

**Metzger  
Law Group**

Practice Concentrated in Toxic  
Tort & Environmental Litigation

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Raphael Metzger  
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Sarah Hodgson  
Kathryn Saldana  
Kenneth Holdren  
Bryan Castaneda  
Molshree Gupta

January 29, 2014

**VIA FIRST CLASS U.S. MAIL**  
TO ALL ALLEGED VIOLATORS IDENTIFIED  
IN EXHIBIT "A" ATTACHED HERETO

**RE: NOTICE OF PROPOSITION 65, CALIFORNIA HEALTH & SAFETY CODE  
SECTION 25249.6, VIOLATIONS: EXPOSURE OF CONSUMERS TO  
CHEMICALS KNOWN TO THE STATE TO CAUSE CANCER OR  
REPRODUCTIVE TOXICITY 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 Beech-Nut Nutrition Corporation, CVS Caremark Corporation, CVS Pharmacy, Inc., Ella's Kitchen, Inc., Gerber Products Company, The Hain Celestial Group, Inc., Healthy Times, The Kroger Co., L. Perrigo Company, National Importers, Inc., National Importers US Inc., Nestle Healthcare Nutrition, Inc., Nestle Holdings, Inc., Nestle USA, Inc., Nurture, Inc., PBM Nutritionals, LLC, PBM Products, LLC, Perrigo Company, Plum Inc., which will do business in California as Plum Organics, Snikiddy, LLC, Sprout Foods, Inc., Supervalu Inc., Target Corporation, Tasty Brand, Inc., Toys "R" Us-Delaware, Inc., Toys "R" Us, Inc., and Wal-Mart Stores, 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 . . . ."

General Information: Pursuant to 27 California Code of Regulations § 25903(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.

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Description of Violation: Since January 2013, and continuing to the present, the above named entities have exposed and continue to expose California consumers of baby food products to high levels of acrylamide — a toxic chemical contained in the baby food products produced, distributed and/or sold by the above named entities. Exposures to acrylamide unavoidably occurred each time that a consumer ingested the above named entities' acrylamide-containing, baby food products. Testing of the above named entities' baby food products has shown that a single-serving of the baby food products contains more acrylamide than the No Significant Risk Level ("NSRL") for acrylamide established by California's Office of Environmental Health Hazard Assessment ("OEHHA"). A specific list of the baby food products that are the subject of this Notice are identified in the document attached as Exhibit B.

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 27 California Code of Regulations § 27001. Acrylamide is also a toxic chemical known to the State of California to cause reproductive toxicity and has been listed since February 25, 2011, as a reproductive toxin on the list of chemicals known to cause reproductive toxicity published by the Governor of the State of California at 27 California Code of Regulations § 27001. Because acrylamide is listed in Proposition 65 as a carcinogen and as a reproductive toxin, pursuant to Health & Safety Code § 25249.6, the above named entities were, and are, required to warn California consumers purchasing their baby food products that their baby food products contain a chemical known by the State of California to cause cancer and reproductive toxicity before exposing consumers to acrylamide contained therein. Since January 2013, 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 baby food products contain a chemical known by the State of California to cause cancer and reproductive toxicity.

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

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Names of Violators: The violators are: Beech-Nut Nutrition Corporation; CVS Caremark Corporation; CVS Pharmacy, Inc.; Ella's Kitchen, Inc.; Gerber Products Company; The Hain Celestial Group, Inc.; Healthy Times; The Kroger Co.; L. Perrigo Company; National Importers, Inc.; National Importers US Inc.; Nestle Healthcare Nutrition, Inc.; Nestle Holdings, Inc.; Nestle USA, Inc.; Nurture, Inc.; PBM Nutritionals, LLC; PBM Products, LLC; Perrigo Company; Plum Inc., which will do business in California as Plum Organics; Snikiddy, LLC; Sprout Foods, Inc.; Supervalu Inc.; Target Corporation; Tasty Brand, Inc.; Toys "R" Us-Delaware, Inc.; Toys "R" Us, Inc.; and Wal-Mart Stores, Inc.

