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8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

06/09/2026
Clerk of the Court
BY: ERNALYN BURA
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

CGC-26-637721

11 GABRIEL ESPINOZA,

12 Plaintiff,

13 vs.

14 KIND MANAGEMENT, INC., KIND
FOODS LLC, ALBERTSONS
COMPANIES, INC.,

Defendants.

Case No.:

**COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

15 Plaintiff Gabriel Espinoza ("Plaintiff"), by and through his attorneys, alleges the following
16 cause of action in the public interest of the citizens of the State of California.

17 **BACKGROUND OF THE CASE**

18 1. Plaintiff brings this representative action on behalf of all California citizens to
19 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
20 the Health and Safety Code § 25249.5 et seq ("Proposition 65"), which reads, in relevant part,
21 "[n]o person in the course of doing business shall knowingly and intentionally expose any
22 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
23 giving clear and reasonable warning to such individual ...". Health & Safety Code § 25249.6.

24 2. This complaint is a representative action brought by Plaintiff in the public interest
25 of the citizens of the State of California to enforce the People's right to be informed of the health
26 hazards caused by exposure to lead, a toxic chemical found in (a) *Kind*® cranberry almond bars,
27 UPC# 602652271502 and (b) *Kind*® dark chocolate clusters, UPC# 602652171994 manufactured,
28 sold, and/or distributed by defendant Kind Management, Inc., and/or defendant Kind Foods LLC

1 (collectively “Kind”), and/or defendant Albertsons Companies, Inc. (“Albertsons”) (collectively,
2 “Defendants” and each a “Defendant”) in California.

3 3. Lead is a harmful chemical known to the State of California to cause cancer and
4 birth defects or other reproductive harm. On October 1, 1992, the state of California listed lead as
5 a chemical known to cause cancer and it has come under the purview of Proposition 65 regulations
6 since that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &
7 25249.10(b). On February 27, 1987, the State of California listed lead as a chemical known to
8 cause birth defects or other reproductive harm.

9 1. Proposition 65 requires all businesses with ten (10) or more employees that operate
10 within California or sell products therein to comply with Proposition 65 regulations. Included in
11 such regulations is the requirement that businesses must label any product containing a Proposition
12 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
13 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
14 chemical.

15 2. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
16 for up to 365 days (up to a maximum civil penalty amount per violation of \$912,000.00) to be
17 imposed upon defendants in a civil action for violations of Proposition 65. Health & Safety Code
18 § 25249.7(b). Proposition 65 also allows for any court of competent jurisdiction to enjoin the
19 actions of a defendant which “violate or threaten to violate” the statute. Health & Safety Code §
20 25249.7.

21 3. Plaintiff alleges that Defendants distribute and/or offer for sale in California,
22 without a requisite exposure warning, (a) *Kind*® cranberry almond bars, UPC# 602652271502 and
23 (b) *Kind*® dark chocolate clusters, UPC# 602652171994 (collectively, the “Products” and each a
24 “Product”) that expose persons to lead when consumed for their intended purpose.

25 4. Defendants’ failure to warn consumers and other individuals in California of the
26 health hazards associated with exposure to lead in conjunction with the sale and/or distribution of
27 the Products is a violation of Proposition 65 and subjects Defendants to the injunction and civil
28 penalties described herein.

5. Plaintiff seeks civil penalties against Defendants for their violations of Proposition 65 in accordance with Health and Safety Code § 25249.7(b).

6. Plaintiff also seeks injunctive relief, preliminarily and permanently, requiring Defendants to provide purchasers or users of the Products with required warnings related to the dangers and health hazards associated with exposure to lead pursuant to Health and Safety Code § 25249.7(a).

7. Plaintiff further seeks a reasonable award of attorney's fees and costs.

PARTIES

8. Plaintiff is a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals in products sold in California and to improve human health by reducing hazardous substances contained in such items. He brings this action in the public interest pursuant to Health and Safety Code § 25249.7(d).

9. Defendant Kind Management, Inc., through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Kind Management, Inc. is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

10. Defendant Kind Foods LLC, through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Kind Foods LLC is a “person” in the course of doing business within the meaning of Health & Safety Code sections 25249.6 and 25249.11.

