

# 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH  
*Cal. Health & Safety Code § 25249.5, et seq.*  
("Proposition 65")

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**DATE:** July 19, 2021

**TO:** **Davy Lam**, President – Tai Foong USA Inc.  
California Attorney General's Office  
District Attorney's Office for All California Counties; and  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles

**FROM:** Public Health and Safety Advocates, LLC

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## I. INTRODUCTION

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**Public Health and Safety Advocates, LLC** ("PHSA") is the noticing entity, acting in the interest of the general public. It seeks to reduce or eliminate the presence of hazardous substances in consumer products sold in California, and to ensure that California consumers are aware of the presence of such substances in consumer goods so that they can make an educated effort to limit their own exposure where deemed necessary.

This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code § 25249.6, *et seq.* ("Proposition 65"). As noted above, notice is also being provided to the violator: TAI FOONG USA INC. (the "Violator"). The violations covered by this Notice consists of a summary of Proposition 65, Statement of Violation, Number and Duration of Violation, Product Category/Type, Listed Chemical(s), Preservation of Evidence, Product Exposure, Routes of Exposure and type of harm resulting from exposure to the chemicals ("Listed Chemicals") as follows:

Product Exposure:	See Section VI. and VII. Exhibit A
Listed Chemical:	<b>Cadmium</b>
Routes of Exposure:	Ingestion and Dermal Absorption
Type of Harm:	Cancer, Birth Defect and other Reproductive Harm

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## II. PROPOSITION 65 INFORMATION – SUMMARY

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A summary of Proposition 65 and its implementation regulations, prepared by the Office of Environmental Health Hazard Assessment, the lead agency designated under Proposition 65, is enclosed with the copy of the Notice served on the Notice Recipients. For more information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900.

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## III. STATEMENT OF VIOLATIONS

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The specific type of product that is causing consumer exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in section VI. and the specific toxicant(s)/Listed Chemical(s) is set forth in Exhibit A of Section VII. All products within the category covered by this Notice shall be referred to hereinafter as the "Covered Product(s)" or "Product(s)". Exposures to the Listed Chemical from the use of the Products have been occurring without the "clear and reasonable warning" required by Proposition 65. The method of the warning should be a label on the product itself. Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from contact with the Products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Products.

The Notice Recipients knowingly and intentionally exposed, and continue to knowingly and intentionally expose, consumers within the State of California to the Listed Chemical(s), a chemical known to the State of California to cause cancer, birth defects and other reproductive harm, without first giving clear and reasonable warning of this exposure to such individuals. In particular, the Notice Recipients failed to provide a clear and reasonable warning to consumers that the Listed Product expose consumers to Listed Chemical(s).

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**IV. NUMBER AND DURATION OF VIOLATIONS**

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Each and every sale of a Covered Product to a consumer in California without a clear and reasonable warning is a violation, including transactions made over-the-counter, through the internet, and/or via catalogue by the Notice Recipients and any other sellers of the Covered Products. These violations have been occurring since at least July 19, 2018 as well as every day since the Covered Products were first introduced and sold in the State of California. These violations will continue until “clear and reasonable warning” are provided prior to exposure of the Listed Chemicals.

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**V. ROUTE OF EXPOSURE**

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California consumers and other individuals, through the act of using and consuming the Covered Product, are exposed to the Listed Chemical. Consumers ingest the Listed Chemical by eating the Covered Product, or when they touch and handle the Covered Products, transfer the Listed Chemical from the Covered Products onto their fingers and hands, and transfer the Listed Chemical from their fingers and hands to their mouths through hand-to-mouth activities that may continue to occur for a significant period after contact with the Covered Products.

By way of example but not limitation, exposures occur when California Citizens use as an ingredient, eat, sample or otherwise ingest the product. These acts cause consumers and other individuals to be exposed to the Listed Chemical through the routine consumption of all or a portion of the product containing the Listed Chemical. People likely to be exposed include both children and adult including women of childbearing age.

