

ENDORSED
FILED
ALAMEDA COUNTY

MAR 02 2016

CLERK OF THE SUPERIOR COURT
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19 SUPERIOR COURT OF THE STATE OF CALIFORNIA
20 COUNTY OF ALAMEDA

21 COORDINATED PROCEEDINGS
22 SPECIAL TITLE (RULE 3.550)

23 PROPOSITION 65 CANNED FOOD CASES
24 AND COORDINATED ACTIONS

25 DAVID STEINMAN and THE CHEMICAL
26 TOXIN WORKING GROUP, INC., a
27 California non-profit corporation,

28 Plaintiffs,

29 v.

30 CROWN PRINCE, INC. and DOES 1-100,

31 Defendants.

Judicial Council Coordination Proceeding
No. 4779/Alameda County Case Nos. RG
13673501 and RG13699240

Reservation No. R-

[~~PROPOSED~~] STIPULATED CONSENT
JUDGMENT; [~~PROPOSED~~] ORDER RE:
CROWN PRINCE, INC.

Health & Safety Code Section 25249.5 *et seq.*

Date:

Time: 8:30 a.m.

Dept.: 21

Judge: WINIFRED Y. SMITH

Actions Filed: March 26, 2013 & October 16,
2013

Trial Date: March 21, 2016

STIPULATED CONSENT JUDGMENT

1 1.1 On March 26, 2013, plaintiff David Steinman ("Steinman"), as a private enforcer, and
2 in the public interest, initiated Case No. RG13673501("Action") by filing a Complaint for
3 Injunctive and Declaratory relief and Civil Penalties (the "Complaint") pursuant to the provisions of
4 California Health and Safety Code section 25249.5 *et seq.* ("Proposition 65"), against Defendants
5 Crown Prince, Inc. (Crown Prince") and Wal-Mart Stores, Inc. in the Superior Court of the State of
6 California, County of Alameda. On October 16, 2013, The Chemical Toxin Working Group, Inc.
7 ("CTWG") filed a Complaint against Crown Prince in Case No. RG13699240 ("Action").
8 (Together, Mr. Steinman and CTWG are referred to as "Plaintiffs" herein; collectively, Plaintiffs
9 and Defendant are referred to the "Parties" herein; individually, Mr. Steinman, CTWG, and Crown
10 Prince is each a "Party"). On May 13, 2014, these Actions were coordinated with the following
11 three separate cases and on September 24, 2014 Judge Wynne S. Carvill was assigned the
12 Coordination Trial Judge of these coordinated cases:

13 (1) *David Steinman et al. v The Kroger Company et al.*, Case No. RG12636763,
14 Superior Court of the State of California, County of Alameda;

15 (2) *David Steinman et al. v. MW Polar Foods, Inc., Milky Way International Trading*
16 *Corporation*, Case No. MSC12-01327, Superior Court of the State of California, County of Contra
17 Costa;

18 (3) *The Chemical Toxin Working Group, Inc. v. JFE Shoji Trade America, Inc. et al.*
19 Case No. RG-13-686874, Superior Court of the State of California, County of Alameda.

20 ~~On November _____, 2015, defendant Wal-Mart Stores, Inc. was dismissed from the Action in~~
21 ~~Case No. RG13673501.~~ On FEB. 29, 2016, the Court issued a Tentative Ruling granting ^{WJ}
22 Plaintiffs' Motion to Approve Proposition 65 Settlement and for Entry of Consent Judgment. The
23 Court remanded these Actions (RG 13673501 and RG123699240) to the Superior Court of
24 California, County of Alameda for entry of the Consent Judgment.
25
26

27 1.2 In these Actions, Plaintiffs allege that Crown Prince, Inc. arranges for the manufacture
28 of, sells, and/or distributes various products (collectively, the "Covered Products"; individually, a

1 “Covered Product”) that contain lead, a chemical listed pursuant to Proposition 65 as a reproductive
2 toxicant, and that the Covered Products expose consumers at a level requiring a Proposition 65
3 warning. The Covered Products are Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil
4 and Great Value Smoked Oysters that are manufactured, sold, supplied or distributed by Crown
5 Prince. Covered Products also include Crown Prince Baby Clams (smoked in oil). The Great
6 Value Smoked Oysters product is arranged by Crown Prince, Inc. to be sold only at Wal-Mart
7 Stores, Inc. Plaintiffs also allege that Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil
8 contains cadmium, a chemical also listed pursuant to Proposition 65 as a reproductive toxicant and that
9 such Covered Product exposes consumers at a level requiring a Proposition 65 warning for cadmium.
10
11

12 **1.3** Mr. Steinman is an individual and founder of CTWG, a California non-profit corporation.
13 Plaintiffs are private enforcers of Proposition 65, acting in the public interest, that have diligently
14 prosecuted this matter and are settling the case in the public interest.

15 **1.4** Crown Prince, Inc. is a business entity that employed ten or more persons at all times
16 relevant to these Actions.

17 **1.5** The initial Complaint by Mr. Steinman was based on allegations that individuals are
18 exposed to lead by consuming Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil as set
19 forth in Mr. Steinman’s Notice of Violation, dated January 5, 2012 and by consuming Great Value
20 Smoked Oysters as set forth in Mr. Steinman’s Notice of Violation, dated February 24, 2012. The
21 January 5, 2012 Notice of Violation was served on the California Attorney General, other public
22 enforcers and Crown Prince and the February 24, 2012 Notice of Violation was served on the
23 California Attorney General, other public enforcers and Wal-Mart Stores, Inc. CTWG’s Complaint
24 is based on allegations that individuals are exposed to lead by consuming Crown Prince Baby
25 Clams (smoked in oil) as set forth in CTWG’s Notice of Violation, dated March 5, 2013, served on
26 the California Attorney General, other public enforcers, and Crown Prince. A true and correct copy
27 of these Notices of Violation is attached hereto as **Exhibit A**. More than 60 days have passed since
28

1 1.9 Except as expressly set forth herein, nothing in this Consent Judgment shall
2 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
3 other or future legal proceeding unrelated to these proceedings.

4 1.10 The Effective Date of this Consent Judgment is the date on which it is entered as a
5 Judgment by this Court.

