

**LEXINGTON LAW GROUP, LLP**

Mark N. Todzo, State Bar No. 168389  
Meredyth Merrow, State Bar No. 328337  
503 Divisadero Street  
San Francisco, CA 94117  
Telephone: (415) 913-7800  
Facsimile: (415) 759-4112  
mtodzo@lexlawgroup.com  
mmerrow@lexlawgroup.com

Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH

ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**04/10/2025**  
Clerk of the Court

BY: SAHAR ENAYATI  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CENTER FOR ENVIRONMENTAL HEALTH,  
a non-profit corporation,

Plaintiff,

v.

E-ALTERNATIVE SOLUTIONS, LLC,  
SWISHER INTERNATIONAL, INC., RDFN  
FUM NATURAL PRODUCTS, LTD., RDFN  
FUM NATURAL PRODUCTS, INC and DOES 1  
through 20, inclusive,

Defendants.

Case No. **CGC-25-624261**

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.6, *et seq.*

(Other)

1 Plaintiff Center for Environmental Health, in the public interest, based on information and  
2 belief and investigation of counsel, except for information based on knowledge, hereby makes the  
3 following allegations:

#### 4 **INTRODUCTION**

5 1. This Complaint seeks to remedy Defendants' failure to warn individuals in  
6 California that they are being exposed to Pulegone, a chemical known to the State of California to  
7 cause cancer. This Complaint addresses exposures that have occurred, and continue to occur,  
8 through the manufacture, distribution, sale and/or use of Defendants' mint caffeine pouches  
9 ("Mint Caffeine Pouches") and Defendants' mint essential oil inhalers ("Mint Inhalers"). "Mint  
10 Caffeine Pouches" and "Mint Inhalers" are defined collectively herein as the "Products."  
11 Individuals in California are exposed to Pulegone when they use the Products.

12 2. Under California's Proposition 65, Health & Safety Code §25249.5, *et seq.*, it is  
13 unlawful for businesses to knowingly and intentionally expose individuals in California to  
14 chemicals known to the State to cause cancer, birth defects, or other reproductive harm without  
15 first providing clear and reasonable warnings to exposed individuals. Defendants introduce the  
16 Products containing significant quantities of Pulegone into the California marketplace, thereby  
17 exposing those who use the Products to Pulegone.

18 3. Defendants provide no warnings whatsoever about the carcinogenic effects  
19 associated with Pulegone exposure. Defendants' conduct thus violates the warning provision of  
20 Proposition 65. Health & Safety Code §25249.6.

#### 21 **PARTIES**

22 4. Plaintiff CENTER FOR ENVIRONMENTAL HEALTH ("CEH") is a non-profit  
23 corporation dedicated to protecting the public from environmental health hazards and toxic  
24 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of  
25 California. CEH is a "person" within the meaning of Health & Safety Code §25249.11(a) and  
26 brings this enforcement action in the public interest pursuant to Health & Safety Code  
27 §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has  
28 prosecuted a large number of Proposition 65 cases in the public interest. These cases have

1 resulted in significant public benefits, including the reformulation of millions of products to  
2 remove toxic chemicals and to make them safer. CEH also provides information to Californians  
3 about the health risks associated with exposure to hazardous substances, where manufacturers and  
4 other responsible parties fail to do so.

5         5. Defendant E-ALTERNATIVE SOLUTIONS, LLC is a person in the course of  
6 doing business within the meaning of Health & Safety Code §25249.11. E-ALTERNATIVE  
7 SOLUTIONS, LLC markets, distributes, licenses, and/or sells Mint Caffeine Pouches containing  
8 Pulegone for sale or use in California. The Products at issue in this complaint for defendant E-  
9 ALTERNATIVE SOLUTIONS, LLC is limited to Mint Caffeine Pouches.

