SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

CENTER FOR ENVIRONMENTAL HEALTH, Plaintiff, v. TRADER JOE'S COMPANY, *et al.*, Defendants.	Case No. CGC-12-527270 **[PROPOSED] CONSENT JUDGMENT**

1. INTRODUCTION

1.1 The Parties to this Consent Judgment are the Center For Environmental Health, a California non-profit corporation ("CEH"), and the companies identified on Exhibit A (collectively, the "Settling Defendants"). Exhibit A further identifies the Settling Defendants as either Manufacturer Settling Defendants or Retailer/Distributor Settling Defendants. Plaintiff and Settling Defendants are defined as the "Parties." The Parties enter into this Consent Judgment

to settle certain claims asserted by CEH against Settling Defendants as set forth in the operative complaint (the "Complaint") in the above-captioned matter. This Consent Judgment covers confectionery licorice products ("Licorice Products") sold or offered for sale by Settling Defendants.

1.2 Beginning on October 8, 2012, CEH served multiple 60-day Notices of Violation under Proposition 65, alleging that Settling Defendants violated Proposition 65 by exposing persons to lead and lead compounds ("Lead") contained in Licorice Products without first providing a clear and reasonable Proposition 65 warning.

1.3 Each Settling Defendant is a corporation that manufactures, distributes, sells or offers for sale Licorice Products in the State of California or has done so in the past.

1.4 On December 19, 2012, CEH filed the original Complaint in this matter. On February 21, 2013, CEH filed the operative First Amended Complaint in this matter.

1.5 For purposes of this Consent Judgment only, CEH and Settling Defendants (the "Parties") stipulate that this Court has jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction over Settling Defendants as to the acts alleged in the Complaint, that venue is proper in the County of San Francisco, and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all claims which were or could have been raised in the Complaint based on the facts alleged therein with respect to Licorice Products manufactured, distributed, and/or sold by Settling Defendants.

1.6 Nothing in this Consent Judgment is or shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law or violation of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument or defense the Parties may have in any other pending or future legal proceedings. This Consent Judgment is the product of negotiation and compromise and is accepted by the Parties solely for purposes of settling, compromising, and resolving issues disputed in this Action.

2. INJUNCTIVE RELIEF

2.1 **Reformulation Level.** The Reformulation Level for Licorice Products is 35 parts per billion ("ppb") or less of Lead by weight. Such concentrations shall be determined by use of a test using ICP-MS equipment with a level of detection of at least 20 ppb that meets standard laboratory QA/QC requirements ("Test Protocol").[1]

2.2 **Specification Notice to Vendors of Reformulation Level.** To the extent it has not already done so, no more than thirty (30) days after the date of entry of this Consent Judgment ("Effective Date"), each Settling Defendant that purchases Licorice Products from a third party shall provide the Reformulation Levels to each of its Licorice Products suppliers that are not Settling Defendants and shall instruct each such Licorice Products supplier to provide it with Licorice Products that do not exceed the Reformulation Levels. If during the next five (5) year period, a Settling Defendant purchases Licorice Products from a third party that it has not previously provided with instructions regarding the Reformulation Levels, the Settling Defendant shall provide the Reformulation Levels to the new Licorice Product supplier when placing an initial order for Licorice Products and instruct the new Licorice Product supplier to provide it with Licorice Products that do not exceed the Reformulation Levels. Each Settling Defendant shall retain records of communications sent to and received from suppliers that reflect its compliance with the communication requirements of this Section for a period of three (3) years and shall make such records available to CEH on reasonable request.

2.3 **Reformulation of Licorice Products**: After April 1, 2014, Manufacturer Settling Defendants shall not manufacture, purchase, ship, offer for sale, sell or otherwise introduce into the California marketplace any Licorice Products that do not meet the Reformulation Level. In addition, Manufacturer Settling Defendants and CEH agree that after December 1, 2014, Manufacturer Settling Defendants shall not ship, offer for sale, sell or otherwise introduce into the United States marketplace outside California any Licorice Products

[1] Sampling to assess compliance with the Reformulation Levels shall be based on testing of either an aggregate of all licorice contained in a single and discrete package, bag or box as is typically sold in retail, or the average results of any multiple test results from the same aggregate sample.

that do not meet the Reformulation Level.

2.4 **Good Faith Commitment to Further Lead Reduction**: During the three (3) years following the Effective Date, each Manufacturer Settling Defendant shall continue in good faith to attempt to further reduce the Lead content of its Licorice Products until such Licorice Products have a consistent Lead content of less than 13 ppb. These efforts shall include, at a minimum, efforts to further adjust recipes and formulas that will reduce Lead content in finished Licorice Products and attempts to secure Licorice Product ingredients with lower Lead content. On each of the first three anniversaries of the Effective Date, each Manufacturer Settling Defendant shall submit to CEH a written report of the activities it has undertaken to effectuate its good faith commitment to further reduction of the Lead content of its Licorice Products. If a Manufacturer Settling Defendant has test results demonstrating that all of its Licorice Products have a consistent Lead content of less than 13 ppb, it shall provide such documentation to CEH and the parties shall meet and confer and if CEH and the Manufacturer Settling Defendant agree that all of the Manufacturer Settling Defendant's Licorice Products have a consistent Lead content of less than 13 ppb, that Manufacturer Settling Defendant need not submit any subsequent annual report to CEH regarding further reduction of Lead content of its Licorice Products. If the Parties fail to agree, the Manufacturer Settling Defendant may seek relief from the Court upon a showing consistent with this Section.

