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Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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

Plaintiff,

v.

NOWHERE PARTNERS, LLC DBA
EREWHON, a California Limited Liability
Company;
MINNOW AMERICA LLC., a New York
Limited Liability Company;
and DOES 1-50,

Defendants.

CASE NO. **25STCV18273**

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)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges five causes of action
against defendants NOWHERE PARTNERS, LLC DBA EREWHON, MINNOW AMERICA
LLC, and DOES 1-50 as follows:

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 NOWHERE PARTNERS, LLC DBA EREWHON (“EREWHON”) 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. Defendant MINNOW AMERICA LLC (“MINNOW”) is a New York Limited Liability Company, qualified to do business in New York, and doing business in the State of California at all relevant times herein.
4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-50, 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.
5. At all times mentioned herein, the term “Defendants” includes EREWHON, MINNOW, and DOES 1-50.
6. 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.
7. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-50, 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

1 the other Defendants. All actions of each of the Defendants alleged in this Complaint
2 were ratified and approved by every other Defendant or their officers or managing
3 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the
4 alleged wrongful conduct of each of the other Defendants.

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

9 **JURISDICTION**

- 10 9. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
11 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
12 those given by statute to other trial courts. This Court has jurisdiction over this action
13 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
14 violations of Proposition 65 in any Court of competent jurisdiction.
- 15 10. This Court has jurisdiction over Defendants named herein because Defendants either
16 reside or are located in this State or are foreign corporations authorized to do business in
17 California, are registered with the California Secretary of State, or who do sufficient
18 business in California, have sufficient minimum contacts with California, or otherwise
19 intentionally avail themselves of the markets within California through their
20 manufacture, distribution, promotion, marketing, or sale of their products within
21 California to render the exercise of jurisdiction by the California courts permissible
22 under traditional notions of fair play and substantial justice.
- 23 11. Venue is proper in the County of Los Angeles because one or more of the instances of
24 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
25 because Defendants conducted, and continue to conduct, business in the County of Los
26 Angeles with respect to the consumer product that is the subject of this action.
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BACKGROUND AND PRELIMINARY FACTS

12. In 1986, California voters approved an initiative to address growing concerns about exposure to toxic chemicals and declared their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp., Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources from contamination, to allow consumers to make informed choices about the products they buy, and to enable persons to protect themselves from toxic chemicals as they see fit.
13. Proposition 65 requires the Governor of California to publish a list of chemicals known to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code* § 25249.8. The list, which the Governor updates at least once a year, contains over 700 chemicals and chemical families. Proposition 65 imposes warning requirements and other controls that apply to Proposition 65-listed chemicals.
14. All businesses with ten (10) or more employees that operate or sell products in California must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited from knowingly discharging Proposition 65-listed chemicals into sources of drinking water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and reasonable” warnings before exposing a person, knowingly and intentionally, to a Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).
15. Proposition 65 provides that any person “violating or threatening to violate” the statute may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7. “Threaten to violate” means “to create a condition in which there is a substantial probability that a violation will occur.” *Health & Safety Code* § 25249.11(e). Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation, recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

- 1 16. Plaintiff identified certain practices of manufacturers and distributors of Mussels and Sea
2 Moss of exposing, knowingly and intentionally, persons in California to Cadmium and
3 Cadmium Compounds, Lead and Lead Compounds of such products without first
4 providing clear and reasonable warnings of such to the exposed persons prior to the time
5 of exposure. Plaintiff later discerned that Defendants engaged in such practice.
- 6 17. On October 1, 1992, the Governor of California added Lead and Lead Compounds
7 (“Lead”) to the list of chemicals known to the State to cause cancer (Cal. Code Regs. tit.
8 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,
9 twenty (20) months after addition of Lead to the list of chemicals known to the State to
10 cause cancer, Lead became fully subject to Proposition 65 warning requirements and
11 discharge prohibitions.
- 12 18. On February 27, 1987, the Governor of California added Lead to the list of chemicals
13 known to the State to cause developmental and reproductive toxicity (Cal. Code Regs.
14 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and
15 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and
16 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to
17 the State to cause developmental and reproductive toxicity, Lead became fully subject to
18 Proposition 65 warning requirements and discharge prohibitions.
- 19 19. On May 1, 1997, the Governor of California added Cadmium and Cadmium Compounds
20 (“Cadmium”) to the list of chemicals known to the State to cause developmental and
21 reproductive toxicity (*Cal. Code Regs.* tit. 27, § 27001(c)). Cadmium is known to the
22 State to cause developmental, and male reproductive toxicity. Pursuant to Health and
23 Safety Code Sections 25249.9 and 25249.10, twenty (20) months after addition of
24 Cadmium to the list of chemicals known to the State to cause developmental and
25 reproductive toxicity, Cadmium became fully subject to Proposition 65 warning
26 requirements and discharge prohibitions.
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1 **SATISFACTION OF PRIOR NOTICE**

