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April 1, 2021

***SENT VIA U.S. MAIL***

**SPROUT FOODS, INC.**

50 Chestnut Ridge Road, Suite 205  
Montvale, New Jersey 07645

***Certified No.: 9489009000276272973727***

**Office of the Attorney General**

P.O. Box 70550  
Oakland, California 94612

***Certified No.: 9489009000276272973758***

**Santa Clara County District Attorney's Office**

70 West Hedding Street  
San Jose, California 95110

***Certified No.: 9489009000276272973734***

**Contra Costa County Counsel**

900 Ward Street  
Martinez, California 94553

***Certified No.: 9489009000276272973741***

Re: Notice of Sprout Foods, Inc.'s Violations of California Health & Safety Code Section 25249.6.

To Whom It May Concern and to Public Prosecutors:

This correspondence shall serve as notice that Sprout Foods, Inc. ("Sprout") is in violation of the California Health & Safety Code Section 25249.6, also known as the Safe Drinking Water and Toxic Enforcement Act of 1986 or Proposition 65 ("Proposition 65"). In strict compliance with the statute, Andrea Key and Nahsla Black-Zetina ("aggrieved parties"), consumers of Sprout baby foods hereby place Sprout and elected prosecutors on notice of Sprout's alleged violations of Proposition 65 and demand that Sprout rectify its practices and procedures. Pursuant to section 25249.7 of Proposition 65, the aggrieved parties intend to bring a private action sixty (60) days or more after effective service of this notice unless the appropriate public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

Sprout's baby food is causing an exposure to dangerous chemicals without a warning in violation of Proposition 65.<sup>1</sup> The aggrieved parties repeatedly purchased Sprout baby foods. None of the Sprout baby foods the aggrieved parties purchased contained any warning that the food contains toxic heavy metals. There is grave concern baby foods manufactured by Sprout, such as those containing whole wheat flour, oats, barley flour, cinnamon powder, rice, or rice flour may cause exposure without a warning.

<sup>1</sup> S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., BABY FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY at 43-44, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>.

The above-listed baby foods are causing exposures without a warning in violation of Proposition 65. They are manufactured and distributed by Sprout and offered for sale by Sprout retail stores to California consumers. Because of this lack of a warning, consumers were exposed to the following chemicals and/or toxic heavy metals without the proper required Proposition warnings:

1. Lead: Lead is dangerous – so much so that the federal government has phased out its use in gasoline and house paint. Exposure to lead can have a wide range of effects on a child’s development and behavior, and many effects are permanent, like diminished IQ scores and academic achievement, and increased behavioral problems and attention-related behaviors such as attention deficit hyperactivity disorder (“ADHD”). Lead is included on the Proposition 65 list.<sup>2</sup>
2. Arsenic: Healthcare professionals have grown concerned about the subtle and long-term health effects of even low-level arsenic exposure on humans. This concern is especially serious with respect to infants and children exposed to arsenic in water and some foods, such as rice-based products, during sensitive windows of development. Arsenic, in general, can negatively impact one’s skin, nervous system, respiratory system, cardiovascular system, liver, kidney, bladder and prostate, immune system, endocrine system, and developmental processes. Arsenic is included on the Proposition 65 list.<sup>3</sup>
3. Cadmium: Cadmium is considered the seventh most significant potential threat to human health.<sup>4</sup> Research has associated cadmium exposure with diminished IQ and ADHD. Cadmium is included on the Proposition 65 list.<sup>5</sup>
4. Mercury: Mercury, a metal, has also been placed on the Proposition 65 list because it can cause birth defects or other reproductive harm.<sup>6</sup>

Exposure to the listed chemicals from consumption of Sprout baby foods has been occurring without the clear and reasonable warnings required by Proposition 65, and will continue every day until clear and reasonable warnings are provided to consumers and users or until these known-to-be toxic chemicals are removed from or reduced in Sprout baby foods. Without proper warnings regarding the toxic effects of exposure to lead, arsenic, cadmium, and mercury resulting from contact with Sprout baby foods, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to lead, arsenic, cadmium, and mercury from reasonable, foreseeable use of Sprout baby foods.