10         6. Defendant SWISHER INTERNATIONAL INC. is a person in the course of doing  
11 business within the meaning of Health & Safety Code §25249.11. SWISHER  
12 INTERNATIONAL INC. markets, distributes, licenses, and/or sells Mint Caffeine Pouches  
13 containing Pulegone for sale or use in California. The Products at issue in this complaint for  
14 defendant SWISHER INTERNATIONAL INC. is limited to Mint Caffeine Pouches.  
15 Defendant SWISHER INTERNATIONAL INC. and Defendant E-ALTERNATIVE  
16 SOLUTIONS, LLC are referred to collectively herein as “Mint Caffeine Pouches Defendants.”

17         7. Defendant RDFN FUM NATURAL PRODUCTS, LTD. is a person in the course  
18 of doing business within the meaning of Health & Safety Code §25249.11. RDFN FUM  
19 NATURAL PRODUCTS, LTD markets, distributes, licenses, and/or sells Mint Inhalers  
20 containing Pulegone for sale or use in California. The Products at issue in this complaint for  
21 defendant RDFN FUM NATURAL PRODUCTS, LTD is limited to Mint Inhalers.

22         8. Defendant RDFN FUM NATURAL PRODUCTS, INC. is a person in the course  
23 of doing business within the meaning of Health & Safety Code §25249.11. RDFN FUM  
24 NATURAL PRODUCTS, INC. markets, distributes, licenses, and/or sells Mint Inhalers  
25 containing Pulegone for sale or use in California. The Products at issue in this complaint for  
26 defendant RDFN FUM NATURAL PRODUCTS, INC. are limited to Mint Inhalers. Defendant  
27 RDFN FUM NATURAL PRODUCTS, LTD. and Defendant RDFN FUM NATURAL  
28 PRODUCTS, INC. are referred to collectively herein as “Mint Inhaler Defendants.”

9. DOES 1 through 20 are each a person in the course of doing business within the meaning of Health & Safety Code §25249.11. DOES 1 through 10 manufacture, distribute, and/or sell Mint Caffeine Pouches for sale or use in California. DOES 11 through 20 manufacture, distribute, and/or sell Mint Inhalers for sale or use in California. The true names of DOES 1 through 20 are either unknown to CEH at this time or the applicable time period before which CEH may file a Proposition 65 action has not run. When their identities are ascertained or the applicable time period before which CEH may file a Proposition 65 action has run, the Complaint shall be amended to reflect their true names.

10. The Defendants identified in paragraph 5-8 and DOES 1-20 are referred to herein as “Defendants.”

## JURISDICTION AND VENUE

11. The Court has jurisdiction over this action pursuant to Health & Safety Code §25249.7, which allows enforcement in any court of competent jurisdiction, and pursuant to California Constitution Article VI, Section 10, because this case is a cause not given by statute to other trial courts.

12. This Court has jurisdiction over Defendants because Defendants are business entities that do sufficient business, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market through the sale, marketing, or use of the Products in California or by having such other contacts with California so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

13. Venue is proper in San Francisco County Superior Court because one or more of the violations arise in the County of San Francisco.

1 **BACKGROUND FACTS**

2 14. The People of the State of California have declared by initiative under Proposition  
3 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or  
4 other reproductive harm.” Proposition 65, §1(b).

5 15. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals  
6 listed by the State of California as known to cause cancer, birth defects, or other reproductive  
7 harm above certain levels without a “clear and reasonable warning” unless the business  
8 responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety  
9 Code §25249.6 states, in pertinent part:

10 No person in the course of doing business shall knowingly and  
11 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 individual. . .

13 16. On April 18, 2014, the State of California officially listed Pulegone as a  
14 carcinogen. 27 California Code of Regulations (“C.C.R.”) §27001(b). On April 18, 2015,  
15 Pulegone became subject to the clear and reasonable warning requirement regarding cancer under  
16 Proposition 65. Health & Safety Code §25249.10(b).

