

1 **KJC LAW GROUP, A.P.C.**
Kevin J. Cole (SBN 321555)
2 9701 Wilshire Blvd., Suite 1000
Beverly Hills, CA 90212
3 Telephone: (310) 861-7797
e-Mail: kevin@kjclawgroup.com

4 *Attorneys for Plaintiff*
5 *Zachary Stein*

6 **BRYAN CAVE LEIGHTON PAISNER LLP**
Merrit M. Jones (SBN 209033)
7 3 Embarcadero Ctr., Floor 7
San Francisco, CA 94111
8 Telephone: (415) 675-3400
e-Mail: merrit.jones@bcplaw.com

9 *Attorneys for Defendant*
10 *Kerry Inc.*

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 ZACHARY STEIN, an individual,

15 Plaintiff,

16 v.

17 KERRY INC., a Delaware corporation; and DOES 1
18 through 10, inclusive,

19 Defendants.

Case No.: 22STCV39509

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

(Health & Safety Code § 25249.5, et seq.)

Complaint Filed: Dec. 15, 2022

Trial Date: None Set

1 **I. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Zachary Stein
3 (“Stein”) and Kerry Inc. (“Kerry”), a Delaware corporation. Stein is an individual residing in California
4 who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing
5 or eliminating hazardous substances contained in consumer products. Stein alleges, and for purposes of
6 this settlement only, Kerry does not dispute, that Kerry employs ten or more persons and is a person in
7 the course of doing business for purposes of Proposition 65, California Health and Safety Code section
8 25249.5, *et seq.* (“Proposition 65”). Stein and Kerry are hereinafter referred to individually as a “Party”
9 or collectively as the “Parties.”

10 **1.2 The Allegations.** On December 15, 2022, Stein, as a private enforcer and in the public
11 interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties
12 (the “Complaint”) pursuant to Proposition 65 against Kerry. In this action, Stein alleges that Kerry’s “Da
13 Vinci Pumpkin Pie Sauce” (the “Covered Product” or the “Product”) contains Methyleugenol, a chemical
14 listed under Proposition 65 as a carcinogen. Stein alleges that the Covered Product exposes consumers to
15 this chemical at a level requiring a Proposition 65 warning.

16 **1.3** Stein alleges that Kerry is a business entity that has employed ten or more persons at all
17 times relevant to this action, and qualifies as a “person in the course of doing business” within the meaning
18 of Proposition 65. Kerry manufactures, distributes, and/or sells the Covered Product.

19 **1.4 Notice of Violation.** The Complaint is based on allegations contained in Stein’s Notice of
20 Violation dated September 16, 2022 that was served on the California Attorney General, other public
21 enforcers, and Kerry (the “Notice”). A true and correct copy of the 60-Day Notice is attached hereto as
22 **Exhibit A** and incorporated herein by reference. More than 60 days have passed since the Notice was
23 served on the Attorney General, the other public enforcers, and Kerry; and no designated governmental
24 entity has filed a Complaint against Kerry with regard to the Covered Product or the alleged violations.

25 **1.5** Stein’s Notice and Complaint allege that use of the Product by California consumers
26 exposes them to Methyleugenol without first receiving clear and reasonable warnings from Kerry, which

1 is in violation of California Health and Safety Code section 25249.6. Kerry denies all material allegations
2 contained in the Notice and Complaint.

3 **1.6** The Parties have entered into this Consent Judgment in order to settle, compromise, and
4 resolve disputed claims and thus avoid prolonged and costly litigation. Nothing in this Consent Judgment
5 nor compliance with this Consent Judgment shall constitute or be construed as an admission by any of the
6 Parties or by any of their respective officers, directors, shareholders, employees, agents, parent companies,
7 subsidiaries, divisions, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers
8 of any fact, issue of law, or violation of law.

9 **1.7** Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice,
10 waive, or impair any right, remedy, argument, or defense the Parties may have in any current or future
11 legal proceeding unrelated to these proceedings.

12 **1.8** The Effective Date of this Consent Judgment is the date on which Stein serves the Notice
13 of Entry of the Consent Judgment.

14 **II. JURISDICTION AND VENUE**

15 **2.1** For purposes of this Consent Judgment and any further court action that may become
16 necessary to enforce this Consent Judgment only, the Parties stipulate that this Court has subject matter
17 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction over
18 Kerry as to the acts alleged in the Complaint.