Time of Violations: The violations of California Health & Safety Code § 25249.6 are numerous and have been continuous and uninterrupted since approximately January 2013 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 ingested acrylamide from the baby food products 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 baby food 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 27 California Code of Regulations § 27001(b) as a chemical known to the State of California to cause cancer on January 1, 1990, and which was first listed as a chemical known to the State of California to cause reproductive toxicity on February 25, 2011.

Consumer Product Exposure Description: Since January 2013, and continuing to the present, the above named entities have exposed and continue to expose California consumers of baby food products to high levels of acrylamide — a toxic chemical contained in the baby food products produced, distributed and/or sold by the above named entities. Exposures to acrylamide unavoidably occurred each time that a consumer ingested the above named entities' acrylamide-containing, baby food products. Testing of the above named entities' baby food products has shown that a single-serving of the baby food products contains more acrylamide than the No Significant Risk Level ("NSRL") for acrylamide established by California's Office of Environmental Health Hazard Assessment ("OEHHHA"). A specific list of the baby food products that are the subject of this Notice are identified in the document attached as Exhibit B.

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 27 California Code of Regulations § 27001. Acrylamide is also a toxic chemical known to the State of California to cause reproductive toxicity and has been listed

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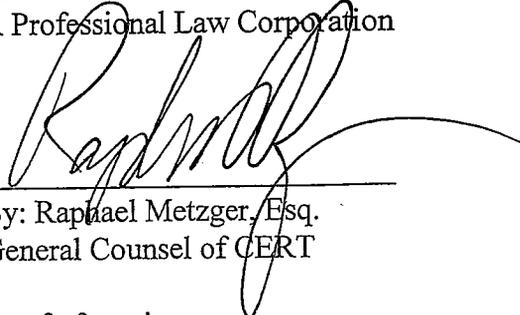
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since February 25, 2011, as a reproductive toxin on the list of chemicals known to cause reproductive toxicity published by the Governor of the State of California at 27 California Code of Regulations § 27001. Because acrylamide is listed in Proposition 65 as a carcinogen and as a reproductive toxin, pursuant to Health & Safety Code § 25249.6, the above named entities were, and are, required to warn California consumers purchasing their baby food products that their baby food products contain a chemical known by the State of California to cause cancer and reproductive toxicity before exposing consumers to acrylamide contained therein. Since January 2013, 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 baby food products contain a chemical known by the State of California to cause cancer and reproductive toxicity.

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 baby food products, or providing the required and necessary warnings regarding the acrylamide contained in your baby food products.

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; Exhibit "B" - List of Baby Food Products  
Subject to this Notice; Summary of Proposition 65; Certificate of Merit; Proof of  
Service by Mail

**EXHIBIT "A"**

Current CEO/President  
Beech-Nut Nutrition Corporation  
100 Hero Drive  
Amsterdam, NY 12010

Current CEO/President  
CVS Caremark Corporation  
1 CVS Drive  
Woonsocket, RI 02895

Current CEO/President  
CVS Pharmacy, Inc.  
1 CVS Drive  
Woonsocket, RI 02895

Current CEO/President  
Ella's Kitchen, Inc.  
71 McMurray Rd., Ste. 104  
Pittsburgh, PA 15241

Current CEO/President  
Gerber Products Company  
12 Vreeland Rd.  
Florham Park, NJ 07932

Current CEO/President  
The Hain Celestial Group, Inc.  
1111 Marcus Avenue  
Lake Success, New York 11042

Current CEO/President  
Healthy Times  
13200 Kirkham Way, Bldg. 104  
Poway, CA 92064

Current CEO/President  
The Kroger Co.  
1014 Vine St.  
Cincinnati, OH 45202

Current CEO/President  
L. Perrigo Company  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
National Importers Inc.  
120 - 13100 Mitchell Road  
Richmond, BC V6V 1M8  
Canada

Current CEO/President  
National Importers US Inc.  
1201 11<sup>th</sup> St.  
Bellingham, WA 98225