17 17. Defendants’ Products contain sufficient quantities of Pulegone that individuals are  
18 exposed to Pulegone through the average use of the Products. The primary route of exposure for  
19 the violations is oral exposure and ingestion when consumers place the Products into their  
20 mouths. These exposures occur in homes, workplaces, and everywhere else throughout California  
21 where Defendants’ Products are used.

22 18. Defendants market, distribute, license, and/or sell Products in California. Each of  
23 these actions by Defendants operates to propel the Products toward individuals, bringing Products  
24 that contain Pulegone into contact with them.

25 19. No clear and reasonable warning is provided with Defendants’ Products regarding  
26 the developmental toxicity of Pulegone.

27 20. Any person acting in the public interest has standing to enforce violations of  
28 Proposition 65 provided that such person has supplied the requisite public enforcers with a valid

1 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
2 within such time. Health & Safety Code §25249.7(d).

3 21. More than sixty days prior to naming Defendants in this lawsuit, CEH provided a  
4 60-Day “Notice of Violation” of Proposition 65 to the California Attorney General, to the District  
5 Attorneys of every county in California, to the City Attorneys of every California city with a  
6 population greater than 750,000, and to each named Defendant. In compliance with Health &  
7 Safety Code §25249.7(d) and 27 C.C.R. §25903(b), each Notice included the following  
8 information: (1) the name and address of each violator; (2) the statute violated; (3) the time period  
9 during which violations occurred; (4) specific descriptions of the violations, including (a) a  
10 description of the specific type of products sold and used in violation of Proposition 65; (b) the  
11 routes of exposure to Pulegone from Defendants’ Products; and (5) the name of the specific  
12 Proposition 65-listed chemical that is the subject of the violations described in each Notice.

13 22. CEH also sent a Certificate of Merit for each Notice to the California Attorney  
14 General, to the District Attorneys of every county in California, to the City Attorneys of every  
15 California city with a population greater than 750,000, and to the named Defendants. In  
16 compliance with Health & Safety Code §25249.7(d) and 11 C.C.R. §3101, each Certificate  
17 certified that CEH’s counsel: (1) has consulted with one or more persons with relevant and  
18 appropriate experience or expertise who reviewed facts, studies, or other data regarding the  
19 exposures to Pulegone alleged in each Notice; and (2) based on the information obtained through  
20 such consultations, believes that there is a reasonable and meritorious case for a citizen  
21 enforcement action based on the facts alleged in each Notice. In compliance with Health &  
22 Safety Code §25249.7(d) and 11 C.C.R. §3102, each Certificate served on the Attorney General  
23 included factual information – provided on a confidential basis – sufficient to establish the basis  
24 for the Certificate, including the identity of the person(s) consulted by CEH’s counsel and the  
25 facts, studies, or other data reviewed by such persons.

26 23. None of the public prosecutors with the authority to prosecute violations of  
27 Proposition 65 has commenced or is diligently prosecuting a cause of action against Defendants  
28

1 under Health & Safety Code §25249.5, *et seq.*, based on the claims asserted in any of CEH's  
2 Notices regarding Pulegone in the Products.

3 24. Defendants both know and intend that individuals will come into contact with  
4 Pulegone in the Products during normal use, thus exposing such individuals to Pulegone.

5 25. Defendants continue to expose consumers to Pulegone without prior clear and  
6 reasonable warnings regarding the carcinogenic toxicity of Pulegone.

7 26. CEH has engaged in good-faith efforts to resolve the claims alleged herein prior to  
8 filing this Complaint.

9 27. Any person "violating or threatening to violate" Proposition 65 may be enjoined in  
10 any court of competent jurisdiction. Health & Safety Code §25249.7. "Threaten to violate" is  
11 defined to mean "to create a condition in which there is a substantial probability that a violation  
12 will occur." Health & Safety Code §25249.11(e). Proposition 65 provides for civil penalties not  
13 to exceed \$2,500 per day for each violation of Proposition 65.