3. ENFORCEMENT

3.1 **General Enforcement Provisions.** CEH may, by motion or application for an order to show cause before this Court, enforce the terms and conditions contained in this Consent Judgment. Any action to enforce alleged violations of Section 2.3 by a Settling Defendant shall be brought exclusively pursuant to this Section 3, and as applicable be subject to the meet and confer requirement of Section 3.2.4.

3.2 **Enforcement of Reformulation Commitment.**

3.2.1 **Notice of Violation.** In the event that, at any time following the relevant dates set out in Section 2.3, CEH identifies a Licorice Product manufactured, distributed,

or sold by a Manufacturer Settling Defendant for which CEH has laboratory test results showing that the Manufacturer Settling Defendant violated Section 2.3, CEH may issue a Notice of Violation pursuant to this Section.

3.2.2 **Service of Notice of Violation and Supporting Documentation.**

3.2.2.1 Subject to Section 3.2.1, the Notice of Violation shall be sent to the person(s) identified in Exhibit A to receive notices for the Manufacturer Settling Defendant, and must be served within 45 days of the date the Licorice Products at issue were purchased or otherwise acquired by CEH, provided, however, that CEH may have up to an additional 45 days to send the Notice of Violation if, notwithstanding CEH's good faith efforts, the test data required by Section 3.2.2.2 below cannot be obtained by CEH from its laboratory before expiration of the initial 45 day period.

3.2.2.2 The Notice of Violation shall, at a minimum, set forth: (a) the date the alleged violation was observed, (b) the location at which the Licorice Products were offered for sale, (c) a description of the Licorice Products giving rise to the alleged violation, including the name and address of the retail store where the sample was obtained and if available information that identifies the product lot, such as the "best by" or "sell by" date, and (d) all test data[2] obtained by CEH regarding the Licorice Products and supporting documentation sufficient for validation of the test results, including any laboratory reports, quality assurance reports and quality control reports associated with testing of the Licorice Products. Such Notice of Violation shall be based upon the Test Protocol. Wipe, swipe, swab and X-ray fluorescence testing are not sufficient to support a Notice of Violation. As an alternative, CEH may rely on testing conducted and published by the California Department of Public Health ("CDPH") to support a Notice of Violation, so long as CEH first obtains a full description of the Licorice Product tested, including any information that is available from CDPH that would identify the product lot, such as a "best by" or "sell by" date, and makes a good faith attempt to obtain information on the location at which the Licorice Product was offered for sale, and the date the product was obtained by CDPH.

[2] To support a Notice of Violation, CEH shall provide a minimum of two tests per Notice of Violation.

CEH shall share any such information with the Manufacturer Settling Defendant. Should CEH be unable to obtain any such information, the Manufacturer Settling Defendant shall contact CDPH and request such information and shall share such information with CEH upon receipt from CDPH.

3.2.3 **Notice of Election of Response.** No more than 30 days after service of a Notice of Violation, the Manufacturer Settling Defendant shall provide written notice to CEH whether it elects to contest the allegations contained in a Notice of Violation ("Notice of Election"). Failure to provide a Notice of Election within 30 days of service of a Notice of Violation shall be deemed an election to contest the Notice of Violation.

3.2.3.1 If a Notice of Violation is contested, the Notice of Election shall include all then-available documentary evidence regarding the alleged violation, including all test data, if any. If the Manufacturer Settling Defendant or CEH later acquires additional test or other data regarding the alleged violation, it shall notify the other party and promptly provide all such data or information to the party. Any test data used to contest a Notice of Violation shall meet the criteria of Section 3.2.2.2.

3.2.4 **Meet and Confer.** If a Notice of Violation is contested, CEH and Manufacturer Settling Defendant shall meet and confer to attempt to resolve their dispute. Within 30 days of serving a Notice of Election contesting a Notice of Violation, and if no enforcement action or application has been filed by CEH pursuant to Section 3.1, the Manufacturer Settling Defendant may withdraw the original Notice of Election contesting the violation and serve a new Notice of Election conceding the violation, provided however that the Manufacturer Settling Defendant shall pay $2,500 in addition to any payment required under this Consent Judgment. At any time, CEH may withdraw a Notice of Violation, in which case for purposes of this Section 3.2 the result shall be as if CEH never issued any such Notice of Violation. If no informal resolution of a Notice of Violation results within 30 days of a Notice of Election to contest, CEH may file an enforcement motion or application pursuant to Section 3.1. In any such proceeding, CEH may seek whatever fines, costs, penalties, attorneys' fees or other remedies are provided by law for

failure to comply with the Consent Judgment.

