

# Metzger Law Group

Practice Concentrated in Toxic  
Tort & Environmental Litigation

401 E Ocean Blvd., Ste. 800  
Long Beach, CA 90802  
phone: 562.437.4499  
fax: 562.436.1561

www.toxic torts.com

Raphael Metzger  
Greg Coolidge  
Kimberly Miller  
Sarah Hodgson  
Kathryn Saldana  
Kenneth Holdren  
Carmen Mussig  
Lisa Ishimaru  
Jay Arambulo

September 16, 2011

## VIA FIRST-CLASS U.S. MAIL

Chief Executive Officer  
Gloria Jean's Gourmet Coffees Franchising Corp.  
It's a Grind Inc.  
Praise International North America, Inc.  
17691 Mitchell North, Suite A  
Irvine, CA 92614

Gloria Jean's Gourmet Coffees Corp.  
28 Executive Park, Suite 200  
Irvine, CA 92614

Richard W. Lasater II  
Counsel & Registered Agent  
Gloria Jean's Gourmet Coffees Franchising Corp.  
Praise International North America, Inc.  
c/o Foley & Lardner LLP  
555 S. Flower Street, Suite 3500  
Los Angeles, CA 90071

**RE: NOTICE OF PROPOSITION 65, CALIFORNIA HEALTH & SAFETY CODE  
SECTION 25249.6, VIOLATIONS: EXPOSURE OF CONSUMERS TO  
CARCINOGENIC SUBSTANCES WITHOUT FIRST GIVING WARNINGS**

Dear Gentilepersons:

This firm represents the Council for Education and Research on Toxics ("CERT"), a California public benefit corporation whose charitable purposes are education and research regarding toxic substances.

This letter constitutes notice that Gloria Jean's Gourmet Coffees Corp., Gloria Jean's Gourmet Coffees Franchising Corp., It's a Grind, Inc., and Praise International North America, Inc., have violated and continue to violate provisions of the California Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.5 *et seq* (commonly known as California's Proposition 65). Specifically, the above named entities have violated and continue to violate Health & Safety Code § 25249.6, which provides: "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual . . . ."

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General Information: Pursuant to 22 California Code of Regulations § 12903(b)(1), attached hereto is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," as prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Description of Violation: Since June 2002, and continuing to the present, the above named entities have exposed and continue to expose California consumers purchasing coffee to high levels of acrylamide — a toxic chemical contained in the coffee produced, distributed and/or sold by the above named entities. Exposures to acrylamide unavoidably occurred via ingestion whenever a consumer purchased and thereafter consumed the above named entities' acrylamide-containing coffee. Testing of the above named entities' coffee has shown that even a single, small (12-ounce) serving of coffee contains anywhere from 4 to well over 100 times more acrylamide than the No Significant Risk Level ("NSRL") for acrylamide established by California's Office of Environmental Health Hazard Assessment ("OEHHA"). Acrylamide is a toxic chemical known to the State of California to cause cancer and has been listed since January 1990 as a carcinogen on the list of carcinogenic chemicals published by the Governor of the State of California at 22 California Code of Regulations § 1200(b). Because acrylamide is listed in Proposition 65 as a carcinogen, pursuant to Health & Safety Code § 25249.6, the above named entities were, and are, required to warn California consumers purchasing their coffee that their coffee contains a chemical known by the State of California to cause cancer before exposing said consumers to acrylamide contained therein. Since June 2002, the above named entities violated and continue to violate California Health & Safety Code § 25249.6 by exposing numerous individuals within the State of California to acrylamide without first giving clear and reasonable warnings to said individuals that their coffee contains a chemical known by the State of California to cause cancer.

Noticing Entity: The noticing entity is the Council for Education and Research on Toxics ("CERT"), a California public benefit corporation whose charitable purposes are education and research regarding toxic substances. The responsible person within the noticing entity is Raphael Metzger, CERT's General Counsel, to whom all communications should be directed at the following address and telephone number:

Metzger Law Group  
Raphael Metzger, Esq.  
401 E. Ocean Blvd., Suite 800  
Long Beach, CA 90802  
ph: 562-437-4499  
fax: 562-436-1561

Names of Violators: The violators are: Gloria Jean's Gourmet Coffees Corp.; Gloria Jean's Gourmet Coffees Franchising Corp.; It's a Grind, Inc.; and Praise International North America, Inc.

Time of Violations: The violations of California Health & Safety Code § 25249.6 are numerous and have been continuous and uninterrupted since approximately June 2002 to the present throughout the State of California. The timing of the violations is such that they occurred every moment that every individual within the State of California purchased and thereafter ingested acrylamide from the coffee produced, distributed, and/or sold by the above named entities, without first receiving the required Proposition 65 warnings.