19 **2.2** For purposes of this Consent Judgment, the Parties stipulate that venue is proper in Los
20 Angeles County, California, and that this Court has jurisdiction to enter this Consent Judgment as a full
21 and final resolution of all claims up through and including the Effective Date that were or could have been
22 asserted in this action based on the facts alleged in the Notice and Complaint.

23 **III. WARNINGS**

24 **3.1 Clear and Reasonable Warnings**

25 As of the Effective Date, should Kerry determine that the Product contains any Methyleugenol
26 that is not naturally occurring (as provided in Section 25501(3) of the California Code of Regulations),

1 Kerry will provide a clear and reasonable Proposition 65 warning—pursuant to the specific warnings
2 below—for online sales and distribution of those Products in California. Products that were supplied to
3 third parties by Kerry prior to the Effective Date shall be deemed exempted from the requirements of this
4 Section and shall be permitted to be sold through as previously manufactured, packaged and labeled.
5 Kerry may use either of the following warning statements in full compliance with this Section:

6 **WARNING:** This product can expose you to chemicals including Methyleugenol, which
7 are known to the State of California to cause cancer, birth defects or other reproductive
8 harm. For more information, go to www.P65Warnings.ca.gov.

9 **WARNING:** Cancer and Reproductive Harm – www.P65Warnings.ca.gov.

10 The above statement (the “Warning”) must be in a type size no smaller than the largest type size
11 used for other consumer information on the Product. “Consumer information” includes warnings,
12 directions for use, ingredient lists, and nutritional information. “Consumer information” does not include
13 the brand name, product name, company name, location of manufacture, or product advertising. In no
14 case shall the Warning appear in a type size smaller than six (6) point type. In addition, a symbol
15 consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline shall be
16 placed to the left of the text of the Warning, in a size no smaller than the height of the word “WARNING.”
17 Where the label for the product is not printed using the color yellow, the symbol may be in black and
18 white.

19 **3.1.1 Warning Prominence.** The Warning shall be at least the same size as the largest of any
20 other health or safety warnings also appearing on the website or on the label and the word “WARNING”
21 shall be in all capital letters and in bold print. Kerry must display the Warning with such conspicuousness,
22 as compared with other words, statements or designs on the label, or on its website, if applicable, to render
23 the Warning likely to be read and understood by an ordinary individual under customary conditions of
24 purchase or use of the product. The Warning may be accompanied by supplemental information only to
25 the extent that the supplemental information identifies the source of the exposure or provides information
26 on how to avoid or reduce exposure to the identified chemical or chemicals. For purposes of this Consent

1 Judgment, the term “label” means a display of written, printed or graphic material that is printed on or
2 affixed to a Covered Product or its immediate container or wrapper.

3 **3.2 Compliance with Warning Regulations.** Kerry shall be deemed to be in compliance with
4 this Consent Judgment by (1) adhering to section 3.1 of this Consent Judgment, or (2) complying with
5 any future warning requirements adopted by the State of California’s Office of Environmental Hazard
6 Assessment (“OEHHA”) after the Effective Date, that are applicable to the product and the chemical at
7 issue.

8 **3.3 Entry of Consent Judgment.** Upon execution of this Consent Judgment by the Parties,
9 Stein shall notice a Motion for Court Approval and comply with the requirements set forth in California
10 Health & Safety Code section 25249.7(f).

11 **3.4** It is the parties’ intention that this Consent Judgment shall have preclusive effect such that
12 no other actions by private enforcers, whether purporting to act in his, her, or its interests or the public
13 interest shall be permitted to pursue and/or take any action with respect to any violation of Proposition 65
14 that was alleged in the Complaint, or that could have been brought pursuant to the Notice against Kerry
15 and/or the Downstream Releasees of the Covered Product (“Proposition 65 Claims”). Compliance with
16 the terms of this Consent Judgment constitutes compliance with Proposition 65 with regard to the Covered
17 Product.

18 **IV. MONETARY TERMS.**

19 **4.1** In full satisfaction of all potential civil penalties, additional settlement payments, attorneys’
20 fees, and costs, within ten (10) business days of the Effective Date, Kerry shall make a total payment of
21 \$18,000.00 (the “Total Settlement Amount”) by wire transfer to KJC Law Group, A.P.C., attorneys of
22 record for Stein, in accordance with wire transfer instructions furnished by KJC Law Group. KJC Law
23 Group shall apportion and transmit the Total Settlement Amount as follows:

24 Civil Penalty

25 KJC Law Group shall remit \$3,600 as a Civil Penalty pursuant to California Health and Safety
26 Code section 25249.7(b)(1), to be apportioned in accordance with California Health & Safety Code Section

1 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the Civil Penalty remitted
2 to Stein, as provided by California Health & Safety Code section 25249.12(d).