2 20. Plaintiff served the following notices for alleged violations of Health and Safety Code
3 Section 25249.6, concerning consumer products exposures:

- 4 a. On or about January 14, 2025, Plaintiff gave notice of alleged violations of
5 Health and Safety Code Section 25249.6, concerning consumer products
6 exposures subject to a private action to EREWHON, MINNOW, and to the
7 California Attorney General, County District Attorneys, and City Attorneys for
8 each city containing a population of at least 750,000 people in whose
9 jurisdictions the violations allegedly occurred, concerning the Mussels.
- 10 b. On or about January 21, 2025, Plaintiff gave notice of alleged violations of
11 Health and Safety Code Section 25249.6, concerning consumer products
12 exposures subject to a private action to EREWHON, MINNOW, and to the
13 California Attorney General, County District Attorneys, and City Attorneys for
14 each city containing a population of at least 750,000 people in whose
15 jurisdictions the violations allegedly occurred, concerning the Mussels.
- 16 c. On or about April 4, 2025, 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 EREWHON, and to the California Attorney
19 General, County District Attorneys, and City Attorneys for each city containing
20 a population of at least 750,000 people in whose jurisdictions the violations
21 allegedly occurred, concerning the Sea Moss.
- 22 d. On or about April 4, 2025, Plaintiff gave notice of alleged violations of Health
23 and Safety Code Section 25249.6, concerning consumer products exposures
24 subject to a private action to EREWHON, and to the California Attorney
25 General, County District Attorneys, and City Attorneys for each city containing
26 a population of at least 750,000 people in whose jurisdictions the violations
27 allegedly occurred, concerning the Sea Moss.
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1 e. On or about April 11, 2025, Plaintiff gave notice of alleged violations of Health
2 and Safety Code Section 25249.6, concerning consumer products exposures
3 subject to a private action to EREWHON, and to the California Attorney
4 General, County District Attorneys, and City Attorneys for each city containing
5 a population of at least 750,000 people in whose jurisdictions the violations
6 allegedly occurred, concerning the Sea Moss.

7 f. On or about April 11, 2025, Plaintiff gave notice of alleged violations of Health
8 and Safety Code Section 25249.6, concerning consumer products exposures
9 subject to a private action to EREWHON, and to the California Attorney
10 General, County District Attorneys, and City Attorneys for each city containing
11 a population of at least 750,000 people in whose jurisdictions the violations
12 allegedly occurred, concerning the Sea Moss.

13 21. Before sending the notice of alleged violations, Plaintiff investigated the consumer
14 products involved, the likelihood that such products would cause users to suffer
15 significant exposures to Lead and Cadmium, and the corporate structure of each of the
16 Defendants.

17 22. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
18 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
19 Plaintiff who executed the certificate had consulted with at least one person with relevant
20 and appropriate expertise who reviewed data regarding the exposures to Lead and
21 Cadmium, the subject Proposition 65-listed chemicals of this action. Based on that
22 information, the attorney for Plaintiff who executed the Certificate of Merit believed
23 there was a reasonable and meritorious case for this private action. The attorney for
24 Plaintiff attached to the Certificate of Merit served on the Attorney General the
25 confidential factual information sufficient to establish the basis of the Certificate of
26 Merit.

