

SETTLEMENT AGREEMENT
BETWEEN
CONSUMER ADVOCACY GROUP, INC.
AND
CENTO FINE FOODS, INC.

Consumer Advocacy Group, Inc. (“CAG”) and Cento Fine Foods, Inc. (hereto referred to as “Cento”), (CAG and Cento collectively referred to as, the “Parties”) enter into this agreement (“Settlement Agreement”) for the purpose of avoiding prolonged and costly litigation to settle CAG’s allegations that Cento violated Proposition 65. The effective date of this Settlement Agreement shall be the date upon which it is fully executed by all Parties hereto (the “Effective Date”).

1.0 Introduction

1.1 CAG is a California-based entity that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer and industrial products.

1.2 Cento sold, at various times, Cento® Minced Clams UPC: 0 70796 80605 6 (referred to throughout as the “Covered Product(s)”). The Covered Products are limited to those sold by Cento.

1.3 CAG alleges that the Covered Products contain Lead and Lead Compounds (“LEAD”), and that Cento did not provide a required warning in compliance with the California Safe Drinking Water and Toxic Enforcement Act (*Cal. Health & Safety Code § 25249.5, et seq.* (“Proposition 65”)).

1.4 On February 27, 1987, the Governor of California added Lead to the list of chemicals known to the State to cause developmental toxicity, male reproductive toxicity, and female reproductive toxicity. On October 1, 1992, the Governor of California added Lead and lead compounds to the list of chemicals known to the State to cause cancer. These additions took place more than twenty (20) months before CAG served its several “Sixty-Day Notice of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” which are further described below.

1.5 LEAD is referred to hereafter as the “Listed Chemical”.

1.6 On or about June 16, 2016, CAG served Bristol Farms; Endeavour Capital; Cento Fine Foods, Inc.; and certain relevant public enforcement agencies with documents entitled “Sixty-Day Notice Of Intent To Sue For Violations Of The Safe Drinking Water And Toxic Enforcement Act of 1986” regarding Covered Products containing the Listed Chemical.

1.7 The Sixty-Day Notice (referred to as “Notice”) alleged that Cento and the other noticed parties violated Proposition 65 by failing to warn consumers in California that use of the Covered Products exposes persons to the Listed Chemical.

1.8 The Parties enter into this Settlement Agreement to settle disputed claims between the Parties as set forth below concerning the Parties’ and the Covered Products’ compliance with Proposition 65 (the “Dispute”).

1.9 By execution of this Settlement Agreement, the Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions

of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered, or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by Cento, its officers, directors, employees, or parents, subsidiaries or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG or Cento may have against one another in any other pending legal proceeding as to allegations unrelated to the Dispute or claims released herein.

2.0 Release

This Settlement Agreement is a full, final, and binding resolution between CAG, acting in its individual capacity, on the one hand, and (a) Cento and its owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively “Releasees”) and (b) all entities to whom the Releasees directly or indirectly purchase, provide, distribute, or sell the Covered Products, including but not limited to producers, suppliers, distributors, wholesalers, customers, retailers (including Bristol Farms), franchisees, cooperative members,

and licensees and each of their owners, parents, subsidiaries, affiliates, sister and related companies, employees, shareholders, officers, directors, insurers, attorneys, predecessors, successors, and assigns (collectively referred to as “Additional Releasees”), on the other hand, of any violation(s) or claimed violation(s) of Proposition 65 or any statutory or common law claim that has been, could have been or may in the future be asserted against the Releasees and Additional Releasees regarding exposing persons to the Listed Chemical and the failure to warn about exposure to the Listed Chemical arising only in connection with the Covered Products manufactured, shipped, and/or otherwise distributed prior to the Effective Date, even if sold by Additional Releasees after the Effective Date. The Covered Products are limited to those sold by Cento. CAG, its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives and releases with respect to the Covered Products all rights to institute or participate in, directly or indirectly, any form of legal action, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation fees, expert fees, and attorneys’ fees) (collectively “Claims”), against Releasees and/or Additional Releasees that arise under Proposition 65 or any other statutory or common law claims that were or could have been asserted in respect of any Covered Products sold up to the Effective Date, to the extent that such Claims relate to Releasees’ and/or Additional Releasees’ alleged exposure of persons to the Listed Chemical contained in the Covered Products or any failure by Releasees and Additional

Releasees to warn about exposures to the Listed Chemical contained in the Covered Products.

CAG acknowledges that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

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

CAG, its past and current agents, representatives, attorneys, successors, and/or assignees expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of California Civil Code § 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters. The release in this section shall have no force or effect until the full amount of payments set forth in Section 4.0 are paid in full.

3.0 Cento's Duties

3.1 Cento agrees, promises, and represents that after the Effective Date Cento shall reformulate any Covered Products manufactured or packaged after the Effective Date and offered for sale in California to a point where the level of the Listed Chemical in the Covered Products does not exceed 50 parts per billion ("Reformulation Standard"). If the Covered Products do not meet the

Reformulation Standard, Cento shall provide warnings on such Covered Products that comply with Proposition 65. The warnings shall be provided in such a conspicuous and prominent manner that will assure the message is made available and likely to be read, seen, or heard by the consumer prior to or at the time of the sale or purchase. The Parties agree that product labeling stating that “WARNING: This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm” shall constitute compliance with Proposition 65 with respect to the Listed Chemical in the Covered Products.

3.2 Cento agrees, promises, and represents that, as of the Effective Date, to the extent it ships or sells any Covered Products in existing inventory to California that do not meet the Reformulation Standard, it will provide warnings on such Covered Products that comply with Proposition 65 as set forth in Section 3.1.

