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8 Attorneys for Plaintiff

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF SAN FRANCISCO**

11 ERIKA MCCARTNEY, in the public interest, )  
12 Plaintiff, )  
13 v. )  
14 Z NATURAL FOODS, LLC, a limited liability )  
15 company, and DOES 1 through 500, inclusive, )  
16 Defendants. )

CIVIL ACTION NO. CGC-17-556702

**[PROPOSED] STIPULATED  
CONSENT JUDGMENT**

[Cal. Health and Safety Code Sec.  
25249.6, *et seq.*]

1 **1. INTRODUCTION**

2 **1.1** This Action arises out of alleged violations of California’s Safe Drinking Water  
3 and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 *et seq.*  
4 (also known as and hereinafter referred to as “Proposition 65”) regarding the following product  
5 (hereinafter the “Covered Product”): Cacao powder manufactured, imported, distributed, and/or  
6 sold by Defendant Z Natural Foods, LLC in California. Plaintiff alleges the Covered Product  
7 exposes consumers in California to cadmium (hereinafter the “Listed Chemical.”)

8 **1.2** Plaintiff Erika McCartney (“MCCARTNEY”) is a California resident acting as a  
9 private enforcer of Proposition 65. MCCARTNEY brings this Action in the public interest  
10 pursuant to California Health and Safety Code Section 25249.6. MCCARTNEY asserts that she  
11 is dedicated to, among other causes, helping safeguard the public from health hazards by reducing  
12 the use and misuse of hazardous and toxic chemicals and substances, facilitating a safe  
13 environment for consumers and employees, and encouraging corporate responsibility.

14 **1.3** Defendant Z Natural Foods, LLC, is a Florida limited liability company, and is  
15 hereinafter referred to as “Z NATURAL FOODS.”

16 **1.4** Z NATURAL FOODS manufactures or imports the Covered Product, and  
17 Distributes it into California (as defined herein) and/or sells the Covered Product in California.

18 **1.5** MCCARTNEY and Z NATURAL FOODS are hereinafter sometimes referred to  
19 individually as a “Party” or collectively as the “Parties.”

20 **1.6** On or about August 4, 2016, pursuant to California Health and Safety Code Section  
21 25249.7(d)(1), MCCARTNEY served a 60-Day Notice of alleged Violation of Proposition 65  
22 (“Notice of Violation”) on Z NATURAL FOODS, the California Attorney General, all District  
23 Attorneys, and all City Attorneys with populations exceeding 750,000. A true and correct copy of  
24 the Notice of Violation is attached hereto as Exhibit A.

25 **1.7** After more than sixty (60) days passed since service of the Notice of Violation, and  
26 no designated governmental agency filed a complaint or to the best of the Parties’ knowledge is  
27 otherwise diligently prosecuting a claim against Z NATURAL FOODS with regard to the alleged  
28 violations therein, MCCARTNEY filed a complaint (the “Complaint”) in the San Francisco

1 County Superior Court, Case No. CGC-17-556702, for injunctive relief and civil penalties. The  
2 Complaint is based on the allegations in the Notice of Violation.

3 **1.8** The Complaint and the Notice of Violation allege that Z NATURAL FOODS  
4 manufactured, imported, distributed, and/or sold in California Covered Products containing the  
5 Listed Chemical without a Proposition 65 warning in alleged violation of California Health and  
6 Safety Code Section 25249.6. Further, the Complaint and Notice of Violation allege that use of  
7 Covered Products exposes persons in California to the Listed Chemical. Z NATURAL FOODS  
8 generally denies all material and factual allegations in the Complaint and Notice of Violation,  
9 specifically denies that the Plaintiff or California consumers have been exposed to the Listed  
10 Chemical by the Covered Product, and maintains that all of its products comply with all laws and  
11 are completely safe for their intended use. MCCARTNEY and Z NATURAL FOODS each  
12 reserves all rights to allege additional facts, claims, and affirmative defenses if the Court does not  
13 approve this Consent Judgment.

