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Superior Court of California
County of Los Angeles

APR 23 2019

Sherri R. Carter, Executive Officer/Clerk
By Sally Fletcher, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 APS&EE, LLC, a limited liability company,)
11 Plaintiff,)
12 v.)
13 USA MINISO DEPOT, INC., a corporation,)
14 and DOES 1 through 100, inclusive,)
15 Defendants.)
16)

CASE NO. BC723987

[PROPOSED] CONSENT JUDGMENT

Judge: Hon. Teresa A. Beaudet

Dept.: 50

Compl. Filed: October 2, 2018

Unlimited Jurisdiction

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1 **1. RECITALS**

2 **1.1 The Parties**

3 **1.1.1** This Consent Judgment (“Consent Judgment”) is entered into by and
4 between APS&EE, LLC (“APS&EE”) and USA Miniso Depot, Inc. (“Miniso”). APS&EE and
5 Miniso shall hereinafter collectively be referred to as the “Parties.”

6 **1.1.2** APS&EE is an organization based in California with an interest in
7 protecting the environment, improving human health and the health of ecosystems, and
8 supporting environmentally sound practices, which includes promoting awareness of exposure to
9 toxic chemicals and reducing exposure to hazardous substances found in consumer products.

10 **1.1.3** Miniso is a person in the course of doing business as the term is defined in
11 California *Health & Safety Code* section 25249.6 et seq. (“Proposition 65”).

12 **1.2 Allegations**

13 **1.2.1** APS&EE alleges that Miniso sold Miniso Cell Phone pouches, including
14 yellow 4-514448-209414 (hereinafter collectively the “Products”) in the State of California
15 causing users in California to be exposed to hazardous levels of Lead, without providing “clear
16 and reasonable warnings”, in violation of Proposition 65. Lead is potentially subject to
17 Proposition 65 warning requirements because it is listed as known to cause cancer and birth
18 defect or other reproductive harm.

19 **1.2.2** On July 17, 2018, APS&EE sent a Sixty-Day Notice of Violation (the
20 “Notice”) to Miniso, along with Miniso Depot Pasadena, Inc., Miniso Depot CA, Inc., Miniso
21 Industries Co., Ltd., Miniso International Co., Ltd., and the various public enforcement agencies
22 regarding the alleged violation of Proposition 65 with respect to the Products. Plaintiff, acting in
23 the public interest, subsequently filed the instant action (the “Complaint”) in the Superior Court
24 for the County of Los Angeles, alleging violations of Proposition 65.

25 **1.3 No Admissions**

26 Miniso denies all allegations in APS&EE’s Notice and Complaint and maintains that the
27 Products have been, and are, in compliance with all laws, and that Miniso has not violated
28 Proposition 65. This Consent Judgment shall not be construed as an admission of liability by

1 Miniso but to the contrary as a compromise of claims that are expressly contested and denied.
2 However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities
3 under this Consent Judgment.

4 **1.4 Jurisdiction And Venue**

5 For purposes of this Consent Judgment only, the Parties stipulate that the above-entitled
6 Court has jurisdiction over Miniso as to the allegations in the Complaint, that venue is proper in
7 Los Angeles County, and that this Court has jurisdiction to enter and enforce the provisions of
8 this Consent Judgment pursuant to California Code of Civil Procedure ("CCP") § 664.6 and
9 Proposition 65.

10 **1.5 Effective Date**

11 The "Effective Date" shall be the date this Consent Judgment is approved and entered by
12 the Court.

13 **2. INJUNCTIVE RELIEF**

14 **2.1 Reformulation Standard**

15 As of the Effective Date, Miniso shall not distribute for sale in California, sell or offer for
16 sale the Products in California unless (a) the Product contains no more than 100 parts per million
17 (0.01%) of Lead ("Reformulated Product"), or (b) the Product is distributed, sold, or offered for
18 sale with a clear and reasonable warning as described below in Section 2.2.

