

LAW OFFICES OF GEORGE RIKOS

555 West Beech Street • San Diego, CA 92101 • TEL: (858) 342-9161 • FAX: (858) 724-1453

November 10, 2020

**SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING
WATER AND TOXIC ENFORCEMENT ACT OF 1986**
(Cal. Health & Safety Code § 25249.5, et seq.)
("Proposition 65")
AG No. 2020-01129

The Corporation Trust Company
Registered Agent for Whole Foods Market Group, Inc.
Corporation Trust Center 1209 Orange Street
Wilmington, DE 19801

The Corporation Trust Company
Registered Agent for Whole Foods Market, IP, L.P.
Corporation Trust Center 1209 Orange Street
Wilmington, DE 19801

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING
THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 concerning **365 Crunchy Pretzel Twists containing Furan**

To Whom it May Concern:

Brad Van Patten, the noticing party, located at **555 West Beech Street, Suite 500, San Diego, California, 92101**, serves this Amended Notice of Violation ("Notice") upon, Whole Foods Market Group, Inc. and Whole Foods Market, IP, L.P ("Violators") pursuant to and in compliance with Proposition 65. The Violator may contact Law Offices of George Rikos concerning this Notice through its designated person, George Rikos, 555 West Beech, Suite 500, San Diego, California 92101, Telephone No. (858) 342-9161, email: George@georgerikoslaw.com. This Notice satisfies a prerequisite for **Brad Van Patten** to commence an action against Violators in any Superior Court of California to enforce Proposition 65. The violations addressed by this Notice occurred at numerous locations in each county in California as reflected in the district attorney addresses listed in the attached

distribution list. **Brad Van Patten** is serving this Notice upon each person or entity responsible for the alleged violations, the California Attorney General, the district attorney for each county where alleged violations occurred, and the City Attorney for each city with a population (according to the most recent decennial census) of over 750,000 located within counties where the alleged violations occurred.

- **Brad Van Patten** is a resident of the State of California. By sending this Notice, **Brad Van Patten** is acting “in the public interest” pursuant to Proposition 65. **Brad Van Patten** is a concerned citizen and resident of California and is dedicated to protecting the environment, improving human health, and supporting environmentally sound practices.
- This Notice concerns violations of the warning prong of Proposition 65, which states that “[n]o 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 ...” *Cal. Health & Safety Code* § 25249.6.
- **365 Crunchy Pretzel Twists** contains **Furan**, which is known to the State of California to cause cancer. **Furan** was added to the Proposition 65 list in 1993. On information and belief, this violation has been ongoing since well over one year and at least since one year prior to this notice.
 - An exemplar of the violations caused by **365 Crunchy Pretzel Twists** includes but is not limited to: **365 Crunchy Pretzel Twists**
- This Notice addresses consumer products exposures. A “[c]onsumer products exposure” is an exposure which results from a person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs. 27* § 25602(b).

Violator caused consumer product exposures in violation of Proposition 65 by producing or making available for distribution or sale in California to consumers **365 Crunchy Pretzel Twists**. The packaging for **365 Crunchy Pretzel Twists** (meaning any label or other written, printed or graphic matter affixed to or accompanying the product or its container or wrapper) contains no Proposition 65-compliant warning. Nor did Violator, with regard to **365 Crunchy Pretzel Twists**, provide a system of signs, public advertising identifying the system and toll-free information services, or any other system, which provided clear and reasonable warnings. Nor did Violator, with regard to **365 Crunchy Pretzel Twists**, provide identification of the product at retail outlets/websites in a manner that provided a warning through shelf labeling, signs, or a combination thereof.


The principal routes of exposure were through ingestion.

Proposition 65 requires that notice of intent to sue be given to the violator(s) sixty (60) days before the suit is filed. *Cal. Health & Safety Code* § 25249.7(d)(1). With this letter, **Brad Van Patten** gives notice of the alleged violation to Violators and the appropriate governmental authorities. In

absence of any action by the appropriate governmental authorities within sixty (60) calendar days of the sending of this notice (plus five (5) calendar days if the address is within the State of California or ten (10) calendar days if the address is outside of California but within the United States), **Brad Van Patten** may file suit. *See Cal. Health & Safety Code* § 25249.7(d)(1); *Cal. Code Regs. 27* § 25903(d)(1); and *Cal. Code Civ. Proc.* § 1013. **Brad Van Patten** remains open to discussing the possibility of resolving its grievances short of formal litigation.

With the copy of this notice submitted to the Violators, a copy of the following is attached: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.

Dated: November 10, 2020



George Rikos, Esq.
Attorney for Brad Van Patten

365 CRUNCHY PRETZELS TWISTS CONTAINING FURAN

CERTIFICATE OF MERIT

Health & Safety Code Section 25249.7(d)

I, George Rikos, hereby declares:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) has violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is 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 and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certified, and (2) the facts, studies, or other data reviewed by those persons.

Dated: November 10, 2020

By: George Rikos
George Rikos

CERTIFICATE OF SERVICE

Health & Safety Code Section 25249.7(d)

I am over the age of 18 and not a party to this case. I am a resident of employed in the county where the mailing occurred. My business address is 555 West Beech Street, Suite 500, San Diego, California 92101.