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**VI. PRODUCT CATEGORY/TYPE**

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Identified below is a specific example of Covered Products recently purchased and witnessed as being available for purchase or use in California (the “Exemplar Product”). Based on publicly available information, the retailers, distributors, and/or manufacturers of the Exemplar Product is also provided.

The Exemplar Product is identified for the Notice Recipients’ benefit to assist in their investigation of the allegations set forth in this Notice. The Exemplar Product is not meant to be an exhaustive or comprehensive identification of each specific offending product falling within the specific type or category of Covered Products at issue in this Notice. It is the PHSA’s position that the Notice Recipients are obligated to conduct a good-faith investigation into other specific products falling within the type or category of Covered Products that have been manufactured, imported, distributed, sold, shipped, stored, or are otherwise within the Notice Recipients’ custody or control, so as to ensure the requisite toxic warnings were and are provided to California citizens prior to purchase.

<u><b>Exemplar Product</b></u>	<u><b>Chain of Commerce</b></u>	
	<u><b>Wholesaler(s); Retailer(s)</b></u>	<u><b>Manufacturer(s); Importer(s); Distributor(s)</b></u>
Sea Salt & Pepper Calmari UPC: 877971004937	Tai Foong USA Inc.	Tai Foong USA Inc.

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**VII. EXHIBIT A – LISTED CHEMICAL**

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<u>Product Category / Type</u>	<u>Toxicant(s)</u>
Seafood/ Sea Salt & Pepper Calmari	Cadmium

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**VIII. RESOLUTION OF NOTICED CLAIMS**

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Consistent with goals of Proposition 65 and a desire to have these violations corrected, PHSA is interested in seeking a resolution of this matter that includes a binding written agreement by the Violators to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provide to those who have received such products; (2) reformulate the Covered Product so as to eliminate further exposures to the Covered Chemical(s), or provide appropriate warnings on the labels of these products; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposure to the Covered chemical(s), as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement with PHSA will resolve its claims; such an agreement may not satisfy the public prosecutors.

Proposition 65 requires that notice of intent to sue be given to the violators(s) sixty (60) days before the suit is filed. *Cal. Health & Safety Code § 25249.7(d)(1)*. With this letter, PHSA gives notice of the alleged violations to Violator 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 PHSA may file suit. *See Cal. Code Civ. Proc. § 1013; Cal. Health & Safety Code § 25249.7(d)(1); and Cal. Code Regs. Tit. 27 § 25903(d)(1)*. Per *Cal. Code Regs. Tit. 27, § 25600.2(g) (2018)* the retail seller noticed on this 60 Day Notice is hereby requested to promptly provide the names and contact information for the manufacture(s), producer(s), packager(s), importer(s), supplier(s), and/or distributor(s) of the Listed Products in this Notice.

Public Health and Safety Advocates, LLC remains open and willing to discuss the possibilities of resolving its grievance short of formal litigation.

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**IX. PRESERVATION OF EVIDENCE**

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This Notice also serves as a demand that the Notice Recipients preserve and maintain all relevant evidence, including all electronic document and data, pending resolution of this matter. Such relevant evidence incudes but is not limited to all documents relating to the presence of the Listed Chemicals in the Covered Product; purchase and sales information for Covered Products (i.e., list of purchasers and quantity sold; list of manufacture(s), producer(s), packager(s), importer(s), supplier(s), and/or distributor(s) and quantity in each transaction, as well as current inventory of the Covered Product in stock); efforts to comply with Proposition 65 with respect to the Covered Products; communications with any person relating to the presence or potential presence of the Listed Chemical in Covered Products; and representative exemplars of each specific model falling within the Covered Products. This demand applies to all relevant evidence for Covered Products sold in the State of California, as far back as July 19, 2018 through the date of any trial of the claims alleged in this Notice.