Listed Chemicals: The carcinogenic chemical in the coffee produced, distributed, and/or sold by the above named entities which is the subject of the named entities' Proposition 65 violations is acrylamide, CAS No. 79-06-1, which was first listed at 22 California Code of Regulations § 1200(b) as a chemical known to the State of California to cause cancer on January 1, 1990.

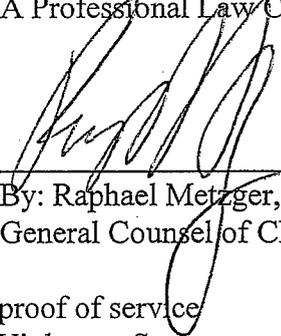
Consumer Product Exposure Description: Since June 2002, and continuing to the present, the above named entities have exposed and continue to expose California consumers purchasing coffee to high levels of acrylamide — a toxic chemical contained in the coffee produced, distributed and/or sold by the above named entities. Exposures to acrylamide unavoidably occurred via ingestion whenever a consumer purchased and thereafter consumed the coffee produced, distributed, and/or sold by the above named entities. Tests have shown that the even a single, small (12-ounce) serving of the above named entities' coffee contains anywhere from 4 to well over 100 times more acrylamide than the No Significant Risk Level ("NSRL") for acrylamide established by California's Office of Environmental Health Hazard Assessment ("OEHHHA"). Acrylamide is a toxic chemical known to the State of California to cause cancer and has been listed since January 1990 as a carcinogen on the list of carcinogenic chemicals published by the Governor of the State of California at 22 California Code of Regulations § 1200(b). Because acrylamide is listed in Proposition 65 as a carcinogen, pursuant to Health & Safety Code § 25249.6, the above named entities were, and are, required to warn consumers of their coffee in California that the coffee that they produce, distribute, and/or sell contains a chemical known by the State of California to cause cancer before exposing said consumers to acrylamide contained therein. Since June 2002, the above named entities violated and continue to violate California Health & Safety Code § 25249.6 by exposing numerous individuals within the State of California to acrylamide without first giving clear and reasonable warnings to said individuals that their coffee contains a chemical known by the State of California to cause cancer. The above named entities' Proposition 65 violations are particularly egregious and hazardous given the high concentrations of acrylamide contained in their coffee and given the fact that most consumers of coffee drink more than a single, small (12-ounce) serving of coffee per day.

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Conclusion. Proposition 65 requires that notice and intent to sue be given to a violator sixty (60) days before suit is filed. By this letter, CERT gives notice of the foregoing violations to the above named entities, and to the appropriate governmental authorities. If the above named entities wish to resolve this matter before CERT files suit, they should contact counsel at the above-mentioned address and telephone number. Otherwise, suit will be filed after sixty (60) days have elapsed. We look forward to your prompt action terminating the exposures of California consumers to the toxic hazards of acrylamide contained in your coffee, or providing the required and necessary warnings regarding the acrylamide contained in your coffee.

Very truly yours,

METZGER LAW GROUP  
A Professional Law Corporation



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By: Raphael Metzger, Esq.  
General Counsel of CERT

cc: all governmental authorities per attached proof of service  
attachments: Exhibit "A" - List of Alleged Violators; Summary of Proposition 65; Certificate of Merit; Proof of Service by Mail

**Exhibit A**  
(List of Alleged Violators)

Chief Executive Officer  
Gloria Jean's Gourmet Coffees Franchising Corp.  
It's a Grind Inc.  
Praise International North America, Inc.  
17691 Mitchell North, Suite A  
Irvine, CA 92614

Gloria Jean's Gourmet Coffees Corp.  
28 Executive Park, Suite 200  
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c/o Foley & Lardner LLP  
555 S. Flower Street, Suite 3500  
Los Angeles, CA 90071

**CERTIFICATE OF MERIT**  
**Health and Safety Code Section 25249.6**

I, Raphael Metzger, hereby declare:

1. I am an attorney at law, duly licensed and authorized to practice law in the State of California.

2. Unless the context indicates otherwise, I have personal knowledge of the matters set forth hereinafter and, if called as a witness, I would competently testify thereto.

3. I am General Counsel for the noticing party, Council for Education and Research on Toxics, a California corporation whose charitable purposes are education and research regarding toxic substances.

4. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings regarding the acrylamide contained in their coffee.

