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**ENDORSED  
FILED  
ALAMEDA COUNTY**

**DEC 03 2019**

**CLERK OF THE SUPERIOR COURT**

*Alana Haxman*  
**Deputy**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL HEALTH,	)	Case No. RG 17-852777
	)	
Plaintiff,	)	ASSIGNED FOR ALL PURPOSED TO:
	)	Judge Michael M. Markman, Dept. 16
v.	)	
	)	<b>[PROPOSED] CONSENT JUDGMENT</b>
MRS. GOOCH'S NATURAL FOOD	)	<b>AS TO SMUCKER NATURAL FOODS,</b>
MARKETS, INC., <i>et al.</i> ,	)	<b>INC.</b>
	)	
Defendants.	)	
	)	
	)	

**1. DEFINITIONS**

1.1 The "Complaint" means the operative First Amended Complaint in the above-captioned matter.

1.2 "Covered Products" means prune juice. An initial list of the Covered Products is attached hereto as Exhibit A.

1.3 "Effective Date" means the date on which notice of entry of this Consent Judgment by the Court is served upon Settling Defendants.

1       **2.       INTRODUCTION**

2               2.1       The Parties to this Consent Judgment are the Center for Environmental Health, a  
3 California non-profit corporation (“CEH”) and Smucker Natural Foods, Inc. (“Settling  
4 Defendant”). CEH and Settling Defendant (the “Parties”) enter into this Consent Judgment to  
5 settle certain claims asserted by CEH against Settling Defendant as set forth in the Complaint.

6               2.2       On or about October 11, 2017, CEH provided a 60-day Notice of Violation of  
7 Proposition 65 to the California Attorney General, the District Attorneys of every county in  
8 California, the City Attorneys of every California city with a population greater than 750,000,  
9 and to Settling Defendant, alleging that Settling Defendant violated Proposition 65 by exposing  
10 persons in California to acrylamide contained in Covered Products without first providing a clear  
11 and reasonable Proposition 65 warning (the “Notice”).

12              2.3       Settling Defendant is a corporation or other business entity that manufactures,  
13 distributes, sells, or offers for sale Covered Products in the State of California or has done so at  
14 times relevant to the Complaint.

15              2.4       On March 13, 2017, CEH filed the original complaint in the above-captioned  
16 matter. On April 30, 2018, CEH filed the Complaint, which named Settling Defendant as a  
17 defendant.

18              2.5       For purposes of this Consent Judgment only, the Parties stipulate that this Court  
19 has jurisdiction over the allegations of violations contained in the Complaint and personal  
20 jurisdiction over Settling Defendant as to the acts alleged in the Complaint, that venue is proper  
21 in the County of Alameda, and that this Court has jurisdiction to enter and enforce this Consent  
22 Judgment as a full and final resolution of all claims which were or could have been raised in the  
23 Complaint based on the facts alleged therein and in the Notice with respect to Covered Products  
24 manufactured, distributed, and/or sold by Settling Defendant.

25              2.6       Nothing in this Consent Judgment is or shall be construed as an admission against  
26 interest by any of the Parties of any fact, conclusion of law, issue of law, or violation of law, nor  
27 shall compliance with the Consent Judgment constitute or be construed as an admission against  
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1 interest by any of the Parties of any fact, conclusion of law, issue of law, or violation of law.  
2 Nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument,  
3 or defense any of the Parties may have in any other pending or future legal proceeding. This  
4 Consent Judgment is the product of negotiation and compromise and is accepted by each of the  
5 Parties solely for purposes of settling, compromising, and resolving issues disputed in this action.

### 6 **3. INJUNCTIVE RELIEF**

7 **3.1 Reformulation of Covered Products.** Commencing on the Effective Date,  
8 Settling Defendant shall not manufacture, ship, sell, or offer for sale any Covered Product that  
9 will be sold or offered for sale to any consumer in California that contains a concentration of  
10 more than the following parts per billion (“ppb”) levels of acrylamide as measured at the point at  
11 which the Covered Product is decanted into bottles or other containers that are offered for sale to  
12 California consumers (the “Reformulation Level”):

- 13 a. For 100% Single Strength Covered Products (Not Made from Concentrate): 250 ppb;
- 14 b. For Covered Products Made in Part from Single Strength and in Part from Concentrate:  
15 200 ppb; and
- 16 c. For Covered Products Made only from Concentrate: 150 ppb.