19 **2.2 Proposition 65 Warnings**

20 **2.2.1** Whenever a clear and reasonable warning is required under Section 2.1,
21 Miniso shall comply with 27 Cal. Code Regs. § 25601, et seq. (operative Aug. 30, 2018) or use a
22 warning with the capitalized and emboldened wording substantially similar to the following:

23 **WARNING:** This product can expose you to Lead which is known to the State
24 of California to cause cancer and birth defects or other
25 reproductive harm. For more information go to
www.P65Warnings.ca.gov.

26 The warning shall be accompanied by a symbol consisting of a black exclamation point
27 in a yellow equilateral triangle with a bold black outline. Where the label for the product is not
28 printed using the color yellow, the symbol may be printed in black and white. The symbol shall

1 be placed to the left of the text of the warning, in a size no smaller than the height of the word
2 “WARNING”.

3 **2.2.2** Each unit shall carry said warning directly on each unit or its label,
4 package, shelf container or bin, with such conspicuousness as compared with other words,
5 statements or designs as to render it likely to be read and understood by an ordinary consumer
6 prior to sale. A Product that is sold by Miniso on the internet shall also provide the warning
7 message by a clearly marked hyperlink on the product display page, or otherwise prominently
8 displayed to the purchaser before the purchaser completes his or her purchase of the Product.

9 **3. PAYMENTS**

10 **3.1 Civil Penalty Pursuant To Proposition 65**

11 In settlement of all claims referred to in this Consent Judgment, Miniso shall pay a total
12 civil penalty of three thousand five hundred dollars (\$3,500.00) to be apportioned in accordance
13 with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$2,625.00) for State of
14 California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining
15 25% (\$875.00) for APS&EE.

16 Miniso shall issue two (2) checks for the civil penalty: (1) a check or money order made
17 payable to “OEHHA” in the amount of \$2,625.00; and (2) a check or money order made payable
18 to “Law Offices of Lucas T. Novak” in the amount of \$875.00. Miniso shall remit the payments
19 within five (5) business days of the Effective Date, to:

20 Lucas T. Novak, Esq.
21 LAW OFFICES OF LUCAS T. NOVAK
22 8335 W Sunset Blvd., Suite 217
23 Los Angeles, CA 90069

24 **3.2 Reimbursement Of APS&EE’s Fees And Costs**

25 Miniso shall reimburse APS&EE’s reasonable experts’ and attorney’s fees and costs
26 incurred in prosecuting the instant action, for all work performed through execution of this
27 Consent Judgment. Accordingly, Miniso shall issue a check or money order made payable to
28 “Law Offices of Lucas T. Novak” in the amount of twenty one thousand five hundred dollars
(\$21,500.00). Miniso shall remit the payment within five (5) business days of the Effective Date,

1 to:

2 Lucas T. Novak, Esq.
3 LAW OFFICES OF LUCAS T. NOVAK
4 8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

5 **4. RELEASES**

6 **4.1 APS&EE's Release Of Miniso**

7 APS&EE, acting in its individual capacity, and in the public interest, in consideration of
8 the promises and monetary payments contained herein, hereby releases Miniso, its parents,
9 subsidiaries, shareholders, directors, members, officers, employees, attorneys, successors and
10 assignees, as well as its downstream distributors, retailers, and franchisees, including Miniso
11 Depot Pasadena, Inc., Miniso Depot CA, Inc., Miniso Industries Co., Ltd., and Miniso
12 International Co., Ltd. (collectively "Released Parties"), from any alleged Proposition 65
13 violation claims asserted in APS&EE's Notice or Complaint regarding failure to warn about
14 exposures to Lead from the Products sold and/or offered for sale by Miniso in California before
15 and up to the Effective Date.

16 **4.2 Miniso's Release Of APS&EE**

17 Miniso, and on behalf of the Released Parties, by this Consent Judgment, waives all
18 rights to institute any form of legal action against APS&EE, its shareholders, directors, members,
19 officers, employees, attorneys, experts, successors and assignees for actions or statements made
20 or undertaken, whether in the course of investigating claims or seeking enforcement of
21 Proposition 65 against Miniso in this matter.