5. Council for Education and Research on Toxics alleges that since June 2002, and continuing to the present, the entities identified in the attached sixty-day notice have exposed and continue to expose California consumers purchasing coffee to high levels of acrylamide — a toxic chemical contained in the coffee produced, distributed and/or sold by the above named entities. Exposures to acrylamide unavoidably occurred via ingestion whenever a consumer purchased and thereafter consumed the acrylamide-containing coffee of the entities identified in the attached sixty-day notice. Testing of the coffee produced, distributed, and/or sold by the entities identified in the attached sixty-day notice has shown that even a single, small (12-ounce) serving of their coffee contains anywhere from 4 to well over 100 times more acrylamide than the No Significant Risk Level (“NSRL”) for acrylamide established by California’s Office of Environmental Health Hazard Assessment (“OEHHA”). Acrylamide is a toxic chemical known to the State of California to cause

cancer and has been listed since January 1990 as a carcinogen on the list of carcinogenic chemicals published by the Governor of the State of California at 22 California Code of Regulations § 1200(b). Because acrylamide is listed in Proposition 65 as a carcinogen, pursuant to Health & Safety Code § 25249.6, the entities named in the attached sixty-day notice were, and are, required to warn California consumers purchasing their coffee that their coffee contains a chemical known by the State of California to cause cancer before exposing said consumers to acrylamide contained therein. Since June 2002, the entities identified in the attached sixty-day notice violated and continue to violate California Health & Safety Code § 25249.6 by exposing numerous individuals within the State of California to acrylamide without first giving clear and reasonable warnings to said individuals that their coffee contains a chemical known by the State of California to cause cancer.

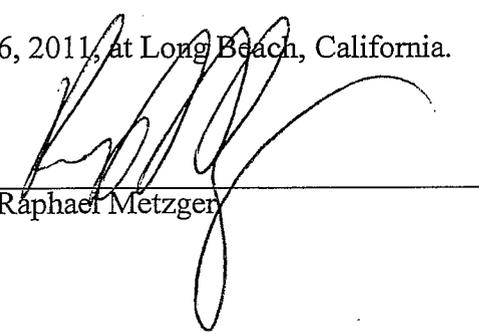
6. I have consulted with an expert who has reviewed facts, studies, and other data regarding the presence of, concentration of, and exposure to acrylamide from the coffee produced, distributed and/or sold by the entities identified in the attached sixty-day notice. The expert that I consulted has the relevant and appropriate experience and expertise to review said facts, studies, and data because this expert holds a Ph.D. in toxicology, has published a number of peer-reviewed articles regarding risk assessment in general and acrylamide risk assessment in particular, and is employed as a senior researcher who regularly performs risk assessments and who supervises and lectures Ph.D. and masters thesis students in the areas of toxicology and risk assessment.

7. Based on the information obtained through my consultation, and on all other information in my possession, I believe that exposures to high levels of acrylamide unavoidably occurred via ingestion whenever a consumer purchased and consumed the coffee of the entities identified in the attached sixty-day notice from approximately June 2002, and continuing to the present. I also believe, based on my consultation and the information in my possession, that there is a reasonable and meritorious case for a private action, pursuant to Health & Safety Code §25249.7(d). I understand that “reasonable and meritorious case for private action” means that information provides a credible basis that all elements of the private action can be established and

that the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

8. 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 and Safety Code Section 25249.7(h)(2), i.e., (1) the identity of the person consulted with and relied on by the certifier, and (2) the facts and other data reviewed by that person.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed September 16, 2011, at Long Beach, California.



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Raphael Metzger

**PROOF OF SERVICE BY U.S. MAIL**

(Our File No. 9703)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I am over the age of 18 and not a party to this matter. My business address is 401 E. Ocean Blvd., Suite 800, Long Beach, CA 90802. On September 16, 2011, I served the within **Notice of Proposition 65, California Health & Safety Code § 25249.6 Violations: Exposure of Consumers to Carcinogenic Substances Without First Giving Warnings; Certificate of Merit; and Statement entitled "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"** on the following violators and governmental attorneys who are required to be served copies of said notice, by placing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the U.S. mail at Long Beach, CA, addressed as follows:

Office of the Attorney General  
1515 Clay Street, 20<sup>th</sup> Floor  
Oakland, CA 94612-0550

Office of the City Attorney  
800 City Hall East  
200 North Main Street  
Los Angeles, CA 90012

Office of the City Attorney  
Civic Center Plaza  
1200 Third Ave., #1620  
San Diego, CA 92101

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Office of the City Attorney  
200 E. Santa Clara St., 16th Floor  
San Jose, CA 95113- 1905

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

District Attorney  
Alpine County  
270 Laramie Street  
P.O. Box 248  
Markleeville, CA 96120

District Attorney  
Amador County  
708 Court Street  
Jackson, CA 95642

District Attorney  
Butte County  
25 County Center Drive  
Oroville, CA 95965

District Attorney  
Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney  
Colusa County  
346 5th 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  
P. O. Box 430  
Willows, CA 95988

District Attorney  
Humboldt County  
825 5th Street, 4<sup>th</sup> Floor  
Eureka, CA 95501