14 **1.9** The Parties enter into this Consent Judgment in order to settle, compromise, and  
15 resolve denied and disputed claims, and avoid prolonged and costly litigation. The Parties enter  
16 into this Consent Judgment pursuant to a full and final settlement of any and all claims between  
17 the Parties. Nothing in this Consent Judgment, nor compliance with its terms, shall constitute or  
18 be construed as an admission by any of the Parties, or by any of their respective officers, directors,  
19 shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers,  
20 franchisees, licensees, distributors, wholesalers, or retailers, of any fact, conclusion of law, issue  
21 of law, violation of law, fault, wrongdoing, or liability, including without limitation, any admission  
22 concerning any alleged violation of Proposition 65. Except as expressly set forth herein, nothing  
23 in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense  
24 the Parties may have in any other or future legal proceeding. Provided, however, that nothing in  
25 this Section shall affect the enforceability of this Consent Judgment.

26 **1.10** The “Effective Date” of this Consent Judgment shall be the date this Consent  
27 Judgment is entered as a Judgment by the court.

28 //

1 **2. JURISDICTION AND VENUE**

2 For purposes of this consent judgment only, the Parties stipulate that this Court has  
3 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties, that  
4 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment  
5 pursuant to the terms set forth herein as a full settlement and resolution of the allegations contained  
6 in the Notice of Violation and Complaint.

7 **3. INJUNCTIVE RELIEF**

8 3.1 As of the “Compliance Date” (defined below) and except as otherwise provided in  
9 Section 3.3 with respect to “Reformulated Products,” Z NATURAL FOODS shall be permanently  
10 enjoined from Distributing into California any Covered Product without one of the warnings set  
11 forth in Paragraph 3.2. below. “Distributing into California” or “Distribute into California” means  
12 to ship any of the Covered Product into California for sale or to sell any of the Covered Product to  
13 a distributor or retailer that Z NATURAL FOODS knows or has reason to know will redistribute  
14 or sell the Covered Product in or into California.

15 3.2 Clear and Reasonable Proposition 65 Warnings. For a Covered Product that is  
16 subject to a Proposition 65 warning requirement based on Section 3.1 above, one of the following  
17 warnings (“Warning”) shall be provided as specified below.

18  
19 [California Proposition 65] **WARNING:** Consuming this Product can expose you to  
20 chemicals including cadmium, which are known to the State of California to cause [cancer  
21 and] birth defects or other reproductive harm. For more information, go to  
[www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

22 Or

23 [California Proposition 65] **WARNING:** Consuming this product can expose you to  
24 chemicals including lead and  
25 cadmium, which are known to the State of California to cause [cancer and] birth defects  
26 or other reproductive harm. For further information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

27 Or  
28

1 [California Proposition 65] **WARNING:** [Cancer and] Reproductive  
2 Harm - [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

3 The language in brackets is optional. In lieu of the preceding Warnings, Z NATURAL  
4 FOODS may use warning language that complies with Title 27, California Code of Regulations,  
5 section 25600 *et seq.*, as amended August 30, 2018, and subsequently thereafter.

6 3.2.1. For sales through distributors and Retailers, the Warning shall either be affixed to  
7 or printed on (at the point of manufacture, prior to the shipment to California, or prior to  
8 Distribution within California) the outside packaging, container, or label of each unit of the  
9 Covered Product or provided at the point of display of the Covered Product wherever it is offered  
10 for sale in California. The Warning shall be displayed with such conspicuousness, as compared  
11 with other words, statements, designs or devices on the outside packaging or at the point of display  
12 in California, as to render it likely to be read and understood by an ordinary consumer prior to  
13 purchase or use. If the Warning is displayed on the product packaging, container or labeling, the  
14 Warning shall be at least the same size as the largest of any other health or safety warnings on the  
15 product packaging, container or labeling, and the word “WARNING” shall be in capital letters and  
16 in bold print. If presented at the point of display, the Warning shall be presented on a sign or shelf  
17 label in a font no smaller than the largest type size used for other information on the sign or a shelf  
18 label for similar products.

19 3.2.2 For internet sales from the Z NATURAL FOODS website to customers with a  
20 California address after the Compliance Date, Z NATURAL FOODS shall provide an internet  
21 Warning using one of the alternatives set forth in Section 3.2 prior to the customer’s completion  
22 of the purchase. The Warning that is given on the internet shall be in the same type size or larger  
23 than the Covered Product description text and shall appear either: (a) on the same webpage on  
24 which the Covered Product is displayed; (b) on the same web page as the order form for the  
25 Covered Product; (c) on the same page as the price for the Covered Product; or (d) on one or more  
26 web pages displayed to a purchaser during the checkout process. The warning may also be  
27 provided by a clearly marked hyperlink labeled “[California Proposition 65] Warning” on the  
28 product display page prior to purchase of the Covered Product (language in brackets optional).