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

4 24. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
5 gave notice of the alleged violations to EREWHON, MINNOW, and the public
6 prosecutors referenced in Paragraph 20.

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

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11 **FIRST CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against EREWHON,**
13 **MINNOW, and DOES 1-10 for Violations of Proposition 65, The Safe Drinking**
14 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, et**
15 **seq.))**

16 **Seafood Products I**

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

19 27. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Mussels ("Mussels I").

21 28. Mussels I contain Lead and Cadmium.

22 29. Defendants knew or should have known that the State of California has identified Lead
23 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,
24 and Cadmium as a chemical known to cause reproductive toxicity and developmental
25 toxicity, and therefore was subject to Proposition 65 warning requirements. Defendants
26 were also informed of the presence of Lead and Cadmium in Mussels I within Plaintiff's
27 notice of alleged violations further discussed above at Paragraph 20b.

28 30. Plaintiff's allegations regarding Mussels I concerns "[c]onsumer products exposure[s],"
which "is an exposure that results from a person's acquisition, purchase, storage,

consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, § 25602(b).

Mussels I are consumer products, and, as mentioned herein, exposures to Lead and Cadmium took place as a result of such normal and foreseeable consumption and use.

31. Plaintiff is informed, believes, and thereon alleges that between January 21, 2022 and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Mussels I, which Defendants manufactured, distributed, or sold as mentioned above, to Lead and Cadmium, without first providing any type of clear and reasonable warning of such to the exposed persons before the time of exposure.

Defendants have distributed and sold Mussels I in California. Defendants know and intend that California consumers will use and consume Mussels I, thereby exposing them to Lead and Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling Mussels I under a brand or trademark that is owned or licensed by the Defendants or an entity affiliated thereto; have knowingly introduced Lead and Cadmium into Mussels I or knowingly caused Lead and Cadmium to be created in Mussels I; have covered, obscured or altered a warning label that has been affixed to Mussels I by the manufacturer, producer, packager, importer, supplier or distributor of Mussels I; have received a notice and warning materials for exposure from Mussels I without conspicuously posting or displaying the warning materials; and/or have actual knowledge of potential exposure to Lead and Cadmium from Mussels I. Defendants thereby violated Proposition 65.

32. The principal routes of exposure are through ingestion, especially direct (oral) ingestion. Persons sustain exposures by eating and consuming Mussels I.

33. Plaintiff is informed, believes, and thereon alleges that each of Defendants’ violations of Proposition 65 as to Mussels I have been ongoing and continuous, as Defendants engaged and continue to engage in conduct which violates Health and Safety Code Section 25249.6, including the manufacture, distribution, promotion, and sale of Mussels

- 1 I, so that a separate and distinct violation of Proposition 65 occurred each and every time
2 a person was exposed to Lead and Cadmium by Mussels I as mentioned herein.
- 3 34. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
4 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
5 violations alleged herein will continue to occur into the future.
- 6 35. Based on the allegations herein, Defendants are liable for civil penalties of up to
7 \$2,500.00 per day per individual exposure to Lead and Cadmium from Mussels I,
8 pursuant to Health and Safety Code Section 25249.7(b).
- 9 36. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
10 filing this Complaint.

11 **SECOND CAUSE OF ACTION**

12 **(By CONSUMER ADVOCACY GROUP, INC. and against EREWHON,**
13 **MINNOW, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking**
14 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
15 ***seq.*))**

16 **Seafood Products II**

- 17 37. Plaintiff repeats and incorporates by reference paragraphs 1 through 36 of this complaint
18 as though fully set forth herein.
- 19 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
20 distributor, promoter, or retailer of Mussels (“Mussels II”), identified as: “MUSSELS IN
21 ESCABECHE”; “MINNOW”; “BEST BY 12 DEC 2027”; “UPC 754590809962”;
22 “Imported by Minnow America LLC”.
- 23 39. Mussels II contain Lead and Cadmium.
- 24 40. Defendants knew or should have known that the State of California has identified Lead
25 as a chemical known to cause cancer, reproductive toxicity, and developmental toxicity,
26 and Cadmium as a chemical known to cause reproductive toxicity and developmental
27 toxicity, and therefore was subject to Proposition 65 warning requirements. Defendants
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1 were also informed of the presence of Lead and Cadmium in Mussels I within Plaintiff's
2 notice of alleged violations further discussed above at Paragraph 20a.