Current CEO/President  
Nestle Healthcare Nutrition, Inc.  
12 Vreeland Rd.  
Florham Park, NJ 07932

Current CEO/President  
Nestle Holdings, Inc.  
383 Main Ave., 5<sup>th</sup> Floor  
Norwalk, CT 06851

Current CEO/President  
Nestle USA, Inc.  
383 Main Ave., 5<sup>th</sup> Floor  
Merrittview  
Norwalk, CT 06851

Current CEO/President  
Nurture, Inc.  
139 Fulton Street, Suite 907  
New York, NY 10038

Current CEO/President  
PBM Nutritionals, LLC  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
PBM Products, LLC  
204 N. Main St.  
Gordonsville, VA 22942

Current CEO/President  
PBM Products, LLC  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
Perrigo Company  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
Plum Inc., which will do  
business in California as Plum  
Organics  
1485 Park Avenue, Suite 200  
Emeryville, CA 94608

Current CEO/President  
Snikiddy, LLC  
5219 Farrington Rd.  
Bethesda, MD 20816

Current CEO/President  
Sprout Foods, Inc.  
2763 Meadow Church Rd.  
Suite 110  
Duluth, GA 30097

Current CEO/President  
Supervalu Inc.  
7075 Flying Cloud Drive  
Eden Prairie, MN 55344

Current CEO/President  
Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN 55403

Current CEO/President  
Tasty Brand, Inc.  
24003 Ventura Blvd., Bldg. A,#218  
Calabasas, CA 91302

Current CEO/President  
Toys "R" Us-Delaware, Inc.  
One Geoffrey Way  
Wayne NJ 07470

Current CEO/President  
Toys "R" Us, Inc.  
One Geoffrey Way  
Wayne, NJ 07470

Current CEO/President  
Wal-Mart Stores, Inc.  
702 SW 8<sup>th</sup> Street  
Bentonville, AR 72716

## EXHIBIT "B"

### Beech-Nut Nutrition Corporation

- Beech-Nut Apple Prune Juice Blend
- Beech-Nut Fruities On the Go: Apple, Sweet Potato and Pineapple
- Beech-Nut Homestyle Fruit Blends: Apple & Sweet Potato Puree with Mixed Grain
- Beech-Nut Let's Grow Arrowroot Cookies
- Beech-Nut Let's Grow Biter Biscuits
- Beech-Nut Stage 2 Butternut Squash
- Beech-Nut Stage 2 Carrots & Peas
- Beech-Nut Stage 2 Tender Golden Sweet Potatoes
- Beech-Nut Stage 2 Vegetables & Chicken

### CVS Caremark Corporation

- CVS Baby Whole Grain Puffs Blueberry
- CVS Baby Whole Grain Puffs Strawberry Apple

### CVS Pharmacy, Inc.

- CVS Baby Whole Grain Puffs Blueberry
- CVS Baby Whole Grain Puffs Strawberry Apple

### Ella's Kitchen, Inc.

- Ella's Kitchen Organic Apple and Ginger Cookies
- Ella's Kitchen Organic Vegetable Bake with Lentils

### Gerber Products Company

- Gerber 2<sup>nd</sup> Foods Carrots & Sweet Peas
- Gerber 2<sup>nd</sup> Foods Green Beans
- Gerber 2<sup>nd</sup> Foods Sweet Potatoes
- Gerber 2<sup>nd</sup> Foods Vegetable Chicken Dinner
- Gerber Finger Foods Bitter Biscuits
- Gerber Finger Foods Fruit Wagon Wheels
- Gerber Graduates for Toddlers Animal Crackers
- Gerber Graduates Wagon Wheels Apple Harvest
- Gerber Organic Banana Squash
- Gerber Strained/Puree Prunes
- Gerber Strained/Puree Sweet Potatoes
- Gerber Tender Harvest Organic Sweet Potatoes
- Gerber Vanilla Custard Pudding
- Gerber Whole Grain Apple Cinnamon Puffs

