

XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE



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December 7, 2018

Andre Jardini
Knapp Petersen & Clark
550 N. Brand Blvd., Ste. 1500
Glendale, CA 91203-1922

RE: Proposition 65 Notices of Violation
AGO Nos. 2018-1169, 1176, 1181, 1208, 1228

Dear Mr. Jardini:

I write to you concerning the following 60-day notices of violation that you sent on behalf of several individuals in July 2018, alleging violations of Proposition 65 based on the sale of juices allegedly containing lead without a clear and reasonable warning:

AGO No.	Date	Alleged Violators	Product
2018-01169	7/17/2018	Suja Life LLC; Whole Foods Market CA Inc; Mrs. Gooch's Natural Food Markets Inc. et al	Suja Power Greens; Suja Power Greens; Suja Mighty Dozen; Suja King of Greens; Suja Easy Greens; Suja Twelve Essentials
2018-01176	7/19/2018	Naked Juice Co. of Glendora, Inc.; Whole Foods Market California, Inc.; Mrs. Gooch's Natural Food Markets, Inc., et al	Naked Green Machine; Naked Kale Blazer

2018-01181	7/19/2018	The Hain Celestial Group, Inc.; Whole Foods Market California, Inc.; Mrs. Gooch's Natural Food Markets, Inc. et al	BluePrint Rocket Launch; BluePrint Watercress Warrior
2018-01208	7/24/2018	Evolution Fresh, Inc.; Whole Foods Market California, Inc.; Mrs. Gooch's Natural Food Markets, Inc. et al	Evolution Organic Thriving Greens
2018-01228	7/26/2018	Forager Project, LLC; Whole Foods Market California, Inc.; Mrs. Gooch's Natural Food Markets, Inc.; Whole Foods Market, Inc.	Forager Greens + Avocado

In 2017, Proposition 65 was amended to require our office to serve a letter on the noticing party and alleged violator when, after reviewing the confidential factual information served on the Attorney General's Office and meeting and conferring with the noticing party regarding the basis for the certificate of merit, the Attorney General believes there is no merit to the proposed action. (Health & Saf. Code, § 25249.7, subd. (e)(1)(A).) Based on our review of the certificates of merit and supporting information, and having discussed the contents with you and received additional information about the alleged violations, we believe there is no merit to the action. The evidence of violations is tenuous *at best*, and not likely to stand up against statutory and regulatory defenses to the warning requirement. We urge you to withdraw the 60-day notices.

If you decide to pursue the notices, and submit a settlement for our review that includes an award of attorney's fees, then we will look for evidence that the settlement confers a significant public benefit when deciding whether to object on behalf of the Attorney General. (Health & Saf. Code, § 25249.7, subd. (f)(5).) If the settlement calls for warnings, then in order to demonstrate a public benefit you will need to submit evidence, beyond what you have provided to date, that warnings plausibly are required. (See Cal Code Regs., tit. 11, § 3201, subd. (b)(1).) If the settlement calls for reformulation to reduce lead levels, then we will look for evidence that the lead levels in the companies' products were above the agreed-upon reformulation standard. (See *id.*, subd. (b)(2).)

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Do not hesitate to contact me if you would like to discuss this further.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Pollak", written over a horizontal line.

HARRISON M. POLLAK
Supervising Deputy Attorney General

For XAVIER BECERRA
Attorney General

cc: See attached list

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List of Recipients

	Representative	Noticed Party	Address
2018-01169	Robert Falk, Esq.	for SUJA LIFE LLC	Morrison & Foerster LLP 425 Market St. San Francisco, CA 94105
	Robert Twyman Chief Executive Officer	WHOLE FOODS MARKET CALIFORNIA, INC.	5980 Horton Street, Suite 200 Emeryville, CA 94608
	Patrick Bradley Chief Executive Officer	MRS. GOOCH'S NATURAL FOOD MARKETS, INC.	207 Goode Avenue, 7th Floor Glendale, CA 91203
	Albert Percival Chief Executive Officer	WHOLE FOODS MARKET, INC.	550 Bowie Street Austin, TX 78703
2018-01176	Christine Lansing Chief Executive Officer	Naked Juice Co. of Glendora	1333 S. Mayflower Avenue, Suite 100 Monrovia, CA 91016
	Robert Twyman Chief Executive Officer	WHOLE FOODS MARKET CALIFORNIA, INC.	5980 Horton Street, Suite 200 Emeryville, CA 94608
	Patrick Bradley Chief Executive Officer	MRS. GOOCH'S NATURAL FOOD MARKETS, INC.	207 Goode Avenue, 7th Floor Glendale, CA 91203
	Albert Percival Chief Executive Officer	WHOLE FOODS MARKET, INC.	550 Bowie Street Austin, TX 78703
2018-01181	Irwin D. Simon Chief Executive Officer	THE HAIN CELESTIAL GROUP, INC.	1111 Marcus Avenue, #1 Lake Success, NY 11042
	Robert Twyman Chief Executive Officer	WHOLE FOODS MARKET CALIFORNIA, INC.	5980 Horton Street, Suite 200 Emeryville, CA 94608
	Patrick Bradley Chief Executive Officer	MRS. GOOCH'S NATURAL FOOD MARKETS, INC.	207 Goode Avenue, 7th Floor Glendale, CA 91203
	Albert Percival Chief Executive Officer	WHOLE FOODS MARKET, INC.	550 Bowie Street Austin, TX 78703
2018-01208	Robert Falk, Esq.	for EVOLUTION FRESH, INC.	Morrison & Foerster LLP 425 Market St. San Francisco, CA 94105
	Robert Twyman Chief Executive Officer	WHOLE FOODS MARKET CALIFORNIA, INC.	5980 Horton Street, Suite 200 Emeryville, CA 94608

	Patrick Bradley Chief Executive Officer	MRS. GOOCH'S NATURAL FOOD MARKETS, INC.	207 Goode Avenue, 7th Floor Glendale, CA 91203
	Albert Percival Chief Executive Officer	WHOLE FOODS MARKET, INC.	550 Bowie Street Austin, TX 78703
2018-01228	Stephen Williamson Chief Executive Officer	FORAGER PROJECT, LLC	235 Montgomery Street #730 San Francisco, CA 94104
	Robert Twyman Chief Executive Officer	WHOLE FOODS MARKET CALIFORNIA, INC.	5980 Horton Street, Suite 200 Emeryville, CA 94608
	Patrick Bradley Chief Executive Officer	MRS. GOOCH'S NATURAL FOOD MARKETS, INC.	207 Goode Avenue, 7th Floor Glendale, CA 91203
	Albert Percival Chief Executive Officer	WHOLE FOODS MARKET, INC.	550 Bowie Street Austin, TX 78703