3.2.5 **Non-Contested Matters.** If the Manufacturer Settling Defendant elects not to contest the allegations in a Notice of Violation, it shall identify on a confidential basis to CEH (by proper name, address of principal place of business and telephone number) the person or entity that sold the Licorice Products to the Manufacturer Settling Defendant and the manufacturer and other entities in the chain of distribution of the Licorice Product, provided that such information is reasonably available. In addition, the Settling Defendant shall undertake corrective action and make payments, if any, as set forth below.

3.2.5.1 If the test data provided by CEH in support of the Notice of Violation reports a Lead content in a Licorice Product above the Reformulation Level but less than 70 ppb, then the Manufacturer Settling Defendant shall take the following corrective action and make the following payments, if any:

(a) The Manufacturer Settling Defendant shall include in its Notice of Election a detailed description with supporting documentation of the corrective action that it has undertaken or proposes to undertake to address the alleged violation. Any such correction shall, at a minimum, provide reasonable assurance that the Manufacturer Settling Defendant has stopped selling or offering for sale in California all Licorice Products having the same lot number or lot identifier, such as "best by" or "sell by" date, as that of the Licorice Products identified in CEH's Notice of Violation. The Manufacturer Settling Defendant shall make available to CEH for inspection and/or copying records and correspondence regarding the corrective action. If there is a dispute over the corrective action, the Manufacturer Settling Defendant and CEH shall meet and confer pursuant to Section 3.2.4 before seeking any remedy in court. Provided, that in no case shall Plaintiffs issue more than one NOV per manufacturing lot of Licorice Products.

(b) If the Notice of Violation is the first or second Notice of Violation received by a Manufacturer Settling Defendant under Section 3.2.5.1 that was not successfully contested or withdrawn, no payment shall be required by that Manufacturer Settling Defendant. If the Notice of Violation is the third, fourth or fifth Notice of Violation received by a

Manufacturer Settling Defendant under Section 3.2.5.1 that was not successfully contested or withdrawn, that Manufacturer Settling Defendant shall pay $2,500 for each Notice of Violation. If a Manufacturer Settling Defendant has received more than five Notices of Violation under Section 3.2.5.1 that were not successfully contested or withdrawn, that Manufacturer Settling Defendant shall pay $5,000 for each subsequent Notice of Violation. If a Manufacturer Settling Defendant produces with its Notice of Election Test Data from the manufacturer or supplier of the Licorice Product that: (i) was conducted prior to the date CEH purchased the Licorice Product that is the subject of the Notice of Violation; (ii) was conducted on Licorice Product that was from the same manufacturing lot as the Licorice Product that is the subject of the Notice of Violation; and (iii) demonstrates Lead levels below the Reformulation Level, then any payment under this Section shall be decreased by fifty percent.

(c) Notwithstanding Section 3.2.5.1(b), if the Notice of Violation was based on a Licorice Product that was sold outside of California, there shall be no payment pursuant to this Section.

3.2.5.2 If the test data provided by CEH in support of the Notice of Violation reports a Lead content in a Licorice Product of more than 70 ppb, then the Manufacturer Settling Defendant shall take the following corrective action and make the following payments:

(a) The Manufacturer Settling Defendant shall include in its Notice of Election a detailed description with supporting documentation of the corrective action that it has undertaken or proposes to undertake to address the alleged violation. Any such correction shall, at a minimum, provide reasonable assurance that the Manufacturer Settling Defendant has stopped selling or offering for sale all Licorice Products having the same lot number or lot identifier, such as "best by" or "sell by" date, as that of the Licorice Product identified in CEH's Notice of Violation (the "Noticed Licorice Products"), removed the Noticed Licorice Product from the market and sent instructions to any of its stores and/or customers that offer the Noticed Licorice Products for sale to cease offering the Noticed Licorice Products for sale and to either return all Noticed Licorice Products to the Manufacturer Settling Defendant for destruction, or to directly

destroy the Noticed Licorice Products. The Manufacturer Settling Defendant shall keep and make available to CEH for inspection and copying records and correspondence regarding the market withdrawal and destruction of the Noticed Licorice Products. If there is a dispute over the corrective action, the Manufacturer Settling Defendant and CEH shall meet and confer before seeking any remedy in court. In no case shall Plaintiff issue more than one NOV per manufacturing lot of Licorice Product.

(b) If the Notice of Violation is the first Notice of Violation received by a Manufacturer Settling Defendant under Section 3.2.5.2 that was not successfully contested or withdrawn, no payment shall be required by that Manufacturer Settling Defendant. If the Notice of Violation is the second, third or fourth Notice of Violation received by a Manufacturer Settling Defendant under Section 3.2.5.2 that was not successfully contested or withdrawn, that Manufacturer Settling Defendant shall pay $8,000 for each Notice of Violation. If a Manufacturer Settling Defendant has received more than four Notices of Violation under Section 3.2.5.2 that were not successfully contested or withdrawn, that Manufacturer Settling Defendant shall pay $12,000 for each Notice of Violation. If a Manufacturer Settling Defendant produces with its Notice of Election Test Data from the manufacturer or supplier of the Licorice Product that: (i) was conducted prior to the date CEH purchased the Licorice Product that is the subject of the Notice of Violation; (ii) was conducted on Licorice Product that was from the same manufacturing lot as the Licorice Product that is the subject of the Notice of Violation; and (iii) demonstrates Lead levels below the Reformulation Level, then any payment under this Section shall be decreased by fifty percent.

