LAW OFFICES OF GEORGE RIKOS

555 West Beech Street, Suite 500 • San Diego, CA 92101 • TEL: (858) 342-9161 • FAX: (858) 724-1453

February 16, 2021

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 see.*)
(*"Proposition 65"*)

Bruce D. Varner
Registered Agent for Service for
State Bros. Markets
3750 University Avenue, Suite 610
Riverside, CA 92501

Cogency Global, Inc.
Registered Agent of Service for
Maplebear, Inc. which will do business in California as Instacart
1325 J Street, Suite 1550
Sacramento, CA 95814

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

Re: Violations of Proposition 65 concerning **Stater Bros. Pretzel Rods containing Furan**

To Whom it May Concern:

Charles Jamison ("Private Enforcer" or "Jamison"), the noticing party, located at **555 West Beech Street, Suite 500, San Diego, California, 92101**, serves this Amended Notice of Violation ("Notice") upon**,** S-L Snacks National, LLC, Campbell Soup Company, and Walmart, Inc. ("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 **Jamison** 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. **Jamison** 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.

- **Jamison** is a resident of the State of California. By sending this Notice, **Jamison** is acting "in the public interest" pursuant to Proposition 65. **Jamison** 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.

- **Pretzel Rods** 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. (February 11, 2020 to the present)

    - An exemplar of the violations caused by **Pretzel Rods** includes but is not limited to: **Stater Bros. Pretzel Rods**

- 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 **Pretzel Rods**. The packaging for **Pretzel Rods** (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 **Pretzel Rods**, 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 **Pretzel Rods**, 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, **Jamison** 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), **Jamison** 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. **Jamison** 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: February 16, 2021

George Rikos

George Rikos, Esq.
Attorney for Charles Jamison

Pretzels 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: February 16, 2021

By: George Rikos
George Rikos

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA PROTECTION AGENCY
THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the office of Environmental Health Hazard Assessment, the lead and Toxic Enforcement Act 1986 (commonly known as "Proposition 65") A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide law. The reader is directed to the statue and its implementing regulations (See citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code Regulations, Sections 250000 through 27000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List" Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 725 chemicals have been listed as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer or birth defects or other reproductive harm; and (2) be given in such a way that is will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of the listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of the listing of chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70- year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000- fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount; expect an amount that would meet the " no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought be the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuit may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 27. California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to $2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION....

Contact the Office of Environmental Health Hazard Assessment=s Proposition 65 Implementation Office at (916)445-6900

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, 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:

Bruce D. Varner
Registered Agent for Service for
State Bros. Markets
3750 University Avenue, Suite 610
Riverside, CA 92501

Cogency Global, Inc.
Registered Agent of Service for
Maplebear, Inc. which will do business in California as Instacart
1325 J Street, Suite 1550
Sacramento, CA 95814

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: February 16, 2021 By: George Rikos
George Rikos

Distribution List

Alameda County District Attorney CEPDProp65@acgov.org	Los Angeles County District Attorney 210 W. Temple St., 18th 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 4th 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 5th St., 4th 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., 2nd 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., 3rd 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 5th St Marysville, CA 95901
San Diego District Attorney SanDiegoDAProp65@sdcda.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		