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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.

VITACOST.COM, INC., a Delaware  
Corporation;  
and DOES 1-20,

Defendants.

CASE NO. **25STCV33899**

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 two causes of action  
against defendants VITACOST.COM, INC. and DOES 1-20 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 VITACOST.COM, INC. (“VITACOST”) is a Delaware corporation, registered 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 VITACOST, 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.

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

### **JURISDICTION**

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

### **BACKGROUND AND PRELIMINARY FACTS**

11. 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.

12. 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.

13. 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).

14. 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).

15. Plaintiff identified certain practices of manufacturers and distributors of Seaweed Chips of exposing, knowingly and intentionally, persons in California to Cadmium and Cadmium Compounds of such products without first providing clear and reasonable

warnings of such to the exposed persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged in such practice.

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

#### **SATISFACTION OF PRIOR NOTICE**

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

- a. On or about July 30, 2025, Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to VITACOST, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Seaweed Chips.
- b. On or about July 23, 2025, Plaintiff gave notice of alleged violations of Health and Safety Code Section 25249.6, concerning consumer products exposures subject to a private action to VITACOST, and to the California Attorney General, County District Attorneys, and City Attorneys for each city containing a population of at least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the Seaweed Chips.

18. Before sending the notice of alleged violations, Plaintiff investigated the consumer products involved, the likelihood that such products would cause users to suffer 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 VITACOST, and the public prosecutors  
15 referenced in 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.

19 **FIRST CAUSE OF ACTION**

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

23 **Seaweed I**

- 24 23. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint  
25 as though fully set forth herein.
- 26 24. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
27 distributor, promoter, or retailer of Seaweed Chips ("Seaweed Chips I").
- 28 25. Seaweed Chips I contain 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 developmental toxicity and reproductive  
3 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants  
4 were also informed of the presence of Cadmium in Seaweed Chips I within Plaintiff's  
5 notice of alleged violations further discussed above at Paragraph 17a.

6 27. Plaintiff's allegations regarding Seaweed Chips 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). Seaweed Chips I are consumer products, and, as mentioned herein, exposures  
11 to Cadmium took place as a result of such normal and foreseeable consumption and use.

12 28. Plaintiff is informed, believes, and thereon alleges that between July 30, 2022, and the  
13 present, each of the Defendants knowingly and intentionally exposed California  
14 consumers and users of Seaweed Chips I, which Defendants manufactured, distributed,  
15 or 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 Seaweed Chips I in California. Defendants know  
18 and intend that California consumers will use and consume Seaweed Chips I, thereby  
19 exposing them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges  
20 that Defendants have knowingly introduced Cadmium into Seaweed Chips I or  
21 knowingly caused Cadmium to be created in Seaweed Chips I; have covered, obscured  
22 or altered a warning label that has been affixed to Seaweed Chips I by the manufacturer,  
23 producer, packager, importer, supplier or distributor of Seaweed Chips I; have received a  
24 notice and warning materials for exposure from Seaweed Chips I without conspicuously  
25 posting or displaying the warning materials; and/or have actual knowledge of potential  
26 exposure to Cadmium from Seaweed Chips I. Defendants thereby violated Proposition  
27 65.

- 1 29. The principal routes of exposure are through ingestion, especially direct (oral) ingestion.  
2 Persons sustain exposures by eating and consuming Seaweed Chips I.
- 3 30. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
4 Proposition 65 as to Seaweed Chips I 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  
7 Seaweed Chips I, so that a separate and distinct violation of Proposition 65 occurred  
8 each and every time a person was exposed to Cadmium by Seaweed Chips I as  
9 mentioned herein.
- 10 31. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
11 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
12 violations alleged herein will continue to occur into the future.
- 13 32. Based on the allegations herein, Defendants are liable for civil penalties of up to  
14 \$2,500.00 per day per individual exposure to Cadmium from Seaweed Chips I, pursuant  
15 to Health and Safety Code Section 25249.7(b).
- 16 33. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
17 filing this Complaint.

18 **SECOND CAUSE OF ACTION**

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

22 **Seaweed II**

- 23 34. Plaintiff repeats and incorporates by reference paragraphs 1 through 22 of this complaint  
24 as though fully set forth herein.
- 25 35. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
26 distributor, promoter, or retailer of Seaweed Chips ("Seaweed Chips II"), identified as:  
27 (i) "Seasnax"; "CHOMPERZ"; "CRUNCHY SEAWEED CHIPS"; "07.22.2025";  
28 "SCH-SNK-ORI"; "Manufactured for: SeaSnax"; "UPC 811201020205"



(ii) “Seasnax”; “CHOMPERZ”; “CRUNCHY SEAWEED CHIPS”; “Barbecue”;  
“03.03.2025”; “SCH-SNK-BBQ”; “Manufactured for: SeaSnax”; “UPC 811201020229”  
(iii) “Seasnax”; “CHOMPERZ”; “CRUNCHY SEAWEED CHIPS”; “Onion”;  
“03.03.2025”; “SCH-SNK-ONN”; “Manufactured for: SeaSnax”; “UPC 811201020212”  
(iv) “Seasnax”; “CHOMPERZ”; “CRUNCHY SEAWEED CHIPS”; “Jalapeno”;  
“07.22.2025”; “SCH-SNK-JAL”; “Manufactured for: SeaSnax”; “UPC 811201020236”.

36. Seaweed Chips II contain Cadmium.

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

38. Plaintiff’s allegations regarding Seaweed Chips II 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)*. Seaweed Chips II are consumer products, and, as mentioned herein, exposures to Cadmium took place as a result of such normal and foreseeable consumption and use.

39. Plaintiff is informed, believes, and thereon alleges that between July 23, 2022, and the present, each of the Defendants knowingly and intentionally exposed California consumers and users of Seaweed Chips II, which Defendants manufactured, distributed, or sold as mentioned above, to 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 Seaweed Chips II in California. Defendants know and intend that California consumers will use and consume Seaweed Chips II, thereby exposing them to Cadmium. Further, Plaintiff is informed, believes, and thereon alleges that Defendants have knowingly introduced Cadmium into Seaweed Chips II or

1 knowingly caused Cadmium to be created in Seaweed Chips II; have covered, obscured  
2 or altered a warning label that has been affixed to Seaweed Chips II by the manufacturer,  
3 producer, packager, importer, supplier or distributor of Seaweed Chips II; have received  
4 a notice and warning materials for exposure from Seaweed Chips II without  
5 conspicuously posting or displaying the warning materials; and/or have actual  
6 knowledge of potential exposure to Cadmium from Seaweed Chips II. Defendants  
7 thereby violated Proposition 65.

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

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

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

20 43. Based on the allegations herein, Defendants are liable for civil penalties of up to  
21 \$2,500.00 per day per individual exposure to Cadmium from Seaweed Chips II, pursuant  
22 to Health and Safety Code Section 25249.7(b).  
23 Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
24 filing this Complaint.

### 25 **PRAYER FOR RELIEF**

26 Plaintiff demands against each of the Defendants as follows:

- 27 1. A permanent injunction mandating Proposition 65-compliant warnings;
- 28 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: November 19, 2025

YEROUSHALMI & YEROUSHALMI\*

/s/ Reuben Yeroushalmi

Reuben Yeroushalmi

Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.