1           3.2.3 The Parties agree that should the OEHHA warning regulations change, Z  
2 NATURAL FOODS may either conform with the revised OEHHA regulations or conform with  
3 the terms provided in this Consent Judgment, and in doing so, shall be in compliance with this  
4 Consent Judgment and Proposition 65.

5           3.3 The Parties agree that “Reformulated Products” are any units of Covered Products  
6 containing lead and cadmium concentration levels below the corresponding warning levels set  
7 forth in that certain Consent Judgment entered February 15, 2018, by the San Francisco Superior  
8 Court in *As You Sow v. Trader Joe’s Company, et al.*, Case No. CGC-15-548791, (“*As You Sow*”).  
9 Reformulated Products Distributed, and/or sold by Z NATURAL FOODS into California shall be  
10 exempt from the requirements of this section 3, including the injunction in subsection 3.1, and do  
11 not require a Proposition 65 warning for lead or cadmium. Unless otherwise specified herein, the  
12 Parties further agree that the dates of performance for all compliance obligations concerning the  
13 amount of lead and cadmium or providing a Proposition 65 warning for Covered Products shall be  
14 the same as for any Settling Defendant who is a party to the *As You Sow* consent judgment,  
15 including, without limitation, that the initial “Compliance Date” herein for meeting permissible  
16 lead and cadmium levels, or alternatively providing a Warning for such Covered Products  
17 distributed or sold in California, shall be February 15, 2019 To the extent the lead and cadmium  
18 levels of the *As You Sow* Consent Judgment are adjusted according to its terms, those adjusted  
19 levels shall apply equally to those levels incorporated herein by reference.

20           3.4 The Parties also agree that, in addition to Covered Products, any other units of cacao  
21 based products (as defined in the *As You Sow* Consent Judgment (hereafter “Cacao Based  
22 Products”)) Distributed and/or sold by Z NATURAL FOODS in California containing lead and  
23 cadmium concentration levels in excess of the corresponding warning levels set forth in the *As You*  
24 *Sow* Consent Judgment must be sold in California with one of the Proposition 65 warnings for lead  
25 and/or cadmium set forth in Section 3.2. However, the Parties further agree that should any such  
26 Cacao Based Products contain both lead and cadmium levels at or beneath the reformulation levels  
27 of the *As You Sow* Consent Judgment, such products may be Distributed and/or sold in California  
28 by Z NATURAL FOODS without a Proposition 65 warning or one of the warnings set forth in

1 Section 3.2. Unless otherwise specified herein, the Parties further agree that the dates for  
2 performance of all compliance obligations concerning the amount of cadmium and/or lead in  
3 Cacao Based Products for any Settling Defendant as defined in the *As You Sow* consent judgment,  
4 or alternatively for providing warnings, shall apply to the instant Consent Judgment, including,  
5 without limitation, that the initial “Compliance Date” herein for meeting permissible lead and  
6 cadmium levels to sell such Cacao Based Products in California without a warning, or alternatively  
7 for providing a warning, shall be February 15, 2019. To the extent the lead and cadmium levels  
8 of the *As You Sow* Consent Judgment are adjusted according to its terms, those adjusted levels  
9 shall apply equally to those levels incorporated herein by reference. Covered Products and Cacao  
10 Based Products that comply with such lead and cadmium levels, or alternatively that are sold in  
11 California with a Warning, shall be deemed to comply with this Consent Judgment and Proposition  
12 65 for lead and cadmium.

13 **4. REQUIRED MONETARY PAYMENTS**

14 **4.1** Within ten (10) days of the date notice of entry of this Consent Judgment is served  
15 on Defendant, in complete resolution of all claims for monetary relief of any kind in this matter, Z  
16 NATURAL FOODS shall make the following settlement payments and send them to counsel for  
17 MCCARTNEY, Robert B. Hancock, Pacific Justice Center, 50 California Street, Suite 1500 San  
18 Francisco, California 94111. The checks shall be payable to the following persons and the  
19 payment shall be apportioned as follows:

20 **4.2** Z NATURAL FOODS shall pay \$11,500 in complete resolution of any claims for  
21 civil penalties or payments in lieu of penalties pursuant to California Health and Safety Code  
22 Section 25249.7(b)(1). Of this amount, \$8,625 shall be payable to the Office of Environmental  
23 Health Hazard Assessment (“OEHHA”); \$2,155 shall be payable to MCCARTNEY; and \$720  
24 shall be payable to CancerCare, a qualified 501(c)(3) charitable organization, dedicated to  
25 providing financial aid to cancer patients for treatment costs. MCCARTNEY hereby waives any  
26 statutory entitlement to penalties in excess of \$2,155. These amounts shall be paid by separate  
27 checks with ten (10) days of the date notice of entry of this order is served on Z NATURAL  
28

1 FOODS. MCCARTNEY's counsel shall be solely responsible for promptly forwarding all checks  
2 received hereunder to the payees indicated.

