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Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

GABRIEL ESPINOZA,

Plaintiff,

v.

ANDES HARVEST INC., GROCERY OUTLET
INC.,

Defendants.

Case No.: CVRI2405181

CONSENT JUDGMENT

Judge: Carol Greene

Dept.: 2

Hearing Date: July 29, 2025

Hearing Time: 8:30 AM

Complaint Filed: May 23, 2024

Reservation ID: 362959305224

1 **1. INTRODUCTION**

2 1.1 **The Parties.** This Consent Judgment is entered into by and between Gabriel
3 Espinoza acting on behalf of the public interest (hereinafter “Espinoza”) and Andes Harvest Inc.
4 (“Andes Harvest” or “Defendant”) with Espinoza and Defendant collectively referred to as the
5 “Parties” and each of them as a “Party.” Espinoza is an individual residing in California that seeks
6 to promote awareness of exposures to toxic chemicals and improve human health by reducing or
7 eliminating hazardous substances contained in consumer products. Andes Harvest is alleged to be
8 a person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety Code
9 §§ 25249.6 et seq.

10 1.2 **Allegations and Representations.** Espinoza alleges that Defendant has exposed
11 individuals to lead from its sales of turmeric matcha powders, UPC # 850004867839 without
12 providing a clear and reasonable exposure warning pursuant to Proposition 65. Lead is listed
13 pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth
14 defects or other reproductive harm.

15 1.3 **Notice of Violation/Action.** On July 14, 2023, Espinoza served Grocery Outlet Inc.,
16 Andes Harvest, and various public enforcement agencies with documents entitled “60-Day Notice
17 of Violation” pursuant to Health & Safety Code §25249.7(d) (the “Notice”), alleging that
18 Defendant violated Proposition 65 for failing to warn consumers and customers that use of turmeric
19 matcha powders, UPC # 850004867839 exposes consumers in California to lead. No public
20 enforcer has brought and is diligently prosecuting the claims alleged in the Notice. On May 23,
21 2024, Espinoza filed a complaint (the “Complaint”).

22 1.4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
23 jurisdiction over Defendant as to the allegations contained in the Complaint filed in this matter, that
24 venue is proper in the County of Riverside, and that this Court has jurisdiction to approve, enter,
25 and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all
26 claims which were or could have been raised in the Complaint based on the facts alleged therein
27 and in the Notice.

1 1.5 Defendant denies any and all the material allegations contained in Espinoza's Notice
2 and Complaint and maintains that it has not violated Proposition 65. Specifically, Defendant alleges
3 that it provided Proposition 65 Warning at all relevant times in this matter. The Parties agree that
4 nothing in this Consent Judgment shall be construed as an admission by Defendant (including the
5 Defendant Releasees and Downstream Releasees as defined under Section 5.1) of any fact, finding,
6 issue of law, or violations of Proposition 65 or any other law or legal duty; nor shall compliance
7 with this Consent Judgment (including obligations provided under Section 3 and Section 4)
8 constitute or be construed as an admission by Defendant (including the Defendant Releasees and
9 Downstream Releasees) of any fact, finding, conclusion, issue of law, or violations of Proposition
10 65 or any other law or legal duty, such being specifically denied by Defendant. No provision,
11 clause, term, or statement contained within this Consent Judgment shall be construed as, or deemed
12 admissible for the purpose of establishing, proving, or supporting any allegation of liability—
13 whether civil, contractual, or regulatory in nature—against Andes Harvest, the Defendant
14 Releasees, the Downstream Releasees, in any judicial, administrative, arbitral, or other legal
15 proceedings, whether arising before, on, or after the Effective Date of this Consent Judgment.
16 However, this section shall not diminish or otherwise affect the obligations, responsibilities, and
17 duties of Defendant under this Consent Judgment.

18 **2. DEFINITIONS**

19 2.1 **Covered Products.** The term "Covered Products" means turmeric matcha powders,
20 UPC # 850004867839 that are manufactured, distributed, shipped into California and offered for
21 sale in California by Andes Harvest that expose consumers to lead.