3 41. Plaintiff's allegations regarding Mussels II concerns "[c]onsumer products exposure[s],"
4 which "is an exposure that results from a person's acquisition, purchase, storage,
5 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
6 that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, § 25602(b).

7 Mussels II are consumer products, and, as mentioned herein, exposures to Lead and
8 Cadmium took place as a result of such normal and foreseeable consumption and use.

9 42. Plaintiff is informed, believes, and thereon alleges that between January 14, 2022 and the
10 present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Mussels II, which Defendants manufactured, distributed, or sold
12 as mentioned above, to Lead and Cadmium, without first providing any type of clear and
13 reasonable warning of such to the exposed persons before the time of exposure.

14 Defendants have distributed and sold Mussels II in California. Defendants know and
15 intend that California consumers will use and consume Mussels II, thereby exposing
16 them to Lead and Cadmium. Further, Plaintiff is informed, believes, and thereon alleges
17 that Defendants are selling Mussels II under a brand or trademark that is owned or
18 licensed by the Defendants or an entity affiliated thereto; have knowingly introduced
19 Lead and Cadmium into Mussels II or knowingly caused Lead and Cadmium to be
20 created in Mussels II; have covered, obscured or altered a warning label that has been
21 affixed to Mussels II by the manufacturer, producer, packager, importer, supplier or
22 distributor of Mussels II; have received a notice and warning materials for exposure from
23 Mussels II without conspicuously posting or displaying the warning materials; and/or
24 have actual knowledge of potential exposure to Lead and Cadmium from Mussels II.
25 Defendants thereby violated Proposition 65.

26 43. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
27 Persons sustain exposures by eating and consuming Mussels II.

1 44. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
2 Proposition 65 as to Mussels II have been ongoing and continuous, as Defendants
3 engaged and continue to engage in conduct which violates Health and Safety Code
4 Section 25249.6, including the manufacture, distribution, promotion, and sale of Mussels
5 II, so that a separate and distinct violation of Proposition 65 occurred each and every
6 time a person was exposed to Lead and Cadmium by Mussels II as mentioned herein.

7 45. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
8 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
9 violations alleged herein will continue to occur into the future.

10 46. Based on the allegations herein, Defendants are liable for civil penalties of up to
11 \$2,500.00 per day per individual exposure to Lead and Cadmium from Mussels II,
12 pursuant to Health and Safety Code Section 25249.7(b).

13 47. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
14 filing this Complaint.

15 **THIRD CAUSE OF ACTION**

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

19 **Seaweed I**

20 48. Plaintiff repeats and incorporates by reference paragraphs 1 through 47 of this complaint
21 as though fully set forth herein.

22 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
23 distributor, promoter, or retailer of Sea Moss ("Sea Moss I").

24 50. Sea Moss I contains Cadmium.

25 51. Defendants knew or should have known that the State of California has identified
26 Cadmium as a chemical known to cause reproductive toxicity and developmental
27 toxicity, and therefore was subject to Proposition 65 warning requirements. Defendants
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1 were also informed of the presence of Cadmium in Sea Moss I within Plaintiff's notice of
2 alleged violations further discussed above at Paragraph 20e and 20f.