6 **2. JURISDICTION AND VENUE**

7 For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction
8 over the allegations of violations contained in the Amended Complaint and personal jurisdiction over
9 Crown Prince as to the acts alleged in the Complaints, that venue is proper in Alameda County
10 Superior Court, and that this Court has jurisdiction to enter this Consent Judgment as a full and final
11 resolution of all claims with respect to Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil
12 and Crown Prince Baby Clams (smoked in oil) manufactured up through and including the Compliance
13 Date and Great Value Smoked Oysters manufactured up through and including the Effective Date
14 which were or could have been asserted in these Actions based on the facts alleged in the Notices of
15 Violation and the Complaints.

16 **3. INJUNCTIVE RELIEF, WARNINGS AND TESTING**

17 3.1 Subject to the provisions set forth in Section 3.4 below, beginning on a date that is
18 six (6) months after the Effective Date ("Compliance Date") Crown Prince shall not distribute for
19 sale in the State of California, or directly sell in the State of California Crown Prince Fancy Whole
20 Smoked Oysters in Cottonseed Oil and Crown Prince Baby Clams (smoked in oil) unless each
21 individual unit of these products (1) meets the warning requirements under Section 3.2, or (2)
22 qualifies as a "Reformulated Covered Product" under Section 3.3. Additionally, as of the Effective
23 Date, Crown Prince shall be permanently enjoined from distributing for sale in the State of
24 California, or directly selling in the State of California Great Value Smoked Oysters.

25 3.1.1 As used in this Consent Judgment, the term "distribute into the State of California"
26 shall mean Crown Prince directly ships any of the Covered Products into California for sale in
27 California or sells the Covered Products to a distributor or retailer that Crown Prince knows will sell
28 these products in California.

1 the Notices of Violation were mailed, and no designated governmental entity has filed a complaint
2 against the Defendants with regard to the Covered Products or the alleged violations.

3 **1.6** On November 12, 2013, CTWG issued an additional Proposition 65 Notice of Violation
4 to Crown Prince that was served on the California Attorney General, other public enforcers and
5 Crown Prince alleging that individuals are exposed to cadmium by consuming Crown Prince Fancy
6 Whole Smoked Oysters in Cottonseed Oil. A true and correct copy of the Notice of Violation is
7 attached hereto as **Exhibit B**. More than 60 days have passed since the Notice of Violation was
8 mailed, and no designated governmental entity has filed a complaint against Crown Prince with
9 regard to this Covered Product or the alleged violations. The Parties hereby stipulate that the
10 Complaint in Case No. RG13699240 shall be deemed amended to include the November 12, 2013
11 Notice of Violation and all such allegations contained therein.

12 **1.7** Plaintiffs' Notices of Violation and the Complaints allege that use of the Covered
13 Products expose persons in California to chemicals listed under Proposition 65 without first
14 providing clear and reasonable warnings in violation of California Health and Safety Code section
15 25249.6. Crown Prince denies all material allegations contained in the Notices of Violation and
16 Complaints and specifically denies that the Covered Products require a Proposition 65 warning or
17 otherwise harm any person. Nothing in the Consent Judgment shall be construed as an admission by
18 Crown Prince of any fact, issue of law or violation of law, nor shall compliance with the Consent
19 Judgment constitute or be construed as an admission by Crown Prince of any fact, issue of law or
20 violation of law, at any time, for any purpose.

21 **1.8** The Parties have entered into this Consent Judgment in order to settle, compromise and
22 resolve disputed claims and thus avoid prolonged and costly litigation. Nothing in this Consent
23 Judgment shall constitute or be construed as an admission by any of the Parties, or by any of their
24 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
25 divisions, affiliates, franchises, licensees, customers, suppliers, distributors, wholesalers, or retailers
26 of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or liability, including
27 without limitation, any admission concerning any alleged violation of Proposition 65 or any other law
28 or legal duty.

1 **3.2 Clear and Reasonable Warnings**

2 **3.2.1** If Crown Prince provides a Proposition 65 warning for Crown Prince Baby
3 Clams (smoked in oil) pursuant to Section 3.1(1) then Crown Prince shall provide the following
4 warning:

5 [California Proposition 65] **WARNING: THIS PRODUCT CONTAINS LEAD, A**
6 **CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE [CANCER**
7 **AND] BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.**

8 The word "cancer" shall be used in the warnings above only if the average daily exposure level
9 exceeds 15 micrograms of lead as determined pursuant to the provisions set forth in Section 3.3 and
10 3.4.

11 **3.2.2** If Crown Prince provides a Proposition 65 warning for Crown Prince Fancy
12 Whole Smoked Oysters in Cottonseed Oil pursuant to Section 3.1 (1), then Crown Prince shall provide
13 the following warning:

14 [California Proposition 65] **WARNING: THIS PRODUCT CONTAINS LEAD AND**
15 **CADMIUM, CHEMICALS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE**
16 **BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.**

17 **3.2.3** In the above warnings, the words "California Proposition 65" may be included at
18 Crown Prince's option. No additional language about Proposition 65 may accompany the Proposition
19 65 warning. Crown Prince shall provide the applicable warning using both of the following methods:

20 1) On the label of the can or container (other than on the underside or bottom of the can
21 and/or container) of each individual unit of a Covered Product distributed to retail stores in California or
22 shipped to California consumers.

23 2) On Crown Prince's checkout page on its website for consumers who enter a shipping
24 address in California prior to completion of the sale. In the website warning, Crown Prince shall
25 identify the specific Covered Products to which the warning applies.