22 2.2 **Effective Date.** The term "Effective Date" means the date this Consent Judgment is
23 entered as a Judgment of the Court.

24 **3. INJUNCTIVE RELIEF: WARNINGS**

25 3.1 **Clear and Reasonable Warning.** Commencing within sixty (60) days after the
26 Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in
27 this §§ 3.1 and 3.2 must be provided for all Covered Products that Andes Harvest manufacturers,
28

1 imports, distributes, sells, or offers for sale in California. There shall be no obligation for Andes
2 Harvest to provide an exposure warning for Covered Products that entered the stream of commerce
3 within 60 days after the Effective Date. The warning shall consist of either the **Warning** or
4 **Alternative Warning** described in §§ 3.1(a) or (b), respectively:

5 (a) **Warning.** The "Warning" shall consist of the statement:

6 **CA WARNING:** Consuming this product can expose you to Lead, which is
7 known to the State of California to cause cancer and birth defects or other
reproductive harm. For more information go to www.P65Warnings.ca.gov/food.

8 (b) **Alternative Warning:** Andes Harvest may, but is not required to, use the
9 alternative short-form warning as set forth in this § 3.1(b) ("**Alternative Warning**") as follows:

10 **CA WARNING:** Risk of cancer and reproductive harm from exposure to lead. See
11 www.P65Warnings.ca.gov/food.

12 **3.2 A Warning or Alternative Warning** provided pursuant to § 3.1 must print the word
13 "**WARNING:**" in all capital letters and in bold font, followed by a colon. The warning symbol to
14 the left of the word "**WARNING:**" must be a black exclamation point in a yellow equilateral
15 triangle with a black outline, except that if the sign or label for the Covered Products does not use
16 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller
17 than the height of the word "**WARNING:**". The **Warning** or **Alternative Warning** shall be affixed
18 to or printed on the Covered Products' packaging or labeling, or on a placard, shelf tag, sign or
19 electronic device or automatic process only if such electronic device or automatic process provides
20 the **Warning** or **Alternative Warning** without the purchaser having to seek it out, provided that
21 the **Warning** or **Alternative Warning** is displayed with such conspicuousness, as compared with
22 other words, statements, or designs as to render it likely to be read and understood by an ordinary
23 individual under customary conditions of purchase or use. The **Warning** or **Alternative Warning**
24 may be contained in the same section of the packaging, labeling, or instruction booklet that states
25 other safety warnings, if any, concerning the use of the Covered Product and shall be at least the
26 same size as those other safety warnings. Where the **Warning** or **Alternative Warning** is provided
27 on the food product label, it must be set off from other surrounding information, and Andes Harvest
28 shall enclose the **Warning** or **Alternative Warning** in a black box and comply with the content

1 requirements specified in Section 25607.2. If “consumer information,” as that term is defined in
2 Title 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to
3 time, is provided in a foreign language, Andes Harvest shall provide the **Warning or Alternative**
4 **Warning** in the foreign language in accordance with applicable warning regulations adopted by
5 the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”).

6 In addition to affixing the **Warning or Alternative Warning** to the Covered Product’s
7 packaging or labeling, the **Warning or Alternative Warning** shall be posted on websites where
8 Andes Harvest offers Covered Products for sale to consumers in California. The requirements of
9 this Section shall be satisfied if the **Warning or Alternative Warning**, or a clearly marked
10 hyperlink using the word “**WARNING**,” appears on the product display page, or by otherwise
11 prominently displaying the warning to the purchaser prior to completing the purchase. To comply
12 with this Section, Andes Harvest shall (a) post the **Warning or Alternative Warning** on its own
13 website and, if it has the ability to do so, on the websites of its third-party internet sellers; and (b)
14 if it does not have the ability to post the **Warning or Alternative Warning** on the websites of its
15 third-party internet sellers, provide such sellers with written notice in accordance with Title 27,
16 California Code of Regulations, Section 25600.2. Third-party internet sellers of the Product that
17 have been provided with written notice in accordance with Title 27, California Code of Regulations,
18 Section 25600.2 are not released in Section 5 of this Agreement if they fail to meet the warning
19 requirements of this Section.