4.0 Payments

4.1 Cento agrees, to pay a total of forty-nine thousand dollars (\$49,000) within ten (10) days of the Effective Date by separate checks apportioned as follows:

4.2 Attorneys’ Fees and Costs: Thirty-nine thousand dollars (\$39,000) of such payment shall be paid to Yeroushalmi & Associates, as CAG’s attorneys, for reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of investigating and bringing this matter to Cento’s attention. The check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California

90212. By the Effective Date, Yeroushalmi & Associates shall provide Cento with its Employer Identification Number.

4.3 Civil Penalty: Cento shall issue two separate checks for a total amount of ten thousand dollars (\$10,000) as civil penalties pursuant to Health & Safety Code § 25249.12: (a) one check made payable to the State of California's Office of Environmental Health Hazard Assessment (OEHHA) in the amount of seven thousand and five hundred dollars (\$7,500), representing 75% of the total penalty; and (b) one check to Consumer Advocacy Group, Inc. in the amount of two thousand and five hundred dollars (\$2,500), representing 25% of the total penalty. OEHHA's check shall be delivered to Office of Environmental Health Hazard Assessment, Attn: Mike Gyurics, PO Box 4010, Sacramento, California 95812-4010. CAG's check shall be delivered to: Reuben Yeroushalmi, Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212. Additionally, two separate 1099s shall be issued for the above payments: The first 1099 shall be issued to OEHHA, P.O. Box 4010, Sacramento, CA 95812 (EIN: 68-0284486) in the amount of \$7,500. The second 1099 shall be issued in the amount of \$2,500 to CAG and delivered to: Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

5.0 Authority to Enter Into Settlement Agreement

5.1 CAG represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind CAG to this Settlement Agreement.

5.2 Cento represents that its signatory to this Settlement Agreement has full authority to enter into and legally bind Cento to this Settlement Agreement.

6.0 Report of the Settlement Agreement to the Office of the Attorney General Of California

6.1 CAG shall report this Settlement Agreement to the Attorney General's Office within five (5) days of the Parties' execution of this Settlement Agreement.

7.0 Execution in Counterparts and Facsimile

7.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile or portable document format (PDF) signature shall be as valid as the original.

8.0 Entire Agreement

8.1 This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

9.0 Modification of Settlement Agreement

9.1 Any modification to this Settlement Agreement shall be in writing and signed by the Parties.

10.0 Application of Settlement Agreement

10.1 This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, CAG and the Releasees and Additional Releasees identified in Section 2 above.

11.0 Enforcement of Settlement Agreement

11.1 Any party may file suit before the Superior Court of the County of Los Angeles, consistent with the terms and conditions set forth in paragraphs 11.2 and 11.3 of this Settlement Agreement, to enforce the terms and conditions contained in this Settlement Agreement. The prevailing party shall be entitled to its reasonable attorneys' fees and costs associated with such enforcement.

11.2 No action to enforce this Settlement Agreement may be commenced or maintained, and no notice of violation related to the Covered Products may be served or filed against Cento by CAG, unless the party seeking enforcement or alleging violation notifies the other party of the specific acts alleged to breach this Settlement Agreement at least ninety (90) days before serving or filing any action or Notice of Violation and the entity receiving the notice fails to comply with the requirements set forth in Section 11.3 below. Any notice to Cento must contain (a) the name of the product, (b) specific dates when the product was sold after the Effective Date in California without reformulation and/or warning, (c) the store or other place at which the product was available for sale to consumers, and (d) any other evidence or other support for the allegations in the notice, such as photographs, receipts, test results, and lot numbers.

11.3 Within thirty (30) days of receiving the notice described in Section 11.2, Cento shall either (1) send the store or other place at which the product was available for sale to the public a letter directing that the offending product be immediately removed from inventory and returned to Cento for full credit, including shipping costs, or (2) refute the information provided under Section 11.2. Should the Parties be unable to resolve the dispute, any party may seek relief under Section 11.1.

12.0 Notification Requirements

12.1 Any notice required or permitted hereunder shall be effective only if given in writing and delivered in person, certified or registered mail return receipt requested, or traceable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi, Esq.
YEROUSHALMI & YEROUSHALMI
9100 Wilshire Boulevard, Suite 240W
Beverly Hills, CA 90212

For Cento:

Peg Carew Toledo
PEG CAREW TOLEDO, LAW CORPORATION
3001 Douglas Blvd., Suite 340
Roseville, CA 95661

Any party may change its designee(s) for purposes of notification by providing written notice of such change pursuant to this section.

13.0 Severability

13.1 If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are held by a court to be unenforceable,

the validity of the enforceable provisions remaining shall not be adversely affected.

14.0 Governing Law

14.1 The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or as to the Listed Chemical and/or the Covered Products, then Cento shall provide written notice to CAG of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Covered Products are so affected.

CONSUMER ADVOCACY GROUP, INC.

Dated: 5/11/17

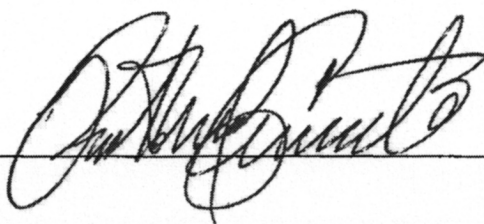
By: 

Printed Name: Michael Marcus

Title: Director

CENTO FINE FOODS, INC.

Dated: 5-5-17

By: 

Printed Name: PATRICK M. CICCOTELLI

Title: PRESIDENT