26 Crown Prince must display the above warnings with such conspicuousness, as compared with
27 other words, statements, or design of the label, can, or container to render the warning likely to be read
28 and understood by an ordinary individual under customary conditions of purchase or use of the

1 Covered Products. Each letter in the word "WARNING" must be in all capital letters and bold print.

2 **3.2.4** In the event the State of California adopts new regulations for clear and
3 reasonable warnings after the date of this agreement, Crown Prince shall use those warnings as required
4 by law. By way of example, the State of California is currently involved in proposed rulemaking to
5 adopt new Prop 65 safe harbor warnings. See:

6 http://oehha.ca.gov/prop65/CRNR_notices/WarningWeb/pdf/ProposedArticle6_cleartext.pdf

8 **3.3 Calculation of Lead Levels; Reformulated Covered Products**

9 A Reformulated Covered Product is one for which the average daily exposure level does not
10 exceed 0.5 micrograms of lead per day and/or no more than 4.1 micrograms of cadmium per day as
11 determined by the formula, testing and quality control methodology described in Section 3.4. As used
12 in this Consent Judgment, "no more than 0.5 micrograms of lead per day" and "no more than 4.1
13 micrograms of cadmium per day" mean that the samples of the testing under Section 3.4 yield an
14 average daily exposure of no more than 0.5 micrograms of lead and 4.1 micrograms of cadmium (with
15 average daily exposure calculated pursuant to Section 3.4 of this Consent Judgment), respectively. For
16 the Covered Products that cause exposures in excess of 0.5 micrograms of lead per day, and for the
17 Covered Product Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil that cause exposures
18 in excess of 4.1 micrograms of cadmium, Crown Prince shall provide the warnings set forth in Section
19 3.2. For purposes of determining which warning, if any, is required pursuant to Section 3.2, the
20 average concentration utilizing the geometric mean of lead and cadmium detection results of five (5)
21 samples of these products, randomly selected by Crown Prince will be controlling.

22 **3.4 Formula, Testing and Quality Control Methodology**

23 **3.4.1** For purposes of this Consent Judgment, average daily exposure
24 levels shall be measured in micrograms per day, and shall be calculated using the following
25 formula: the average concentration of lead or cadmium in the product in micrograms per gram,
26 multiplied by grams of product per serving of the product (using the serving size appearing on the
27 product label), multiplied by frequency of consumption of once every fourteen (14) days.

1 **3.4.2** Crown Prince shall not be required to engage in testing pursuant to this
2 Consent Judgment unless Crown Prince determines that it will “distribute into the State of
3 California” the Covered Products without a warning. All testing pursuant to this Consent Judgment
4 shall be performed using a laboratory method that complies with the performance and quality
5 control factors appropriate for the method used, including limit of detection, limit of quantification,
6 accuracy, and precision and meets the following criteria: Inductively Coupled Plasma-Mass
7 Spectrometry (ICP-MS) achieving a limit of quantification of less than or equal to 0.010 mg/kg or
8 any other testing method subsequently agreed upon in writing by the Parties.

9 **3.4.3** All testing pursuant to this Consent Judgment shall be performed
10 by an independent third-party laboratory certified by the California Environmental Laboratory
11 Accreditation Program for the analysis of heavy metals or a laboratory that is approved by,
12 accredited by, or registered with the United States Food & Drug Administration.

13 **4. SETTLEMENT PAYMENT**

14 **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil
15 penalties, attorneys’ fees and costs in connection with claims regarding the Covered Products,
16 Crown Prince shall make three payments totaling \$374,000.00. The first payment of \$200,000.00
17 shall be made within ten (10) days of receiving the Notice of Entry of Judgment via electronic mail
18 to Crown Prince’s counsel (“Trigger Date”). The second payment of \$120,000.00 shall be made
19 within sixty (60) days after the Trigger date. The final payment of \$54,000.00 shall be made within
20 one hundred twenty (120) days of the Trigger Date.

21 **4.2** The first payment of \$200,000.00 shall be made by checks apportioned as follows:
22 \$56,100.00 shall be payable as civil penalties pursuant to California Health and Safety Code section
23 25249.7(b)(1). Of this amount, \$42,075.00 shall be payable to the Office of Environmental Health
24 Hazard Assessment (“OEHHA”) and \$14,025.00 shall be payable to The Chemical Toxin Working
25 Group, Inc. pursuant to California Health and Safety Code sections 25249.12(c)(1) & (d). Crown
26 Prince shall send both civil penalty payments to Plaintiffs’ counsel who will be responsible for
27 forwarding the civil penalty to OEHHA along with a copy of the transmittal letter to Crown Prince’s
28 counsel. \$10,131.50 shall be payable to The Chemical Toxin Working Group, Inc. as reimbursement

1 to CTWG for (A) reasonable costs and expenses associated with the enforcement of Proposition 65
2 and other costs incurred as a result of Plaintiffs' work in bringing these Actions; and (B) \$66,884.25
3 shall be payable to The Chemical Toxin Working Group, Inc. in lieu of further civil penalties, for
4 day-to-day business activities such as continued enforcement of Proposition 65, which includes work
5 analyzing, researching and testing food and other consumer products that may contain Proposition 65
6 chemicals. \$66,884.25 shall be payable to Michael Freund & Associates.

7 **4.3** The second payment of \$120,000.00 shall be made by checks and shall be apportioned
8 as follows: \$107,276.85 shall be payable to The Chemical Toxin Working Group, Inc. in lieu of
9 further civil penalties, for day-to-day business activities such as continued enforcement of
10 Proposition 65, which includes work analyzing, researching and testing food and other consumer
11 products that may contain Proposition 65 chemicals and \$12,723.15 shall be payable to Michael
12 Freund & Associates.

13 **4.4** The final payment of \$54,000.00 shall be made by checks and shall be apportioned as
14 follows: \$41,276.85 shall be payable to The Chemical Toxin Working Group, Inc. in lieu of further
15 civil penalties, for day-to-day business activities such as continued enforcement of Proposition 65,
16 which includes work analyzing, researching and testing food and other consumer products that may
17 contain Proposition 65 chemicals and \$12,723.15 shall be payable to Michael Freund & Associates.

18 **4.5** Crown Prince shall mail or deliver the payments intended for Michael Freund &
19 Associates and The Chemical Toxin Working Group, Inc. in the form of checks addressed to
20 Michael Freund & Associates, as stated in Section 11 (Provision of Notice) herein. Within two (2)
21 court days of the Effective Date, Plaintiffs and their counsel will provide their taxpayer
22 identification information and W-9 forms to Crown Prince by e-mail to enable Crown Prince to
23 process the payments.

24 **5. MODIFICATION OF CONSENT JUDGMENT**

25 **5.1** This Consent Judgment may be modified only by: (i) written agreement and
26 stipulation of the Parties and (ii) upon entry of a modified Consent Judgment by the Court.