The aggrieved parties intends to file a private enforcement action as provided for in Proposition 65 for the alleged violations by Sprout unless Sprout agrees in an enforceable written instrument to: 1) recall its above-listed baby food products so as to eliminate further exposures to the identified chemicals; or 2) affix clear and reasonable Proposition 65 warning labels for products containing the identified chemicals and

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<sup>2</sup> *Lead and Lead Compounds*, PROPOSITION 65 WARNINGS, <https://www.p65warnings.ca.gov/fact-sheets/lead-and-lead-compounds#:~:text=Lead%20is%20on%20the%20Proposition,defects%20or%20other%20reproductive%20harm.&text=Exp%20to%20lead%20can%20harm,compounds%20may%20increase%20cancer%20risk>.

<sup>3</sup> *Arsenic (Inorganic)*, PROPOSITION 65 WARNINGS, <https://www.p65warnings.ca.gov/fact-sheets/arsenic-inorganic>.

<sup>4</sup> ATSDR’s Substance Priority List, AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY (Jan. 17, 2020), <https://www.atsdr.cdc.gov/spl/index.html>.

<sup>5</sup> *Cadmium and Cadmium Compounds*, PROPOSITION 65 WARNINGS, <https://www.p65warnings.ca.gov/fact-sheets/cadmium-and-cadmium-compounds>.

<sup>6</sup> *Mercury and Mercury Compounds*, PROPOSITION 65 WARNINGS, <https://www.p65warnings.ca.gov/fact-sheets/mercury-and-mercury-compounds>.

sold in the future; or 3) reformulate such product(s) to eliminate the exposures; and 4) pay an appropriate civil penalty.

Consistent with the public interest goals of Proposition 65, the aggrieved parties are interested in seeking a constructive resolution to this matter, and invite Sprout, should it seek early resolution of this matter, to communicate directly with the aggrieved parties' attorneys. Such resolution will avoid further unwarned consumer exposures, as well as resource intensive litigation.

Please direct all questions concerning this notice to the aggrieved parties' attorney, Cinela Aziz at [cinela@wilshirelawfirm.com](mailto:cinela@wilshirelawfirm.com). We await your response.

Sincerely,

*Cinela Aziz*

Cinela Aziz, Esq.

cc: Thiago Coelho, Esq., and the attached distribution list.

Attachments:

Proposition 65 Summary

Certificate of Merit

Certificate of Service

**CERTIFICATE OF MERIT**  
Health and Safety Code Section 25249.7(d)

Re: Andrea Key's and Nahsla Black-Zetina's Notice of Proposition 65 Violations by Sprout Foods, Inc.

I, Cinela Aziz, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing parties.
3. I have consulted with one or more persons with relevant and appropriate experience and have assembled evidence attached to the copy for the California Attorney General to this Certificate of Merit regarding the lack of warnings for lead, arsenic, cadmium, and mercury that are the subject of the notice.
4. Based on the information obtained 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 so that all of the elements of the plaintiffs' case can be established and that 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 has attached to it factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code Section 25249.7(h)(2).

Date: April 1, 2021

## CERTIFICATE OF SERVICE

I, K. Elizabeth Maddison, am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business is at 3055 Wilshire Boulevard, 12<sup>th</sup> Floor, Los Angeles, California 90010.

On the date shown above, I served the following:

1. 60-Day Notice of Intent to Sue Under Health and 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 to establish the basis of the certificate of merit (only sent to the Attorney General)

on the alleged violator listed below via First Call Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entity listed below and providing such envelope to a United States Postal Service Representative:

Sprout Foods, Inc.  
50 Chestnut Ridge Road, Suite 205  
Montvale, New Jersey 07645

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to the parties listed on the attached Distribution List.

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

Executed on April 1, 2021, at Los Angeles, California.

/s/ K. Elizabeth Maddison

K. Elizabeth Maddison

## **Distribution List**

1. Office of the Attorney General  
P.O. Box 70550  
Oakland, CA 94612
2. Santa Clara County District Attorney's Office  
70 West Hedding Street  
San Jose, California 95110
3. Contra Costa County Counsel  
900 Ward Street  
Martinez, California 94553