20 **3.3 Compliance with Warning Regulations.** The Parties agree that Andes Harvest
21 shall be deemed to be in compliance with this Settlement Agreement by either adhering to § 3 of
22 this Settlement Agreement or by complying with warning regulations adopted by the State of
23 California’s OEHHA applicable to the Covered Products and the exposure at issue.

24 **4. MONETARY TERMS**

25 **4.1 Civil Penalty.** Andes Harvest shall pay \$1,000.00 as a Civil Penalty pursuant to
26 Health and Safety Code section 25249.7(b), to be apportioned in accordance with California Health
27 & Safety Code § 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of
28

1 the Civil Penalty remitted to Espinoza, as provided by California Health & Safety Code
2 § 25249.12(d).

3 4.1.1 Within ten (10) days of the Effective Date, Andes Harvest shall issue two
4 separate checks for the Civil Penalty payment to (a) "OEHHA" in the amount of \$750.00; and to
5 (b) "Gabriel Espinoza" in the amount of \$250.00. Payment owed to Espinoza pursuant to this
6 Section shall be delivered to the following payment address:

7 Evan J. Smith, Esquire
8 Brodsky Smith
9 Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

10 Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly
11 to OEHHA (Memo Line "Prop 65 Penalties") at one of the following address(es):

12 For United States Postal Service Delivery:

13 Mike Gyurics
14 Fiscal Operations Branch Chief
15 Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

16 For Non-United States Postal Service Delivery:

17 Mike Gyurics
18 Fiscal Operations Branch Chief
19 Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

20 A copy of the check payable to OEHHA shall be mailed to Brodsky Smith at the address set forth
21 above as proof of payment to OEHHA.

22 4.2 **Attorneys' Fees.** Within ten (10) days of the Effective Date, Andes Harvest shall
23 pay \$16,000.00 to Brodsky Smith as complete reimbursement for Espinoza's attorneys' fees and
24 costs incurred as a result of investigating, bringing this matter to the attention of Andes Harvest,
25 litigating and negotiating and obtaining judicial approval of a settlement in the public interest,
26 pursuant to Code of Civil Procedure § 1021.5.

1 **5. RELEASE OF ALL CLAIMS**

2 5.1 This Consent Judgment is a full, final, and binding resolution between Espinoza
3 acting on his own behalf, and on behalf of the public interest, and Andes Harvest, and its parents,
4 shareholders, members, directors, officers, managers, employees, representatives, agents,
5 attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their
6 predecessors, successors and assigns ("Defendant Releasees"), and all entities to whom they
7 directly or indirectly distribute or sell Covered Products, including but not limited to manufacturers,
8 suppliers, distributors, wholesalers, customers, licensors, licensees retailers, including but not
9 limited to Grocery Outlet Inc. and its parents, subsidiaries, and affiliates, franchisees, and
10 cooperative members ("Downstream Releasees"), of all claims for violations of Proposition 65
11 based on exposure to lead from use of the Covered Products manufactured, distributed, or sold by
12 Andes Harvest within 60 days after the Effective Date, as set forth in the Notice. It is the Parties'
13 intention that this Consent Judgment shall have preclusive effect such that no other actions by
14 private enforcers, whether purporting to act in his, her, or its interests or the public interest shall be
15 permitted to pursue and take any action with respect to any violation of Proposition 65 based on
16 exposure to lead from use of the Covered Products that was alleged in the Complaint, or that could
17 have been brought pursuant to the Notice against Andes Harvest and the Downstream Releasees
18 ("Proposition 65 Claims"). Andes Harvest's compliance with the terms of this Consent Judgment
19 constitutes compliance with Proposition 65 by Andes Harvest with regard to exposure to lead from
20 use of the Covered Products.

