SAN FRANCISCO | 201 Spear Street
Los Angeles | Suite 1000
New York | San Francisco, CA 94105
Redwood City | Telephone (415) 543-4800
San Jose | Facsimile (415) 972-6301
www.ropers.com

LAWYERS
RMKB
ROPERS MAJESKI KOHN BENTLEY

Thomas H. Clarke, Jr.
(415) 972-6387

tclarke@ropers.com

August 31, 2006

SIXTY-DAY NOTICE OF VIOLATION

Donald Flynn, President
SOMA Foods, Inc.
401 Second Avenue South
Suite 150
Seattle, WA 98104

Dear Mr. Flynn:

California's Proposition 65 (which can be found at Sections 25249.6 et seq. of the Health & Safety Code) is designed to promote awareness of potential exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products or produced by industrial activities. Attached to this letter is a copy of "Proposition 65: A Summary", which has been prepared by the State of California, Office of Environmental Health Hazard Assessment ("OEHHA"). OEHHA may be contacted at 916-445-6900. OEHHA's web site pertaining to Proposition 65 may be found at: http://www.oehha.ca.gov/prop65.html.

RMKB and Alicia Moore ("Plaintiff") hereby give you notice that your SOMA Foods, Inc./Burger King, Inc. establishment has been, is currently, and threaten to be in violation of California Health & Safety Code § 25249.6; this sixty-day notice is sent to you in compliance with § 25249.7(d) California Health & Safety Code. Both RMKB and Plaintiff are private enforcers of Proposition 65, as provided by California Health & Safety Code § 25249.7(d). You may contact both RMKB and Plaintiff at the above listed address and telephone number; I am counsel for and represent Plaintiff in this matter.

The above-referenced violations occur when California consumers purchase and ingest your French fry product (the "Product"). The Product contains naphthalene, a chemical known to the State of California to cause cancer and reproductive toxicity. California residents are exposed to naphthalene when they ingest the Product. This naphthalene is then absorbed into the body through the gastrointestinal tract wherein it causes the harm noted.

Your business did not and does not provide consumers with clear and reasonable warnings before it exposes them to naphthalene, as required by Health & Safety Code § 25249.6. These violations have occurred every day for at least the last year, and will continue every day until the naphthalene is removed from the Product or until clear and reasonable warnings are

given. The Proposition 65 violations noted herein occur in each of California's 58 counties, or in such Counties as your Product are sold or consumed.

Sincerely,

Thomas H. Clarke, Jr.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

CERTIFICATE OF MERIT
Health & Safety Code Section 25249.7(d)

I, Thomas H. Clarke, Jr., hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing parties.

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.

4. Based on the information obtained through those consultations, and on all other information in my possession, 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 plaintiffs' 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 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: August 31, 2006

Thomas H. Clarke, Jr.

SERVICE LIST

Edward G. Weil Deputy Attorney General Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550	Office of the District Attorney County of Glenn P.O. Box 430 Willows, CA 95988-0430	Office of the District Attorney County of Monterey 240 Church Street P.O. Box 180 Salinas, CA 93902-0180	Office of the District Attorney County of Siskiyou P.O. Box 986 Yreka, CA 96097-0986
Office of the City Attorney City of Oakland 505 14th Street, 12th Floor Oakland, CA 94612-1406	Office of the District Attorney County of Humboldt 825 5th Street Eureka, CA 95501-1107	Office of the District Attorney County of Napa 931 Parkway Mall P.O. Box 720 Napa, CA 94559-0720	Office of the District Attorney County of Solano 600 Union Avenue Fairfield, CA 94533-6326
Office of the City Attorney City of San Francisco City Hall, Room 206 400 Van Ness San Francisco, CA 94102-4630	Office of the District Attorney County of Imperial Courthouse Floor 2 939 West Main Street El Centro, CA 92243-2860	Office of the District Attorney County of Nevada 201 Church St., Ste. 8 Nevada City, CA 95959-2860	Office of the District Attorney County of Sonoma 600 Administration Dr., #212J Santa Rosa, CA 95403-2876
Office of the City Attorney City of Sacramento 980 9th Street, 10th Floor Sacramento, CA 958142736	Office of the District Attorney County of Inyo P.O. Drawer D Independence, CA 93526-0604	Office of the District Attorney County of Orange 700 Civic Center Drive West #A-200 Santa Ana, CA 92701-4405	Office of the District Attorney County of Stanislaus 1100 I Street, #200 Modesto, CA 95354-2325
Office of the City Attorney City of San Jose 151 West Mission Street San Jose, CA 95110-1710	Office of the District Attorney County of Kern 1215 Truxtun Ave., Floor 4 Bakersfield, CA 93301-4619	Office of the District Attorney County of Place 11562 B Avenue Auburn, CA 95603-2687-2605	Office of the District Attorney County of Sutter 1160 Civic Center Blvd., #A Yuba City, CA 95993-3007
Office of the City Attorney City of Los Angeles 200 North Main Street Los Angeles, CA 90012-4110	Office of the District Attorney County of Kings 1400 West Lacey Boulevard Hanford, CA 93230-5962	Office of the District Attorney County of Plumas 520 Main Street, Room 404 Quincy, CA 95971-9116	Office of the District Attorney County of Tehama P.O. Box 519 Red Bluff, CA 96080-0519
Office of the City Attorney City of San Diego 202 C Street, Floor 3 San Diego, CA 92101-4806	Office the District Attorney County of Lake 255 North Forbes St., #424 Lakeport, CA 95453-4756	Office of the District Attorney County of Sacramento P.O. Box 749 Sacramento, CA 95812-0749	Office of the District Attorney County of Trinity P.O. Box 310 Weaverville, CA 96093-0310
Office of the District Attorney County of Alameda 225 Fallon Street, #9 Oakland, CA 94612-4609	Office of the District Attorney County of Lassen County Administration Bldg. 707 Nevada Street Susanville, CA 96130-3912	Office of the District Attorney County of San Benito 419 4th Street Hollister, CA 95023-3801	Office of the District Attorney County of Tulare County Civic Center 221 So. Mooney Blvd., Rm. 224 Visalia, CA 93291-4547
Office of the District Attorney County of Alpine P.O. Box 248 Markleeville, CA 96120-0248	Office of the District Attorney County of Los Angeles 18000 Criminal Court Bldg. 210 West Temple Street Los Angeles, CA 90012-3210	Office of the District Attorney County of San Bernardino 316 Mt. View Avenue San Bernardino, CA 92408-1415	Office of the District Attorney County of Tuolumne 2 South Green Street Sonora, CA 95370-4618
Office of the District Attorney County of Amador 708 Court Street, Suite 202 Jackson, CA 95642-2308	Office of the District Attorney County of San Diego 330 West Broadway San Diego, CA 92101	Office of the District Attorney County of Ventura 4245 Market Street, #205 Ventura, CA 93003-8009	Office of the District Attorney County of Butte 25 County Center Drive Oroville, CA 95965-3375