17 The acrylamide concentration shall be determined by use of a test performed by an accredited  
18 laboratory using either GC/MS (Gas Chromatograph/Mass Spectrometry), LC-MS/MS (Liquid  
19 Chromatograph-Mass Spectrometry), or any other testing method agreed upon by the Parties.

### 20 **4. ENFORCEMENT**

21 **4.1 General Enforcement Provisions.** CEH may, by motion or application for an  
22 order to show cause before this Court, enforce the terms and conditions contained in this Consent  
23 Judgment. Any action to enforce alleged violations of Section 3.1 by Settling Defendant or to  
24 enforce future alleged violations of Proposition 65 with respect to acrylamide exposures from  
25 Covered Products manufactured, distributed or sold by Settling Defendant shall be brought  
26 exclusively pursuant to this Section 4, and be subject to the meet and confer requirement of  
27 Section 4.2.4, if applicable.

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1           4.2     **Enforcement of Reformulation Commitment.**

2                   4.2.1     Notice of Violation. In the event that CEH purchases a Covered Product  
3 in California that was sold or offered for sale by Settling Defendant with a best-by or sell-by (or  
4 equivalent) date more than one year after the Effective Date, and for which CEH has laboratory  
5 test results showing that the Covered Product exceeds the Reformulation Level, CEH may issue a  
6 Notice of Violation pursuant to this Section. This Consent Judgment shall be CEH’s exclusive  
7 means of enforcing Proposition 65 with respect to acrylamide exposures from any Covered  
8 Product manufactured, shipped, sold or offered for sale by Settling Defendant.

9                   4.2.2     Service of Notice of Violation and Supporting Documentation.

10                   4.2.2.1     The Notice of Violation shall be sent to the person(s) identified in  
11 Section 8.2 to receive notices for Settling Defendant, and must be served within sixty (60) days of  
12 the later of the date the Covered Product at issue was purchased or otherwise acquired by CEH or  
13 the date that CEH can reasonably determine that the Covered Product at issue was manufactured,  
14 shipped, sold, or offered for sale by Settling Defendant, provided, however, that CEH may have  
15 up to an additional sixty (60) days to send the Notice of Violation if, notwithstanding CEH’s  
16 good faith efforts, the test data required by Section 4.2.2.2 below cannot be obtained by CEH  
17 from its laboratory before expiration of the initial sixty (60) day period.

18                   4.2.2.2     The Notice of Violation shall, at a minimum, set forth: (a) the date  
19 the Covered Product was purchased, including a copy of the receipt or other proof of purchase;  
20 (b) the location at which the Covered Product was purchased; (c) a description of the Covered  
21 Product giving rise to the alleged violation, including the name and address of the retail entity  
22 from which the sample was obtained and pictures of the product packaging from all sides, which  
23 identifies the product lot; and (d) all test data obtained by CEH regarding the Covered Product  
24 and supporting documentation sufficient for validation of the test results, including but not  
25 limited to any laboratory reports, quality assurance reports, and quality control reports associated  
26 with testing of the Covered Product.

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1                   4.2.3     Notice of Election of Response. No more than thirty (30) days after  
2 service of a Notice of Violation on Settling Defendant in accordance with Section 8, Settling  
3 Defendant shall provide written notice to CEH whether it elects to contest the allegations  
4 contained in a Notice of Violation (“Notice of Election”). Failure to provide a Notice of Election  
5 within thirty (30) days of service of a Notice of Violation shall be deemed an election to contest  
6 the Notice of Violation. Upon notice to CEH, Settling Defendant may have up to an additional  
7 sixty (60) days to elect if, notwithstanding Settling Defendant’s good faith efforts, Settling  
8 Defendant is unable to verify the test data provided by CEH before expiration of the initial thirty  
9 (30) day period.