### The Hain Celestial Group, Inc.

- Earth's Best Sweet Potato and Beets
- Earth's Best Squash and Sweet Peas 2<sup>nd</sup> Stage
- Earth's Best Organic Pop Snax - Sweet Potato Cinnamon Cannister
- Earth's Best Sesame Street Crunchin' Crackers - Veggie
- Earth's Best Sesame Street Letter of the Day Cookies - Very Vanilla
- Ella's Kitchen Organic Apple and Ginger Cookies
- Ella's Kitchen Organic Vegetable Bake with Lentils

### Healthy Times

- Healthy Times Arrowroot Vanilla Cookies Organic
- Healthy Times Cinnamon Hugga Bear Cookies
- Healthy Times Vanilla Biscuits for Teethers

### The Kroger Co.

- Comforts for Toddler Little Puffs Strawberry Apple
- Comforts for Toddler Little Puffs Sweet Potato

### L. Perrigo Company

- Baby Basics Little Puffs - Sweet Potato
- Babies R Us Stage 1 - Apple/Prune
- Babies R Us Butternut Squash Apple
- Babies R Us Organic Little Puffs - Apple
- Comforts for Toddler Little Puffs Strawberry Apple
- Comforts for Toddler Little Puffs Sweet Potato
- CVS Baby Whole Grain Puffs Blueberry
- CVS Baby Whole Grain Puffs Strawberry Apple
- up & up Apple and Sweet Potato
- up & up Little Puffs - Banana
- up & up Little Puffs - Sweet Potato
- up & up Cereal Bar - Mixed Berry
- Parent's Choice Cereal Bar - Strawberry Banana
- Parent's Choice Little Munchers - Veggie
- Parent's Choice Sweet Potatoes

### National Importers, Inc.

- Baby Mum-Mum Banana Rice Rusks
- Baby Mum-Mum Vegetable Rice Rusks

### National Importers US Inc.

- Baby Mum-Mum Banana Rice Rusks
- Baby Mum-Mum Vegetable Rice Rusks

### Nestle Healthcare Nutrition, Inc.

- Gerber 2<sup>nd</sup> Foods Carrots & Sweet Peas
- Gerber 2<sup>nd</sup> Foods Green Beans
- Gerber 2<sup>nd</sup> Foods Sweet Potatoes
- Gerber 2<sup>nd</sup> Foods Vegetable Chicken Dinner
- Gerber Finger Foods Bitter Biscuits
- Gerber Finger Foods Fruit Wagon Wheels
- Gerber Graduates for Toddlers Animal Crackers
- Gerber Graduates Wagon Wheels Apple Harvest
- Gerber Organic Banana Squash
- Gerber Strained/Puree Prunes
- Gerber Strained/Puree Sweet Potatoes
- Gerber Tender Harvest Organic Sweet Potatoes
- Gerber Vanilla Custard Pudding
- Gerber Whole Grain Apple Cinnamon Puffs
- Nestle Rice and Banana Infant Cereal

### Nestle Holdings, Inc.

- Gerber 2<sup>nd</sup> Foods Carrots & Sweet Peas
- Gerber 2<sup>nd</sup> Foods Green Beans
- Gerber 2<sup>nd</sup> Foods Sweet Potatoes
- Gerber 2<sup>nd</sup> Foods Vegetable Chicken Dinner
- Gerber Finger Foods Bitter Biscuits
- Gerber Finger Foods Fruit Wagon Wheels
- Gerber Graduates for Toddlers Animal Crackers
- Gerber Graduates Wagon Wheels Apple Harvest
- Gerber Organic Banana Squash
- Gerber Strained/Puree Prunes
- Gerber Strained/Puree Sweet Potatoes
- Gerber Tender Harvest Organic Sweet Potatoes
- Gerber Vanilla Custard Pudding
- Gerber Whole Grain Apple Cinnamon Puffs
- Nestle Rice and Banana Infant Cereal