3.2.6 **Payments.** Any payments under Section 3.2 shall be made by check payable to the "Lexington Law Group" and shall be paid within 30 days of service of a Notice of Election triggering a payment and which shall be used as reimbursement for costs for investigating, preparing, sending and prosecuting Notices of Violation, and to reimburse attorneys' fees and costs incurred in connection with these activities.

3.2.7 **Repeat Violations**. If a Manufacturer Settling Defendant has

received four or more Notices of Violation that were not successfully contested or withdrawn in any 12-month period then, at CEH's option, CEH may seek whatever fines, costs, penalties, attorneys' fees or other remedies that are provided by law for failure to comply with the Consent Judgment. Prior to seeking such relief, CEH shall meet and confer with the Manufacturer Settling Defendant for at least 30 days to determine if the Manufacturer Settling Defendant and CEH can agree on measures that the Manufacturer Settling Defendant can undertake to prevent future violations.

4. PAYMENTS

4.1 **Payments by Settling Defendants.** Within five (5) days of the entry of this Consent Judgment, payment shall be made in the amount provided for that Settling Defendant on Exhibit A as further set forth in this Section. If a Manufacturer Settling Defendant agrees to make payment for and on behalf of a Retailer/Distributor Settling Defendant and fails to do so within five (5) days of the entry of this Consent Judgment, written notice shall first be given by Plaintiff to the Retailer/Distributor Settling Defendant and the Retailer/Distributor Settling Defendant shall have an additional ten (10) days after the date of the notice to make payment.

4.2 **Allocation of Payments.** The total settlement amount for each Settling Defendant shall be paid in three separate checks in the amounts specified on Exhibit A and delivered to the offices of the Lexington Law Group (Attn: Eric S. Somers), 503 Divisadero Street, San Francisco, California 94117. Any failure by a Settling Defendant to comply with the payment terms herein shall be subject to a stipulated late fee in the amount of $100 for each day after the delivery date the payment is received. The late fees required under this Section shall be recoverable, together with reasonable attorneys' fees, in an enforcement proceeding brought pursuant to Section 3 of this Consent Judgment. The funds paid by each Settling Defendant shall be allocated as set forth on Exhibit A for each Settling Defendant between the following categories and made payable as follows:

4.2.1 A civil penalty pursuant to Health & Safety Code § 25249.7(b). CEH shall apportion this payment in accordance with Health & Safety Code § 25249.12 (25% to CEH and

75% to the State of California's Office of Environmental Health Hazard Assessment). Accordingly, the civil penalty payment check for the amount designated for each Settling Defendant on Exhibit A as Civil Penalty shall be made payable to the "Center for Environmental Health" and associated with taxpayer identification number 94-3251981.

4.2.2 A payment in lieu of civil penalty to CEH pursuant to Health & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3203(b). CEH shall use such funds to continue its work educating and protecting people from exposures to toxic chemicals, including heavy metals. In addition, as part of its Community Environmental Action and Justice Fund, CEH will use four percent of such funds to award grants to grassroots environmental justice groups working to educate and protect people from exposures to toxic chemicals. The method of selection of such groups can be found at the CEH web site at www.ceh.org/justicefund. The payment pursuant to this Section shall be made payable to the Center For Environmental Health and associated with taxpayer identification number 94-3251981.

4.2.3 A reimbursement of a portion of CEH's reasonable attorneys' fees and costs. The attorneys' fees and costs reimbursement check shall be made payable to the Lexington Law Group and associated with taxpayer identification number 94-3317175.

5. MODIFICATION AND DISPUTE RESOLUTION

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

5.2 **Notice; Meet and Confer.** Any Party seeking to modify this Consent Judgment shall attempt in good faith to meet and confer with all affected Parties prior to filing a motion to modify the Consent Judgment.

6. CLAIMS COVERED AND RELEASE

6.1 This Consent Judgment is a full, final and binding resolution between CEH on behalf of itself and the public interest and each Settling Defendant, and their parents, subsidiaries, affiliated entities that are under common ownership, directors, officers, employees,

shareholders and their successors and assigns, and attorneys ("Defendant Releasees"), and all entities other than those listed in Exhibit B to which a Settling Defendant distributes or sells Licorice Products, including but not limited to distributors, wholesalers, customers, retailers, re-packagers, franchisees, licensors and licensees ("Downstream Releasees"), of any violation of Proposition 65 based on failure to warn about alleged exposure to Lead contained in Licorice Products that were sold by a Settling Defendant prior to the Effective Date.

6.2 The release set forth in Section 6.1 shall also apply to Licorice Products sold by a Retailer/Distributor Settling Defendant that were purchased prior to April 1, 2014 but sold thereafter.

6.3 CEH, acting in the public interest, releases, waives, and forever discharges any and all claims against each Settling Defendant, Defendant Releasees, and Downstream Releasees arising from any violation of Proposition 65 that has been or could have been asserted regarding the failure to warn about exposure to Lead arising in connection with Licorice Products manufactured, distributed or sold by a Settling Defendant prior to the Effective Date.