10                   4.2.3.1     If a Notice of Violation is contested, the Notice of Election shall  
11 include all documents upon which Settling Defendant is relying to contest the alleged violation,  
12 including all available test data. If Settling Defendant or CEH later acquires additional test or  
13 other data regarding the alleged violation during the meet and confer period described in Section  
14 4.2.4, it shall notify the other Party and promptly provide all such data or information to the Party  
15 unless either the Notice of Violation or Notice of Election has been withdrawn.

16                   4.2.4     Meet and Confer. If a Notice of Violation is contested, CEH and Settling  
17 Defendant shall meet and confer to attempt to resolve their dispute. Within thirty (30) days of  
18 serving a Notice of Election contesting a Notice of Violation, Settling Defendants may withdraw  
19 the original Notice of Election contesting the violation and serve a new Notice of Election to not  
20 contest the violation, provided, however, that, in this circumstance, Settling Defendant shall pay  
21 CEH \$2,500 in addition to any other payment required under this Consent Judgment. At any  
22 time, CEH may withdraw a Notice of Violation, in which case for purposes of this Section 4.2 the  
23 result shall be as if CEH never issued any such Notice of Violation. If no informal resolution of a  
24 Notice of Violation results within thirty (30) days of a Notice of Election to contest, CEH may  
25 agree to provide additional time to further meet and confer on the matter which is the subject of  
26 the Notice of Violation or it may file an enforcement motion or application pursuant to Section  
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1 4.1. In any such proceeding, CEH may seek whatever fines, costs, penalties, attorneys' fees, or  
2 other remedies provided by law for an alleged failure to comply with a Consent Judgment.

3 4.2.5 Non-Contested Notices. If Settling Defendant elects to not contest the  
4 allegations in a Notice of Violation, it shall undertake corrective action(s) and make payments, if  
5 any, as set forth below, and shall provide the information required by Sections 4.2.5.1 and 4.2.5.2  
6 as appropriate.

7 4.2.5.1 Settling Defendant shall include in its Notice of Election not to  
8 contest test data reflective of the level of acrylamide measured in the Covered Product that is the  
9 subject of the Notice of Violation at the point at which it was decanted by Settling Defendant into  
10 bottles or other containers to be offered for sale to California consumers. If those data reflect  
11 testing of the Covered Product in the same calendar quarter that corresponds to the best-by or  
12 sell-by (or equivalent) date shown on the cap or label of the Covered Product which is the subject  
13 of the Notice of Violation and the results of that testing show that the Reformulation Level of the  
14 Covered Product has not been exceeded at the point of bottling, then any exceedance of the  
15 Reformulation Level shall be deemed to be attributable to acrylamide formation arising during  
16 shelf life (*i.e.*, after the point of the final bottling and pasteurization of the Covered Product). If  
17 test data from the point of bottling shows that the Reformulation Level of the Covered Product  
18 was exceeded at the point of bottling, then Settling Defendants may alternatively establish  
19 through contemporaneous records that the exceedance resulted from additional holding, heating,  
20 and/or pasteurization of the applicable Covered Product due to equipment being taken off-line for  
21 unscheduled maintenance or a breakdown (an "Upset"). In order to avail itself of this provision,  
22 Settling Defendants must provide CEH with contemporaneous records that show: (a) when the  
23 Upset occurred and its causes; (b) that the facility was otherwise operating properly at the time of  
24 the Upset; and (c) that remedial measures were taken to prevent a recurrence of the Upset.