3 KJC Law Group shall remit two separate payments for the Civil Penalty payment to (a) “OEHHA”
4 in the amount of \$2,700; and (2) to “KJC Law Group in Trust for Stein” in the amount of \$900.

5 Attorneys’ Fees

6 KJC Law Group shall retain \$14,400 as complete reimbursement for Stein’s attorneys’ fees and
7 costs incurred as a result of investigating, bringing this matter to Kerry’s attention, litigating, negotiating,
8 and obtaining judicial approval of a settlement in the public interest.

9 **4.2** In the event that Kerry fails to timely remit the Total Settlement Amount owed under
10 Section 4 of this Consent Judgment, Kerry shall be deemed to be in material breach of its obligations
11 under this Consent Judgment. Stein shall provide written notice of the delinquency to Kerry via electronic
12 mail, to its counsel of record. If Kerry fails to deliver the Total Settlement Amount within five (5) days
13 from the written notice, the Total Settlement Amount shall accrue interest at the statutory judgment
14 interest rate provided in California Code of Civil Procedure section 685.010.

15 Additionally, Kerry agrees to pay Stein’s reasonable attorneys’ fees and costs for any efforts to
16 collect the payment due under this Consent Judgment.

17 **V. MODIFICATION OF CONSENT JUDGMENT**

18 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by written
19 stipulation of the Parties and upon entry by the Court of a modified consent judgment or (ii) by motion
20 of either Party pursuant to Section 5.3 and upon entry by the Court of a modified consent judgment.

21 **5.2** If Kerry seeks to modify this Consent Judgment under Section 5.1, then Kerry must
22 provide written notice to Stein of its intent (“Notice of Intent”). If Stein seeks to meet and confer
23 regarding the proposed modification in the Notice of Intent, then Stein must provide written notice to
24 Kerry within thirty (30) days of receiving the Notice of Intent. If Stein notifies Kerry in a timely
25 manner of Stein’s intent to meet and confer, then the Parties shall meet and confer in good faith as
26 required in this Section. The Parties shall meet in person or via telephone within thirty (30) days of

1 Stein’s notification of the intent to meet and confer. Within thirty (30) days of such meeting, if Stein
2 disputes the proposed modification, Stein shall provide to Kerry a written basis for its position. The
3 Parties shall continue to meet and confer for an additional thirty (30) days in an effort to resolve any
4 remaining disputes. Should it become necessary, the Parties may agree in writing to different
5 deadlines for the meet-and-confer period.

6 **5.3** In the event that Kerry initiates or otherwise requests a modification under Section 5.1,
7 and the meet and confer process leads to a joint motion or application for a modification of the Consent
8 Judgment, Kerry shall reimburse Stein his costs and reasonable attorneys’ fees for the time spent in
9 the meet-and-confer process and filing and arguing the motion or application.

10 **VI. REPRESENTATION/WARRANTY REGARDING OTHER POTENTIAL LEGAL**
11 **CLAIMS OR CLAIMANTS**

12 Stein does not have any other claims or potential claims against Kerry other than those that are the
13 subject of the Action and have been released. KJC Law Group does not represent any clients, or have
14 knowledge of any potential clients, with claims or potential claims against Kerry aside from Stein. Stein
15 and KJC Law Group each represent and warrant that they are not aware of any other potential plaintiffs
16 or attorneys who intend to make demands or bring litigation against Kerry. Stein and KJC Law Group
17 each further represent and warrant that none of them have been notified or otherwise informed of any such
18 intention or consideration thereof.

19 **VII. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

20 **7.1** This Court shall retain jurisdiction of this matter to enforce, modify, or terminate this
21 Consent Judgment.

22 **VIII. APPLICATION OF CONSENT JUDGMENT**

23 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their respective
24 officers, directors, shareholders, members, employees, agents, parent companies, representatives,
25 partners, sister companies, affiliates, manufacturers, suppliers, subsidiaries, divisions, subdivisions,
26 franchisees, licensees, customers, distributors, wholesalers, retailers, predecessors, successors, and

1 assigns. This Consent Judgment shall have no application to any Covered Product that is distributed or
2 sold exclusively outside the State of California and that is not used by California consumers.