11. Defendant Albertsons Companies, Inc., through its business, effectively imports, distributes, sells, and/or offers the Products for sale or use in the State of California, or it implies by its conduct that it imports, distributes, sells, and/or offers the Products for sale or use in the State of California. Plaintiff alleges that defendant Albertsons Companies, Inc. is a “person” in the

1 course of doing business within the meaning of Health & Safety Code sections 25249.6 and
2 25249.11.

3 VENUE AND JURISDICTION

4 12. Venue is proper in the County of San Francisco because one or more of the
5 instances of wrongful conduct occurred, and continue to occur in this county and/or because
6 Defendants conducted, and continues to conduct, business in the County of San Francisco with
7 respect to the Products. Because the Products are distributed, marketed, and sold to consumers
8 throughout San Francisco County, the alleged Proposition 65 violations necessarily occurred here.
9 Upon information and belief, the Products are consistently in the stream of commerce and available
10 to consumers for purchase in the City and County of San Francisco.

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

16 14. This Court has jurisdiction over Defendants because each Defendant is either a
17 citizen of the State of California, has sufficient minimum contacts with the State of California, is
18 registered with the California Secretary of State as foreign corporations authorized to do business
19 in the State of California, and/or has otherwise purposefully availed itself of the California market.
20 Such purposeful availment has rendered the exercise of jurisdiction by California courts consistent
21 and permissible with traditional notions of fair play and substantial justice. Public policy further
22 supports this conclusion.

23 STATUTORY BACKGROUND

24 15. The people of the State of California declared in Proposition 65 their right “[t]o be
25 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
26 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

27 16. To effect this goal, Proposition 65 requires that individuals be provided with a
28 “clear and reasonable warning” before being exposed to substances listed by the State of California

1 as causing cancer and birth defects or other reproductive harm. H&S Code § 25249.6 states, in
2 pertinent part:

3 No person in the course of doing business shall knowingly and intentionally expose any
4 individual to a chemical known to the state to cause cancer or reproductive toxicity without
first giving clear and reasonable warning to such individual...

5 17. In this case, exposures are caused by consumer products. A “Consumer Product” is
6 defined as “any article, or component part thereof, including food, that is produced, distributed, or
7 sold for the personal use, consumption or enjoyment of a consumer.” (Cal. Code Regs., tit. 27, §
8 25600.1, subd. (d).) Food includes “dietary supplements” as defined in California Code of
9 Regulations, title 17, section 10200. (*Id.* at subd. (g).) An exposure to a chemical in a Consumer
10 Product is one “which results from a person’s acquisition, purchase, storage, consumption or other
11 reasonably foreseeable use of a consumer good, or any exposure that results from receiving a
12 consumer service.” (27 CCR § 25602, para (b).) H&S Code § 25603(c) states that “a person in the
13 course of doing business ... shall provide a warning to any person to whom the product is sold or
14 transferred unless the product is packaged or labeled with a clear and reasonable warning.”

15 18. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
16 more of the following methods individually or in combination:¹

- 17 a. A warning that appears on a product’s label or other labeling.
- 18 b. Identification of the product at the retail outlet in a manner which provides
19 a warning. Identification may be through shelf labeling, signs, menus, or a combination
20 thereof.
- 21 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
22 prominently placed upon a product’s labels or other labeling or displayed at the retail outlet
23 with such conspicuousness, as compared with other words, statements, designs, or devices
24

25

26

27 ¹ Alternatively, a person in the course of doing business may elect to comply with the warning
28 requirements set out in the amended version of 27 CCR 25601, *et.seq.*, as amended on August 30,
2016, and operative on August 30, 2018.

1 in the label, labeling or display as to render it likely to be read and understood by an
2 ordinary individual under customary conditions of purchase or use.

3 d. A system of signs, public advertising identifying the system and toll-free
4 information services, or any other system that provides clear and reasonable warnings.

5 19. Proposition 65 provides that any “person who violates or threatens to violate” the
6 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
7 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
8 probability that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil
9 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
10 365 days (up to a maximum civil penalty amount per violation of \$912,000.00).

11 **FACTUAL BACKGROUND**

12 20. On October 1, 1992, the state of California listed lead as a chemical known to cause
13 cancer and it has come under the purview of Proposition 65 regulations since that time. Cal. Code
14 Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b). On February 27,
15 1987, the State of California listed lead as a chemical known to cause birth defects or other
16 reproductive harm. In summary, lead was listed under Proposition 65 as a chemical known to the
17 State to cause cancer and birth defects or other reproductive harm.