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

9 53. Plaintiff is informed, believes, and thereon alleges that between April 11, 2022 and the
10 present, each of the Defendants knowingly and intentionally exposed California
11 consumers and users of Sea Moss I, which Defendants manufactured, distributed, or sold
12 as mentioned above, to Cadmium, without first providing any type of clear and
13 reasonable warning of such to the exposed persons before the time of exposure.
14 Defendants have distributed and sold Sea Moss I in California. Defendants know and
15 intend that California consumers will use and consume Sea Moss I, thereby exposing
16 them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that
17 Defendants are selling Sea Moss I under a brand or trademark that is owned or licensed
18 by the Defendants or an entity affiliated thereto; have knowingly introduced Cadmium
19 into Sea Moss I or knowingly caused Cadmium to be created in Sea Moss I; have
20 covered, obscured or altered a warning label that has been affixed to Sea Moss I by the
21 manufacturer, producer, packager, importer, supplier or distributor of Sea Moss I; have
22 received a notice and warning materials for exposure from Sea Moss I without
23 conspicuously posting or displaying the warning materials; and/or have actual
24 knowledge of potential exposure to Cadmium from Sea Moss I. Defendants thereby
25 violated Proposition 65.

26 54. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
27 Persons sustain exposures by eating and consuming Sea Moss I.
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1 55. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
2 Proposition 65 as to Sea Moss I have been ongoing and continuous, as Defendants
3 engaged and continue to engage in conduct which violates Health and Safety Code
4 Section 25249.6, including the manufacture, distribution, promotion, and sale of Sea
5 Moss I, so that a separate and distinct violation of Proposition 65 occurred each and
6 every time a person was exposed to Cadmium by Sea Moss I as mentioned herein.

7 56. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
8 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
9 violations alleged herein will continue to occur into the future.

10 57. Based on the allegations herein, Defendants are liable for civil penalties of up to
11 \$2,500.00 per day per individual exposure to Cadmium from Sea Moss I, pursuant to
12 Health and Safety Code Section 25249.7(b).

13 58. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
14 filing this Complaint.

15 **FOURTH CAUSE OF ACTION**

16 **(By CONSUMER ADVOCACY GROUP, INC. and against EREWHON, and**
17 **DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
18 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

19 **Seaweed II**

20 59. Plaintiff repeats and incorporates by reference paragraphs 1 through 58 of this complaint
21 as though fully set forth herein.

22 60. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
23 distributor, promoter, or retailer of Seaweed ("Sea Moss II"), identified as: "HERBAL
24 VINEYARDS"; "WILDCRAFTED SEA MOSS"; "RAW"; "Manufactured By: Herbal
25 Vineyards, LLC"; "BEST BY JUL 15 25"; "UPC 860006301910".

26 61. Sea Moss II contains Cadmium.

27 62. Defendants knew or should have known that the State of California has identified
28 Cadmium as a chemical known to cause reproductive toxicity and developmental

1 toxicity, and therefore was subject to Proposition 65 warning requirements. Defendants
2 were also informed of the presence of Cadmium in Sea Moss II within Plaintiff's notice
3 of alleged violations further discussed above at Paragraph 20c.

- 4 63. Plaintiff's allegations regarding Sea Moss II concerns "[c]onsumer products
5 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,
6 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
7 exposure that results from receiving a consumer service." *Cal. Code Regs.* tit. 27, §
8 25602(b). Sea Moss II are consumer products, and, as mentioned herein, exposures to
9 Cadmium took place as a result of such normal and foreseeable consumption and use.
- 10 64. Plaintiff is informed, believes, and thereon alleges that between April 4, 2022 and the
11 present, each of the Defendants knowingly and intentionally exposed California
12 consumers and users of Sea Moss II, which Defendants manufactured, distributed, or
13 sold as mentioned above, to Cadmium, without first providing any type of clear and
14 reasonable warning of such to the exposed persons before the time of exposure.
15 Defendants have distributed and sold Sea Moss II in California. Defendants know and
16 intend that California consumers will use and consume Sea Moss II, thereby exposing
17 them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that
18 Defendants are selling Sea Moss II under a brand or trademark that is owned or licensed
19 by the Defendants or an entity affiliated thereto; have knowingly introduced Cadmium
20 into Sea Moss II or knowingly caused Cadmium to be created in Sea Moss II; have
21 covered, obscured or altered a warning label that has been affixed to Sea Moss II by the
22 manufacturer, producer, packager, importer, supplier or distributor of Sea Moss II; have
23 received a notice and warning materials for exposure from Sea Moss II without
24 conspicuously posting or displaying the warning materials; and/or have actual
25 knowledge of potential exposure to Cadmium from Sea Moss II. Defendants thereby
26 violated Proposition 65.

