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.*)

January 21, 2025

Current President/CEO
Smasia Enterprises Pty Ltd
Smash Asset Management Pty Ltd
Smash Enterprises Pty. Ltd.
33 Redland Dr
Mitcham VIC 3132 Australia

Stefan Kursidim, CEO
Smash Enterprises (USA), Inc.
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Ste 222
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Stefan Kursidim, CEO
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Stefan Kursidim, CEO
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Ron Sahar Azarkman, CEO
Adir International, LLC DBA
Curacao
Adir Services Corp.
1605 W Olympic Blvd, Ste 600
Los Angeles, CA 90015

Stefan Kursidim, CEO
Smash Enterprises (USA), Inc.
Agent for Service of Process
Steven Alan Heath
15233 Ventura Blvd, Ste 500
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Ron Sahar Azarkman, CEO
Adir International, LLC DBA
Curacao
Adir Services Corp.
Agent for Service of Process
Elizabeth Van Horn
1605 Olympic Blvd, Ste 600
Los Angeles, CA 90015

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

Re: Violations of Proposition 65 Concerning **Bags** Containing **Diisononyl phthalate ("DINP")**

To whom else this may concern:

Consumer Advocacy Group, Inc. ("CAG"), the noticing entity, located at 9190 W. Olympic Blvd, Suite 426, Beverly Hills, California 90212, serves this Notice of Violation ("Notice") on the **Above Listed Entities** ("Violators"), pursuant to and in compliance with The Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"). Violators may contact CAG concerning this Notice through its designated person, its attorney, Reuben Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, CA 90212, telephone no. (310) 623-1926, facsimile no. (310) 623-1930. This Notice satisfies a prerequisite for CAG 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. CAG 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.

CAG is an organization based in California. CAG is an entity dedicated to protecting the consumer environment, improving human health, and supporting environmentally sound commercial practices. By sending this Notice, CAG is acting "in the public interest" pursuant to Proposition 65.

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.

CAG has discovered **Bags**, specifically **Lunch Bags ("Lunch Bags")** containing **DINP**. On December 20, 2013, the Governor of California added **DINP** to the list of chemicals known to the State to cause cancer. The above additions took place more than twenty (20) months before CAG served this Notice.

An exemplar of the violations caused by **Lunch Bags** containing **DINP** *includes but is not limited to:*

- **"smash"; "Smash Enterprises Pty. Ltd."; "Item# 24353"; "Ladies Lunch Bag" "Smash USA Inc"; "UPC 680920003451"**

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 tit. § 25600.1(e).

Violators caused consumer product exposures in violation of Proposition 65 by producing or making available **Lunch Bags** for distribution or sale to consumers. The packaging for **Lunch Bags** (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 Violators, with regard to **Lunch Bags**, 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 Violators, with regard to **Lunch Bags**, provide identification of the product at retail outlets in a manner that provided a compliant warning through shelf labeling, signs, menus, or a combination thereof.

These violations occurred each day between January 21, 2022, and January 21, 2025, and are ever continuing thereafter.

The principal routes of exposure were through dermal contact, inhalation, and ingestion. Persons sustain exposures by carrying, handling, or using the **Lunch Bags** without wearing gloves or by touching bare skin or mucous membranes with or without gloves after handling **Lunch Bags**, as well as direct and indirect hand to mouth contact, hand to mucous membrane, trans-dermal absorption, or breathing in particulate matter emanating from the **Lunch Bags** during use, as well as through environmental mediums that carry the **DINP** once contained within the **Lunch Bags**.

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, CAG gives notice of the alleged violations 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, CAG may file suit. *See* CAL. CIV. PROC. CODE § 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 manufacturer(s), producer(s), packager(s), importer(s), supplier(s), and/or distributor(s) of the product(s) identified in this Notice.

CAG remains open and willing 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: 1/21/2025

Reuben Yeroushalmi
Yeroushalmi & Yeroushalmi
Attorneys for Consumer Advocacy Group, Inc.

Appendix A

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 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 authoritative guidance on the meaning or application of the law. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: http://oehha.ca.gov/prop65/law/P65law72003.html. 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 of Regulations, sections 25102 through 27001.[1] These implementing regulations are available online at: http://oehha.ca.gov/prop65/law/P65Regs.html.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly say 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

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. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (http://www.oehha.ca.gov/prop65/law/index.html) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of NSRLs, and Section 25701 et seq. of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: http://www.oehha.ca.gov/prop65/getNSRLs.html for a list of MADLs, and Section 25801 et seq. of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant[2] it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering 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 listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that 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. Lawsuits 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

• An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;

• An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;

• An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;

• An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: http://oehha.ca.gov/prop65/law/p65law72003.html.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

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[1] All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: http://www.oehha.ca.gov/prop65/law/index.html.

[2] See Section 25501(a)(4).

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

Bags containing DINP

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Reuben Yeroushalmi, hereby declare:

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 one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the 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 certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: 1/21/2025

By: Reuben Yeroushalmi

CERTIFICATE OF SERVICE

I 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 address is 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, CA 90212.