3 **IX. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

4 **9.1** This Consent Judgment is a full, final, and binding resolution between Stein, on behalf of
5 himself and in the public interest, and Kerry and its respective officers, directors, shareholders, members,
6 employees, agents, parent companies, representatives, partners, sister companies, affiliates,
7 manufacturers, suppliers, subsidiaries, divisions, subdivisions, suppliers, franchisees, licensees, customers
8 distributors, wholesalers, retailers, and all other upstream and downstream entities in the distribution chain
9 of any Product, and the predecessors, successors, and assigns of any of them (collectively, “Released
10 Parties”).

11 **9.2** Stein, acting in the public interest, releases the Released Parties from any and all claims
12 for violations of Proposition 65 up to and including the Effective Date based on exposure to
13 Methyleugenol from the Product as set forth in the Notice and Complaint.

14 **9.3** Stein on his own behalf only, and Kerry on its own behalf only, further waive and release
15 any and all claims they may have against each other for all actions or statements made or undertaken in
16 the course of seeking or opposing enforcement of Proposition 65 in connection with the Notice and
17 Complaint up through and including the Effective Date, provided, however, that nothing in Section 8 shall
18 affect or limit any Party’s right to seek to enforce the terms of this Consent Judgment.

19 **9.4** It is possible that other claims not known to the Parties, arising out of the facts alleged in
20 the Notice and Complaint, and relating to the Covered Products, will develop or be discovered. Stein on
21 behalf of himself only, and Kerry on behalf of itself only, acknowledge that this Consent Judgment is
22 expressly intended to cover and include all such claims up through and including the Effective Date,
23 including all rights of action therefore. Stein and Kerry acknowledge that the claims released in Sections
24 8.2 and 8.3 above may include unknown claims, and nevertheless waive California Civil Code section
25 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

1 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR
2 RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
3 THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD
4 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR
5 RELEASED PARTY.

6 9.5 Compliance with the terms of this Consent Judgment shall be deemed to constitute
7 compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to the Covered
8 Product as set forth in the Notice and Complaint.

9 9.6 Nothing in this Consent Judgment is intended to apply to any occupational or
10 environmental exposures arising under Proposition 65, nor shall it apply to any other Kerry products other
11 than the Covered Product.

12 **X. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

13 In the event that any of the provisions of this Consent Judgment are held by a court to be
14 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

15 **XI. GOVERNING LAW**

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

18 **XII. PROVISION OF NOTICE**

19 All notices required to be given to either Party to this Consent Judgment by the other shall be in
20 writing and sent to the following agents listed below via first-class mail or via electronic mail where
21 required.

22 **KJC LAW GROUP, A.P.C.**
23 Kevin J. Cole (SBN 321555)
24 9701 Wilshire Blvd., Suite 1000
25 Beverly Hills, CA 90212
26 Telephone: (310) 861-7797
27 e-Mail: kevin@kjclawgroup.com

28 *Attorneys for Plaintiff*
Zachary Stein

BRYAN CAVE LEIGHTON PAISNER LLP

Merrit M. Jones (SBN 209033)
3 Embarcadero Ctr., Floor 7
San Francisco, CA 94111
Telephone: (415) 675-3400
e-Mail: merrit.jones@bcplaw.com

*Attorneys for Defendant
Kerry Inc.*

///

///

XIII. COURT APPROVAL

13.1 Upon execution of this Consent Judgment by the Parties, Stein shall notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this Consent Judgment.

13.2 If the California Attorney General objects to any term in this Consent Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible, prior to the hearing on the motion.

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

XIV. EXECUTED AND COUNTERPARTS

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

XV. DRAFTING

The terms of this Consent Judgment have been reviewed by the respective counsel for each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Consent Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the

1 Parties' legal counsel prepared and/or drafted all or any portion of the Consent Judgment. It is conclusively
2 presumed that all of the Parties participated equally in the preparation and drafting of this Consent Judgment.

3 **XVI. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

4 If a dispute arises with respect to either Party's compliance with the terms of this Consent Judgment
5 entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in writing and
6 endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the absence of
7 such a good faith attempt to resolve the dispute beforehand.

8 ///

9 **XVII. ENFORCEMENT**

10 The Parties may, by motion or order to show cause before the Superior Court of Los Angeles County,
11 enforce the terms and conditions contained in this Consent Judgment. In any successful action brought by
12 Stein to enforce this Consent Judgment, Stein may seek whatever fines, costs, penalties, or remedies as are
13 provided by law for failure to comply with the Consent Judgment and Proposition 65.