- 1 65. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.
2 Persons sustain exposures by eating and consuming Sea Moss II.
- 3 66. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
4 Proposition 65 as to Sea Moss II have been ongoing and continuous, as Defendants
5 engaged and continue to engage in conduct which violates Health and Safety Code
6 Section 25249.6, including the manufacture, distribution, promotion, and sale of Sea
7 Moss II, so that a separate and distinct violation of Proposition 65 occurred each and
8 every time a person was exposed to Cadmium by Sea Moss II as mentioned herein.
- 9 67. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
10 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
11 violations alleged herein will continue to occur into the future.
- 12 68. Based on the allegations herein, Defendants are liable for civil penalties of up to
13 \$2,500.00 per day per individual exposure to Cadmium from Sea Moss II, pursuant to
14 Health and Safety Code Section 25249.7(b).
- 15 69. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
16 filing this Complaint.

17 **FIFTH CAUSE OF ACTION**

18 **(By CONSUMER ADVOCACY GROUP, INC. and against EREWHON, and**
19 **DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
20 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

21 **Seaweed III**

- 22 70. Plaintiff repeats and incorporates by reference paragraphs 1 through 69 of this complaint
23 as though fully set forth herein.
- 24 71. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
25 distributor, promoter, or retailer of Seaweed ("Sea Moss III"), identified as:
26 "EREWHON"; "SEA MOSS"; "BEST BY 8/03/25" "MANUFACTURED BY:
27 Organically Kismet for: Erewhon"; "UPC 688130571975".
- 28 72. Sea Moss III contains Cadmium.

1 73. Defendants knew or should have known that the State of California has identified
2 Cadmium 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 Sea Moss III within Plaintiff's notice
5 of alleged violations further discussed above at Paragraph 20d.

6 74. Plaintiff's allegations regarding Sea Moss IV 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). Sea Moss III are consumer products, and, as mentioned herein, exposures to
11 Cadmium took place as a result of such normal and foreseeable consumption and use.

12 75. Plaintiff is informed, believes, and thereon alleges that between April 4, 2022 and the
13 present, each of the Defendants knowingly and intentionally exposed California
14 consumers and users of Sea Moss III, which Defendants manufactured, distributed, or
15 sold as mentioned above, to Cadmium, without first providing any type of clear and
16 reasonable warning of such to the exposed persons before the time of exposure.
17 Defendants have distributed and sold Sea Moss III in California. Defendants know and
18 intend that California consumers will use and consume Sea Moss III, thereby exposing
19 them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that
20 Defendants are selling Sea Moss III under a brand or trademark that is owned or licensed
21 by the Defendants or an entity affiliated thereto; have knowingly introduced Cadmium
22 into Sea Moss III or knowingly caused Cadmium to be created in Sea Moss III; have
23 covered, obscured or altered a warning label that has been affixed to Sea Moss III by the
24 manufacturer, producer, packager, importer, supplier or distributor of Sea Moss III; have
25 received a notice and warning materials for exposure from Sea Moss III without
26 conspicuously posting or displaying the warning materials; and/or have actual
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knowledge of potential exposure to Cadmium from Sea Moss III. Defendants thereby violated Proposition 65.

76. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.

Persons sustain exposures by eating and consuming Sea Moss III.

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

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

79. Based on the allegations herein, Defendants are liable for civil penalties of up to \$2,500.00 per day per individual exposure to Cadmium from Sea Moss III, pursuant to Health and Safety Code Section 25249.7(b).

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

PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

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

Dated: June 24, 2025

YEROUSHALMI & YEROUSHALMI*

/s/ Reuben Yeroushalmi

Reuben Yeroushalmi
Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.

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