ON THE DATE SHOWN BELOW, I 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: Beverly Hills, CA

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

Current President/CEO
Smasia Enterprises Pty Ltd
Smash Asset Management Pty Ltd
Smash Enterprises Pty. Ltd.
33 Redland Dr
Mitcham VIC 3132 Australia

Stefan Kursidim, CEO
Smash Enterprises (USA), Inc.
16400 Pacific Coast Highway, Ste 222
Huntington Beach, CA 92649

Stefan Kursidim, CEO
Smash Enterprises (USA), Inc.
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San Juan Capistrano, CA 92675

Stefan Kursidim, CEO
Smash USA Inc.
32158 Camino Capistrano, Ste. 207
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Sherman Oaks, CA 91040

Ron Sahar Azarkman, CEO
Adir International, LLC DBA
Curacao
Adir Services Corp.
Agent for Service of Process
Elizabeth Van Horn
1605 Olympic Blvd, Ste 600
Los Angeles, CA 90015

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

See Distribution 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: 1/21/2025

By: Natalie McCurdy

Distribution List

Alpine County District Attorney PO Box 248 Markleeville, CA 96120	Los Angeles City Attorney 200 N Main Street, #800 Los Angeles, CA 90012	Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533
Amador County District Attorney 708 Court, Suite 202 Jackson, CA 95642	Lake County District Attorney 255 N Forbes St Lakeport, CA 95453-4790	Shasta County District Attorney 1355 West Street Redding, CA 96001
Butte County District Attorney 25 County Center Dr., Suite 245 Oroville, CA 95965-3385	Madera County District Attorney 300 S. G Street, Suite 300 Madera, CA 93637	Sierra County District Attorney 100 Courthouse Square Downieville, CA 95936
Colusa County District Attorney 310 6th Street Colusa, CA 95932	Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080	San Jose City Attorney 200 E. Santa Clara St. San Jose, CA 95113
Del Norte County District Attorney 450 "H" St., Room 171 Crescent City, CA 95531	Mendocino County District Attorney P.O. Box 1000 Ukiah, CA 95482	Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95353
Tuolumne County District Attorney 423 N. Washington Street Sonora, CA 95370	Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101-4020	San Mateo County District Attorney 500 County Center, 3rd Floor Redwood City, CA 94063
Glenn County District Attorney PO Box 430 Willows, CA 95988	Mono County District Attorney P.O. Box 2053 Mammoth Lakes, CA 93546	Trinity County District Attorney PO Box 310 Weaverville, CA 96093
Humboldt County District Attorney 825 5th St., 4th Floor Eureka, CA 95501	Orange County District Attorney 300 N. Flower Street Santa Ana, CA 92703	Tehama County District Attorney P.O. Box 519 Red Bluff, CA 96080
Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	Sutter County District Attorney 463 2nd Street, Suite 102 Yuba City, CA 95991	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
Kern County District Attorney 1215 Truxtun Ave. Bakersfield, CA 93301	San Benito County District Attorney 419 4th St Hollister, CA 95023	
Kings County District Attorney 1400 West Lacey Blvd. Hanford, CA 93230	San Bernardino County District Attorney 303 W 3rd St San Bernardino, CA 92415	
Los Angeles County District Attorney 211 W Temple St, Suite 1200 Los Angeles, CA 90012	Siskiyou County District Attorney PO Box 986 Yreka, CA 96097	

Electronic Service:

Alameda County District Attorney CEPDProp65@acgov.org	Contra Costa County Deputy District Attorney sgrassini@contracostada.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Monterey County District Attorney Prop65DA@co.monterey.ca.us	Inyo County District Attorney inyoda@inyocounty.us	Lassen County Program Coordinator dchandler@co.lassen.ca.us
Sacramento County District Attorney Prop65@sacda.org	Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
San Francisco Assistant District Attorney alexandra.grayner@sfgov.org	Santa Barbara County Deputy District Attorney DAProp65@co.santa-barbara.ca.us	Santa Clara Supervising Deputy District Attorney EPU@da.sccgov.org
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Sonoma County District Attorney ECLD@sonoma-county.org	San Joaquin County District Attorney DAConsumer.Environmental@sjcda.org	San Luis Obispo County Deputy District Attorney edobroth@co.slo.ca.us
Tulare County District Attorney Prop65@co.tulare.ca.us	Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org
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Placer County District Attorney prop65@placer.ca.gov	Plumas County District Attorney davidhollister@countyofplumas.com	Santa Clara City Attorney Proposition65notices@sanjoseca.gov
Fresno County District Attorney consumerprotection@fresnocountyca.gov	San Diego District Attorney SanDiegoDAProp65@sdcda.org	San Mateo County District Attorney PROP65@smcgov.org
El Dorado County District Attorney EDCDAPROP65@edcda.us	Marin County District Attorney consumer@marincounty.org	