18 21. The exposures that are the subject of the Notices result from the purchase,
19 acquisition, and recommended consumption of the Products. The primary route of exposure to lead
20 is through ingestion. When foods contaminated with lead are consumed, ingestion of lead will
21 occur which will increase blood lead levels. No clear and reasonable warning is provided with the
22 Products regarding the health hazards of exposure.

23 22. Defendants have processed, marketed, distributed, offered to sell and/or sold the
24 Products in California since at least April 8, 2025 with respect to the Products. Upon information
25 and belief, the Products are consistently in the stream of commerce and available to consumers for
26 purchase in the City and County of San Francisco and the alleged Proposition 65 violations
27 necessarily occurred here. The Products continue to be distributed, offered for sale and/or sold in
28 California without the requisite warning information.

1 23. At all times relevant to this action, Defendants have knowingly and intentionally
2 exposed consumers of the Products to lead without first giving a clear and reasonable exposure
3 warning to such individuals.

4 24. As a proximate result of acts by each Defendant, as a person in the course of doing
5 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
6 California, including in San Francisco County, have been exposed to lead without a clear and
7 reasonable warning on the Products. The individuals subject to the violative exposures include
8 normal and foreseeable users and consumers that consume the Products, as well as all others
9 exposed to the Products.

10 **SATISFACTION OF NOTICE REQUIREMENTS**

11 25. On April 8, 2025, Plaintiff purchased the Products from Albertsons in California.
12 At the time of purchases, Defendants did not provide a Proposition 65 exposure warning for lead
13 or any other Proposition 65 listed chemical in a manner consistent with H&S Code § 25603.1 as
14 described *supra*.

15 26. The Products were sent to a testing laboratory to determine if, and what amount of,
16 lead a consumer would be exposed to per serving size.

17 27. The laboratory provided the results of its analysis. Results of these tests determined
18 the Products expose consumers to lead (collectively, the “Chemical Test Reports” and each a
19 “Chemical Test Report”).

20 28. Plaintiff provided the Chemical Test Reports and Products to an analytical chemist
21 to determine if, based on the findings of the Chemical Test Reports and the reasonable and
22 foreseeable consumption of the Products, exposure to lead will occur at levels that require
23 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
24 the California Code of Regulations.

25 29. On June 25, 2025, Plaintiff received from the analytical chemist exposure
26 assessment reports which concluded that persons in California who consume the Products will be
27 exposed to levels of lead that require a Proposition 65 exposure warning.

30. On June 25, 2025, Plaintiff gave notice of alleged violation of Health and Safety Code § 25249.6 (collectively, the “Notices” and each a “Notice”) to Defendants concerning the exposure of California citizens to lead contained in the Products without proper warning, subject to a private action to Defendants and to the California Attorney General’s office and the offices of the County District attorneys and City Attorneys for each city with a population greater than 750,000 persons wherein the herein violations allegedly occurred. See attached at Exhibits “A” – “B” a true and correct copy of each Notice.

31. The Notices complied with all procedural requirements of Proposition 65 including the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at least one person with relevant and appropriate expertise who reviewed relevant data regarding lead exposure, and that counsel believed there was meritorious and reasonable cause for a private action.

32. After receiving the Notices, and to Plaintiff's best information and belief, none of the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a cause of action against Defendants under Proposition 65 to enforce the alleged violations which are the subject of the Notice.

33. More than five business days after Defendants received the Notices, Plaintiff purchased the Products a second time from Albertsons in California. At the time of purchase, Defendants did not provide a Proposition 65 compliant exposure warning.

34. Plaintiff is commencing this action more than sixty (60) days from the date of each Notice to Defendants, as required by law.

FIRST CAUSE OF ACTION

(By Plaintiff against Defendants for the Violation of Proposition 65)

35. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 34 of this Complaint as though fully set forth herein.

36. Defendants have, at all times mentioned herein, acted as distributor, and/or retailer of the Products.

1 37. Consumption of the Products will expose consumers to lead, a hazardous chemical
2 found on the Proposition 65 list of chemicals known to be hazardous to human health.

3 38. The Products do not comply with the Proposition 65 warning requirements.

4 39. Plaintiff, based on his best information and belief, avers that at all relevant times
5 herein, and since at least June 25, 2025, continuing until the present, that Defendants have
6 continued to knowingly and intentionally expose California users and consumers of the Products
7 to lead without providing required warnings under Proposition 65.