22 **4.3 Waiver Of Unknown Claims**

23 Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil
24 Code which provides as follows:

25 "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
26 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
27 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
28 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS
OR HER SETTLEMENT WITH THE DEBTOR."

1 Each of the Parties waives and relinquishes any right or benefit it has or may have under
2 Section 1542 of California Civil Code or any similar provision under the statutory or non-
3 statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights
4 and benefits. The Parties acknowledge that each may subsequently discover facts in addition to,
5 or different from, those that it believes to be true with respect to the claims released herein. The
6 Parties agree that this Consent Judgment and the releases contained herein shall be and remain
7 effective in all respects notwithstanding the discovery of such additional or different facts.

8 **5. COURT APPROVAL**

9 Upon execution of this Consent Judgment by all Parties, Plaintiff shall file a noticed
10 Motion for Approval and Entry of Consent Judgment in the above-entitled Court. This Consent
11 Judgment is not effective until it is approved and entered by the Court. It is the intention of the
12 Parties that the Court approve this Consent Judgment, and in furtherance of obtaining such
13 approval, the Parties and their respective counsel agree to mutually employ their best efforts to
14 support the entry of this agreement in a timely manner, including cooperating on drafting and
15 filing any papers in support of the required motion for judicial approval.

16 **6. SEVERABILITY**

17 Should any part or provision of this Consent Judgment for any reason be declared by a
18 Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue
19 in full force and effect.

20 **7. GOVERNING LAW**

21 The terms of this Consent Judgment shall be governed by the laws of the State of
22 California.

23 **8. NOTICES**

24 All correspondence and notice required to be provided under this Consent Judgment shall
25 be in writing and delivered personally or sent by first class or certified mail addressed as follows:

26 TO MINISO:

27 Pyng Soon, Esq.
28 Law Offices of Pyng Soon, Inc.
17870 Castleton St., Suite 250
City of Industry, CA 91748-6732

TO APS&EE:

Lucas Novak, Esq.
Law Offices of Lucas T. Novak
8335 W Sunset Blvd., Suite 217
Los Angeles, CA 90069

1 **9. COUNTERPARTS**

2 This Consent Judgment may be executed in counterparts, each of which shall be deemed
3 an original, and all of which, when taken together, shall constitute the same document. Execution
4 and delivery of this Consent Judgment by e-mail, facsimile, or other electronic means shall
5 constitute legal and binding execution and delivery. Any photocopy of the executed Consent
6 Judgment shall have the same force and effect as the originals.

7 **10. AUTHORIZATION**

8 The undersigned are authorized to execute this Consent Judgment on behalf of their
9 respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions
10 of this Consent Judgment. Each Party warrants to the other that it is free to enter into this
11 Consent Judgment and is not subject to any conflicting obligation that will or might prevent or
12 interfere with the execution or performance of this Consent Judgment by said Party.

13
14 **AGREED TO:**

15 Date: _____

16 By: _____

17 Authorized Representative of APS&EE, LLC

18
19 **AGREED TO:**

20 Date: _____ 10/17/18.

21 By: _____

22 Authorized Representative of USA Miniso Depot, Inc.

23
24 **IT IS SO ORDERED.**

25 Dated: _____

26 _____
27 JUDGE OF THE SUPERIOR COURT

28

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3 an original, and all of which, when taken together, shall constitute the same document. Execution
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10 of this Consent Judgment. Each Party warrants to the other that it is free to enter into this
11 Consent Judgment and is not subject to any conflicting obligation that will or might prevent or
12 interfere with the execution or performance of this Consent Judgment by said Party.

13
14 **AGREED TO:**

15 Date: 10/18/19

16 By: [Signature]

17 Authorized Representative of APS&EE, LLC

18
19 **AGREED TO:**

20 Date: _____

21 By: _____

22 Authorized Representative of USA Miniso Depot, Inc.

23
24 **IT IS SO ORDERED.**

25 Dated: 4-23-19

TERESA A. BEAUDET

JUDGE OF THE SUPERIOR COURT