14 **XVIII. ENTIRE AGREEMENT, AUTHORIZATION**

15 **18.1** This Consent Judgment contains the sole and entire agreement and understanding of the
16 Parties with respect to the entire subject matter herein, including any and all prior discussions, negotiations,
17 commitments, and understandings related thereto. No representations, oral or otherwise, express or implied,
18 other than those contained herein have been made by any Party. No other agreements, oral or otherwise,
19 unless specifically referred to herein, shall be deemed to exist or to bind any Party.

20 **18.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized by the
21 Party he or she represents to stipulate to this Consent Judgment.

22 **XIX. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
23 **CONSENT JUDGMENT**

24 This Consent Judgment has come before the Court upon the request of the Parties. The Parties
25 request the Court to fully review this Consent Judgment and, being fully informed regarding the matters
26

1 which are the subject of this action, make the findings pursuant to California Health and Safety Code
2 section 25249.7(f)(4) and approve this Consent Judgment.

3 **IT IS SO STIPULATED.**

4 DATED: _____

KJC LAW GROUP, A.P.C.

5 By: /s/ Kevin J. Cole
6 Kevin J. Cole, Esq.

7 *Attorneys for Plaintiff*
8 *Zachary Stein*

9 DATED: 1/11/2023

10 DocuSigned by:

11 Plaintiff Zachary Stein

12 DATED: December 27, 2022

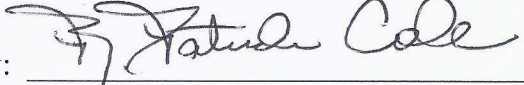
BRYAN CAVE LEIGHTON PAISNER LLP

14 By: /s/ Merrit Jones
15 Merrit Jones, Esq.

16 *Attorneys for Defendant*
17 *Kerry Inc.*

18 DATED: 1/9/2023

KERRY INC.

19 By: 

20 Its: VP/GM BRANDS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ex. A

Kevin J. Cole, Esq.
e-Mail: kevin@kjclawgroup.com

September 16, 2022

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Kerry Ingredients Inc.
c/o C T Corporation System
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

Kerry Ingredients Inc.
c/o Legal Department
3400 Millington Rd.
Beloit, WI 53511

Re: Proposition 65 Notice of Violation

To Whom It May Concern:

We represent Zachary Stein (“Plaintiff”), a citizen of the State of California acting in the interest of the general public. This letter serves as Notice that Kerry Ingredients Inc. (“Kerry Ingredients”) is in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, commencing with section 25249.5 of the Health and Safety Code (“Proposition 65”). In particular, the violation alleged by this Notice consists of types of harm that may potentially result from exposures to the toxic chemical Methyleugenol. This chemical was listed as a carcinogen on November 16, 2001.

The specific type of product that is causing exposures in violation of Proposition 65 is “Da Vinci Pumpkin Pie Sauce” (the “Product”). The route of exposure for the violations is oral ingestion by consumers. These exposures occur through the reasonably foreseeable use of the Product. The sales of this Product have been occurring since at least July 23, 2021, are continuing to this day, and will continue to occur as long as the Product subject to this Notice is sold to and used by consumers.

Proposition 65 requires that a clear and reasonable warning be provided regarding exposures to Methyleugenol caused by ordinary use of the Product. Kerry Ingredients is in violation of Proposition 65 by failing to provide such warnings to consumers. As a result of the sales of this Product, exposures to Methyleugenol have been occurring without proper warnings for several years.

Based on the allegations set forth in this Notice, Plaintiff intends to file a citizen enforcement lawsuit against Kerry Ingredients unless it agrees in a binding written instrument to: (1) immediately cease causing unwarned exposures to Methyleugenol; (2) provide clear and reasonable warnings for past and ongoing exposures to Methyleugenol from the Product; and (3) pay appropriate civil penalties based on the factors enumerated in California Health and Safety Code section 25249.7(b). If Kerry Ingredients is interested in resolving this dispute without resort to litigation, please feel free to contact me. However, the parties cannot: (1) finalize any settlement until after the 60-day notice period has expired, nor (2) speak for the Attorney General or any District or City

Attorney who received the 60-day Notice. Therefore, while reaching an agreement with Plaintiff will resolve these claims, such agreement may not satisfy the public prosecutors.

This Notice also serves as a demand that Kerry Ingredients preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the use of Methyleugenol in the Product; efforts to comply with Proposition 65 with respect to the use of Methyleugenol in the Product; communications with any person relating to Methyleugenol in the Product; and the length of time at which Kerry Ingredients sold the Product into the California marketplace.

If you have any questions or wish to discuss any of the above, please contact me.