27 **5.2** If Crown Prince seeks to modify this Consent Judgment under Section 5.1, then
28

1 Crown Prince must provide written notice to Plaintiffs of its intent ("Notice of Intent"), which
2 describes Crown Prince's proposed modification. If Plaintiffs wish to meet and confer with Crown
3 Prince regarding Crown Prince's proposed modification, then Plaintiffs shall provide written notice
4 of Plaintiffs' intent to meet and confer to Crown Prince within ten (10) days of receiving the Notice
5 of Intent. If Plaintiffs notify Crown Prince in a timely manner of their intent to meet and confer,
6 then the Parties shall meet and confer in good faith as required in this Section. The Parties shall
7 meet and confer in person or by phone within ten (10) days of Plaintiffs' notification of their intent
8 to meet and confer. Within ten (10) days of such meeting, if either Plaintiff disputes the proposed
9 modification, that Plaintiff shall provide to Crown Prince a written basis for its position. The
10 Parties shall continue to meet and confer for an additional ten (10) days in an effort to resolve any
11 remaining disputes. The Parties may agree in writing to different deadlines for the meet-and-confer
12 period.

13 **5.3** In the event that Crown Prince initiates or otherwise requests a modification under
14 Section 5.1, Crown Prince shall reimburse Plaintiffs their documented reasonable costs and
15 reasonable attorney's fees for the time spent in the meet-and-confer process and filing and arguing a
16 joint motion or application in support of a modification of the Consent Judgment; provided,
17 however, that these fees and costs shall not exceed \$8,000 total without the prior written consent of
18 Crown Prince.

19 **5.4** Where the meet-and-confer process does not lead to a joint motion or application in
20 support of a modification of the Consent Judgment, then either Party may seek judicial relief on its
21 own. In such a situation, the prevailing party may seek to recover costs and reasonable attorneys'
22 fees. As used in the preceding sentence, the term "prevailing party" means a party who is
23 successful in obtaining relief more favorable to it than the relief that the other party was amenable
24 to providing during the Parties' good faith attempt to resolve the dispute that is the subject of the
25 modification.

26 **6. RETENTION OF JURISDICTION; ENFORCEMENT OF CONSENT JUDGMENT**

27 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
28 this Consent Judgment.

1 6.2 Only after it complies with Section 15 below may any Party, by motion or
2 application for an order to show cause filed with this Court, enforce the terms and conditions
3 contained in this Consent Judgment.

4 6.3 If Crown Prince determines that it will distribute for sale in the State of California, or
5 directly sell in the State of California any of the Covered Products without a Proposition 65 warning
6 in the future, and subsequently Plaintiffs allege that any such product fails to qualify as a
7 Reformulated Covered Product (for which a Plaintiff alleges that no warning has been provided),
8 then Plaintiffs shall inform Crown Prince in a reasonably prompt manner of Plaintiffs' test results.
9 Crown Prince shall, within thirty (30) days following such notice, provide Plaintiffs with testing
10 information, from an independent third-party laboratory meeting the requirements of Sections 3.4.2
11 and 3.4.3, demonstrating Crown Prince's compliance with the Consent Judgment. The Parties shall
12 first attempt to resolve the matter prior to any Plaintiff taking any further legal action with the
13 Court.

14 **7. APPLICATION OF CONSENT JUDGMENT**

15 This Consent Judgment shall have no application to Covered Products when they are
16 distributed or sold outside the State of California.

17 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

18 8.1 This Consent Judgment is a full, final, and binding resolution between Plaintiffs,
19 on behalf of themselves and in the public interest, and Crown Prince, of any alleged violation of
20 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of
21 exposure to lead from the handling, use, or consumption of Crown Prince Fancy Whole Smoked
22 Oysters in Cottonseed Oil and Crown Prince Baby Clams (smoked in oil) manufactured up through
23 and including the Compliance Date and Great Value Smoked Oysters manufactured up through and
24 including the Effective Date and exposure to cadmium from Crown Prince Fancy Whole Smoked
25 Oysters in Cottonseed Oil manufactured up through and including the Compliance Date. Plaintiffs,
26 on behalf of the general public in the public interest, and on behalf of itself and its owners,
27 principals, shareholders, officers, directors, employees, agents, affiliates, parents, subsidiaries,
28 servants, heirs, executors, administrators, successors, assigns, and legal representatives, hereby

1 waives all rights to institute or participate in (directly or indirectly) any form of legal action and
2 fully releases and discharges Crown Prince and its officers, directors, shareholders, employees,
3 agents, parent companies, subsidiaries, divisions, cooperative members, licensees, affiliates,
4 suppliers, franchisees, customers, distributors, wholesalers, retailers, and all other upstream and
5 downstream entities in the distribution chain, including, but not limited to Wal-Mart Stores, Inc. and
6 its affiliates and subsidiaries, franchises, cooperative members and licensees, and the predecessor
7 successors and assigns of any of them (collectively, "Covered Releasees") from any all claims,
8 actions, causes of action, suits, demands, liabilities, damages, penalties, fees (including but not
9 limited to attorneys' fees, investigation fees, and expert fees), costs and expenses (collectively
10 referred to as "Claims") for any alleged violation of Proposition 65 or its implementing regulations
11 for failure to provide Proposition 65 warnings of exposure to lead from the handling, use, or
12 consumption of Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil and Crown Prince
13 Baby Clams (smoked in oil) manufactured up through and including the Compliance Date and
14 Great Value Smoked Oysters manufactured up through and including the Effective Date and
15 exposure to cadmium from Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil
16 manufactured up through and including the Compliance Date. Within fifteen (15) days of the
17 Effective Date, Crown Prince shall provide Plaintiffs with the last lot number for a manufactured
18 product of Great Value Smoked Oysters. Within fifteen (15) days of the Compliance Date, Crown
19 Prince shall provide Plaintiffs with the last lot number of Crown Prince Fancy Whole Smoked
20 Oysters in Cottonseed Oil and Crown Prince Baby Clams that were shipped to downstream
21 distributors, wholesalers, customers, retailers, including, but not limited to Wal-Mart Inc. and its
22 affiliates and subsidiaries, franchises, cooperative members and licensees.