25 4.2.5.2 In the absence of making a showing under Section 4.2.5.1 above,  
26 Settling Defendant shall include in its Notice of Election not to contest a detailed description with  
27 supporting documentation of the corrective action(s) that they have undertaken or propose to  
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1 undertake to address the alleged violation. Any such correction shall, at a minimum, provide  
2 reasonable assurance that all Covered Products having the same lot number as that of the Covered  
3 Product identified in CEH’s Notice of Violation (the “Noticed Covered Products”) will not be  
4 thereafter sold in California or offered for sale to California customers by Settling Defendant  
5 unless Settling Defendant has sent instructions to any retailers or customers that offer the Noticed  
6 Covered Products to either (a) cease offering the Noticed Covered Products for sale to California  
7 consumers and to destroy or return all such Noticed Covered Products to Settling Defendants, or  
8 (b) to place a warning on each of the Noticed Covered Products to be sold in California  
9 consisting of the following statement: “**WARNING:** Consuming this product can expose you to  
10 acrylamide, which is known to the State of California to cause cancer. For more information go  
11 to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).” The preceding warning must be set off from other  
12 surrounding information, enclosed in a box, and the word “**WARNING**” must be in all capital  
13 letters and bold print. The warning statement must be prominently displayed on each of the  
14 Noticed Covered Products with such conspicuousness, as compared with other words, statements  
15 or designs on the product, as to render the warning likely to be read and understood by an  
16 ordinary individual under customary conditions of purchase or use. Settling Defendants shall  
17 keep for a period of one year and make available to CEH upon reasonable notice (which shall not  
18 exceed more than one request per year) for inspection and copying records of any external, non-  
19 privileged correspondence regarding the foregoing. If there is a dispute over the corrective  
20 action, Settling Defendants and CEH shall meet and confer before seeking any remedy in court.

21                   4.2.5.3     In no case shall CEH issue more than one Notice of Violation per  
22 manufacturing lot of a type of Covered Product, nor shall CEH issue more than two Notices of  
23 Violation in the first year following the Effective Date.

24                   4.2.5.4     If the Notice of Violation received by Settling Defendants under  
25 Section 4.2.1 is covered by Section 4.2.5.1, then Settling Defendants shall pay \$2,500 for that  
26 Notice of Violation. If the Notice of Violation is the first, second, third, or fourth Notice of  
27 Violation received by Settling Defendants under Section 4.2.1 that was not successfully  
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1 contested, addressed by Section 4.2.5.1, or withdrawn, then Settling Defendants shall pay  
2 \$15,000 for the Notice of Violation. In no case shall Settling Defendants be obligated to pay  
3 more than \$75,000 for all Notices of Violation not successfully contested or withdrawn in any  
4 twelve month period, irrespective of the total number of Notices of Violation issued.

5 4.2.6 Payments. Any payments under Section 4.2 shall be made by check  
6 payable to the “Lexington Law Group” and shall be paid within thirty (30) days of service of a  
7 Notice of Election triggering a payment and shall be used as reimbursement for costs for  
8 investigating, preparing, sending, and prosecuting Notices of Violation, and to reimburse  
9 attorneys’ fees and costs incurred in connection with these activities.

10 4.3 **Repeat Violations**. If Settling Defendants have received four (4) or more Notices  
11 of Violation concerning the same type of Covered Product that were not successfully contested or  
12 withdrawn in any two (2) year period then, at CEH’s option, CEH may seek whatever fines,  
13 costs, penalties, attorneys’ fees, or other remedies that are provided by law for failure to comply  
14 with a Consent Judgment. Prior to seeking such relief, CEH shall meet and confer with Settling  
15 Defendants for at least thirty (30) days to determine if Settling Defendants and CEH can agree on  
16 measures that Settling Defendants can undertake to prevent future alleged violations.

## 17 **5. PAYMENTS**

18 5.1 **Payments by Settling Defendant**. Within twenty (20) calendar days of the  
19 Effective Date, Settling Defendant shall pay the total sum of \$117,500 as a settlement payment as  
20 further set forth in this Section.

21 5.2 **Allocation of Payments**. The total settlement amount shall be paid in three (3)  
22 separate checks in the amounts specified below and delivered as set forth below. Any failure by  
23 Settling Defendants to comply with the payment terms herein shall be subject to a stipulated late  
24 fee to be paid by Settling Defendants to CEH in the amount of \$100 for each day the full payment  
25 is not received after the payment due date set forth in Section 5.1. The late fees required under  
26 this Section shall be recoverable, together with reasonable attorneys’ fees, in an enforcement  
27 proceeding brought pursuant to Section 4 of this Consent Judgment. The funds paid by Settling  
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1 Defendants shall be allocated as set forth below between the following categories and made  
2 payable as follows:

3 5.2.1 \$15,830 as a civil penalty pursuant to Health & Safety Code § 25249.7(b).