### 14 **FIRST CAUSE OF ACTION**

#### 15 **(Violations of Health & Safety Code §25249.6 as to Mint Caffeine Pouch Defendants)**

16 28. CEH realleges and incorporates by reference as if specifically set forth herein  
17 Paragraphs 1 through 27, inclusive.

18 29. By placing the Mint Caffeine Pouches into the stream of commerce, each Mint  
19 Caffeine Pouches Defendant is a person in the course of doing business within the meaning of  
20 Health & Safety Code §25249.11.

21 30. Pulegone is a chemical listed by the State of California as known to cause cancer.

22 31. Each Mint Caffeine Pouches Defendant knows that average use of the Products  
23 will expose users of these Products to Pulegone. Each Mint Caffeine Pouches Defendant intends  
24 that the Mint Caffeine Pouches be used in a manner that results in exposures to Pulegone from  
25 these products.

26 32. Each Defendant has failed, and continues to fail, to provide clear and reasonable  
27 warnings regarding the carcinogenic toxicity of Pulegone to users of its Mint Caffeine Pouches.  
28

1           33. By committing the acts alleged above, each Mint Caffeine Pouches Defendant has  
2 at all times relevant to this Complaint violated Proposition 65 by knowingly and intentionally  
3 exposing individuals to Pulegone without first giving clear and reasonable warnings to such  
4 individuals regarding the carcinogenic toxicity of Pulegone.

5  
6                                   **SECOND CAUSE OF ACTION**

7                                   **(Violations of Health & Safety Code §25249.6 as to Mint Inhaler Defendants)**

8           34. CEH realleges and incorporates by reference as if specifically set forth herein  
9 Paragraphs 1 through 33, inclusive.

10          35. By placing the Mint Inhalers into the stream of commerce, each Mint Inhaler  
11 Defendant is a person in the course of doing business within the meaning of Health & Safety  
12 Code §25249.11.

13          36. Pulegone is a chemical listed by the State of California as known to cause cancer.

14          37. Each Mint Inhaler Defendant knows that average use of the Products will expose  
15 users of these Mint Inhalers to Pulegone. Each Mint Inhaler Defendant intends that the Products  
16 be used in a manner that results in exposures to Pulegone from these products.

17          38. Each Mint Inhaler Defendant has failed, and continues to fail, to provide clear and  
18 reasonable warnings regarding the carcinogenic toxicity of Pulegone to users of its Products.

19          39. By committing the acts alleged above, each Mint Inhaler Defendant has at all  
20 times relevant to this Complaint violated Proposition 65 by knowingly and intentionally exposing  
21 individuals to Pulegone without first giving clear and reasonable warnings to such individuals  
22 regarding the carcinogenic toxicity of Pulegone.

23                                   **PRAYER FOR RELIEF**

24           CEH prays for judgment against Defendants as follows:

25          1. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and  
26 permanently enjoin the Mint Caffeine Pouches Defendants from offering Mint Caffeine Pouches  
27 that will be sold in California without providing prior clear and reasonable warnings, as CEH  
28 shall specify in further application to the Court;



2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and permanently enjoin the Mint Inhaler Defendants from offering Mint Inhalers that will be sold in California without providing prior clear and reasonable warnings, as CEH shall specify in further application to the Court;

3. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties against Defendants in the amount of \$2,500 per day for each violation of Proposition 65 according to proof;

4. That the Court, pursuant to Health & Safety Code §25249.7(a), order Defendants to take action to stop ongoing unwarned exposures to Pulegone resulting from use of the Products sold by Defendants, as CEH shall specify in further application to the Court;

5. That the Court, pursuant to Code of Civil Procedure §1021.5 or any other applicable theory, grant CEH its reasonable attorneys' fees and costs of suit; and

6. That the Court grant such other and further relief as may be just and proper.

LEXINGTON LAW GROUP, LLP

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Mark Todzo  
Meredyth Merrow  
Attorneys for Plaintiff  
CENTER FOR ENVIRONMENTAL HEALTH