ON THE DATE SHOWN BELOW, I CAUSED TO BE SERVED THE FOLLOWING:

- 1) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy): Factual information sufficient to establish the basis of the certificate of merit (*only sent to Attorney General*)
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary by enclosing copies of the same in a sealed envelope, along with an unsigned copy of this declaration, addressed to each person shown below and depositing the envelope in the U.S. mail with the postage fully prepaid. Place of Mailing: San Diego, California

Name and address of each party to whom documents were mailed:

The Corporation Trust Company
Registered Agent for Whole Foods Market Group, Inc.
Corporation Trust Center 1209 Orange Street
Wilmington, DE 19801

The Corporation Trust Company
Registered Agent for Whole Foods Market, IP, L.P.
Corporation Trust Center 1209 Orange Street
Wilmington, DE 19801

Name and address of each public prosecutor to whom documents were mailed:

SEE ATTACHED SERVICE LIST

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

Date of Mailing: November 10, 2020

By: George Rikos
George Rikos

Distribution List

Alameda County District Attorney CEPDProp65@acgov.org	Los Angeles County District Attorney 210 W. Temple St., 18 th Floor Los Angeles, CA 90012	Mono County District Attorney PO Box 617 Bridgeport CA, 93517
Alpine County District Attorney PO Box 248 Markleeville, CA 96120	Madera County District Attorney 209 W Yosemite Ave Madera, CA 93637	San Joaquin County District Attorney DAConsumer.Environmental@sjcda.org
Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642	Mariposa County District Attorney mcda@mariposacounty.org	San Francisco County District Attorney alethea.sargent@sfgov.org
Butte County District Attorney 25 County Center Dr. Oroville, CA 95965-3385	Marin County District Attorney 3501 Civic Center Drive, #130 San Rafael, CA 94903	San Diego City Attorney CityAttyCrimProp65@sandiego.gov
Calaveras County District Attorney Prop65Env@co.calaveras.ca.us	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	San Bernardino County District Attorney 316 N Mountain View Ave San Bernardino, CA 92415-0004
Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550	Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012	San Francisco City Attorney Valerie.lopez@sfcityatt.org
Colusa County District Attorney Courthouse, 547 Market St. Colusa, CA 95932	Inyo County District Attorney inyoda@inyocounty.us	Placer County District Attorney Prop65@placer.ca.gov
Contra Costa County District Attorney sgrassini@contracostada.org	Orange County District Attorney PO Box 808 Santa Ana, CA 92702	Merced County District Attorney Prop65@countyofmerced.com
Del Norte County District Attorney 450 "H" St. Crescent City, CA 95531	Nevada County District Attorney DA.Prop65@co.nevada.ca.us	Napa County District Attorney CEPD@countyofnapa.org
El Dorado County District Attorney 515 Main St. Placerville, CA 95667-5697	Plumas County District Attorney Davidhollister@countyofplumas.com	Riverside County District Attorney Prop65@rivcoda.org
Fresno County District Attorney 2220 Tulare St., Ste 1000 Fresno, CA 93721	Sacramento County District Attorney Prop65@sacda.org	San Benito County District Attorney 419 4 th St Hollister, CA 95023
Glenn County District Attorney PO Box 430 Willows, CA 95988	San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Siskiyou County District Attorney PO Box 986 Yreka, CA 96097
Humboldt County District Attorney 825 5 th St., 4 th Floor Eureka, CA 95501	San Mateo County District Attorney 400 County Center Redwood City, CA 94063	Solano County District Attorney 600 Union Ave Fairfield, CA 94533
Imperial County District Attorney 939 W. Main St., 2 nd Floor El Centro, CA 92243-2860	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us	Sonoma County District Attorney jbarnes@sonoma-county.org
Kern County District Attorney 1215 Truxtun Ave. Bakersfield, CA 93301	Santa Clara County District Attorney EPU@da.sccgov.org	Shasta County District Attorney 1525 Court St., 3 rd Floor Redding, CA 96001-1632
Kings County District Attorney Gov't Ctr., 1400 W. Lacey Blvd. Hanford, CA 93230	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us	Sierra County District Attorney PO Box 457 Downieville, CA 95936-0457
Lake County District Attorney 255 N. Forbes St. Lakeport, CA 95453-4790	Stanislaus County District Attorney PO Box 442 Modesto, CA 95353	Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Modoc County District Attorney 204 S. Court Street Alturas, CA 96101-4020	Sutter County District Attorney 446 Second Street Yuba City, CA 95991	Yuba County District Attorney 215 5 th St Marysville, CA 95901
San Diego District Attorney SanDiegoDAProp65@sdca.org	Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Tuolumne County District Attorney 2 S. Green St Sonora, CA 95370	Tulare County District Attorney Prop65@co.tulare.ca.us	Yolo County District Attorney cfepd@yolocounty.org
Ventura County District Attorney daspecialops@ventura.org	Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080	San Jose City Attorney 151 W. Mission St. San Jose, CA 95110
Electronically Uploaded to: Office of the Attorney General Proposition 65 Enforcement Reporting Attn: Prop 65 Coordinator https://oag.ca.gov/Prop65/add-60-day-notice		