21 5.2 In addition to the foregoing, Espinoza, on behalf of himself, his past and current
22 agents, representatives, attorneys, and successors and assignees, and not in his representative
23 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of
24 legal action and releases Andes Harvest, Defendant Releasees, and Downstream Releasees from
25 any and all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts,
26 contracts, agreements, promises, liabilities, damages, charges, losses, costs, expenses, and
27 attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent,
28

1 now or in the future, with respect to any alleged violations of Proposition 65 related to or arising
2 from Covered Products manufactured, distributed, or sold by Andes Harvest, Defendant Releasees
3 or Downstream Releasees. With respect to the foregoing waivers and releases in this paragraph,
4 Espinoza hereby specifically waives any and all rights and benefits which he now has, or in the
5 future may have, conferred by virtue of the provisions of § 1542 of the California Civil Code, which
6 provides as follows:

7 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
8 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
9 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
10 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
11 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
12 DEBTOR OR RELEASED PARTY.

13 5.3 Andes Harvest waives any and all claims against Espinoza, his attorneys and other
14 representatives, for any and all actions taken, or statements made (or those that could have been
15 taken or made) by Espinoza and his attorneys and other representatives, whether in the course of
16 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
17 and with respect to Covered Products.

18 **6. INTEGRATION**

19 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
20 any and all prior negotiations and understandings related hereto shall be deemed to have been
21 merged within it. No representations or terms of agreement other than those contained herein exist
22 or have been made by any Party with respect to the other Party or the subject matter hereof.

23 **7. GOVERNING LAW**

24 7.1 The terms of this Consent Judgment shall be governed by the laws of the State of
25 California and apply within the State of California.

26 **8. NOTICES**

27 8.1 Unless specified herein, all correspondence and notices required to be provided
28 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party
by the other party at the following addresses:

1 For Defendant:

2 Youjun Liu, Esq.
3 Liu & Wakabayashi LLP
4 2831 Camino Del Rio S., Ste. 216
San Diego, CA 92108

5 And

6 For Espinoza:

7 Evan Smith
8 Brodsky Smith
9465 Wilshire Blvd., Ste. 300
Beverly Hills, CA 90212

9 Any party, from time to time, may specify in writing to the other party a change of address to
10 which all notices and other communications shall be sent.

11 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

12 9.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
13 which shall be deemed an original, and all of which, when taken together, shall constitute one and
14 the same document.

15 **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**
16 **APPROVAL**

17 10.1 Espinoza agrees to comply with the requirements set forth in California Health &
18 Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.
19 Defendant agrees it shall support approval of such Motion.

20 10.2 This Consent Judgment shall not be effective until it is approved and entered by the
21 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the
22 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30
23 days, the case shall proceed on its normal course.

24 10.3 If the Court approves this Consent Judgment and is reversed or vacated by an
25 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
26 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on
27 its normal course on the trial court's calendar.

1 **11. MODIFICATION**

2 11.1 This Consent Judgment may be modified only by further stipulation of the Parties
3 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

4 **12. ATTORNEY'S FEES**

5 12.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
6 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

7 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions
8 pursuant to law.

9 **13. RETENTION OF JURISDICTION**

10 13.1 This Court shall retain jurisdiction of this matter to implement or modify the
11 Consent Judgment.

12 **14. AUTHORIZATION**

13 14.1 The undersigned are authorized to execute this Consent Judgment on behalf of their
14 respective Parties and have read, understood, and agree to all of the terms and conditions of this
15 document and certify that he or she is fully authorized by the Party he or she represents to execute
16 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
17 explicitly provided herein each Party is to bear its own fees and costs.

18 **AGREED TO:**

AGREED TO:

19
20 Date: _____

Date: May 7, 2025

21 By: _____

By: [Signature]

22 GABRIEL ESPINOZA

ANDES HARVEST INC.

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

25
26 Dated: 10/20/2025

27 [Signature]
Judge of Superior Court

28 **Carol A. Greene**

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3 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

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16 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
17 explicitly provided herein each Party is to bear its own fees and costs.

18 **AGREED TO:**

AGREED TO:

19
20 Date: 6 / 3 / 25

Date: _____

21 By: _____

22 GABRIEL ESPINOZA

21 By: _____

22 ANDES HARVEST INC.

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

25
26 Dated: _____

27 _____
28 Judge of Superior Court