6.4 CEH, for itself only, releases, waives, and forever discharges any and all claims against each Settling Defendant, Defendant Releasees, and Downstream Releasees arising from any violation of Proposition 65 or any other statutory or common law claim that has been or could have been asserted regarding the failure to warn about exposure to Lead arising in connection with Licorice Products manufactured, distributed or sold by a Settling Defendant prior to the Effective Date.

6.5 Compliance with the terms of this Consent Judgment by a Manufacturer Settling Defendant and that Settling Defendant's Defendant Releasees shall constitute compliance with Proposition 65 by such Settling Defendant, that Settling Defendant's Defendant Releasees and that Settling Defendant's Downstream Releasees with respect to any alleged failure to warn about Lead in Licorice Products manufactured, distributed or sold by that Settling Defendant after the Effective Date.

6.6 Nothing in this Consent Judgment affects CEH's right to commence or

prosecute an action under Proposition 65 against any person other than a Settling Defendant, Defendant Releasees, or Downstream Releasees. Nothing in this Consent Judgment affects CEH's right to commence or prosecute an action under Proposition 65 against a Settling Defendant related to exposure to Lead from Licorice Products that do not meet the Reformulation Levels after the dates set out in Section 2.3.

7. PROVISION OF NOTICE

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

Eric S. Somers
Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117
esomers@lexlawgroup.com

7.2 When a Settling Defendant is entitled to receive any notice under this Consent Judgment, the notice shall be sent by first class and electronic mail to the person(s) identified in Exhibit A for each such Settling Defendant.

7.3 Any Party may modify the person and address to whom the notice is to be sent by sending the other Party notice by first class and electronic mail.

8. COURT APPROVAL

8.1 This Consent Judgment shall become effective on the Effective Date. CEH shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendants shall support approval of such Motion.

8.2 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 purpose, other than to allow the Court to determine if there was a material breach of Section 8.1.

9. GOVERNING LAW AND CONSTRUCTION

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

10. ATTORNEYS' FEES

10.1 A Party who unsuccessfully brings or contests an action arising out of this Consent Judgment shall be required to pay the prevailing Party's reasonable attorneys' fees and costs unless the unsuccessful Party has acted with substantial justification. For purposes of this Consent Judgment, the term substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure §§2016.010, *et seq.*

10.2 Notwithstanding Section 10.1, a Party who prevails in a contested enforcement action brought pursuant to Section 3 may seek an award of attorneys' fees pursuant to Code of Civil Procedure §1021.5 against a Party that acted with substantial justification. The Party seeking such an award shall bear the burden of meeting all of the elements of §1021.5, and this provision shall not be construed as altering any procedural or substantive requirements for obtaining such an award.

10.3 Nothing in this Section 10 shall preclude a party from seeking an award of sanctions pursuant to law.

11. ENTIRE AGREEMENT

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

this Consent Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

12. RETENTION OF JURISDICTION

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

13. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT

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

14. NO EFFECT ON OTHER SETTLEMENTS

14.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim against an entity that is not a Settling Defendant on terms that are different than those contained in this Consent Judgment.

15. EXECUTION IN COUNTERPARTS

15.1 The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document.

IT IS SO ORDERED, ADJUDGED, AND DECREED

Dated:

_____

Judge of the Superior Court of the State of California

IT IS SO STIPULATED:

Dated: JAN 30, 2014	**CENTER FOR ENVIRONMENTAL HEALTH** Printed Name Title

Dated: Jan 31, 2014	SETTLING DEFENDANT Albertson's LLC Daniel S. Day Printed Name Daniel S. Day Lead Counsel, Litigation, Regulatory & Compliance Title

Dated: January 19 2014	SETTLING DEFENDANT D K Kretchmer American Licorice Company John R. Kretchmer Printed Name CEO Title

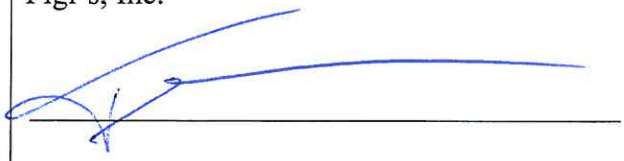
Dated: 1/17, 2014	SETTLING DEFENDANT Bed Bath & Beyond Inc. Allan N Rauch KOB Allan N. Rauch Printed Name VP - Legal and General Counsel Title

Dated: 1/28, 2014	SETTLING DEFENDANT Cost Plus. Inc [signature] JANE. L BARTSMAN Printed Name President Title

Dated: 22 Jan, 2014	SETTLING DEFENDANT Darrell Lea Confectionery Co Pty Ltd Anthony Quinn Printed Name Director Title

Dated: 01/15, 2014	SETTLING DEFENDANT FALLON TRADING COMPANY, INC. Ronald Giannini RONALD GIANNINI Printed Name GENERAL MANAGER Title

Dated: 27 Jan, 2014	SETTLING DEFENDANT Figi's Companies, Inc., successor-in-interest to Figi's, Inc.  Tim Scobie Printed Name: General Counsel Title

Dated: 27 Jan, 2014	SETTLING DEFENDANT Figi's Wholesale, Inc., successor-in-interest to Figi's, Inc.  Tim Scobie Printed Name: General Counsel Title