District Attorney  
Imperial County  
940 Main Street, Suite 102  
El Centro, CA 92243

District Attorney  
Inyo County  
P.O. Box D  
Independence, CA 93526

District Attorney  
Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney  
Kings County  
1400 West Lacey Boulevard  
Hanford, CA 93230

District Attorney  
Lake County  
255 North Forbes Street  
Lakeport, CA 95453

District Attorney  
Lassen County  
220 South Lassen Street, Suite 8  
Susanville, CA 96130

District Attorney  
Los Angeles County  
210 West Temple St., Suite 1800  
Los Angeles, CA 90012-3210

District Attorney  
Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney  
Marin County  
3501 Civic Center Dr., Rm. 130  
San Rafael, CA 94903

District Attorney  
Mariposa County  
5101 Jones Street  
P.O. Box 730  
Mariposa, CA 95338

District Attorney  
Mendocino County  
P.O. Box 1000  
Ukiah, CA 95482

District Attorney  
Merced County  
650 W. 20<sup>th</sup> St.  
Merced, CA 95340

District Attorney  
Modoc County  
204 S. Court St., STE. 202  
Alturas, CA 96101

District Attorney  
Mono County  
P.O. Box 617  
Bridgeport, CA 93517

District Attorney  
Monterey County  
P.O. Box 1131  
Salinas, CA 93902

District Attorney  
Napa County  
Carithers Building  
931 Parkway Mall  
Napa, CA 94559

District Attorney  
Nevada County  
110 Union St.  
Nevada City, CA 95959

District Attorney  
Orange County  
401 Civic Center Drive West  
Santa Ana, CA 92701

District Attorney  
Placer County  
10810 Justice Center Dr., Suite 240  
Roseville, CA 95678

District Attorney  
Plumas County  
520 Main St., Rm. 404  
Quincy, CA 95971

District Attorney  
Riverside County  
3960 Orange Street  
Riverside, CA 92501

District Attorney  
Sacramento County  
901 G Street  
Sacramento, CA 95814

District Attorney  
San Benito County  
419 4th Street  
Hollister, CA 95023-3801

District Attorney  
San Bernardino County  
316 N. Mountain View Ave  
San Bernardino, CA 92415-0004

District Attorney  
San Diego County  
Hall of Justice  
330 W. Broadway  
San Diego, CA 92101

District Attorney  
San Francisco County  
Hall of Justice  
850 Bryant Street, Room 322  
San Francisco, CA 94103

District Attorney  
San Joaquin County  
P.O. Box 990  
Stockton, CA 95201-0990

District Attorney  
San Luis Obispo  
1035 Palm St., Room 450  
San Luis Obispo, CA 93408

District Attorney  
San Mateo County  
400 County Center, 3<sup>rd</sup> 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 St., West Wing  
San Jose, CA 95110

District Attorney  
Santa Cruz County  
701 Ocean Street, Rm. 200  
Santa Cruz, CA 95060

District Attorney  
Shasta County  
1355 West Street  
Redding, CA 96001

District Attorney  
Sierra County  
100 Courthouse Square, 2<sup>nd</sup> Floor  
P.O. Box 457  
Downieville, CA 95936

District Attorney  
Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

District Attorney  
Solano County  
675 Texas Street, Suite 4500  
Fairfield, CA 94533-6340

District Attorney  
Sonoma County  
600 Administration Dr., Room 212-J  
Santa Rosa, CA 95403

District Attorney  
Stanislaus County  
832 12th Street, Suite 300  
Modesto, CA 95354

District Attorney  
Sutter County  
446 2nd Street, Suite 102  
Yuba City, CA 95991

District Attorney  
Tehama County  
444 Oak St., Rm. L  
P.O. Box 519  
Red Bluff, CA 96080

District Attorney  
Trinity County  
11 Court St.  
P.O. Box 310  
Weaverville, CA 96093

District Attorney  
Tulare County  
221 S. Mooney Blvd., Rm 224  
Visalia, CA 93291

District Attorney  
Tuolumne County  
423 N. Washington St.  
Sonora, CA 95370

District Attorney  
Ventura County  
800 S. Victoria Ave.  
Ventura, CA 93009

District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95695

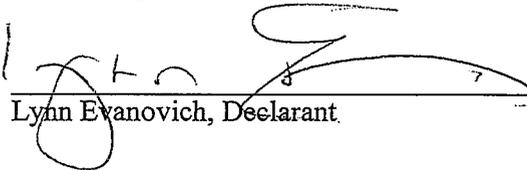
District Attorney  
Yuba County  
215 5th Street  
Marysville, CA 95901

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555 S. Flower Street, Suite 3500  
Los Angeles, CA 90071

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed September 16, 2011, at Long Beach, California.



Lynn Evanovich, Declarant