**Nestle USA, Inc.**

- Gerber 2<sup>nd</sup> Foods Carrots & Sweet Peas
- Gerber 2<sup>nd</sup> Foods Green Beans
- Gerber 2<sup>nd</sup> Foods Sweet Potatoes
- Gerber 2<sup>nd</sup> Foods Vegetable Chicken Dinner
- Gerber Finger Foods Bitter Biscuits
- Gerber Finger Foods Fruit Wagon Wheels
- Gerber Graduates for Toddlers Animal Crackers
- Gerber Graduates Wagon Wheels Apple Harvest
- Gerber Organic Banana Squash
- Gerber Strained/Puree Prunes
- Gerber Strained/Puree Sweet Potatoes
- Gerber Tender Harvest Organic Sweet Potatoes
- Gerber Vanilla Custard Pudding
- Gerber Whole Grain Apple Cinnamon Puffs
- Nestle Rice and Banana Infant Cereal

**Nurture, Inc.**

- Happy Baby Apricots and Sweet Potatoes
- Happy Baby Sweet Potato Puffs
- Happy Munchies Rice Cakes Carrot

**PBM Nutritionals, LLC**

- Baby Basics Little Puffs - Sweet Potato
- Babies R Us Stage 1 - Apple/Prune
- Babies R Us Butternut Squash Apple
- Babies R Us Organic Little Puffs - Apple
- Comforts for Toddler Little Puffs Strawberry Apple
- Comforts for Toddler Little Puffs Sweet Potato
- CVS Baby Whole Grain Puffs Blueberry
- CVS Baby Whole Grain Puffs Strawberry Apple
- up & up Apple and Sweet Potato
- up & up Little Puffs - Banana
- up & up Little Puffs - Sweet Potato
- up & up Cereal Bar - Mixed Berry
- Parent's Choice Cereal Bar - Strawberry Banana
- Parent's Choice Little Munchers - Veggie
- Parent's Choice Sweet Potatoes

**PBM Products, LLC**

- Baby Basics Little Puffs - Sweet Potato
- Babies R Us Stage 1 - Apple/Prune
- Babies R Us Butternut Squash Apple
- Babies R Us Organic Little Puffs - Apple
- Comforts for Toddler Little Puffs Strawberry Apple
- Comforts for Toddler Little Puffs Sweet Potato
- CVS Baby Whole Grain Puffs Blueberry
- CVS Baby Whole Grain Puffs Strawberry Apple
- up & up Apple and Sweet Potato
- up & up Little Puffs - Banana
- up & up Little Puffs - Sweet Potato
- up & up Cereal Bar - Mixed Berry
- Parent's Choice Cereal Bar - Strawberry Banana
- Parent's Choice Little Munchers - Veggie
- Parent's Choice Sweet Potatoes

**Wal-Mart Stores, Inc.**

- Parent's Choice Cereal Bar - Strawberry Banana
- Parent's Choice Little Munchers - Veggie
- Parent's Choice Sweet Potatoes

**Perrigo Company**

- Baby Basics Little Puffs - Sweet Potato
- Babies R Us Stage 1 - Apple/Prune
- Babies R Us Butternut Squash Apple
- Babies R Us Organic Little Puffs - Apple
- Comforts for Toddler Little Puffs Strawberry Apple
- Comforts for Toddler Little Puffs Sweet Potato
- CVS Baby Whole Grain Puffs Blueberry
- CVS Baby Whole Grain Puffs Strawberry Apple
- up & up Apple and Sweet Potato
- up & up Little Puffs - Banana
- up & up Little Puffs - Sweet Potato
- up & up Cereal Bar - Mixed Berry
- Parent's Choice Cereal Bar - Strawberry Banana
- Parent's Choice Little Munchers - Veggie
- Parent's Choice Sweet Potatoes

**Plum Inc., which will do business in California as Plum****Organics**

- Plum Organics Apple & Carrot
- Plum Organics Baby - Organic Super Puffs - Super Oranges - Mango and Sweet Potato
- Plum Organics Just Prunes
- Plum Organics Little Cremes Super Greens - Kale, Apple & Sweet Potato
- Plum Organic Parsnip, Carrot & Cheddar Mash
- Plum Organic Squash & Sweet Potato Puree
- Plum Organics Stage 1 Just Veggies Sweet Potato
- Plum Organics Sweet Potato, Corn & Apple
- Plum Organic Root Vegetable and Beet Ragout
- Plum Organic Ultimate Four Grain Porridge