4 The civil penalty payment shall be apportioned in accordance with Health & Safety Code §  
5 25249.12 (25% to CEH and 75% to the State of California’s Office of Environmental Health  
6 Hazard Assessment (“OEHHA”). Accordingly, the OEHHA portion of the civil penalty  
7 payment for \$11,872.50 shall be made payable to OEHHA and associated with taxpayer  
8 identification number 68-0284486. This payment shall be delivered as follows:

9 For United States Postal Service Delivery:

10 Attn: Mike Gyurics  
11 Fiscal Operations Branch Chief  
12 Office of Environmental Health Hazard Assessment  
13 P.O. Box 4010, MS #19B  
14 Sacramento, CA 95812-4010

15 For Non-United States Postal Service Delivery:

16 Attn: Mike Gyurics  
17 Fiscal Operations Branch Chief  
18 Office of Environmental Health Hazard Assessment  
19 1001 I Street, MS #19B  
20 Sacramento, CA 95814

21 The CEH portion of the civil penalty payment (\$3,957.50) shall be included in the check to be  
22 issued to CEH and delivered to CEH in accordance with the payment instructions set forth in  
23 Section 5.2.4.

24 5.2.2 \$11,870 as an Additional Settlement Payment (“ASP”) to CEH pursuant to  
25 Health & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3204. CEH  
26 intends to restrict use of the ASPs received from this Consent Judgment to the following  
27 purposes: the funds will be placed in CEH’s Toxics in Food Fund and used to support CEH  
28 programs and activities that seek to educate the public about acrylamide and other toxic  
chemicals in food, to work with the food industry and agriculture interests to reduce exposure to  
acrylamide and other toxic chemicals in food, and to thereby reduce the public health impacts and

1 risks of exposure to acrylamide and other toxic chemicals in food sold in California. CEH shall  
2 obtain and maintain adequate records to document that ASPs are spent on these activities and  
3 CEH agrees to provide such documentation to the Attorney General within thirty (30) days of any  
4 request from the Attorney General. The payment pursuant to this Section shall be included in the  
5 check to be issued to CEH and delivered to CEH in accordance with the payment instructions set  
6 forth in Section 5.2.4.

7           5.2.3     \$89,800 as a reimbursement of a portion of CEH’s reasonable attorneys’  
8 fees and costs. The reimbursement of attorneys’ fees and cost reimbursement shall be divided in  
9 separate amounts payable to CEH and its outside counsel as follows: (a) \$79,250 in a check  
10 payable to the Lexington Law Group and associated with taxpayer identification number 94-  
11 3317175; and (b) \$10,550 to be included in the check to be issued to CEH and delivered to CEH  
12 in accordance with the payment instructions set forth in Section 5.2.4. The check issued to the  
13 Lexington Law Group shall be delivered to Lexington Law Group, 503 Divisadero Street, San  
14 Francisco, CA 94117.

15           5.2.4     The payments under Sections 5.2.1, 5.2.2 and 5.2.3 of this Consent  
16 Judgment due to the Center for Environmental Health shall be made in a single check in the  
17 amount of \$26,377.50 made payable to the Center for Environmental Health and associated with  
18 taxpayer identification number 94-3251981. This check shall be delivered to Lexington Law  
19 Group, 503 Divisadero Street, San Francisco, CA 94117.

20 **6.     MODIFICATION AND DISPUTE RESOLUTION**

21           6.1     **Modification.** This Consent Judgment may be modified from time to time by  
22 express written agreement of the Parties with the approval of the Court, or by an order of this  
23 Court upon motion and in accordance with law.