Sincerely,



Kevin J. Cole, Esq.
KJC Law Group, A Professional Corporation

See attached distribution list

Attachments:

- Certificate of Merit
- Certificate of Service
- Proposition 65 Summary (to the alleged violator only)
- Additional Supporting Information for Certificate of Merit (to the California Attorney General only)

CERTIFICATE OF MERIT

I, Kevin J. Cole, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged 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 an 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 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 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: September 16, 2022

A handwritten signature in black ink, appearing to read 'Kevin J. Cole', with a stylized flourish at the end.

Kevin J. Cole, Esq.
KJC Law Group, A Professional Corporation

CERTIFICATE OF SERVICE

I, Chen Wang, declare that I am over the age of 18 years, and am not a party to the within action. I am employed in the County of Los Angeles, California, where the mailing occurs; and my business address is 9701 Wilshire Blvd., Suite 1000, Beverly Hills, CA 90212.

On September 16, 2022, I served the following documents: **(1) 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(d); (2) CERTIFICATE OF MERIT; (3) PROPOSITION 65: A SUMMARY; and (4) CERTIFICATE OF MERIT ATTACHMENT (served only on the Attorney General)** on the party listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at my business address with the U.S. Postal Service for delivery by Certified Mail with the postage thereon fully prepaid:

Via Certified Mail

Kerry Ingredients Inc.
c/o C T Corporation System
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

Kerry Ingredients Inc.
c/o Legal Department
3400 Millington Rd.
Beloit, WI 53511

On September 16, 2022, I served the California Attorney General (via website Portal) by uploading a true and correct copy thereof as a PDF file via the California Attorney General's website.

On September 16, 2022, I transmitted via electronic mail the above-listed documents to the electronic mail addresses of the City and/or District Attorneys who have specifically authorized email service and the authorization appears on the Attorney General's website.

See Attached Service List

On September 16, 2022, I served the following persons and/or entities at the last known address by placing a true and correct copy thereof in a sealed envelope and depositing it at my business address with the U.S. Postal Service for delivery with the postage thereon fully prepaid, and addressed as follows:

See Attached Service List

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 16, 2022 in Los Angeles, California.



Chen Wang

Appendix A

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

The following summary has been prepared by the office of Environmental Health Hazard Assessment, the lead and Toxic Enforcement Act 1986 (commonly known as "Proposition 65") A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide law. The reader is directed to the statute and its implementing regulations (See citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code Regulations, Sections 250000 through 27000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List" Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 725 chemicals have been listed as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the

following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of the listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of the listing of chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70- year lifetime. The Proposition 65 regulations identify specific “no significant risk” levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm (“reproductive toxicants”), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level (NOEL),” divided by a 1,000- fold safety or uncertainty factor. The “no observable effect level” is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any

detectable amount; expect an amount that would meet the “ no significant risk” or “no observable effect” test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuit may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 27. California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment= Proposition 65 Implementation Office at (916)445-6900

E-Mail Service List

Stacey Grassini, Deputy District Attorney
CONTRA COSTA COUNTY
900 Ward Street
Martinez, CA 94553
sggrassini@contracostada.org

Michelle Latimer, Program Coordinator
LASSEN COUNTY
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Jeannine M. Pacioni, District Attorney
MONTEREY COUNTY
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
NAPA COUNTY
1127 First Street, Suite C
Napa, CA 94559
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney
RIVERSIDE COUNTY
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Barbara Yook, District Attorney
CALAVERAS COUNTY
891 Mountain Ranch Rd.
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Alethea M. Sargent, Assistant District
Attorney SAN FRANCISCO COUNTY
350 Rhode Island Street
San Francisco, CA 94103
alethea.sargent@sfgov.org

Summer Stephan, District Attorney
SAN DIEGO COUNTY
330 West Broadway
San Diego, CA 92101
SanDiegoDAProp65@sdcdca.org

Mark Ankcorn, Deputy City
Attorney
CITY OF SAN DIEGO
1200 Third Avenue
San Diego, CA 92101
CityAttyCrimProp65@sandiego.gov

Valerie Lopez, Deputy City Attorney
CITY OF SAN FRANCISCO
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

Eric J. Dobroth, Deputy District Attorney
SAN LUIS OBISPO COUNTY
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Bud Porter, Supervising Deputy District Attorney
SANTA CLARA COUNTY
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Stephan R. Passalacqua, District Attorney
SONOMA COUNTY
600 Administration Drive
Sonoma, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
TULARE COUNTY
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
VENTURA COUNTY
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
YOLO COUNTY
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