Dated: Jan. 24, 2014	SETTLING DEFENDANT First Source, LLC, formerly Wythe Will Tzetzo, LLC BY: Keith W. McDaniel Keith McDaniel Printed Name Chief Executive Officer Title

Dated: 1-28, 2014	SETTLING DEFENDANT Gelson's Markets Shumit Patel Shumit Patel Printed Name HR + Risk Manager Title

Dated: Jan. 22, 2014	SETTLING DEFENDANT IT'SUGAR LLC Jeff Rubin Printed Name CEO Title

Dated: JAN 23, 2014	SETTLING DEFENDANT J. SOSNICK and SON Jeffrey H Sosnick JEFFREY H. SOSNICK Printed Name President Title

Dated: Jan 24, 2014	SETTLING DEFENDANT JNC International Hershi Green Printed Name VP Title

Dated: 1/24, 2014	SETTLING DEFENDANT Kenny's Candy Co. Kurt Nelson Kurt Nelson Printed Name COO Title

Dated: January 15, 2014	SETTLING DEFENDANT Billy Henry Lucky Country Inc. Billy Henry Printed Name President & CEO Title

Dated: 4/27, 2014	SETTLING DEFENDANT Marshalls of CA, LLC and Marshalls of MA, Inc. _____ _____ Colleen Henschke Printed Name VP, Legal Title

Dated: Jan. 18, 2014	SETTLING DEFENDANT MELSHIRE DFW, L.P. NATALIE'S CANDY JAR By: Cielo M. Taub CIELO M. TAUB Printed Name MANAGING PARTNER Title

Dated: FEB. 28th, 2014	SETTLING DEFENDANT Orkla Confectionary & Snacks Finland AB, successor-in-interest to Oy Panda Ab PASI FLINKMAN Printed Name CEO Title

Dated: January 27, 2014	SETTLING DEFENDANT Raley's Helen S. Singmaster Printed Name General Counsel Title

Dated: 1/14, 2014	SETTLING DEFENDANT Renwood Andronico Lending I, LLC dba Andronico's Community Markets John Clougher Printed Name C.E.O. Title

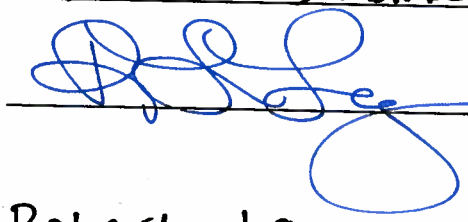
Dated: 22 JAN, 2014	SETTLING DEFENDANT (AJ's LICORICE LTD) ROGER HALLIWELL Printed Name MANAGING DIRECTOR / OWNER Title

Dated: January 27, 2014	SUNFLOWER FARMERS MARKETS, LLC  Brandon Lombardi Printed Name Chief Legal Officer Title
Dated: January 27, 2014	SF MARKETS, LLC  Brandon Lombardi Printed Name Chief Legal Officer Title
Dated: January 27, 2014	HENRY'S HOLDINGS, LLC  Brandon Lombardi Printed Name Chief Legal Officer Title

Dated: 1/23, 2014	SETTLING DEFENDANT James Hall Printed Name CFO/COO Vermont Country Store Title

Dated: 1/22, 2014	SETTLING DEFENDANT Trader Joe's Company [signature] Mitchell Nadler Printed Name CFO Title

Dated: Jan. 22, 2014	SETTLING DEFENDANT Walgreen Co. Robert J. Gas Robert J. Gas Printed Name Assistant Manager, Walgreen Co. Title

Dated: Jan 31, 2014	SETTLING DEFENDANT Whole Foods Market California, Inc.  Roberta Lang Printed Name General Counsel & GVP of Legal Affairs Title

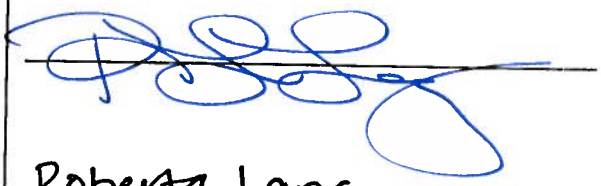
Dated: Jan 31, 2014	SETTLING DEFENDANT Mrs. Gooch's Natural Foods Market, Inc.  Roberta Lang Printed Name General Counsel & GVP of Legal Affairs Title

EXHIBIT A
Settling Defendants

Settling Defendant: Albertson's LLC

1. **Type of Defendant:**

   Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

   Bruce Nye
   Adams Nye Becht LLP
   222 Kearny St., 7th Floor
   San Francisco, CA 94108
   bnye@adamsnye.com

   Daniel S. Day, Lead Counsel, Litigation and Regulatory Compliance
   Albertson's LLC | Boise Home Office
   250 Parkcenter Blvd.
   Boise, ID 83706
   daniel.day@albertsons.com

EXHIBIT A
Settling Defendants

Settling Defendant: American Licorice Company

1. **Type of Defendant:** Manufacturer Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$110,000
Civil Penalty	$ 14,600
Payment in Lieu of Civil Penalty	$ 21,900
Attorneys' Fees and Costs	$ 73,500

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Lauren Michals
Nixon Peabody LLP
One Embarcadero Center, 18th Floor
San Francisco, CA 94111
lmichals@nixonpeabody.com

John Nelson
Chief Operations Officer
American Licorice
PO Box 826
Union City, CA 94587

EXHIBIT A
Settling Defendants

Settling Defendants: Bed Bath & Beyond and its affiliated subsidiary Cost Plus, Inc.