23 **8.2** Each Plaintiff, on behalf of itself and its owners, principals, shareholders, officers,
24 directors, employees, agents, affiliates, parents, subsidiaries, servants, heirs, executors,
25 administrators, successors, assigns, and legal representatives, and not on behalf of the general public,
26 on one hand, and Crown Prince on its own behalf only, on the other, waive and release any and all
27 claims they may have against each other for all actions or statements made or undertaken in the
28

1 course of seeking or opposing enforcement of Proposition 65 in connections with the Notices of
2 Violation and complaints with respect to the Covered Products, provided, however that nothing in
3 Section 8 shall affect or limit any Party's right to seek to enforce the terms of this Consent Judgment.
4

5 **8.3** Each Plaintiff, on behalf of itself and its owners, principals shareholders, officers,
6 directors, employees, agents affiliates, parents, subsidiaries, servants, heirs, executors, administrators,
7 successors, assigns and legal representatives, and not on behalf of the general public, hereby releases
8 and discharges each of the Covered Releasees from any and all known and unknown Claims,
9 suspected or unsuspected, arising out of alleged lead exposures to Crown Prince Fancy Whole
10 Smoked Oysters in Cottonseed Oil and Crown Prince Baby Clams (smoked in oil) manufactured up
11 through and including the Compliance Date and Great Value Smoked Oysters manufactured up
12 through and including the Effective Date and cadmium exposures from Crown Prince Fancy Whole
13 Smoked Oysters in Cottonseed Oil manufactured up through and including the Compliance Date.
14 Each Plaintiff, on behalf of itself only, waives any and all rights he or she may have under any
15 applicable statute, including, but not limited to California Civil Code Section 1542 or common law
16 principle which would limit the effect of the release in Section 8.1 and 8.2 herein to those claims
17 actually known or suspected to exist at the time of the date of entry of Judgment. Plaintiffs have full
18 knowledge of the contents of California Civil Code Section 1542 (emphasis added), which reads as
19 follows:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
21 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
22 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN
23 BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
24 SETTLEMENT WITH THE DEBTOR.

25 Each Plaintiff, on behalf of itself only, acknowledges and understands the significance and
26 consequences of this specific waiver of California Civil Code Section 1542.
27
28

1 8.4 Crown Prince's compliance with the terms of this Consent Judgment shall be
2 deemed to constitute compliance with Proposition 65 by the Releasees regarding alleged exposures
3 to lead and/or cadmium in the Covered Products.

4 8.5 Plaintiffs and Crown Prince each release and waive all claims they may have
5 against each other for any statements or actions made or undertaken by them in connection with the
6 Notices of Violation or the Complaints; provided, however, that nothing in Section 8 (Binding
7 Effect, Claims Covered and Released) shall affect or limit any Party's right to seek to enforce the
8 terms of this Consent Judgment.

9 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

10 In the event that any of the provisions of this Consent Judgment is held by a court to be
11 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

12 **10. GOVERNING LAW**

13 The terms and conditions of this Consent Judgment shall be governed by and construed in
14 accordance with the laws of the State of California.

15 **11. PROVISION OF NOTICE**

16 All notices required to be given to either Party to this Consent Judgment by the other shall be in
17 writing and sent to the following agents listed below by: (a) first-class, registered, or certified mail;
18 (b) overnight courier; or (c) personal delivery. Courtesy copies via email may also be sent.

19 **FOR DAVID STEINMAN AND THE CHEMICAL TOXIN WORKING GROUP, INC.:**

20 David Steinman
21 The Chemical Toxin Working Group, Inc.
22 1801 Chart Trail
23 Topanga, CA 90290

23 **With a copy to:**

24 Michael Freund
25 Michael Freund & Associates
26 1919 Addison Street, Suite 105
27 Berkeley, CA 94704
28 (freund1@aol.com)

27 **CROWN PRINCE, INC.:**
28 Christopher A. Bruno

1 Crown Prince, Inc.
18581 Railroad Street
2 City of Industry, CA 91748

3 **With a copy to:**

4 George Salmas
5 Michael Hambly
The Food Lawyers
6 1880 Century Park East, # 611
Los Angeles, CA 90067
7 (george.salmas@thefoodlawyers.com)

8 **12. COURT APPROVAL**

9 **12.1** If this Consent Judgment is not approved by the Court, it shall be void and have no
10 force or effect.

11 **12.2** Plaintiffs shall comply with California Health and Safety Code section 25249.7(f)
12 and with Title 11 of the California Code Regulations, Section 3003.

13 **13. EXECUTION AND COUNTERPARTS**

14 This Consent Judgment may be executed in counterparts, which taken together shall be deemed
15 to constitute one document. A facsimile or .pdf signature shall be construed as valid as the original
16 signature.

17 **14. DRAFTING**

18 The terms of this Consent Judgment have been reviewed by the respective counsel for the each
19 Party to this settlement prior to its signing, and each Party has had an opportunity to fully discuss the
20 terms with counsel. The Parties agree that, in any subsequent interpretation and construction of this
21 Consent Judgment entered thereon, the terms and provisions shall not be construed against any Party.

22 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

23 If a dispute arises with respect to any Party's compliance with the terms of this Consent
24 Judgment entered by the Court, the Parties shall meet in person or by telephone and endeavor to
25 resolve the dispute in an amicable manner. No action or motion may be filed in the absence of such a
26 good faith attempt to resolve the dispute beforehand. In the event an action or motion is filed,
27 however, the prevailing party may seek to recover costs and reasonable attorneys' fees. As used in the
28 preceding sentence, the term "prevailing party" means a party who is successful in obtaining relief

1 more favorable to it than the relief that the other party was amenable to providing during the parties'
2 good faith attempt to resolve the dispute that is the subject of such enforcement action.

3 **16. ENTIRE AGREEMENT, AUTHORIZATION**

4 **16.1** This Consent Judgment contains the sole and entire agreement and understanding
5 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,
6 negotiations, commitments and understandings related hereto. No representations, oral or
7 otherwise, express or implied, other than those contained herein have been made by any Party. No
8 other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist
9 or to bind any Party.