Tori Verber Salazar, District Attorney
SAN JOAQUIN COUNTY
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Christopher Dalbey, Deputy District Attorney
SANTA BARBARA COUNTY
1112 Santa Barbara St.
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Nancy O'Malley, District Attorney
ALAMEDA COUNTY
7776 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Barbara M. Yook, District Attorney
CALAVERAS COUNTY
891 Mountain Ranch Road
San Andreas CA 95249
Prop65Env@co.calaveras.ca.us

David Hollister, District Attorney
PLUMAS COUNTY
520 Main St.
Quincy, CA 95971
davidhollister@countyofplumas.com

Anne Marie Schubert, District Attorney
SACRAMENTO COUNTY
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Jeffrey S. Rosell, District Attorney
SANTA CRUZ COUNTY
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

Kimberly Lewis, District Attorney
MERCED COUNTY
550 West Main Street
Merced, CA 95340
Prop65@countyofmerced.com

Clifford H. Newell, District Attorney
NEVADA COUNTY
201 Commercial Street
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Thomas L. Hardy, District Attorney
INYO COUNTY
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

Walter W. Wall, District Attorney
MARIPOSA COUNTY
P.O. Box 730
Mariposa, CA 95338
mcda@mariposacounty.org

Morgan Briggs Gire, District Attorney
PLACER COUNTY
10810 Justice Center Drive
Roseville, CA 95678
prop65@placer.ca.gov

District Attorney
ORANGE COUNTY
700 Civic Center Drive West
Santa Ana, CA 92701
Prop65Notice@da.ocgov.com