24           6.2     **Notice; Meet and Confer.** Any Party seeking to modify this Consent Judgment  
25 shall attempt in good faith to meet and confer with the other Party prior to filing a motion to  
26 modify the Consent Judgment.

27           6.3     **Other Settlements.** In the event that CEH enters into agreements with other  
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1 entities that manufacture, distribute and/or sell prune juice products that Settling Defendant  
2 determine contain Reformulation Levels that are less stringent than those set forth in Section 3.1,  
3 after meeting and conferring with CEH pursuant to Section 6.2 above, Settling Defendant may  
4 move for a modification of this Consent Judgment to substitute those less stringent Reformulation  
5 Levels, and CEH agrees not to oppose any such motion except for good cause shown.

6 **7. CLAIMS COVERED AND RELEASE**

7 7.1 This Consent Judgment is a full, final and binding resolution between CEH on  
8 behalf of itself and the public interest and Settling Defendant and its parents, subsidiaries,  
9 affiliated entities that are under common ownership, directors, officers, employees, agents,  
10 shareholders, successors, assigns, and attorneys (“Defendant Releasees”), and all entities to  
11 which Settling Defendant directly or indirectly distributes or sells Covered Products, including  
12 but not limited to distributors, wholesalers, customers, retailers, franchisees, licensors, and  
13 licensees (“Downstream Defendant Releasees”), of any violation of Proposition 65 based on  
14 failure to warn about alleged exposure to acrylamide contained in Covered Products that were  
15 sold, distributed, or offered for sale by Settling Defendant prior to the Effective Date.

16 7.2 CEH, for itself, its agents, successors and assigns, releases, waives, and forever  
17 discharges any and all claims against Settling Defendant, Defendant Releasees, and Downstream  
18 Defendant Releasees arising from any violation of Proposition 65 or any other statutory or  
19 common law claims that have been or could have been asserted by CEH individually or in the  
20 public interest regarding the failure to warn about exposure to acrylamide arising in connection  
21 with Covered Products manufactured, distributed or sold by Settling Defendant prior to the  
22 Effective Date.

23 7.3 Compliance with the terms of this Consent Judgment by Settling Defendant shall  
24 constitute compliance with Proposition 65 by Settling Defendant, Defendant Releasees and  
25 Downstream Defendant Releasees with respect to any alleged failure to warn about acrylamide in  
26 Covered Products manufactured, distributed, offered for sale, or sold by Settling Defendant after  
27 the Effective Date.

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1 **8. PROVISION OF NOTICE**

2 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the  
3 notice shall be sent by first class and electronic mail to:

4 Howard Hirsch  
5 Lexington Law Group  
6 503 Divisadero Street  
7 San Francisco, CA 94117  
8 hhirsch@lexlawgroup.com

9 8.2 When Settling Defendants are entitled to receive any notice under this Consent  
10 Judgment, the notice shall be sent by first class and electronic mail to:

11 The J.M. Smucker Company  
12 ATTN: General Counsel, Legal  
13 1 Strawberry Lane  
14 Orrville, OH 44667  
15 jackie.welch@jmsmucker.com

16 With a contemporaneous copy sent to:

17 Matthew Kaplan  
18 Tucker Ellis LLP  
19 515 South Flower Street, Forty-Second Floor  
20 Los Angeles, CA 90071  
21 matthew.kaplan@tuckerellis.com

22 Notice to Settling Defendant shall not be effective until it is sent to both addresses set forth  
23 above.

24 8.3 Any Party may modify the person and/or address to whom the notice is to be sent  
25 by sending the other Party notice by first class and electronic mail.

26 **9. COURT APPROVAL**

27 9.1 This Consent Judgment shall become effective upon the date signed by CEH and  
28 Settling Defendant, whichever is later, provided however, that CEH shall prepare and file a  
Motion for Approval of this Consent Judgment and Settling Defendant shall support entry of this  
Consent Judgment by the Court.

9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or  
effect and shall not be introduced into evidence or otherwise used in any proceeding for any

1 purpose other than to allow the Court to determine if there was a material breach of this Section  
2 9.1.

