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- 1 displaying the warning materials; and/or have actual knowledge of potential exposure to
2 Cadmium from Roasted Seaweed I. Defendants thereby violated Proposition 65.
- 3 29. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
4 Persons sustain exposures by eating and consuming Roasted Seaweed I.
- 5 30. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
6 Proposition 65 as to Roasted Seaweed I have been ongoing and continuous, as
7 Defendants engaged and continue to engage in conduct which violates Health and Safety
8 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of
9 Roasted Seaweed I, so that a separate and distinct violation of Proposition 65 occurred
10 each and every time a person was exposed to Cadmium by Roasted Seaweed I as
11 mentioned herein.
- 12 31. 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 32. Based on the allegations herein, Defendants are liable for civil penalties of up to
16 \$2,500.00 per day per individual exposure to Cadmium from Roasted Seaweed I,
17 pursuant to Health and Safety Code Section 25249.7(b).
- 18 33. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
19 filing this Complaint.

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21 **SECOND CAUSE OF ACTION**

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

25 **Seaweed II**

- 26 34. Plaintiff repeats and incorporates by reference paragraphs 1 through 33 of this complaint
27 as though fully set forth herein.
- 28 35. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
distributor, promoter, or retailer of Organic Roasted Seaweed ("Roasted Seaweed II"),

1 identified as: “SeaSnax”; “01.25.2025”; “Organic Roasted Seaweed Wrapz”;
2 “Manufactured for: SeaSnax”; “SS-SHT-CLASS”; “UPC 728028012200”.

3 36. Roasted Seaweed II contains Cadmium.

4 37. Defendants knew or should have known that Cadmium has been identified by the State
5 of California as a chemical known to cause reproductive toxicity and developmental
6 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
7 were also informed of the presence of Cadmium in Roasted Seaweed II within Plaintiff’s
8 notice of alleged violations further discussed above at Paragraph 17a.

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

16 39. Plaintiff is informed, believes, and thereon alleges that between November 22, 2021 and
17 the present, each of the Defendants knowingly and intentionally exposed California
18 consumers and users of Roasted Seaweed II, which Defendants manufactured,
19 distributed, or sold as mentioned above, to Cadmium, without first providing any type of
20 clear and reasonable warning of such to the exposed persons before the time of exposure.
21 Defendants have distributed and sold Roasted Seaweed II in California. Defendants
22 know and intend that California consumers will use and consume Roasted Seaweed II,
23 thereby exposing them to Cadmium. Further, Plaintiff is informed, believes, and thereon
24 alleges that Defendants are selling Roasted Seaweed II under a brand or trademark that is
25 owned or licensed by the Defendants or an entity affiliated thereto; have knowingly
26 introduced Cadmium into Roasted Seaweed II or knowingly caused Cadmium to be
27 created in Roasted Seaweed II; have covered, obscured or altered a warning label that
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1 has been affixed to Roasted Seaweed II by the manufacturer, producer, packager,
2 importer, supplier or distributor of Roasted Seaweed II; have received a notice and
3 warning materials for exposure from Roasted Seaweed II without conspicuously posting
4 or displaying the warning materials; and/or have actual knowledge of potential exposure
5 to Cadmium from Roasted Seaweed II. Defendants thereby violated Proposition 65.

6 40. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
7 Persons sustain exposures by eating and consuming Roasted Seaweed II.

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

15 42. 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 43. Based on the allegations herein, Defendants are liable for civil penalties of up to
19 \$2,500.00 per day per individual exposure to Cadmium from Roasted Seaweed II,
20 pursuant to Health and Safety Code Section 25249.7(b).

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

23 **PRAYER FOR RELIEF**

24 Plaintiff demands against each of the Defendants as follows:

- 25 1. A permanent injunction mandating Proposition 65-compliant warnings;
- 26 2. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);
- 27 3. Costs of suit;
- 28 4. Reasonable attorney fees and costs; and

1 5. Any further relief that the court may deem just and equitable.

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3 Dated: April 17, 2025

YEROUSHALMI & YEROUSHALMI*

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6 /s/ Reuben Yeroushalmi
7 Reuben Yeroushalmi
8 Attorneys for Plaintiff,
9 CONSUMER ADVOCACY GROUP, INC.
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