ATTORNEY GENERAL COPY CONTAINS OFFICIAL INFORMATION PURSUANT TO EVIDENCE CODE § 1040

Office of the District Attorney County of Madera 209 West Yosemite Avenue Madera, CA 93637-3534	Office of the District Attorney County of San Francisco 850 Bryant Street, #322 San Francisco, CA 94103-4600	Office of the District Attorney County of San Joaquin 222 E. Weber Ave, #202 Stockton, CA 95202-2706	Office of the District Attorney County of Yolo 301 Second Street Woodland, CA 95695
Office of the District Attorney County of Calaveras Government Center 891 Mountain Ranch Road San Andreas, CA 95249-9713	Office of the District Attorney County of Marin 3501 Civil Center Dr., Rm. 130 San Rafael, CA 94903-5207	Office of the District Attorney County of San Luis Obispo County Government Center #450 San Luis Obispo, CA 93408-0002	Office of the District Attorney County of Yuba 215 5th Street Marysville, CA 95901-5737
Office of the District Attorney County of Colusa 547 Market Street Colusa, CA 95932-2452	Office of the District Attorney County of Mariposa P.O. Box 730 Mariposa, CA 95338-0730	Office of the District Attorney County of San Mateo 400 County Center Redwood City, CA 94063-1662	Office of the District Attorney County of Contra Costa P.O. Box 670 Martinez, CA 94553-0670
Office of the District Attorney County of Mendocino 100 North State Street Ukiah, CA 95482	Office of the District Attorney County of Santa Barbara 1112 Santa Barbara Street Santa Barbara, CA 93101-2008	Office of the District Attorney County of Del Norte 450 H Street, #171 Crescent City, CA 95531-4092	Office of the District Attorney County of Merced 2222 M Street Merced, CA 95340-3729
Office of the District Attorney County of Santa Clara 70 West Hedding Street San Jose, CA 95110-1705	Office of the District Attorney County of El Dorado 515 Main Street Placerville, CA 95667-5609	Office of the District Attorney County of Modoc 204 South Court Street Alturas, CA 96101	Office of the District Attorney County of Santa Cruz 701 Ocean Street, #200 Santa Cruz, CA 95060-4011
Office of the District Attorney County of Fresno 2220 Tulare Street, #1000 Fresno, CA 93721-2107	Office of the District Attorney County of Mono P.O. Box 617 Bridgeport, CA 93517-0617	Office of the District Attorney County of Shasta 1525 Court Street Redding, CA 96001-1632	Office of the District Attorney County of Sierra P.O. Box 457 Downieville, CA 95936-0457
Office of the District Attorney County of Riverside 4075 Main Street Riverside, CA 92501-3707			

ATTORNEY GENERAL COPY CONTAINS OFFICIAL INFORMATION
PURSUANT TO EVIDENCE CODE § 1040

Ropers Majeski Kohn & Bentley
A Professional Corporation
San Francisco

PROOF OF SERVICE

I am a citizen of the United States. My business address is 333 Market Street, Suite 3150, San Francisco, CA 94105. I am employed in the County of San Francisco where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for ailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document(s) described as:

- **Sixty-Day Notice of Violation;**
- **Certificate of Merit;**
- **The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary**

☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.

Donald Flynn, President
Soma Foods, Inc.
401 Second Avenue South
Suite 150
Seattle, WA 98104

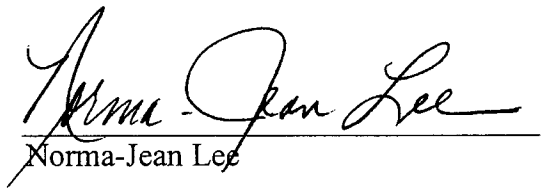
Burger King Restaurant
Soma Foods, Inc.
401 Second Avenue
Suite 150
Seattle, WA 98104

Edward G. Weil
Deputy Attorney General
Office of the attorney General
P.O. Box 70550
Oakland, CA 94612-0550

Offices of the City Attorneys and
Offices of the District Attorneys
on the attached Service List

☒ *(State)* I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 31, 2006, at San Francisco, California.



Norma-Jean Lee

SF/196509.3/NL2