

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Lead in Truly Indian Brand Simmer Sauces

July 2, 2019

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health and Safety Code section 25249.7(d).

- 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 Notice is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 508, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Caroline Cox is the Senior Scientist of and a responsible individual within CEH.

Description of Violation:

- Violator: The name and address of the violator is:

ADF Foods Ltd.
c/o Corrie L. Plant
Bick Law LLP
520 Newport Center Drive, Suite 750
Newport Beach, CA 92660
- Time Period of Exposure: The violations have been occurring since at least July 3, 2016, and are ongoing.
- Provision of Proposition 65: This Notice 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 Notice.
- Type of Product: The specific type of product causing these violations is Truly Indian brand simmer sauces. A non-exclusive example of this specific type of product is the Truly Indian Organic Butter Chicken Sauce, SKU No. 8-39451-00460-8.

- Description of Exposure: This Notice addresses consumer exposures to Lead. Consumption of the products identified in this 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 products or food from which these products are made. 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 Notice, CEH intends to file a citizen enforcement lawsuit against the alleged violator unless the violator agrees 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 the alleged violator 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.

Preservation of Relevant Evidence:

This Notice also serves as a demand that the alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the presence or potential presence of Lead in Truly Indian brand simmer sauces; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of Lead in such products; and representative exemplars of each unit of any such products sold by the alleged violator in the year preceding this Notice through the date of any trial of the claims alleged in this Notice.

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

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 party identified in the notice has violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

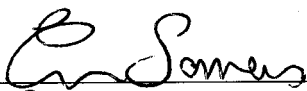
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

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 violator 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.

July 2, 2019


Eric S. Somers
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE

I, Nick Redfield, declare:

I am a citizen of the United States and employed in the County of San Francisco, State of California. I am over the age of eighteen (18) years and not a party to this action. My business address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is nredfield@lexlawgroup.com.

On July 2, 2019, I served the following document(s) on all interested parties in this action by placing a true copy thereof in the manner and at the addresses indicated below:

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

CERTIFICATE OF MERIT; and

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

☒ **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail with the United States Postal Service ("USPS"). Under that practice, mail would be deposited with USPS that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. On this date, I placed sealed envelopes containing the above mentioned documents for collection and mailing following my firm's ordinary business practices.

Please see attached service list.

☐ **BY FACSIMILE:** I caused all pages of the document(s) listed above to be transmitted via facsimile to the fax number(s) as indicated and said transmission was reported as complete and without error.

☒ **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m. on the date executed.

Stacey Grassini, Deputy District Attorney
Contra Costa County
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sgrassini@contracostada.org

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6 Prop65@co.tulare.ca.us

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9 Prop65@rivcoda.org

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12 cfepd@yolocounty.org

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14 1200 Aguajito Road
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15 Prop65DA@co.monterey.ca.us

16 Tori Verber Salazar, District Attorney
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17 222 E. Weber Avenue, Room 202
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18 DAConsumer.Environmental@sjcda.org

19 Christopher Dalbey, Deputy District
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20 1112 Santa Barbara Street
Santa Barbara, CA 93101
21 DAProp65@co.santa-barbara.ca.us

22 San Francisco City Attorney's Office
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23 1 Dr. Carlton B. Goodlett Place
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24 San Francisco, CA 94102

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Oakland, CA 94621
CEPDProp65@acgov.org

Office of the District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

1 ☐ **BY PERSONAL DELIVERY:** I placed all pages of the document(s) listed above in a sealed
2 envelope addressed to the party(ies) listed above, and caused such envelope to be delivered by
hand to the addressee(s) as indicated.

3 ☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility
4 regularly maintained by FedEx, or delivered such document(s) to a courier or driver authorized by
FedEx, with delivery fees paid or provided for, and addressed to the person(s) being served.

5 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

6 Executed on July 2, 2019 at San Francisco, California.

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9 Nick Redfield
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SERVICE LIST

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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District Attorney of Butte County
Administration Building
25 County Center Drive
Oroville, CA 95965

District Attorney of Colusa County
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Colusa, CA 95932

District Attorney of Del Norte County
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Crescent City, CA 95531

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Placerville, CA 95667

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Fresno, CA 93721

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Willows, CA 95988

District Attorney of Humboldt County
825 5th Street
Eureka, CA 95501

District Attorney of Imperial County
939 Main Street, Ste. 102
El Centro, CA 92243

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

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Los Angeles County
Hall of Justice
211 W. Temple Street, Ste. 1200
Los Angeles, CA 90012-3210

District Attorney of Madera County
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Madera, CA 93637

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3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

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Mariposa, CA 95338

District Attorney of Mendocino County
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Ukiah, CA 95482

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Merced, CA 95340

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204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

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District Attorney of Orange County
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San Bernardino, CA 92415

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San Diego, CA 92101

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Redwood City, CA 94063

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Modesto, CA 95354

District Attorney of Sutter County
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Yuba City, CA 95991

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Weaverville, CA 96093

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Sonora, CA 95370

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Marysville, CA 95901

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Los Angeles, CA 90012

San Jose City Attorney's Office
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San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65 Coordinator and
Robert Thomas
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Oakland, CA 94612-0550

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