**Snikiddy, LLC**

- Snikiddy Eat Your Vegetables Sea Salt Vegetable Chips
- Snikiddy Eat Your Vegetables Sour Cream & Onion Vegetable Chips

**Sprout Foods, Inc.**

- Sprout Sweet Baby Carrots
- Sprout Green Beans, Peas & Sweet Corn
- Sprout Organic Baby Food Pouch Sweet Potato Stage 1

**Supervalu Inc.**

- Baby Basics Little Puffs - Sweet Potato
- Wild Harvest Arrowroot Animal Cookies

**Target Corporation**

- up & up Apple and Sweet Potato
- up & up Little Puffs - Banana
- up & up Little Puffs - Sweet Potato
- up & up Cereal Bar - Mixed Berry

**Tasty Brand, Inc.**

- Tasty Brand Organic Cookies Vanilla

**Toys "R" Us-Delaware, Inc.**

- Babies R Us Stage 1 - Apple/Prune
- Babies R Us Butternut Squash Apple
- Babies R Us Organic Little Puffs - Apple

**Toys "R" Us, Inc.**

- Babies R Us Stage 1 - Apple/Prune
- Babies R Us Butternut Squash Apple
- Babies R Us Organic Little Puffs - Apple

**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 baby food products.

5. Council for Education and Research on Toxics alleges that since January 2013, and continuing to the present, the above named entities have exposed and continue to expose California consumers of baby food products to high levels of acrylamide — a toxic chemical contained in the baby food products produced, distributed and/or sold by the above named entities. Exposures to acrylamide unavoidably occurred each time that a consumer ingested the above named entities' acrylamide-containing, baby food products. Testing of the above named entities' baby food products has shown that a single-serving of the baby food products contains more acrylamide than the No Significant Risk Level ("NSRL") for acrylamide established by California's Office of Environmental Health Hazard Assessment ("OEHHA"). A specific list of the baby food products that are the subject of the attached sixty-day notice are identified in Exhibit B.

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 27 California Code of Regulations § 27001. Acrylamide is also a toxic chemical known to the State of California to cause reproductive toxicity and has been listed since February 25, 2011, as a reproductive toxin on the list of chemicals known to cause reproductive toxicity published by the Governor of the State of California at 27 California Code of Regulations § 27001. Because acrylamide is listed in Proposition 65 as a carcinogen and as a reproductive toxin, pursuant to Health & Safety Code § 25249.6, the above named entities were, and are, required to warn California consumers purchasing their baby food products that their baby food products contain a chemical known by the State of California to cause cancer and reproductive toxicity before exposing consumers to acrylamide contained therein. Since January 2013, 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 baby food products contain a chemical known by the State of California to cause cancer and reproductive toxicity.

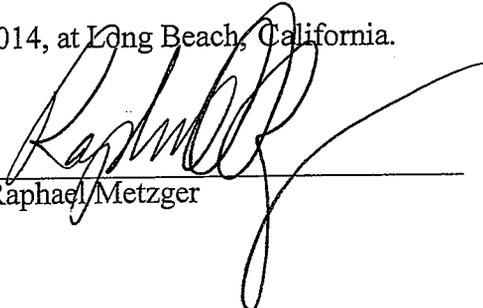
6. I have consulted with an expert who has reviewed facts, studies, and other data regarding the presence of, concentration of, and exposure to acrylamide from baby food products. The expert that I consulted has the relevant and appropriate experience and expertise to review said facts, studies, and 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 whenever a consumer ingested the baby food products of the entities identified in the

attached sixty-day notice from approximately January 2013, 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 January 29, 2014, at Long Beach, California.

  
\_\_\_\_\_  
Raphael Metzger

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

(Our File No. 9922)

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 January 29, 2014, 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:

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

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

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

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

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

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

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

District Attorney  
Colusa County  
346 5th Street, Suite 101  
Colusa, CA 95932

District Attorney  
Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

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

District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553

District Attorney  
Kings County  
1400 West Lacey Boulevard  
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District Attorney  
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District Attorney  
Lassen County  
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District Attorney  
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Monterey County  
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Salinas, CA 93902

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Nevada City, CA 95959

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Riverside, CA 92501

District Attorney  
Sacramento County  
901 G Street  
Sacramento, CA 95814

District Attorney  
San Benito County  
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San Jose, CA 95110

District Attorney  
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Santa Cruz, CA 95060

District Attorney  
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District Attorney  
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Yuba City, CA 95991

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Trinity County  
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Sonora, CA 95370

District Attorney  
Ventura County  
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Ventura, CA 93009

District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95695

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

Current CEO/President  
Beech-Nut Nutrition Corporation  
100 Hero Drive  
Amsterdam, NY 12010

Current CEO/President  
CVS Caremark Corporation  
1 CVS Drive  
Woonsocket, RI 02895

Current CEO/President  
CVS Pharmacy, Inc.  
1 CVS Drive  
Woonsocket, RI 02895

Current CEO/President  
Ella's Kitchen, Inc.  
71 McMurray Rd., Ste. 104  
Pittsburgh, PA 15241

Current CEO/President  
Gerber Products Company  
12 Vreeland Rd.  
Florham Park, NJ 07932

Current CEO/President  
The Hain Celestial Group, Inc.  
1111 Marcus Avenue  
Lake Success, New York 11042

Current CEO/President  
Healthy Times  
13200 Kirkham Way, Bldg. 104  
Poway, CA 92064

Current CEO/President  
The Kroger Co.  
1014 Vine St.  
Cincinnati, OH 45202

Current CEO/President  
L. Perrigo Company  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
National Importers Inc.  
120 - 13100 Mitchell Road  
Richmond, BC V6V 1M8  
Canada

Current CEO/President  
National Importers US Inc.  
1201 11<sup>th</sup> St.  
Bellingham, WA 98225

Current CEO/President  
Nestle Healthcare Nutrition, Inc.  
12 Vreeland Rd.  
Florham Park, NJ 07932

Current CEO/President  
Nestle Holdings, Inc.  
383 Main Ave., 5<sup>th</sup> Floor  
Norwalk, CT 06851

Current CEO/President  
Nestle USA, Inc.  
383 Main Ave., 5<sup>th</sup> Floor  
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Norwalk, CT 06851

Current CEO/President  
Nurture, Inc.  
139 Fulton Street, Suite 907  
New York, NY 10038

Current CEO/President  
PBM Nutritionals, LLC  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
PBM Products, LLC  
204 N. Main St.  
Gordonsville, VA 22942

Current CEO/President  
PBM Products, LLC  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
Perrigo Company  
515 Eastern Avenue  
Allegan, MI 49010

Current CEO/President  
Plum Inc., which will do business in  
California as Plum Organics  
1485 Park Avenue, Suite 200  
Emeryville, CA 94608

Current CEO/President  
Snikiddy, LLC  
5219 Farrington Rd.  
Bethesda, MD 20816

Current CEO/President  
Sprout Foods, Inc.  
2763 Meadow Church Rd.  
Suite 110  
Duluth, GA 30097

Current CEO/President  
Supervalu Inc.  
7075 Flying Cloud Drive  
Eden Prairie, MN 55344

Current CEO/President  
Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN 55403

Current CEO/President  
Tasty Brand, Inc.  
24003 Ventura Blvd., Bldg. A,#218  
Calabasas, CA 91302

Current CEO/President  
Toys "R" Us-Delaware, Inc.  
One Geoffrey Way  
Wayne NJ 07470

Current CEO/President  
Toys "R" Us, Inc.  
One Geoffrey Way  
Wayne, NJ 07470

Current CEO/President  
Wal-Mart Stores, Inc.  
702 SW 8<sup>th</sup> Street  
Bentonville, AR 72716

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed January 29, 2014 at Long Beach, California.

  
\_\_\_\_\_  
Nina S. Vidal, Declarant