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**X. CERTIFICATE OF MERIT**

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Pursuant to Health & Safety Code §25249.6 and Title 11, California Code of Regulations, section 3100, a Certificate of Merit is attached hereto. A second copy of the entire notice and Certificate of Merit is served on the Attorney General with all supporting documentation required by section 3102 attached hereto.



# CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Davar Danialpour, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health and Safety Code § 25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
3. 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 exposure to the Listed Chemical that is the subject of this 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 plaintiff’s case can be established and the information did not prove that the alleged Violators 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 information identified in Health and 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).

Dated: July 19, 2021



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Davar Danialpour

**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am over the age of 18 and not a party to this case. I am a resident or employed in the county where the mailing occurred. My business address is 357 S. Robertson Blvd. STE 400 Beverly Hills, CA 90211.

ON THE DATE SHOWN BELOW, I SERVE THE FOLLOWING DOCUMENTS:

- 1) **60-Day Notice of Violation of Health & Safety Code § 25249.5, ET SEQ.**
- 2) **The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary**
- 3) **Certificate of Merit pursuant to Health & Safety Code § 25249.7(d)**

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

DAVY LAM  
TAI FOONG USA  
2450 6TH AVE S STE 300  
SEATTLE , WA, 98134-2029  
UNITED STATES

Additionally,

ON THE DATE SHOWN BELOW, I SERVE THE FOLLOWING DOCUMENTS:

- 1) **60-Day Notice of Violation of Health & Safety Code § 25249.5, ET SEQ.**
- 2) **The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary**
- 3) **Certificate of Merit pursuant to Health & Safety Code § 25249.7(d)**
- 4) **Supporting Factual Information Sufficient to establish the bases for Certificate of Merits**

on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at: <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-0550

Additionally,

ON THE DATE SHOWN BELOW, I SERVE THE FOLLOWING DOCUMENTS:

- 1) **60-Day Notice of Violation of Health & Safety Code § 25249.5, ET SEQ.**
- 2) **Certificate of Merit pursuant to Health & Safety Code § 25249.7(d)**

on each of the parties on the "Distribution List" attached, and depositing it at a U.S. Postal Service office with postage fully prepaid for delivery by First Class Mail, and on each of the parties listed on the "Electronic Service" when a true and correct copy thereof was sent via electronic mail:

Executed on July 19, 2021, in Beverly Hills, California.

  
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Faraz Adjnasian

### Distribution List

Alpine County District Attorney PO Box 248 Markleeville, CA 96120	Lake County District Attorney 255 N. Forbes Street Lakeport, CA 95453	San Jose City Attorney's Office 200 East Santa Clara Street, 16 <sup>th</sup> Floor San Jose, CA 95113
Amador County District Attorney 708 Court Street, Suite 202 Jackson, CA 95642	Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	San Mateo County District Attorney 400 County Ctr., 3 <sup>rd</sup> Floor Redwood City, CA 94063
Butte County District Attorney 25 County Center Drive Oroville, CA 95965	Los Angeles City Attorney's Office 200 N. Main Street Suite 800 Los Angeles, CA 90012	Shasta County District Attorney 1355 West Street Redding, CA 96001
Colusa County District Attorney 346 Fifth Street Suite 101 Colusa, CA 95932	Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	Sierra County District Attorney 100 Courthouse Square, 2 <sup>nd</sup> Floor Downieville, CA 95936
Del Norte County District Attorney 450 H Street, Suite 171 Crescent City, CA 95531	Marin County District Attorney 3501 Civic Center Drive, Suite 130 San Rafael, CA 94903	Siskiyou County District Attorney PO Box 986 Yreka, CA 96097
El Dorado County District Attorney 778 Pacific St. Placerville, CA 95667	Mendocino County District Attorney PO Box 1000 Ukiah, CA 95482	Solano County District Attorney 675 Texas Street Suite 4500 Fairfield, CA 94533
Fresno County District Attorney 2220 Tulare Street, Suite 1000 Fresno, CA 93721	Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	Stanislaus County District Attorney 832 12 <sup>th</sup> Street, Suite 300 Modesto, CA 95354
Glenn County District Attorney PO Box 430 Willows, CA 95988	San Bernardino County District Attorney 303 West Third Street San Bernardino, CA 92415	Sutter County District Attorney 463 Second Street Yuba City, CA 95991
Humboldt County District Attorney 825 5 <sup>th</sup> Street 4 <sup>th</sup> Floor Eureka, CA 95501	Mono County District Attorney PO Box 2053 Mammoth Lakes, CA 93546	Tehama County District Attorney PO Box 519 Red Bluff, CA 96080
Imperial County District Attorney 940 West Main Street Suite 102 El Centro, CA 92243	Orange County District Attorney 401 West Civic Center Drive Santa Ana, CA 92701	Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301	San Benito County District Attorney 419 Fourth Street, 2 <sup>nd</sup> Floor Hollister, CA 95023	Tuolumne County District Attorney 423 N. Washington Street Sonora, CA 95370
Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	San Bernardino County District Attorney 303 W. Third Street San Bernardino, CA 92415	Yuba County District Attorney 215 Fifth Street, Suite 152 Marysville, CA 95901