8 40. The exposures that are the subject of the Notices result from the purchase,
9 acquisition, and recommended consumption of the Products. The primary route of exposure to lead
10 is through ingestion. When foods contaminated with lead are consumed, ingestion of lead will
11 occur which will increase blood lead levels. No clear and reasonable warning is provided with the
12 Products regarding the health hazards of exposure.

13 41. Plaintiff, based on his best information and belief, avers that such exposures will
14 continue every day until clear and reasonable warnings are provided to purchasers and users or
15 until this known toxic chemical is removed from the Products.

16 42. Defendants have knowledge that the normal and reasonably foreseeable
17 consumption of the Products exposes individuals to lead, and Defendants intend that exposures to
18 lead will occur by their deliberate, non-accidental participation in the importation, distribution,
19 sale and offering of the Products to consumers in California

20 43. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
21 Complaint.

22 44. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
23 described acts, Defendants are liable for a maximum civil penalty of \$2,500 per day per violation.

24 45. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
25 authorized to grant injunctive relief in favor of Plaintiff and against Defendants.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendants and requests the following
3 relief:

4 A. That the court assess civil penalties against each Defendant in the amount of \$2,500
5 per day for each violation for up to 365 days (up to a maximum civil penalty amount per
6 violation of \$912,000.00) in accordance with Health and Safety Code § 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendants mandating
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney's fees and costs of suit, in the
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: June 9, 2026

BRODSKY SMITH

13 By: 

14 Evan J. Smith (SBN242352)

15 Ryan P. Cardona (SBN302113)

16 9465 Wilshire Boulevard, Suite 300

17 Beverly Hills, CA 90212

18 Telephone: (877) 534-2590

19 Facsimile: (310) 247-0160

20 *Attorneys for Plaintiff*

EXHIBIT “A”

LAW OFFICES
BRODSKY SMITH

9465 WILSHIRE BLVD., STE. 300
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
20 BRACE RD., STE. 350
CHERRY HILL, NJ 08034
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

June 25, 2025

President/CEO Kind Management, Inc. c/o Corporation Service Company 251 Little Falls Drive Wilmington, DE 19808	Member/Manager Kind Foods LLC c/o Corporation Service Company 80 State Street Albany, NY 12207
President/CEO Mars, Incorporated (HQ) c/o CT Corporation System 4701 Cox Road, Suite 285 Glen Allen, VA 23060-6808	Member/Manager Albertsons Companies, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
President/CEO Albertsons Companies, Inc. c/o CT Corporation System 1555 W. Shoreline Drive, Suite 100 Boise, ID 83702	President/CEO Albertsons Companies, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky Smith represents Gabriel Espinoza ("Espinoza"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Espinoza has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Gabriel Espinoza, 3924 Carlin Ave. Lynwood, CA 90262; (Ph) 424-285-4896.
2. **Alleged Violator(s):** Kind Management, Inc.; Kind Foods LLC; Mars Incorporated (HQ); Albertsons Companies, LLC; Albertsons Companies, Inc.
3. **Time Period of Exposure:** Violations have been occurring since at least June 25, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Bar	Kind Cranberry Almond Bar UPC# 6 02652 27150 2

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Espinoza against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Espinoza's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

these violations of California law quickly rectified, Espinoza is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Espinoza has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky Smith, 9465 Wilshire Blvd., Ste. 300, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT “B”

LAW OFFICES
BRODSKY SMITH

9465 WILSHIRE BLVD., STE. 300
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
20 BRACE RD., STE. 350
CHERRY HILL, NJ 08034
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

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¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

...” Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

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3. **Time Period of Exposure:** Violations have been occurring since at least June 25, 2025 and are continuing to this day.
4. **Listed Chemical:** Lead. Lead is listed under Proposition 65 as a chemical known to the State to cause cancer and birth defects or other reproductive harm.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Clusters	Kind Dark Chocolate Clusters UPC# 6 02652 17199 4

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase and recommended use of the Product. The primary route of exposure to the Listed Chemical is through ingestion. When foods contaminated with the Listed Chemical are consumed, ingestion of the Listed Chemical will occur which will increase BLLs. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

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² The specifically identified example of the Product in this Notice is to assist the recipients’ investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Espinoza’s position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators’ custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

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Sincerely,

A handwritten signature in black ink, appearing to be 'EJ Smith', written over a horizontal line.

Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary