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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF ALAMEDA**

17 COORDINATED PROCEEDINGS
18 SPECIAL TITLE (RULE 3.550)

JUDICIAL COUNCIL
COORDINATION PROCEEDING
No. 4779

19 PROPOSITION 65 CANNED FOOD CASES
20

**[PROPOSED] STIPULATED CONSENT
JUDGMENT; [PROPOSED] ORDER RE:
JFE SHOJI TRADE AMERICA**

21
22 AND COORDINATED ACTIONS
23

24 **1. INTRODUCTION**

25 On July 10, 2013, Plaintiff The Chemical Toxin Working Group (“CTWG”), as a private
26 enforcer, and in the public interest, initiated Case No. RG-13-686874 (“Action”) by filing a
27 Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”) pursuant
28 to the provisions of California Health and Safety Code section 25249.5 et seq. (“Proposition

1 65”), against JFE Shoji Trade America (“JFE”). On September 23, 2013, CTWG filed a First
2 Amended Complaint by adding Geisha Mandarin Oranges in Light Syrup to the Complaint. On
3 May 13, 2014, this Action was coordinated with the following four separate actions, and on
4 September 24, 2014 Judge Wynne S. Carvill was assigned the Coordination Trial Judge of these
5 coordinated cases:

6 (1) *David Steinman et al. v. The Kroger Company et al.*, Case No. RG12636763,
7 Superior Court of the State of California, County of Alameda;

8 (2) *David Steinman et al. v. Crown Prince, Inc. et al.*, Case No. RG13673501, Superior
9 Court of the State of California, County of Alameda;

10 (3) *The Chemical Toxin Working Group, Inc. v. Crown Prince, Inc. et al.*, Case No.
11 RG13699240, Superior Court of the State of California, County of Alameda; and

12 (4) *David Steinman et al. v. MW Polar et al.*, Case No. C 12-01327, Superior Court of
13 the State of California, County of Contra Costa.

14 **1.2** In this Action, Plaintiff alleges that the Geisha Fancy Smoked Oysters in
15 Cottonseed Oil, Geisha Whole Baby Clams, and Geisha Mandarin Oranges in Light Syrup
16 contain lead and that the Geisha Fancy Smoked Oysters in Cottonseed Oil also contains
17 cadmium. Lead and cadmium are listed pursuant to Proposition 65 as reproductive toxicants,
18 and Plaintiff alleges that these products expose consumers to these chemicals at levels requiring
19 a Proposition 65 warning. Geisha Fancy Smoked Oysters in Cottonseed Oil, Geisha Whole
20 Baby Clams, and Geisha Mandarin Oranges in Light Syrup are referred to in this Consent
21 Judgment as “the Covered Products.”

22 **1.3** Plaintiff CTWG is a California non-profit corporation. Plaintiff is a private
23 enforcer of Proposition 65, acting in the public interest, that has diligently prosecuted this matter
24 and is settling the case in the public interest.

25 **1.4** Defendant JFE is a business entity that at all times relevant for purposes of this
26 Consent Judgment employs ten or more persons.
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1.5 The Complaint was based on allegations of lead exposure to consumers as set forth in CTWG's Notices of Violation dated January 8, 2013 and July 9, 2013 served on the Attorney General of the State of California, other public enforcers and JFE in regard to the Covered Products. The First Amended Complaint added allegations of lead exposure to consumers as set forth in CTWG's Notices of Violation. A true and correct copy of the Notices of Violation is attached as **Exhibit A**. More than sixty (60) days have passed since the Notices of Violation were mailed, and no designated governmental entity has filed a complaint against JFE with regard to the Covered Products or the alleged violations.

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1.6 On November 12, 2013, CTWG issued an additional Proposition 65 Notice of Violation to JFE that was served on the Attorney General of the State of California, other public enforcers and JFE in regard to cadmium exposures to consumers from Geisha Smoked Oysters in Cottonseed Oil. A true and correct copy of the Notice of Violation is attached as **Exhibit B**. The Parties hereby stipulate that the First Amended Complaint shall be deemed amended to include this Notice of Violation and all such allegations contained therein.

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1.7 Plaintiff's Notices of Violation and the Amended Complaint allege that use of the Covered Products expose persons in California to Proposition 65 listed chemicals without first providing clear and reasonable warnings in violation of California Health and Safety Code section 25249.6. JFE denies all material allegations contained in the Notices of Violation and Amended Complaint and specifically denies that it violated Proposition 65 or that the Covered Products require or required a Proposition 65 warning or otherwise caused harm to any person. Nothing in the Consent Judgment shall be construed as an admission by JFE of any fact, issue of law or violation of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by JFE of any fact, issue of law or violation of law, at any time, for any purpose. Nothing in the Consent Judgment shall prejudice, waive or impair any right, remedy, argument or defense that JFE may have in other or further legal proceedings.

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1.8 The Parties have entered into this Consent Judgment in order to settle, compromise and resolve disputed claims and thus avoid prolonged and costly litigation.

1 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of the
2 Parties, or by any of their respective officers, directors, shareholders, employees, agents, parent
3 companies, subsidiaries, divisions, affiliates, franchises, licensees, customers, suppliers,
4 distributors, wholesalers, or retailers of any fact, conclusion of law, issue of law, violation of
5 law, fault, wrongdoing, or liability, including without limitation, any admission concerning any
6 alleged violation of Proposition 65 or any other law or legal duty.

7 **1.9** Except as expressly set forth herein, nothing in this Consent Judgment shall
8 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
9 other or future legal proceeding unrelated to these proceedings.

10 **1.10** The Effective Date of this Consent Judgment is the date on which it is entered as
11 a Judgment by this Court.

12 **2. JURISDICTION AND VENUE**

13 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
14 jurisdiction over the allegations of violations contained in the Amended Complaint and personal
15 jurisdiction over JFE as to the acts alleged in the Amended Complaint, that venue is proper in
16 Alameda County, and that this Court has jurisdiction to enter this Consent Judgment as a full
17 and final resolution of all claims which were or could have been asserted in his action based on
18 the facts alleged in the Notices of Violation and the Amended Complaint.

19 **3. INJUNCTIVE RELIEF, WARNINGS AND TESTING**

20 **3.1** Subject to the provisions set forth in Section 3.4 below, beginning on the date
21 that is six months after the execution of this consent judgment (the "Start Date"), JFE shall not
22 distribute for sale in the State of California, or directly sell in the State of California, any
23 Covered Product unless each such unit of the Covered Product (1) meets the warning
24 requirements under Section 3.2, or (2) qualifies as a "Reformulated Covered Product" under
25 Section 3.3.

26 **3.1.5** As used in this Consent Judgment, the term "distribute into the State of
27 California" shall mean JFE directly ships a Covered Product into California for sale in
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1 California or sells a Covered Product to a distributor or retailer that JFE knows will sell the
2 Covered Product in California.

3 **3.2 Clear and Reasonable Warnings**

4 **3.2.1.** If JFE provides a Proposition 65 warning for Geisha Whole Baby Clams
5 and Geisha Mandarin Oranges pursuant to Section 3.1 (1), then JFE shall provide the following
6 warning:

7 [California Proposition 65] **WARNING: THIS PRODUCT CONTAINS LEAD, A**
8 **CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE [CANCER AND]**
9 **BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.**

10 The word "cancer" shall be used in the warning above only if the average daily exposure
11 level exceeds 15 micrograms of lead as determined pursuant to the provisions set forth in
12 Section 3.3 and 3.4.

13 **3.2.2.** If JFE provides a Proposition 65 warning for Geisha Fancy Smoked
14 Oysters in Cottonseed Oil pursuant to Section 3.1 (1), then JFE shall provide the following
15 warning:

16 [California Proposition 65] **WARNING: THIS PRODUCT CONTAINS LEAD AND**
17 **CADMIUM, CHEMICALS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE**
18 **BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.**

19 If JFE provides a Proposition 65 warning for Geisha Fancy Smoked Oysters in
20 Cottonseed Oil pursuant to Section 3.1(1), and if the average daily exposure level exceeds 15
21 micrograms of lead as determined pursuant to the provisions set forth in Section 3.3 and 3.4,
22 then JFE shall provide the following warning:

23 [California Proposition 65] **WARNING: THIS PRODUCT CONTAINS LEAD, A**
24 **CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER AND**
25 **BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM, AND CADMIUM, A**
26 **CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE BIRTH**
27 **DEFECTS OR OTHER REPRODUCTIVE HARM.**

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3.2.3. In the above warnings, the words “California Proposition 65” may be included at JFE’s option. No additional language about Proposition 65, may accompany the Proposition 65 warning. JFE shall provide the applicable warning using the following methods:

- 1) On the label of the can or container (other than on the underside or bottom of the can or; and/or container) of each individual unit of a Covered Product distributed to retail stores in California and on Covered Product shipped to California consumers; and
- 2) On JFE’s checkout page on its website for consumers who enter a shipping address in California prior to completion of the sale.

In the website warning, JFE shall identify the Covered Product to which the warning applies. For the receipt/invoice warnings, the receipt/invoice shall identify the Covered Product to which the warning applies and the warning shall be present on the front of the receipt/invoice. JFE must display the above warnings with such conspicuousness, as compared with other words, statements, or design of the label, can, or container to render the warning likely to be read and understood by an ordinary individual under customary conditions of purchase or use of the Covered Product. Each letter in the word “**WARNING**” must be in all capital letters and bold print.

3.3 Calculation of Lead Levels; Reformulated Covered Products

A Reformulated Covered Product is one for which the average daily exposure level does not exceed 0.5 micrograms of lead per day and/or no more than 4.1 micrograms of cadmium per day as determined by the formula, testing and quality control methodology described in Section 3.4. As used in this Consent Judgment, “no more than 0.5 micrograms of lead per day” and “no more than 4.1 micrograms of cadmium per day” mean that the samples of the testing under Section 3.4 yield an average daily exposure of no more than 0.5 micrograms of lead and 4.1 micrograms of cadmium (with average daily exposure calculated pursuant to Section 3.4 of this Consent Judgment). For a Covered Product that causes exposures in excess of 0.5 micrograms of lead per day, and/or exposures in excess of 4.1 micrograms of cadmium per day JFE shall provide the warning set forth in Section 3.2. For purposes of determining which warning, if

1 any, is required pursuant to Section 3.2, the average concentration utilizing the geometric mean
2 of lead and cadmium detection results of five (5) samples of the Covered Product, randomly
3 selected by JFE, will be controlling.

4 **3.4 Formula, Testing and Quality Control Methodology**

5 **3.4.1** For purposes of this Consent Judgment, average daily exposure levels
6 shall be measured in micrograms per day, and shall be calculated using the following formula:
7 the average concentration of lead or cadmium in the product in micrograms per gram, multiplied
8 by grams of product per serving of the product (using the serving size appearing on the product
9 label), multiplied by frequency of consumption of once every fourteen (14) days.

10 **3.4.2** JFE shall not be required to engage in testing pursuant to this Consent
11 Judgment unless JFE determines that it will distribute for sale in the State of California a
12 Covered Product in the future without the warning set forth in Section 3.2. All testing pursuant
13 to this Consent Judgment shall be performed using a laboratory method that complies with the
14 performance and quality control factors appropriate for the method used, including limit of
15 detection, limit of quantification, accuracy, and precision and meets the following criteria:
16 Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) achieving a limit of quantification of
17 less than or equal to 0.010 mg/kg or any other testing method subsequently agreed upon in
18 writing by the Parties.

19 **3.4.3** All testing pursuant to this Consent Judgment shall be performed by an
20 independent third-party laboratory certified by the California Environmental Laboratory
21 Accreditation Program for the analysis of heavy metals or a laboratory that is approved by,
22 accredited by, or registered with the United States Food & Drug Administration.

23 **4. SETTLEMENT PAYMENT**

24 **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil
25 penalties, attorney's fees and costs in connection with claims regarding the Covered Products,
26 JFE shall make a total payment of \$ 278,750.00 within ten (10) days of receiving the Notice of
27 Entry of Judgment. Said payment shall be made by checks apportioned as follows:
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1 **4.2** \$40,443.00 shall be payable as civil penalties pursuant to California Health and
2 Safety Code section 25249.7(b)(1). Of this amount, \$30,332.25 shall be payable to the Office of
3 Environmental Health Hazard Assessment (“OEHHA”) and \$10,110.75 shall be payable to The
4 Chemical Toxin Working Group, Inc., pursuant to California Health and Safety Code section
5 25249.12(c)(1) & (d). JFE shall send both civil penalty payments to Plaintiff’s counsel who will
6 be responsible for forwarding the civil penalty to OEHHA along with a copy of the transmittal
7 letter to JFE’s counsel.

8 **4.3** \$9,128.00 shall be payable to The Chemical Toxin Working Group, Inc. as
9 reimbursement to CTWG for (A) reasonable costs and expenses associated with the
10 enforcement of Proposition 65 and other costs incurred as a result of Plaintiff’s work in bringing
11 this action; and (B) \$157,392.10 shall be payable to The Chemical Toxin Working Group, Inc.
12 in lieu of further civil penalties, for day-to-day business activities such as continued
13 enforcement of Proposition 65, which includes work analyzing, researching and testing food and
14 other consumer products that may contain Proposition 65 chemicals.

15 **4.4** \$63,823.90 shall be payable to Michael Freund and \$7,963.00 shall be payable to
16 Ryan Hoffman as reimbursement of Plaintiff’s attorney’s fees.

17 **4.5** JFE shall mail or deliver the payments in this Section in the form of checks to the
18 address of Michael Freund & Associates as stated in Section 11 (Provision of Notice) below.
19 Within two (2) court days of the Effective Date, Plaintiff and its counsel will provide their
20 taxpayer identification information and W-9 forms to enable JFE to process the payments.

21 **5. MODIFICATION OF CONSENT JUDGMENT**

22 **5.1** This Consent Judgment may be modified only by: (i) written agreement and
23 stipulation of the Parties and (ii) upon entry of a modified Consent Judgment by the Court.

24 **5.2** If JFE seeks to modify this Consent Judgment under Section 5.1, then
25 JFE must provide written notice to Plaintiff of its intention to do so (“Notice of Intent”). If
26 Plaintiff wishes to meet and confer with JFE regarding the proposed modification in the Notice
27 of Intent, then Plaintiff shall provide written notice to JFE within ten (10) days of receiving the
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1 Notice of Intent. If Plaintiff notifies JFE in a timely manner of its intent to meet and confer,
2 then the Parties shall meet and confer in good faith as required in this Section. The Parties shall
3 meet in person or by phone within ten (10) days of Plaintiff's notification of its intent to meet
4 and confer. Within ten (10) days of such meeting, if Plaintiff disputes the proposed
5 modification, Plaintiff shall provide to JFE a written basis for its position. The Parties shall
6 continue to meet and confer for an additional ten (10) days in an effort to resolve any remaining
7 disputes. The Parties may agree in writing to different deadlines for the meet-and-confer period.

8 **5.3** In the event that JFE initiates or otherwise requests a modification under Section
9 5.1, JFE shall reimburse Plaintiff its documented reasonable costs and reasonable attorney's fees
10 for the time spent in the meet-and-confer process and filing and arguing a joint motion or
11 application in support of a modification of the Consent Judgment; provided, however, that these
12 fees and costs shall not exceed \$8,000 total without the prior written consent of JFE .

13 **5.4** Where the meet-and-confer process does not lead to a joint motion or application
14 in support of a modification of the Consent Judgment, then either Party may seek judicial relief
15 on its own. In such a situation, the prevailing party may seek to recover costs and reasonable
16 attorney's fees. As used in the preceding sentence, the term "prevailing party" means a party
17 who is successful in obtaining relief more favorable to it than the relief that the other party was
18 amenable to providing during the Parties' good faith attempt to resolve the dispute that is the
19 subject of the modification.

20 **5.5** If any court in a case alleging that a third-party defendant sold canned smoked
21 oysters, canned clams, or canned mandarin oranges without providing clear and reasonable
22 warnings regarding the presence of lead or cadmium in violation of Proposition 65 renders a
23 final judgment that such products do not require a warning under Proposition 65 because the
24 average daily exposure is at or below the average daily exposure based on the exposure
25 calculation accepted by that court, then JFE shall be entitled to seek to modify this Consent
26 Judgment to eliminate or modify the injunctive relief set forth in Section 3, consistent with the
27 court judgment as described herein, and considering any differences between the Covered
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1 Product and the canned smoked oysters, canned clams, or canned mandarin oranges addressed
2 in the other settlement or court judgment. In addition, JFE shall be entitled to seek to modify
3 this Consent Judgment to eliminate or modify the injunctive relief set forth in Section 3 if (a)
4 lead or cadmium are removed from the Proposition 65 list of chemicals; or (b) if any court in a
5 case alleging that a defendant sold canned smoked oysters, canned clams, or canned mandarin
6 oranges without providing clear and reasonable warnings regarding the presence of lead or
7 cadmium in violation of Proposition 65 renders a final judgment that such products do not
8 require a warning under Proposition 65 because such warnings are preempted by federal law, so
9 long as such modification is consistent with the court judgment as described herein. Plaintiff
10 shall not be entitled to object to any modifications sought under this Section 5.5, except based
11 upon an error in calculation of the average daily exposure. The reimbursement provisions of
12 Sections 5.3 and 5.4 above are not applicable to modifications sought under this Section 5.5. If
13 Plaintiff objects to the calculation of the average daily exposure and a court sustains the
14 objections, JFE shall reimburse Plaintiff its documented reasonable costs and reasonable
15 attorney's fees incurred to raise the objection. Any fees and costs related to a sustained
16 objection shall not exceed \$8,000 total without the prior written consent of JFE.
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18 **6. RETENTION OF JURISDICTION; ENFORCEMENT OF CONSENT**
19 **JUDGMENT**

20 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
21 this Consent Judgment.

22 **6.2** Only after it complies with Section 15 below may any Party, by motion or
23 application for an order to show cause filed with this Court, enforce the terms and conditions
24 contained in this Consent Judgment.

25 **6.3** If JFE determines that it will distribute for sale in the State of California, or
26 directly sell in the State of California the Covered Products without a Section 3.2 warning in the
27 future, and subsequently Plaintiff alleges that any such Covered Product fails to qualify as a
28 Reformulated Covered Product (for which a Plaintiff alleges that no warning has been provided),

1 then the Plaintiff shall inform JFE in a reasonably prompt manner of the Plaintiff's test results.
2 JFE shall, within thirty (30) days following such notice, provide the Plaintiff with testing
3 information, from an independent third-party laboratory meeting the requirements of Sections
4 3.4.2 and 3.4.3, demonstrating JFE's compliance with the Consent Judgment. The Parties shall
5 first attempt to resolve the matter prior to Plaintiff taking any further legal action with the Court.

6 **7. APPLICATION OF CONSENT JUDGMENT**

7 This Consent Judgment shall have no application to Covered Products that are
8 distributed for sale outside the State of California.

9 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

10 **8.1** This Consent Judgment is a full, final, and binding resolution between Plaintiff,
11 on behalf of itself and in the public interest, and JFE, of any alleged violation of Proposition 65
12 or its implementing regulations for failure to provide Proposition 65 warnings of exposure to
13 lead and cadmium from the handling, use, or consumption of the Covered Products and fully
14 resolves all claims that have been or could have been asserted in this Action up to and including
15 the date of entry of Judgment or the Start Date, whichever is later, for failure to provide
16 Proposition 65 warnings for exposure to lead and cadmium from the Covered Product. Plaintiff,
17 on behalf of itself and in the public interest, hereby discharges and releases JFE, its parents,
18 subsidiaries, affiliated entities under common ownership, directors, officers, agents, employees,
19 attorneys, and each entity to whom JFE directly or indirectly distributes or sells the Covered
20 Products, including but not limited to, downstream distributors, wholesalers, customers,
21 retailers, franchises, cooperative members and licensees, including, but not limited to, The
22 Kroger Co. and Albertsons LLC (collectively, "Releasees") from any and all claims, actions,
23 causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses
24 asserted, or that could have been asserted, as to any alleged violation of Proposition 65 arising
25 from the failure to provide Proposition 65 warnings on the Covered Product regarding lead
26 and/or cadmium, as set forth in the Notices of Violation and the Amended Complaint.
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1 **8.2** Plaintiff, on behalf of itself only, hereby releases and discharges the Releasees
2 from all claims, causes of action, obligations, costs, expenses, attorney's fees, damages, losses,
3 liabilities and demands of Plaintiff of any nature, character, or kind, whether known or
4 unknown, suspected or unsuspected, arising out of alleged or actual exposures to lead and/or
5 cadmium in the Covered Products as set forth in the Notices of Violation and the Amended
6 Complaint that have been or could have been asserted in this Action up to and including the date
7 of entry of Judgment or the Start Date, whichever is later, for failure to provide Proposition 65
8 warnings for exposure to lead and/or cadmium in the Covered Products. Plaintiff, on behalf of
9 itself only, hereby waives any and all rights it may have under any applicable statute, including,
10 but not limited to California Civil Code Section 1542 or common law principle which would
11 limit the effect of the release in Section 8.1 and 8.2 to those claims actually known or suspected
12 to exist at the time of the date of entry of Judgment. Plaintiff has full knowledge of the contents
13 of California Civil Code Section 1542, which reads as follows:

14 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
15 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
16 EXIST IN HIS OR HER FAVOR AT THE TIME OF
17 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR
18 HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
19 SETTLEMENT WITH THE DEBTOR.

20 Plaintiff, on behalf of itself only, acknowledges and understands the significance and
21 consequences of this specific waiver of California Civil Code Section 1542.

22 **8.3** Compliance with the terms of this Consent Judgment shall be deemed to
23 constitute compliance with Proposition 65 by the Releasees regarding alleged exposures to lead
24 and/or cadmium in the Covered Products as set forth in the Notices of Violation and the
25 Amended Complaint.

26 **8.4** Plaintiff and JFE each release and waive all claims they may have against each
27 other for any statements or actions made or undertaken by them in connection with the Notices
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1 of Violation or the Amended Complaint; provided, however, that nothing in Section 8 shall
2 affect or limit any Party's right to seek to enforce the terms of this Consent Judgment.

3 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

4 In the event that any of the provisions of this Consent Judgment is held by a court to be
5 unenforceable, the validity of the remaining enforceable provisions shall not be adversely
6 affected.

7 **10. GOVERNING LAW**

8 The terms and conditions of this Consent Judgment shall be governed by and construed
9 in accordance with the laws of the State of California.

10 **11. PROVISION OF NOTICE**

11 All notices required to be given to either Party to this Consent Judgment by the other
12 shall be in writing and sent to the following agents listed below by: (a) first-class, registered, or
13 certified mail; (b) overnight courier; or (c) personal delivery. Courtesy copies via email may
14 also be sent.

15 **FOR THE CHEMICAL TOXIN WORKING GROUP, INC.:**

16 The Chemical Toxin Working Group, Inc.
17 1801 Chart Trail
Topanga, CA 90290

18 **With a copy to:**

19 Michael Freund
20 Michael Freund & Associates
1919 Addison Street, Suite 105
Berkeley, CA 94704
21 Telephone: (510) 540-1992
22 Facsimile: (510) 540-5543

23 **FOR JFE SHOJI TRADE AMERICA INC.**

24 Hitoshi Ino
25 JFE SHOJI TRADE AMERICA, INC.
340 Golden Shore, Suite 450
26 Long Beach, CA 90802

27 **With a copy to:**

28 **SQUIRE PATTON BOGGS (US) LLP**

1 Noriyuki Shimoda
Joseph A. Meckes
2 275 Battery Street, Suite 2600
San Francisco, California 94111
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4 **12. COURT APPROVAL**

5 **12.1** If this Consent Judgment is not approved by the Court, it shall be void and have
6 no force or effect.

7 **12.2** Plaintiff shall comply with California Health and Safety Code section
8 25249.7(f) and with Title II of the California Code Regulations, Section 3003.

9 **13. EXECUTION AND COUNTERPARTS**

10 This Consent Judgment may be executed in counterparts, which taken together shall be
11 deemed to constitute one document. A facsimile or .pdf signature shall be construed as valid as
12 the original signature.

13 **14. DRAFTING**

14 The terms of this Consent Judgment have been reviewed by the respective counsel for
15 the each Party to this settlement prior to its signing, and each Party has had an opportunity to
16 fully discuss the terms with counsel. The Parties agree that, in any subsequent interpretation
17 and construction of this Consent Judgment entered thereon, the terms and provisions shall not be
18 construed against any Party.

19 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

20 If a dispute arises with respect to either Party's compliance with the terms of this
21 Consent Judgment entered by the Court, the Parties shall meet in person or by telephone and
22 endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the
23 absence of such a good faith attempt to resolve the dispute beforehand. In the event an action or
24 motion is filed, however, the prevailing party may seek to recover costs and reasonable
25 attorney's fees. As used in the preceding sentence, the term "prevailing party" means a party
26 who is successful in obtaining relief more favorable to it than the relief that the other party was
27 amenable to providing during the parties' good faith attempt to resolve the dispute that is the
28 subject of such enforcement action.

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16. ENTIRE AGREEMENT, AUTHORIZATION

16.1 This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter herein, and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

16.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly provided herein, each Party shall bear its own fees and costs.

17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF CONSENT JUDGMENT

This Consent Judgment has come before the Court upon the request of the Parties. The Parties request the Court to fully review this Consent Judgment and, being fully informed regarding the matters which are the subject of this action, to:

(1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable settlement of all matters raised by the allegations of the First Amended Complaint, that the matter has been diligently prosecuted, and that the public interest is served by such settlement; and

(2) Make the findings pursuant to California Health and Safety Code section 25249.7(f)(4),

approve the Settlement, and approve this Consent Judgment.

IT IS SO STIPULATED:

1 Dated: March 17, 2015

THE CHEMICAL TOXIN WORKING GROUP, INC.

By: David Steinman
David Steinman, Director

5 Dated: March 30, 2015

JFE SHOJI TRADE AMERICA INC.

By: Hiroshi Onoue
Hiroshi Onoue, Director

8 APPROVED AS TO FORM:

9 Dated: March 20, 2015

MICHAEL FREUND & ASSOCIATES

By: Michael Freund
Michael Freund
Attorney for David Steinman and The
Chemical Toxin Working Group, Inc.

14 Dated: _____, 2015

SQUIRE PATTON BOGGS (US) LLP

By: _____
Joseph A. Meckes,
Attorney for Defendant JFE Shoji Trade
America, Inc.

20 **ORDER AND JUDGMENT**

21 Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is
22 approved and Judgment is hereby entered according to its terms.

23 Dated: _____, 2015

Judge of the Superior Court

1 Dated: _____, 2015

THE CHEMICAL TOXIN WORKING GROUP, INC.

2
3 By: _____
4 David Steinman, Director

5 Dated: _____, 2015

JFE SHOJI TRADE AMERICA INC.

6
7 By: _____

8 **APPROVED AS TO FORM:**

9 Dated: _____, 2015

MICHAEL FREUND & ASSOCIATES

10
11 By: _____
12 Michael Freund
13 Attorney for David Steinman and The
14 Chemical Toxin Working Group, Inc.

14 Dated: 3/31, 2015

SQUIRE PATTON BOGGS (US) LLP

15
16 By: _____
17 Joseph A. Meckes,
18 Attorney for Defendant JFE Shoji Trade
19 America, Inc.

20 **ORDER AND JUDGMENT**

21 Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is
22 approved and Judgment is hereby entered according to its terms.

23 Dated: _____, 2015

24 _____
25 Judge of the Superior Court

LAW OFFICE OF
MICHAEL FREUND

1919 ADDISON STREET, SUITE 105
BERKELEY, CALIFORNIA 94704-1101

TEL (510) 540-1992
FAX (510) 540-5543
EMAIL FREUND1@AOL.COM

January 8, 2013

VIA CERTIFIED MAIL

Hitoshi Ino
JFE Shoji Trade America, Inc.
340 Golden Shore, Suite 450
Long Beach, CA 90802

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation Against JFE Shoji Trade America, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent The Chemical Toxin Working Group, a California non-profit corporation dedicated to reducing the amount of chemical toxins in consumer products. The Chemical Toxin Working Group was created by David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include Diet for a Poisoned Planet (1990, 2007); The Safe Shopper's Bible (1995); Living Healthy in a Toxic World (1996); and Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown (2007). Through this Notice of Violation, The Chemical Toxin Working Group seeks to reduce consumer exposures to lead in the products set forth herein.

This letter constitutes notification that JFE Shoji Trade America, Inc. ("JFE Shoji") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code). The products subject to this Notice of Violation and the chemical in the products identified as exceeding allowable levels are:

Geisha Whole Baby Clams – lead
Geisha Fancy Smoked Oysters in Cottonseed Oil – lead

JFE Shoji has manufactured, marketed, distributed and/or sold the above products which have exposed and continue to expose numerous individuals within California to lead. This chemical was

listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. JFE Shoji is in violation of Proposition 65 because the company failed to provide a warning to consumers that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for these products.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, The Chemical Toxin Working Group gives notice of the alleged violations to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to the noticing party from information now available. The Chemical Toxin Working Group is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: The Chemical Toxin Working Group

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to JFE Shoji Trade America, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice 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 The Chemical Toxin Working Group. The Notice of Violation alleges that the party identified has exposed persons in California to lead from specified consumer products without providing a Proposition 65 warning. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
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. In particular, I have consulted with the laboratory who conducted the testing for lead regarding these products and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through the testing laboratory and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed products from the noticed party. Furthermore, 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 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 California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & 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: January 7, 2013



Michael Freund
Attorney for The Chemical Toxin Working Group

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On January 8, 2013 I served the within:

Notice of Violation Against JFE Shoji Trade America, Inc., for Violation of California Health & Safety Code Section 25249.5 et seq. and Certificate of Merit; (Supporting Documentation sent to Attorney General only)

on the parties in said action, via electronic mail to the California Attorney General and by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California addressed as follows:

See attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on January 8, 2013 at Berkeley, California



Michael Freund

Service List

- District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612
- District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120
- District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642
- District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965
- District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
- District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932
- District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553
- District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
- District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667
- District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721
- District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988
- District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501
- District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243
- District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514
- District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301
- District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230
- District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453
- District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130
- District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012
- District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637
- District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903
- District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338
- District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482
- District Attorney, Merced County
550 W. Main Street
Merced, CA 95340
- District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020
- District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517
- District Attorney, Monterey County
Post Office Box 1131
Salinas, CA 93902
- District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559
- District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959
- District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701
- District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678
- District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971
- District Attorney, Riverside County
3960 Orange Street
Riverside, CA 92501
- District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95814
- District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023
- District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004
- District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101
- District Attorney, San Francisco County
850 Bryant Street, Suite 322
San Francisco, CA 94103
- District Attorney, San Joaquin County
222 E. Weber Ave. Rm. 202
Stockton, CA 95202
- District Attorney, San Luis Obispo County
1035 Palm St, Room 450
San Luis Obispo, CA 93408
- District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063
- District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101
- District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110
- District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060
- District Attorney, Shasta County
1355 West Street
Redding, CA 96001
- District Attorney, Sierra County
PO Box 457
Downieville, CA 95936
- District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097
- District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533
- District Attorney, Sonoma County
600 Administration Drive,
Room 212J
Santa Rosa, CA 95403
- District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354
- District Attorney, Sutter County
446 Second Street
Yuba City, CA 95991
- District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080
- District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093
- District Attorney, Tulare County
221 S. Mooney Blvd., Room 224
Visalia, CA 93291
- District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370
- District Attorney, Ventura County
800 South Victoria Ave, Suite 314
Ventura, CA 93009
- District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695
- District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901
- Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012
- San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101
- San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett Pl
San Francisco, CA 94102
- San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

LAW OFFICE OF
MICHAEL FREUND

1919 ADDISON STREET, SUITE 105
BERKELEY, CALIFORNIA 94704-1101

TEL (510) 540-1992
FAX (510) 540-5543
EMAIL FREUND1@AOL.COM

July 9, 2013

VIA CERTIFIED MAIL

Hitoshi Ino
JFE Shoji Trade America, Inc.
340 Golden Shore, Suite 450
Long Beach, CA 90802

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation Against JFE Shoji Trade America, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq.

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent The Chemical Toxin Working Group, a California non-profit corporation dedicated to reducing the amount of chemical toxins in consumer products. The Chemical Toxin Working Group was created by David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include Diet for a Poisoned Planet (1990, 2007); The Safe Shopper's Bible (1995); Living Healthy in a Toxic World (1996); and Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown (2007). Through this Notice of Violation, The Chemical Toxin Working Group seeks to reduce consumer exposures to lead in the products set forth herein.

This letter constitutes notification that JFE Shoji Trade America, Inc. ("JFE Shoji") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code). The product subject to this Notice of Violation and the chemical in the product identified as exceeding allowable levels are:

Geisha Mandarin Oranges in Light Syrup – lead

JFE Shoji has manufactured, marketed, distributed and/or sold the above product which has exposed and continues to expose numerous individuals within California to lead. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on

October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. These violations have occurred every day since at least July 9, 2010, and will continue every day until the lead is removed from the noticed products or until clear and reasonable warnings are provided. The primary route of exposure has been through ingestion.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. JFE Shoji is in violation of Proposition 65 because the company failed to provide a warning to consumers that they are being exposed to lead from the listed product. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A). There are no warnings currently present on the company's label for these products.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, The Chemical Toxin Working Group gives notice of the alleged violations to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to the noticing party from information now available. The Chemical Toxin Working Group is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: The Chemical Toxin Working Group

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to JFE Shoji Trade America, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice 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 The Chemical Toxin Working Group. The Notice of Violation alleges that the party identified has exposed persons in California to lead from specified consumer products without providing a Proposition 65 warning. Please refer to the Notice of Violation for additional details regarding the product names and alleged violations.
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. In particular, I have consulted with the laboratory who conducted the testing for lead regarding these products and I have relied on the testing results. The testing was conducted by a reputable testing laboratory by experienced scientists. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through ingestion.
4. Based on the information obtained through the testing laboratory and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed products from the noticed party. Furthermore, 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 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 California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & 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: July 3, 2013



Michael Freund
Attorney for The Chemical Toxin Working Group

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On July 9, 2013 I served the within:

Notice of Violation Against JFE Shoji Trade America, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq. and Certificate of Merit (Supporting Documentation sent to Attorney General only)

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California addressed to the names set forth on the Notice of Violation and on the attached Service List.

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on July 9, 2013 at Berkeley, California



Michael Freund

Service List

District Attorney, Alameda County Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County Box 248 Inyo, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
District Attorney, Butte County County Center Drive, Suite 245 Weaverville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County Mountain Ranch Road Georgetown, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County Ward Street Livermore, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County H Street, Room 171 Eureka, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County Main Street Marysville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 700 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Glenn, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County West Main Street, Ste 102 Imperial, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County W. Line Street Inyo, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 55 Truxtun Avenue Arvin, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 300 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 5 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 800 South Lassen Street, Ste. 8 Marysville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	

Michael Freund & Associates

1919 Addison Street, Suite 105

Berkeley, CA 94704

Voice: 510.540.1992 • Fax: 510.540.5543

Michael Freund, Esq.
Ryan Hoffman, Esq.

OF COUNSEL:
Denise Ferkich Hoffman, Esq.

November 12, 2013

VIA CERTIFIED MAIL

Hitosho Ino
JFE Shoji Trade America, Inc.
340 Golden Shore, Suite 450
Long Beach, CA 90802

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Office of the California Attorney General
Proposition 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violations of California Health & Safety Code Section 25249.5 et seq.

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent The Chemical Toxin Working Group, Inc., ("CTWG") a California non-profit corporation dedicated to reducing the amount of chemical toxins in consumer products. CTWG was created by David Steinman, a committed environmentalist, journalist, consumer health advocate, publisher and author. His major books include Diet for a Poisoned Planet (1990, 2007); The Safe Shopper's Bible (1995); Living Healthy in a Toxic World (1996); and Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown (2007). Through this Notice of Violation, CTWG seeks to reduce and/or eliminate exposures to cadmium ingested by consumers from oysters.

This letter constitutes notification that JFE Shoji Trade America, Inc. ("JFE Shoji") has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic enforcement Act (commencing with Section 25249.5 of the Health and Safety Code). The product subject to this Notice of Violation and the chemical in the product identified as exceeding allowable levels are:

Geisha Fancy Smoked Oysters in Cottonseed Oil - Cadmium

JFE Shoji has manufactured, marketed, distributed and/or sold the above product which has exposed and continues to expose numerous individuals within California to cadmium. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1987 and as a chemical known to cause developmental toxicity and male reproductive toxicity on May 1, 1997. These violations have occurred every day since

at least November 12, 2010, as well as every day since the product was introduced into the California marketplace and will continue every day until cadmium is removed from the noticed product, reduced to allowable levels or until clear and reasonable warnings are provided. The primary route of exposure has been through ingestion but may have also occurred through inhalation and/or dermal contact.

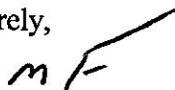
Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. JFE Shoji is in violation of Proposition 65 because the company failed to provide a warning to consumers that they are being exposed to cadmium. While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code § 25249.6.) The method of warning should be a warning that appears on the product's label. Cal. Code Regs. tit. 27, § 25603.1, subd. (a.) JFE Shoji has not provided any Proposition 65 warnings on the company's label or any other appropriate warnings that persons handling, ingesting and/or otherwise using this product are being exposed to cadmium.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, CTWG gives notice of the alleged violations to the noticed party and the appropriate governmental authorities. This Notice of Violation covers all violations of Proposition 65 that are currently known to the noticing party from information now available. CTWG is continuing its investigation that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

CTWG is interested in a prompt resolution of this matter with an enforceable written agreement by JFE Shoji to (1) eliminate or reduce cadmium levels to allowable levels, or provide appropriate warnings on the labels of this product; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures and expensive and time consuming litigation.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: The Chemical Toxin Working Group, Inc.

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary to JFE Shoji Trade America, Inc.

Additional Supporting Information for Certificate of Merit (to Attorney General only)

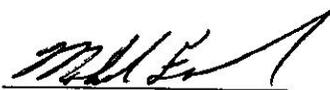
CERTIFICATE OF MERIT

**Re: The Chemical Toxin Working Group Inc.'s Notice of Proposition 65 Violations
by JFE Shoji Trade America, Inc.**

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the attached Notice of Violation in which it is alleged that the party identified in the Notice 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 The Chemical Toxin Working Group, Inc. The Notice of Violation alleges that the party identified has exposed persons in California to the listed chemical that is the subject of this Notice. Please refer to the Notice of Violation for additional details regarding the product name(s) and alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of this Notice. I have reviewed the laboratory testing results for the chemical subject to this Notice and relied on these results. The testing was conducted by a reputable testing laboratory by experienced scientists. The facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to the listed chemical that is the subject of this Notice.
4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that human exposures exist from exposure to the listed product from the noticed party. Furthermore, 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 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 California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & 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: November 12, 2013



Michael Freund
Attorney for The Chemical Toxin Working
Group, Inc.

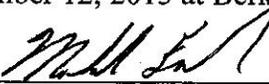
CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, California 94704. On November 12, 2013 I served the within:

Notice of Violation By JFE Shoji Trade America, Inc. for Violation of California Health & Safety Code Section 25249.5 et seq. and Certificate of Merit (Supporting Documentation sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California addressed to the names set forth on the Notice of Violation and on the attached Service List.

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct. Executed on November 12, 2013 at Berkeley, California



Michael Freund

Notice of Violations of California Health & Safety Code §25249.5 et seq.

Service List

District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Monterey County
Post Office Box 1131
Salinas, CA 93902

District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959

District Attorney, Orange County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, Riverside County
3960 Orange Street
Riverside, CA 92501

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95814

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

District Attorney, San Francisco County
850 Bryant Street, Suite 322
San Francisco, CA 94103

District Attorney, San Joaquin County
222 E. Weber Ave. Rm. 202
Stockton, CA 95202

District Attorney, San Luis Obispo County
1035 Palm St, Room 450
San Luis Obispo, CA 93408

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110

District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

District Attorney, Sierra County
PO Box 457
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Sonoma County
600 Administration Drive,
Room 212J
Santa Rosa, CA 95403

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tulare County
221 S. Mooney Blvd., Room 224
Visalia, CA 93291

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Ventura County
800 South Victoria Ave, Suite 314
Ventura, CA 93009

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

District Attorney, Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101

San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113