10 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized by
11 the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly provided
12 herein, each Party shall bear its own fees and costs.

13 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
14 **CONSENT JUDGMENT**

15 This Consent Judgment has come before the Court upon the request of the Parties. The Parties
16 request the Court to fully review this Consent Judgment and, being fully informed regarding the
17 matters which are the subject of these Actions, to:

- 18 (1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable
19 settlement of all matters raised by the allegations of the First Amended Complaint, that the matter has
20 been diligently prosecuted, and that the public interest is served by such settlement; and
21 (2) Make the findings pursuant to California Health and Safety Code section 25249.7(f)(4),
22 approve the Settlement, and approve this Consent Judgment.

23 **IT IS SO STIPULATED:**

24
25 Dated: 12-22-15

26 **DA'**

27 By:

David Steinman

28 David Steinman

1 Dated: 12-22-15

THE CHEMICAL TOXIN WORKING
GR

By: David Steinman
David Steinman, Director

2
3
4 Dated: 12/22/15

CROWN PRINCE, INC.

By: Christopher A. Bruno
Christopher A. Bruno

6 APPROVED AS TO FORM:

7
8
9
10 Dated: 12/22/15

MICHAEL FREUND & ASSOCIATES

By: MFL
Michael Freund
Ryan Hoffinan
Attorneys for David Steinman and The
Chemical Toxin Working Group, Inc.

11
12
13
14
15 Dated: 12/22/15

THE FOOD LAWYERS

By: George Salmas
George Salmas
Michael Hambly
Attorneys for Defendant Crown Prince, Inc.

16
17
18
19
20
21
22 ORDER AND JUDGMENT

23 Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is approved
24 and Judgment is hereby entered according to its terms.

25
26 Dated: MAR 02 2016

27 Winifred Y. Smith
Judge WINIFRED Y. SMITH

EXHIBIT A

MICHAEL FREUND
ATTORNEY AT LAW
1915 ADDISON STREET
BERKELEY, CALIFORNIA 94704-1101

TEL 510/540-1992
FAX 510/540-5543
EMAIL FREUND18A@L.COM

January 5, 2012

VIA CERTIFIED MAIL

Christopher A. Bruno
Crown Prince, Inc.
18581 Railroad Street
City of Industry, CA 91748

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation Against Crown Prince, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.

Dear Addressees:

I represent David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include *Diet for a Poisoned Planet* (1990, 2007); *The Safe Shopper's Bible* (1995); *Living Healthy in a Toxic World* (1996); and *Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown* (2007). Through this Notice of Violation, Mr. Steinman seeks to reduce consumer exposures to lead in the named product set forth herein.

This letter constitutes notification that Crown Prince, Inc. has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with Section 25249.5 of the Health and Safety Code). The product that is the subject of this Notice of Violation and the chemical in this product identified as exceeding allowable levels are:

Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil – lead

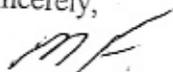
Crown Prince, Inc. has manufactured, marketed, distributed and/or sold the listed product which has exposed and continues to expose numerous individuals within California to lead. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Crown Prince, Inc. is in violation of Proposition 65 because the company failed to provide a warning to persons ingesting the noticed product that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, Crown Prince, Inc. is knowingly and intentionally exposing consumers of these oysters to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for this product.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, David Steinman gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to Mr. Steinman from information now available to us. Mr. Steinman is continuing his investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: David Steinman

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to Crown Prince, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party David Steinman. Mr. Steinman is a committed environmentalist, journalist, consumer health advocate, publisher and author. The Notice of Violation alleges that the party identified has exposed persons in California to lead from the specified consumer product. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action. In particular, I have consulted with the chemists who conducted the laboratory testing for lead regarding this product and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed product from the noticed party. Furthermore, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for

the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 25249.7 (h) (2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

Dated: January 5, 2012



Michael Freund
Attorney for David Steinman

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On January 5, 2012 I served the within:

Notice of Violation and Certificate of Merit Against Crown Prince, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq. (Supporting Documentation sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California to said parties addressed as follows:

See attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on January 5, 2012 at Berkeley, California.

mf

Michael Freund

SERVICE LIST

District Attorney of Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney of Colusa County
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Colusa, CA 95932

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Visalia, CA 93291

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San Jose, CA 95113

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200 N. Main Street
Los Angeles, CA 90012

San Diego City Attorney's Office
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San Diego, CA 92101

San Francisco City Attorney's
Office
City Hall, Room 234
San Francisco, CA 94102

California Attorney General's
Office
Attention: Proposition 65
Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612

Christopher A. Bruno
Crown Prince, In.
18581 Railroad Street
City of Industry, CA 91748

LAW OFFICE OF
MICHAEL FREUND

1919 ADDISON STREET, SUITE 105
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TEL (510) 540-1992
FAX (510) 540-5543
EMAIL FREUND1@AOL.COM

February 24, 2012

VIA CERTIFIED MAIL

Mike Duke, President & CEO
Wal-Mart Stores, Inc.
702 SW 8th Street
Bentonville, Arkansas 72716-8611

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation Against Wal-Mart Stores, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.

Dear Addressees:

I represent David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include *Diets for a Poisoned Planet* (1990, 2007); *The Safe Shopper's Bible* (1995); *Living Healthy in a Toxic World* (1996); and *Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown* (2007). Through this Notice of Violation, Mr. Steinman seeks to reduce consumer exposures to lead in the named product set forth herein.

This letter constitutes notification that Wal-Mart Stores, Inc. ("Wal-Mart") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code). The product that is the subject of this Notice of Violation and the chemical in the product identified as exceeding allowable levels are:

Great Value Smoked Oysters— lead

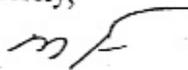
The Wal-Mart has manufactured, marketed, distributed and/or sold the listed product which has exposed and continues to expose numerous individuals within California to lead. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Wal-Mart is in violation of Proposition 65 because it failed to provide a warning to consumers that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for this product.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, David Steinman gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to Mr. Steinman from information now available to us. Mr. Steinman is continuing his investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: David Steinman

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to Wal-Mart Stores, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party David Steinman. Mr. Steinman is a committed environmentalist, journalist, consumer health advocate, publisher and author. The Notice of Violation alleges that the party identified has exposed persons in California to lead from the specified consumer product. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action. In particular, I have consulted with the chemists who conducted the laboratory testing for lead regarding this product and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed product from the noticed party. Furthermore, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for

the private action” means that the information provides a credible basis that all elements of the plaintiff’s case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 25249.7 (h) (2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

Dated: February 23, 2012



Michael Freund
Attorney for David Steinman

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On February 27, 2012 I served the within: -

Notice of Violation and Certificate of Merit Against Wal-Mart Stores, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq. (Supporting Documentation sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California as follows:

See attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on February 27, 2012 at Berkeley, California.