1. **Type of Defendant**

   Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$37,500
Civil Penalty	$ 4,930
Payment in Lieu of Civil Penalty	$ 7,400
Attorneys' Fees and Costs	$25,170

3. **Person(s) to Receive Notices Pursuant to Section 7:**

   Merrit Jones
   Bryan Cave LLP
   560 Mission Street, 25th Floor
   San Francisco, California 94105
   merrit.jones@bryancave.com

EXHIBIT A
Settling Defendants

Settling Defendant: Darrell Lea Confectionery Co. Pty. Ltd.

1. **Type of Defendant:**

Manufacturer Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$110,000
Civil Penalty	$ 14,600
Payment in Lieu of Civil Penalty	$ 21,900
Attorneys' Fees and Costs	$ 73,500

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Lauren Michals
Nixon Peabody LLP
One Embarcadero Center, 18th Floor
San Francisco, CA 94111
lmichals@nixonpeabody.com

Rex De Vantier
Group General Manager
Darrell Lea Confectionery Co Pty Ltd
77-79 Lahr's Road
YATALA QLD 4207
Australia
rex@vippetfoods.com.au

EXHIBIT A
Settling Defendants

Settling Defendant: Falcon Trading Company, Inc. dba SunRidge Farms, Inc.

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Ronald Giannini
Falcon Trading Company, Inc.
423 Salinas Road
Royal Oaks, CA 95076
rgiannini@sunridgefarms.com

EXHIBIT A
Settling Defendants

Settling Defendant: Figi's, Inc., through its successors in interest Figi's Companies, Inc. and Figi's Wholesale, Inc.

1. **Type of Defendant:**

   Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

   Joshua Bloom
   Barg Coffin Lewis & Trapp, LLP
   350 California Street, 22nd Floor
   San Francisco, CA 94104
   jab@bcltlaw.com

EXHIBIT A
Settling Defendants

Settling Defendant: First Source, LLC, formerly Wythe Will Tzetzo, LLC

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Tim Mullin
Miles & Stockbridge P.C.
100 Light Street
Baltimore, MD 21202
tmullin@milesstockbridge.com

Edward Hugo
Brydon Hugo & Parker
135 Main Street, 20th Floor
San Francisco, CA 94105
ehugo@bhplaw.com

EXHIBIT A
Settling Defendants

Settling Defendant: Gelson's Markets

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Kent D. Mattson
Pemberton, Sorlie, Rufer & Kershner, PLLP
110 N. Mills Street
Fergus Falls, MN 56537
k.mattson@pemlaw.com

EXHIBIT A
Settling Defendants

Settling Defendant: IT'SUGAR LLC

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Betsy McDaniel
Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111
bmcdaniel@sheppardmullin.com

EXHIBIT A
Settling Defendants

Settling Defendant: J. Sosnick & Son

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Jeffrey Sosnick
J. Sosnick & Son
258 Littlefield Avenue
South San Francisco, CA 94080
Jeff@Sosnick.com

Steve Ellenberg
Law Offices of Steven A. Ellenberg
4 North Second Street
Suite 1240
San Jose, CA 95113
Steve@ellenberglawoffices.com

EXHIBIT A
Settling Defendants

Settling Defendant: JNC International, Inc.

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$17,500
Civil Penalty	$ 2,270
Payment in Lieu of Civil Penalty	$ 3,400
Attorneys' Fees and Costs	$11,830

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Robert J. Maxwell
Rogers Joseph O'Donnell
311 California Street, 10th Floor
San Francisco, CA 94104
bmaxwell@rjo.com

EXHIBIT A
Settling Defendants

Settling Defendant: Kenny's Candy Company

1. **Type of Defendant:**

   Manufacturer Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$110,000
Civil Penalty	$ 14,600
Payment in Lieu of Civil Penalty	$ 21,900
Attorneys' Fees and Costs	$ 73,500

3. **Person(s) to Receive Notices Pursuant to Section 7:**

   Lauren Michals
   Nixon Peabody LLP
   One Embarcadero Center, 18th Floor
   San Francisco, CA 94111
   lmichals@nixonpeabody.com

   Kent D. Mattson
   Pemberton, Sorlie, Rufer & Kershner, PLLP
   110 N. Mills Street
   Fergus Falls, MN 56537
   k.mattson@pemlaw.com

EXHIBIT A
Settling Defendants

Settling Defendant: Lucky Country, Inc.

1. **Type of Defendant:**

Manufacturer Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$110,000
Civil Penalty	$ 14,600
Payment in Lieu of Civil Penalty	$ 21,900
Attorneys' Fees and Costs	$ 73,500

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Dean Hansell
Hogan Lovells US LLP
1999 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
dean.hansell@hoganlovells.com

EXHIBIT A
Settling Defendants

Settling Defendant: Marshalls of CA, LLC and Marshalls of MA, Inc.

