

LAW OFFICES OF GEORGE RIKOS

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

February 24, 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 seq.)*  
*(“Proposition 65”)*

The Prentice-Hall Corporation System, Inc.  
Registered Agent for Conagra Brands, Inc.  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

The Corporation Trust Company  
Registered Agent for Walmart, Inc.  
Corporation Trust Center 1209 Orange Street  
Wilmington, Delaware, 19801

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

Re: Violations of Proposition 65 concerning **Glutino Gluten Free Pretzel Sticks containing  
Furan**

To Whom it May Concern:

**Charles “Chuck” Jamison (“Jamison”)**, the noticing party, located at **555 West Beech Street, Suite 500, San Diego, California, 92101**, serves this Amended Notice of Violation (“Notice”) upon, **Walmart, Inc. and Conagra Brands, 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](mailto: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.
- **Glutino Gluten Free Pretzel Sticks** 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 23, 2020 to the present)
  - An exemplar of the violations caused by **Glutino Gluten Free Pretzel Sticks** includes but is not limited to: **Glutino Gluten Free Pretzel Sticks**
- 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 **Glutino Gluten Free Pretzel Sticks**. The packaging for **Glutino Gluten Free Pretzel Sticks** (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 **Glutino Gluten Free Pretzel Sticks**, 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 **Glutino Gluten Free Pretzel Sticks**, 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

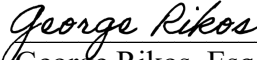
Conagra Brands, Inc.  
February 24, 2021  
Re: Page 3

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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 his 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 24, 2021

  
\_\_\_\_\_  
George Rikos, Esq.  
Attorney for Chuck Jamison

**Glutino Gluten Free Pretzel Sticks 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 23, 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 statute 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 it 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 by 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:**

The Prentice-Hall Corporation System, Inc.  
Registered Agent for Conagra Brands, Inc.  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

The Corporation Trust Company  
Registered Agent for Walmart, Inc.  
Corporation Trust Center 1209 Orange Street  
Wilmington, Delaware, 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: February 24, 2021

By: George Rikos  
George Rikos

## Distribution List

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