SERVICE LIST

The Honorable Nancy O'Malley Alameda County District Attorney 1225 Fallon Street, Room 900 Oakland, CA 94612	The Honorable Stacey Montgomery Lassen County District Attorney 220 South Lassen Street, Ste. 8 Susanville, CA 96130	The Honorable Candice Hooper San Benito County District Attorney 419 4th Street, Second Floor Hollister, CA 95203	The Honorable Gregg Cohen Tehama County District Attorney 444 Oak Street, Room L Red Bluff, CA 96080
The Honorable Terese Drabec Alpine County District Attorney 270 Laramie Street, PO BOX 248 Markieville, CA 96120	The Honorable Jackie Lacey Los Angeles County District Attorney 211 West Temple Street, Suite 1200 Los Angeles, CA 90012	The Honorable Michael Ramos San Bernardino County District Attorney 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502	The Honorable Eric Heryford Trinity County District Attorney P.O. Box 310 Weaverville, CA 96093
The Honorable Todd Riebe Amador County District Attorney 708 Court Street Jackson, CA 95642	The Honorable David Linn Madera County District Attorney 209 West Yosemite Avenue Madera, CA 93637	The Honorable Bonnie Dumanis San Diego County District Attorney 330 W. Broadway Street San Diego, CA 92101	The Honorable Tim Ward Tulare County District Attorney 221 South Mooney Boulevard, Rm 224 Visalia, CA 93291-4593
The Honorable Michael Ramsay Butte County District Attorney 25 County Center Drive Oroville, CA 95965	The Honorable Edward Berberian Marin County District Attorney 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	The Honorable George Gascon San Francisco County District Attorney 850 Bryant Street, Room 322 San Francisco, CA 94103	The Honorable Laura Krieg Tuolumne County District Attorney 423 North Washington Street Sonora, CA 95370
The Honorable Barbara Yook Calaveras County District Attorney 991 Mountain Ranch Road San Andreas, CA 95249	The Honorable Thomas Cooke Mariposa County District Attorney 5101 Jones Street, P.O. Box 730 Mariposa, CA 95338	The Honorable Tori Verber Salazar San Joaquin County District Attorney 222 East Weber Avenue, Room 202 Stockton, CA 95201	The Honorable Gregory Totten Ventura County District Attorney 800 South Victoria Avenue Ventura, CA 93009
The Honorable John Poyner Colusa County District Attorney 346 Fifth Street Colusa, CA 95932	The Honorable C. David Eyster Mendocino County District Attorney 100 North State Street, P.O. Box 1000 Ukiah, CA 95482	The Honorable Dan Dow San Luis Obispo County District Atty 1035 Palm Street, 4th Floor San Luis Obispo, CA 93408	The Honorable Jeff Reisig Yolo County District Attorney 301 Second Street Woodland, CA 95695
The Honorable Mark Peterson Contra Costa County District Attorney 900 Ward Street Martinez, CA 94553	The Honorable Larry Morse II Merced County District Attorney 550 W. Main Street Merced, CA 95340	The Honorable Stephen Wagstaffe San Mateo County District Attorney 400 County Center, Third Floor Redwood City, CA 94063	The Honorable Patrick McGrath Yuba County District Attorney 215 Fifth Street Marysville, CA 95901
The Honorable Dale Trigg Del Norte County District Attorney 450 H Street, Room 171 Crescent City, CA 95531	The Honorable Jordan Funk Modoc County District Attorney 204 S. Court Street, Suite 202 Alturas, CA 96101	The Honorable Joyce Dudley Santa Barbara County District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101	The Honorable Mike Feuer Office of the City Attorney, Los Angeles 800 City Hall East 200 North Main Street Los Angeles, CA 90012
The Honorable Vern Pierson El Dorado County District Attorney 778 Pacific Street Placerville, CA 95667	The Honorable Tim Kendall Mono County District Attorney P.O. Box 617 Bridgeport, CA 93517	The Honorable Jeffrey Rosen Santa Clara County District Attorney 70 West Hedding Street, West Wing San Jose, CA 95110	The Honorable James Sanchez Office of the City Attorney, Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
The Honorable Lisa Smittcamp Fresno County District Attorney 2220 Tulara Street, #1000 Fresno, CA 93721	The Honorable Dean Filipo Monterey County District Attorney P.O. Box 1131 Salinas, CA 93902	The Honorable Jeff Roseff Santa Cruz County District Attorney 701 Ocean Street, Room 200 Santa Cruz, CA 95060	The Honorable Jan Goldsmith Office of the City Attorney, San Diego 1200 Third Avenue, Suite 1820 San Diego, CA 92101
The Honorable Dwayne Stewart Glenn County District Attorney P.O. Box 430 Willows, CA 95988	The Honorable Allison Haley Napa County District Attorney 1127 First Street, Suite C Napa, CA 94559	The Honorable Stephen Carlton Shasta County District Attorney 1355 West Street Redding, CA 96001	The Honorable Dennis Herrera Office of the City Attorney, San Francisco 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102
The Honorable Maggie Fleming Humboldt County District Attorney 825 5th Street, Fourth Floor Eureka, CA 95501	The Honorable Clifford Newell Nevada County District Attorney 201 Commercial Street Nevada City, CA 95959	The Honorable Lawrence Allen Sierra County District Attorney 100 Courthouse Square Downsville, CA 95936	The Honorable Richard Doyle Office of the City Attorney, San Jose 200 East Santa Clara Street, 18th Floor San Jose, CA 95113
The Honorable Gilbert Otero Imperial County District Attorney 940 West Main Street, Suite 102 El Centro, CA 92243	The Honorable Tony Rackauckas Orange County District Attorney 401 Civic Center Drive West Santa Ana, CA 92701	The Honorable James Kirk Andrus Siskiyou County District Attorney P.O. Box 986 Yreka, CA 96097	Office of the California Attorney General Proposition 85 Enforcement Reporting ATTN: Prop 85 Coordinator 1515 Clay Street, Suite 2000 Oakland, CA 94612-0550
The Honorable Thomas Hardy Inyo County District Attorney P.O. Drawer D Independence, CA 93526	The Honorable R. Scott Owens Placer County District Attorney 10810 Justice Center Drive, Suite 240 Roseville, CA 95678	The Honorable Krishna Abrams Solano County District Attorney 675 Texas Street, Suite 4500 Fairfield, CA 94533	
The Honorable Lisa Green Kern County District Attorney 1215 Truxtun Avenue Bakersfield, CA 93301	The Honorable David Hollister Plumas County District Attorney 520 Main Street, Room 404 Quincy, CA 95971	The Honorable Jill Ravitch Sonoma County District Attorney 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
The Honorable Keith Fagundas Kings County District Attorney 1400 West Lacey Boulevard Hanford, CA 93230	The Honorable Michael Hestrin Riverside County District Attorney 3960 Orange Street Riverside, CA 92501	The Honorable Birgit Fladager Stanislaus County District Attorney 832 12th Street, Suite 300 Modesto, CA 95354	
The Honorable Donald Anderson Lake County District Attorney 255 North Forbes Street Lakeport CA 95453	The Honorable Anne Marie Schubert Sacramento County District Attorney 901 G Street Sacramento CA 95814	The Honorable Amanda Hopper Sutter County District Attorney 463 Second Street, Suite 102 Yuba City CA 95991	