Michael Freund

SERVICE LIST

- District Attorney of Alameda County
1225 Fallon Street, Room 900
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- District Attorney of Colusa County
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Colusa, CA 95932
- District Attorney of Contra Costa County
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316 N. Mountain View Avenue
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4075 Main Street
Riverside, CA 92501
- District Attorney of San Francisco County
850 Bryant Street, Rm 325
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- District Attorney of Sacramento County
901 "G" Street
Sacramento, CA 95814
- District Attorney of San Joaquin County
P.O. Box 990
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- District Attorney of San Luis Obispo County
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San Diego City Attorney's Office
1200 3rd Avenue #1620
San Diego, CA 92101

San Francisco City Attorney's
Office
City Hall, Room 234
San Francisco, CA 94102

California Attorney General's
Office
Attention: Proposition 65
Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612

Mike Duke, CEO
Wal-Mart Stores, Inc.
702 SW 8th Street
Bentonville, Arkansas 72716-8611

LAW OFFICE OF
MICHAEL FREUND

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March 5, 2013

VIA CERTIFIED MAIL

Christopher A. Bruno
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18581 Railroad Street
City of Industry, CA 91748

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation Against Crown Prince, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.

Dear Addressees:

I represent The Chemical Toxin Working Group, a California non-profit corporation dedicated to reducing the amount of chemical toxins in consumer products. The Chemical Toxin Working Group was created by David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include *Diet for a Poisoned Planet* (1990, 2007); *The Safe Shopper's Bible* (1995); *Living Healthy in a Toxic World* (1996); and *Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown* (2007). Through this Notice of Violation, The Chemical Toxin Working Group seeks to reduce exposures to lead in products ingested by consumers.

This letter constitutes notification that Crown Prince, Inc. has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with Section 25249.5 of the Health and Safety Code). The product that is the subject of this Notice of Violation and the chemical in this product identified as exceeding allowable levels are:

Crown Prince Baby Clams (smoked in oil) – lead

Crown Prince, Inc. has manufactured, marketed, distributed and/or sold the listed product which has exposed and continues to expose numerous individuals within California to lead. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female

reproductive toxicity on February 27, 1987. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Crown Prince, Inc. is in violation of Proposition 65 because the company failed to provide a warning to persons ingesting the noticed product that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, Crown Prince, Inc. is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for this product.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, The Chemical Toxin Working Group gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to The Chemical Toxin Working Group from information now available to us. The Chemical Toxin Working Group is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: David Steinman

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to Crown Prince, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party The Chemical Toxin Working Group. The Notice of Violation alleges that the party identified has exposed persons in California to lead from specified consumer products without providing a Proposition 65 warning. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action. In particular, I have consulted with the laboratory who conducted the testing for lead regarding these products and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through the testing laboratory and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed products from the noticed party. Furthermore, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the

plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 25249.7 (h) (2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

Dated: March 5, 2013



Michael Freund
Attorney for The Chemical Toxin Working Group

CERTIFICATE OF SERVICE

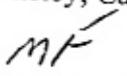
I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On March 5, 2013 I served the within:

Notice of Violation Against Crown Prince, Inc., for Violation of California Health & Safety Code Section 25249.5 et seq. and Certificate of Merit; (Supporting Documentation sent to Attorney General only)

on the parties in said action, via electronic mail to the California Attorney General and by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California addressed as follows:

See attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on March 5, 2013 at Berkeley, California



Michael Freund

Service List

- District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612
- District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120
- District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642
- District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965
- District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
- District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932
- District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553
- District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
- District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667
- District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721
- District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988
- District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501
- District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243
- District Attorney, Inyo County
30 W. Line Street
Bishop, CA 93514
- District Attorney, Kern County
115 Truxtun Avenue
Bakersfield, CA 93301
- District Attorney, Kings County
100 West Lacey Boulevard
Hanford, CA 93230
- District Attorney, Lake County
1 N. Forbes Street
Weed, CA 95453
- District Attorney, Lassen County
South Lassen Street, Ste. 8
Susanville, CA 96130
- District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012
- District Attorney, Madera County
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Madera, CA 93637
- District Attorney, Marin County
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San Rafael, CA 94903
- District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338
- District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482
- District Attorney, Merced County
550 W. Main Street
Merced, CA 95340
- District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020
- District Attorney, Mono County
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Bridgeport, CA 93517
- District Attorney, Monterey County
Post Office Box 1131
Salinas, CA 93902
- District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559
- District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959
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San Bernardino, CA 92415-0004
- District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101
- District Attorney, San Francisco County
850 Bryant Street, Suite 322
San Francisco, CA 94103
- District Attorney, San Joaquin County
222 E. Weber Ave. Rm. 202
Stockton, CA 95202
- District Attorney, San Luis Obispo County
1035 Palm St, Room 450
San Luis Obispo, CA 93408
- District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063
- District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101
- District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110
- District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060
- District Attorney, Shasta County
1355 West Street
Redding, CA 96001
- District Attorney, Sierra County
PO Box 457
Downieville, CA 95936
- District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097
- District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533
- District Attorney, Sonoma County
600 Administration Drive,
Room 212J
Santa Rosa, CA 95403
- District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354
- District Attorney, Sutter County
446 Second Street
Yuba City, CA 95991
- District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080
- District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093
- District Attorney, Tulare County
221 S. Mooney Blvd., Room 224
Visalia, CA 93291
- District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370
- District Attorney, Ventura County
800 South Victoria Ave, Suite 314
Ventura, CA 93009
- District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695
- District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901
- Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012
- San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101
- San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102
- San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

EXHIBIT B

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice: 510.540.1992 • Fax: 510.540.5543

Michael Freund, Esq.
Ryan Hoffman, Esq.