1. **Circle Type of Defendant**

   Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$3,250
Payment in Lieu of Civil Penalty	$4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

   General Counsel
   The TJX Companies, Inc.
   770 Cochituate Road
   Framingham, MA 01701-4666

   With a copy to:

   Jeffrey Margulies
   Fulbright & Jaworski L.L.P.
   555 South Flower Street
   Forty-First Floor
   Los Angeles, California 90071
   jeff.margulies@nortonrosefulbright.com

EXHIBIT A
Settling Defendants

Settling Defendant: Melshire DFW, LP d/b/a Natalie's Candy Jar

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Robert J. Maxwell
Rogers Joseph O'Donnell
311 California Street, 10th Floor
San Francisco, CA 94104
bmaxwell@rjo.com

EXHIBIT A
Settling Defendants

Settling Defendant: Orkla Confectionery & Snacks Finland Ab, successor-in-interest to Oy Panda Ab

4. **Type of Defendant:** Manufacturer Defendant

5. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$110,000
Civil Penalty	$ 14,600
Payment in Lieu of Civil Penalty	$ 21,900
Attorneys' Fees and Costs	$ 73,500

6. **Person(s) to Receive Notices Pursuant to Section 7:**

Trenton H. Norris
Arnold & Porter LLP
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111
trent.norris@aporter.com

EXHIBIT A
Settling Defendants

Settling Defendant: Raley's

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Thomas Evans
Reed Smith LLP
101 Second Street, Suite 1800
San Francisco, CA 94105
tevans@reedsmith.com

EXHIBIT A
Settling Defendants

Settling Defendant: Renwood Andronico Lending 1, LLC, dba Andronico's Country Markets

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Renee Wasserman
Rogers Joseph O'Donnell
311 California Street, 10th Floor
San Francisco, CA 94101
rwasserman@rjo.com

EXHIBIT A
Settling Defendants

Settling Defendant: RJ's Licorice Limited

1. **Type of Defendant:**

Manufacturer Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$110,000
Civil Penalty	$ 14,600
Payment in Lieu of Civil Penalty	$ 21,900
Attorneys' Fees and Costs	$ 73,500

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Lauren Michals
Nixon Peabody LLP
One Embarcadero Center, 18th Floor
San Francisco, CA 94111
lmichals@nixonpeabody.com

Louise Trilloe, General Manager
RJ's Licorice Ltd.
P.O. Box 444
Levin 5540
New Zealand
louise@rjlicorice.co.nz

EXHIBIT A
Settling Defendants

Settling Defendants: Sunflower Farmers Markets, LLC, SF Markets, LLC, and Henry's Holdings, LLC

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Derek Mirza
Corporate Counsel
Sprouts Farmers Market
11811 N. Tatum Blvd., Suite 2400
Phoenix, AZ 85028
DerekMirza@sprouts.com

Jeffrey Margulies
Fulbright & Jaworski L.L.P.
555 South Flower Street
Forty-First Floor
Los Angeles, California 90071
jeff.margulies@nortonrosefulbright.com

EXHIBIT A
Settling Defendants

Settling Defendant: The Vermont Country Store, Inc.

4. **Type of Defendant:**

Retailer/Distributor Defendant

5. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

6. **Person(s) to Receive Notices Pursuant to Section 7:**

Robert J. Maxwell
Rogers Joseph O'Donnell
311 California Street, 10th Floor
San Francisco, CA 94104
bmaxwell@rjo.com

EXHIBIT A
Settling Defendants

Settling Defendant: Trader Joe's Company

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Kate Ides
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071
kides@omm.com

EXHIBIT A
Settling Defendants

Settling Defendant: Walgreen Co.

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$25,000
Civil Penalty	$ 3,250
Payment in Lieu of Civil Penalty	$ 4,900
Attorneys' Fees and Costs	$16,850

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Renee Wasserman
Rogers Joseph O'Donnell
311 California Street, 10th Floor
San Francisco, CA 94101
rwasserman@rjo.com

EXHIBIT A
Settling Defendants

Settling Defendant: Whole Foods Market California, Inc. and its affiliated subsidiary Mrs. Gooch's Natural Food Markets, Inc.

1. **Type of Defendant:**

Retailer/Distributor Defendant

2. **Defendant's Settlement Payment and Allocation:**

Total Settlement Payment	$37,500
Civil Penalty	$ 4,930
Payment in Lieu of Civil Penalty	$ 7,400
Attorneys' Fees and Costs	$25,170

3. **Person(s) to Receive Notices Pursuant to Section 7:**

Wells Blaxter
Blaxter Law
One Bush Street, Suite 650
San Francisco, CA 94104
wblaxter@blaxterlaw.com

EXHIBIT B

LIST OF ENTITIES NOT SUBJECT TO DOWNSTREAM RELEASE

Dallo & Co., Inc.

Gerrit J. Verburg Co.

Jelly Belly Candy Co.

Kookaburra Licorice Co.

New Zealand Natural Goods, Inc.

Powell's Sweet Shoppe USA, LLC

Sugar Shack International, Inc.

Sweet Candy, LLC