AMENDED NOTICE OF VIOLATION

California Safe Drinking Water
and Toxic Enforcement Act

Lead in Ginger and Fruit Snack Food

November 7, 2012

This Amended Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). This Amended Notice of Violation amends and supercedes the Notice of Violation previously issued on August 6, 2012 (Attorney General No. 2012-00484).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Amended Notice of Violation is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

Description of Violation:

- Violators: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least November 7, 2009, and are continuing to this day.
- Provision of Proposition 65: This Amended Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from consumption of the products identified in this Amended Notice.
- Type of Product: The specific type of product causing this violation is ginger and fruit snack food. Non-exclusive examples of this specific type of product are listed on the attached Exhibit 1.
- Description of Exposure: This Amended Notice addresses consumer exposures to Lead. Consumption of the products identified in this Amended Notice results in human exposures to Lead. The products contain Lead. The primary route of exposure for the violations is direct ingestion when consumers eat the ginger and fruit snack food. These exposures occur in homes, workplaces and everywhere else throughout California where the products are consumed. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

Resolution of Noticed Claims:

Based on the allegations set forth in this Amended Notice, CEH intends to file a citizen enforcement lawsuit against each of the alleged violators unless such violators agree in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Amended Notice to CEH through its counsel Eric S. Somers (esomers at lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

EXHIBIT 1
November 7, 2012 Amended Notice of Violation
Lead in Ginger and Fruit Snack Food

Responsible Parties	Non-Exclusive Examples of the Products
Dakota Brothers, Inc. **dba Marina Food** 10122 Bandley Drive Cupertino, CA 95014	Sweet Fruit Salt Plum SKU No. 4-712390-170015
	Sweet Fruit Licorice Lemon Ginger SKU No. 4-712390-170015
	Quality Snack Licoriced Ginger SKU No. 6-34567-89136-0
Kam Lee Yuen **Trading Co., Inc.** 3775 Bayshore Boulevard Brisbane, CA 94005	Red Lantern Ginger Candy SKU No. 6-63836-00070-7
	Red Lantern Plum Candy SKU No. 6-63836-00041-7
Longchamp Corporation **dba Lion Supermarket** 1710 Tully Road San Jose, CA 95122	Sweet Fruit Ginger SKU No. 4-712390-170015
	Sweet Fruit Seedless Plum SKU No. 4-712390-170015
	Sweet Fruit Dried Plum SKU No. 4-712390-170015
	Sweet Fruit Sweet Plum SKU No. 4-712390-170015

QFCO, Inc. 1611 Adrian Road Burlingame, CA 94010 **Queensway Foods Co. Inc.** 1611 Adrian Road Burlingame, CA 94010	Chan Pui Mui Preserved Plum SKU No. 0-92691-01400-8
San Pablo Supermarket, Inc. 8450 Garvey Avenue Suite 200 Rosemead, CA 91770 **Shun Fat Supermarket, Inc.** 8450 Garvey Avenue Suite 200 Rosemead, CA 91770	Sanh Yuan Preserved Fruit SKU No. 8-88988-80004-7 Item No. 8703
Tawa Supermarket, Inc. **dba 99 Ranch Market** 6281 Regio Avenue Buena Park, CA 90620	Chan Pui Mui Preserved Plum SKU No. 0-92691-01400-8
	Red Lantern Ginger Candy SKU No. 6-63836-00070-7
	Red Lantern Plum Candy SKU No. 6-63836-00041-7

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

I, Eric S. Somers, hereby declare:

1. 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 & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and 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 exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on 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 plaintiff's case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the 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 § 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.

November 7, 2012

Eric S. Somers
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is jbanister@lexlawgroup.com.

On November 7, 2012, I served true copies of the following documents:

NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

CERTIFICATE OF MERIT; and

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those on service list marked with an asterisk).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

Please see attached service list.

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 3:01 p.m. on November 7, 2012:

Lon Wixson, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
lwixson@contracostada.org

Karyn Sinunu-Towery,
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Prop65@standa.org

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Paul E. Zellerbach, District Attorney
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Riverside, CA 92501
Prop65@rivcoda.org

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on November 7, 2012, at San Francisco, California.

Signed: _____
John Banister

SERVICE LIST

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

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
708 Court Street, Ste. 202
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25 County Center Drive
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District Attorney of Calaveras County
891 Mountain Ranch Road
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District Attorney of Colusa County
547 Market Street, Ste. 102
Colusa, CA 95932

District Attorney of Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney of El Dorado County
515 Main Street
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2220 Tulare Street, Ste. 1000
Fresno, CA 93721

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825 5th Street
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District Attorney of Imperial County
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District Attorney of Kings County
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Lakeport, CA 95453

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Sacramento, CA 95814

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Woodland, CA 95695

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Marysville, CA 95901

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Los Angeles, CA 90012

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1200 Third Avenue, Ste. 1620
San Diego, CA 92101

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

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65
Coordinator and Robert Thomas
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550

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