3 **10. GOVERNING LAW AND CONSTRUCTION**

4 10.1 The terms of this Consent Judgment shall be governed by the laws of the State of  
5 California.

6 **11. ATTORNEYS' FEES**

7 11.1 Except as set forth below and in Section 5 of this Consent Judgment, the parties  
8 shall bear their own costs, fees and expenses.

9 11.2 A Party who, after the Effective Date, unsuccessfully brings or contests an action,  
10 motion, or application arising out of this Consent Judgment shall be required to pay the prevailing  
11 Party's reasonable attorneys' fees and costs.

12 11.3 Nothing in this Section 11 shall preclude a party from seeking an award of  
13 sanctions pursuant to law.

14 **12. ENTIRE AGREEMENT**

15 12.1 This Consent Judgment contains the sole and entire agreement and understanding  
16 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,  
17 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein  
18 and therein. There are no warranties, representations, or other agreements between the Parties  
19 except as expressly set forth herein. No representations, oral or otherwise, express or implied,  
20 other than those specifically referred to in this Consent Judgment have been made by any Party  
21 hereto. No other agreements not specifically contained or referenced herein, oral or otherwise,  
22 shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically  
23 contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the  
24 Parties hereto only to the extent that they are expressly incorporated herein. No supplementation,  
25 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in  
26 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent  
27 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof

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1 whether or not similar, nor shall such waiver constitute a continuing waiver.

2 **13. RETENTION OF JURISDICTION**

3 13.1 This Court shall retain jurisdiction of this matter to implement or modify the  
4 Consent Judgment.

5 **14. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

6 14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
7 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and  
8 execute the Consent Judgment on behalf of the Party represented and legally to bind that Party.

9 **15. NO EFFECT ON OTHER SETTLEMENTS**

10 15.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim  
11 against an entity other than Settling Defendant on terms that are different than those contained in  
12 this Consent Judgment.

13 **16. EXECUTION IN COUNTERPARTS**

14 16.1 The stipulations to this Consent Judgment may be executed in counterparts and by  
15 means of facsimile or portable document format (pdf), which taken together shall be deemed to  
16 constitute one document. The exchange of this Consent Judgment and of signature pages by  
17 facsimile transmission or electronic mail attachment shall be deemed to have the same legal  
18 effect as delivery of an original signed copy of this Agreement. Signatures by scanned and e-  
19 mailed image or facsimile transmission shall have the same force and effect as original signatures  
20 and as an electronic record executed and adopted by a Party with the intent to sign the electronic  
21 record pursuant to Civil Code §§ 1633.1 *et seq.*

22  
23 **IT IS SO ORDERED, ADJUDGED,**  
24 **AND DECREED**


25 Dated: 12/3/2019

MICHAEL MARKMAN  
Judge of the Superior Court

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**IT IS SO STIPULATED:**

Dated: <u>5/9</u> , 2019	<b>CENTER FOR ENVIRONMENTAL HEALTH</b>   _____ Signature  <u>Michael Green</u> _____ Printed Name  <u>CEO</u> _____ Title
Dated: _____, 2019	<b>SMUCKER NATURAL FOODS, INC.</b>  _____ Signature  _____ Printed Name  _____ Title

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**IT IS SO STIPULATED:**

Dated: _____, 2019	<b>CENTER FOR ENVIRONMENTAL HEALTH</b>  _____ Signature  _____ Printed Name  _____ Title
Dated: May 8, 2019	<b>SMUCKER NATURAL FOODS, INC.</b>  <i>Jackie Bryk Welch</i> _____ Signature  _____ Jackie Bryk Welch Printed Name  _____ Vice President - Litigation Title



**EXHIBIT A**

<b>SKU</b>	<b>Description</b>
7468251047	RWK 32 FL OZ ORG JUST PRUNE 6CT
7468210712	RWK 32 FL OZ ORG PRUNE
7468251046	RWK 946 ML ORG JUST PRUNE 6CT
7468212312	RWK 12/946 ML ORGANIC PRUNE