OF COUNSEL:
Denise Ferkich Hoffman, Esq.

November 12, 2013

VIA CERTIFIED MAIL

Christopher A. Bruno
Crown Prince, Inc.
18581 Railroad Street
City of Industry, CA 91748

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 et seq.

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent The Chemical Toxin Working Group, Inc., ("CTWG") a California non-profit corporation dedicated to reducing the amount of chemical toxins in consumer products. CTWG was created by David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include *Diet for a Poisoned Planet* (1990, 2007); *The Safe Shopper's Bible* (1995); *Living Healthy in a Toxic World* (1996); and *Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown* (2007). Through this Notice of Violation, CTWG seeks to reduce and/or eliminate exposures to cadmium ingested by consumers from oysters.

This letter constitutes notification that Crown Prince, Inc. ("Crown Prince") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic enforcement Act (commencing with Section 25249.5 of the Health and Safety Code). The product subject to this Notice of Violation and the chemical in the product identified as exceeding allowable levels are:

Crown Prince Fancy Whole Smoked Oysters in Cottonseed Oil - Cadmium

Crown Prince has manufactured, marketed, distributed and/or sold the above product which has exposed and continues to expose numerous individuals within California to cadmium. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1987 and as a chemical known to cause developmental toxicity, and male reproductive toxicity on May 1, 1997. These violations have occurred every day since

at least November 12, 2010, as well as every day since the product was introduced into the California marketplace and will continue every day until cadmium is removed from the noticed product, reduced to allowable levels or until clear and reasonable warnings are provided. The primary route of exposure has been through ingestion but may have also occurred through inhalation and/or dermal contact.

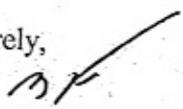
Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Crown Prince is in violation of Proposition 65 because the company failed to provide a warning to consumers that they are being exposed to cadmium. While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code § 25249.6.) The method of warning should be a warning that appears on the product's label. (Cal. Code Regs., tit. 27, § 25603.1, subd. (a).) Crown Prince has not provided any Proposition 65 warnings on the company's label or any other appropriate warnings that persons handling, ingesting and/or otherwise using this product are being exposed to cadmium.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, CTWG gives notice of the alleged violations to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to the noticing party from information now available. CTWG is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

CTWG is interested in a prompt resolution of this matter with an enforceable written agreement by Crown Prince to (1) eliminate or reduce cadmium levels to allowable levels, or provide appropriate warnings on the labels of this product; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures and expensive and time consuming litigation.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: The Chemical Toxin Working Group, Inc.

Attachments:

Certificate of Merit
Certificate of Service
OEHHA Summary to Crown Prince, Inc.
Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Re: The Chemical Toxin Working Group Inc.'s Notice of Proposition 65 Violations
by Crown Prince, Inc.

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party The Chemical Toxin Working Group, Inc. The Notice of Violation alleges that the party identified has exposed persons in California to the listed chemical that is the subject of this Notice. Please refer to the Notice of Violation for additional details regarding the product name(s) and alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of this Notice. I have reviewed the laboratory testing results for the chemical subject to this Notice and relied on these results. The testing was conducted by a reputable testing laboratory by experienced scientists. The facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to the listed chemical that is the subject of this Notice.
4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed product from the noticed party. Furthermore, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate of Merit served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 25249.7 (h) (2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

Dated: November 12, 2013


Michael Freund
Attorney for The Chemical Toxin Working
Group, Inc.

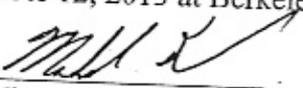
CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On November 12, 2013 I served the within:

Notice of Violation By Crown Prince, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq. and Certificate of Merit (Supporting Documentation sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California addressed to the names set forth on the Notice of Violation and on the attached Service List.

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on November 12, 2013 at Berkeley, California



Michael Freund

Notice of Violations of California Health & Safety Code §25249.5 et seq.

Service List

- District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612
- District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120
- District Attorney, Amador County
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San Bernardino, CA 92415-0004
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San Diego, CA 92101
- District Attorney, San Francisco County
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San Francisco, CA 94103
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Stockton, CA 95202
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- San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102
- San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

Superior Court of California
County of Alameda

Case # JCCP 004779 (R613 673501 / R613 699240 Consolidated Actions)
Case Name: Proposition 65 Canned Food Cases and Coordinated Actions
Document: Stipulated Consent Judgment; [Proposed] Order Re: Crown Prince, Inc.

CLERK'S CERTIFICATE OF
SERVICE

I certify that the following is true and correct:

I am a Deputy Clerk employed by the Superior Court of California, County of Alameda. I am over the age of 18 years. My business address is 1221 Oak St. Oakland, California, 94612. I served the above-referenced document by:

- First Class Mail (CCP 1013a)** – Placing copies in envelope(s) addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail in Oakland, California, following standard court practices.
- Electronic Service (CCP1010.6(C)(3) CRC 2.251(j))** – Emailing copies to the email addresses as shown below, following standard court practices.
- FAX (CCP 1013e CRC 2.306 (c))** – Faxing copies to the fax numbers as shown below on the date stated below, following standard court practices.
- Personal Service (CCP 1011 (a) (b))** – Personally delivering papers to an attorney or party.

George Salmas
The Food Lawyer
1880 Century Park East, #611
Los Angeles, CA 90067
Tel: (310) 556-0721
Fax: (310) 788-8923

Joseph A. Meckes
Noriyuki Shimoda
Amanpreet Kaur
SQUIRE PATTON BOGGS (US) LLP
275 Battery Street, Suite 2600
San Francisco, CA 94111

Michael Freund
Law Offices of Michael Freund
1919 Addison Street, Suite 105
Berkeley, CA 94704
Tel: (510) 540-1992
Fax: (510) 540-5543

Date: March 3, 2016

Chad Finke,
Executive Officer/Clerk of the Superior Court

By Sianté Dewberry
Sianté Dewberry, Deputy Clerk