### Electronic Service

The Honorable Nancy O'Malley Alameda County District Attorney CEPDProp65@acgov.org	The Honorable Clifford H. Newell Napa County District Attorney DA.Prop65@co.nevada.ca.us	The Honorable Tori Verber Salazar San Joaquin County District Attorney DAConsumer.Environmental@sjcda.org
The Honorable Barbara Yook Calaveras County District Attorney Prop65Env@co.calaveras.ca.us	The Honorable Morgan Briggs Gire Placer County District Attorney Prop65@placer.ca.gov	The Honorable Eric J. Dobroth San Luis Obispo Deputy District Attorney edobroth@co.slo.ca.us
The Honorable Stacy Grassini Contra Costa Deputy District Attorney sgrassini@contracostada.org	The Honorable David Hollister Plumas County District Attorney davidhollister@countyofplumas.com	The Honorable Christopher Dalbey Santa Barbara Deputy District Attorney DAProp65@co.santa-barbara.ca.us
The Honorable Thomas L. Hardy Inyo County District Attorney inyoda@inyocounty.us	The Honorable Paul E. Zellerbach Riverside County District Attorney Prop65@rivcoda.org	The Honorable Bud Porter Santa Clara Supervising Deputy District Attorney EPU@da.sccgov.org
The Honorable Michelle Latimer Lassen County Program Coordinator mlatimer@co.lassen.ca.us	The Honorable Anne Marie Schubert Sacramento County District Attorney Prop65@sacda.org	The Honorable Jeffrey S. Rosell Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
The Honorable Walter W. Wall Mariposa County District Attorney mcdada@mariposacounty.org	The Honorable Summer Stephan San Diego County District Attorney SanDiegoDAProp65@sdccda.org	The Honorable Stephan R. Passalacque Sonoma County District Attorney jbarnes@sonoma-county.org
The Honorable Kimberly Lewis Merced County District Attorney Prop65@countyofmerced.com	The Honorable Mark Ankcorn San Diego Deputy City Attorney CityAttyProp65@sandiego.gov	The Honorable Phillip J. Cline Tulare County District Attorney Prop65@co.tulare.ca.us
The Honorable Jeannine M. Pacioni Monterey County District Attorney Prop65DA@co.monterey.ca.us	The Honorable Valerie Lopez San Francisco Deputy City Attorney Valerie.Lopez@sfcityattory.org	The Honorable Gregory D. Totten Ventura County District Attorney daspecialops@ventura.org
The Honorable Gary Lieberstein Napa County District Attorney CEPD@countyofnapa.org	The Honorable Alethea M. Sargent San Francisco Assistant District Attorney alethea.sargent@sfgov.org	The Honorable Jeff W. Reisig Yolo County District Attorney cfepd@yolocounty.org