3 **4.3** Z NATURAL FOODS shall pay \$38,250 to Robert B. Hancock in complete  
4 resolution of any claim for, and as complete reimbursement of all of MCCARTNEY's attorneys'  
5 fees, expenses, investigation and litigation fees, and any other expenses of any kind incurred by  
6 MCCARTNEY in connection with the Notice of Violation and Complaint, and in obtaining court  
7 approval of this Consent Judgment.

8 **4.4** Any failure to remit any of the foregoing payments results in mutual rescission of  
9 this agreement, as though no resolution had been had. In that event, the Parties stipulate to vacating  
10 the Consent Judgment, and will cooperate in securing an order for the same unless some other  
11 mutually agreeable resolution between the Parties is reached.

## 12 **5. MODIFICATION OF CONSENT JUDGMENT**

13 **5.1** This Consent Judgment may be modified only by: (i) Written agreement and  
14 stipulation of the Parties and upon having such stipulation entered as a modified Consent Judgment  
15 by the Court; or (ii) Upon entry of a modified Judgment by the Court pursuant to a motion by one  
16 of the Parties after exhausting the meet and confer process set forth as follows. If either Party  
17 requests or decides to initiate a modification of this Consent Judgment, then it shall meet and  
18 confer with the other Party in good faith before filing a motion with the Court seeking to modify  
19 it. MCCARTNEY is entitled to reimbursement of all reasonable attorneys' fees and costs  
20 regarding the Parties' meet and confer efforts for any modification requested or initiated by Z  
21 NATURAL FOODS. Similarly, Z NATURAL FOODS is entitled to reimbursement of all  
22 reasonable attorney's fees and costs regarding the Parties' meet and confer efforts for any  
23 modification requested or initiated by MCCARTNEY. If, despite their meet and confer efforts,  
24 the Parties are unable to reach agreement on any proposed modification, the Party seeking the  
25 modification may file the appropriate motion and the prevailing party on such motion shall be  
26 entitled to recover its reasonable fees and costs associated with such motion. One basis, but not  
27 the exclusive basis, for Z NATURAL FOODS to seek a modification of this Consent Judgment is  
28 if Proposition 65 is changed, narrowed, limited, or otherwise rendered inapplicable in whole or in



1 part to the Covered Product, Cacao Based Products, or the Listed Chemical due to legislative  
2 change, a change in the implementing regulations, court decisions, or other legal basis.

3 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

4 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate  
5 this Consent Judgment.

6 **6.2** Subject to Section 6.3, either Party may, by motion or application for an order to  
7 show cause filed with this Court, enforce the terms and conditions contained in this Consent  
8 Judgment. The prevailing party on any such motion or application may request that the Court  
9 award its reasonable attorneys' fees and costs associated with such motion or application. Only  
10 the Parties hereto may enforce the terms of this Consent Judgment. Alleged violations of this  
11 Consent Judgment may only be enforced hereunder.

12 **6.3** Before filing a motion or application for an order to show cause for alleged  
13 violation of this Consent Judgment, MCCARTNEY shall provide Z NATURAL FOODS with  
14 thirty (30) days written notice of any alleged violations of the terms and conditions contained in  
15 this Consent Judgment. As long as Z NATURAL FOODS cures any such alleged violations within  
16 the 30-day period (or if any such violation cannot practicably be cured within 30 days, it  
17 expeditiously initiates a cure within 30 days and completes it as soon as practicable thereafter),  
18 and Z NATURAL FOODS provides proof to MCCARTNEY that the alleged violation(s) was the  
19 result of good faith mistake or accident, then Z NATURAL FOODS shall not be in violation of  
20 the Consent Judgment and shall have no monetary liability of any kind for such alleged violation.  
21 Z NATURAL FOODS shall have the ability to avail itself of the benefits of this Section two (2)  
22 times following the Compliance Date.

23 **7. APPLICATION OF CONSENT JUDGMENT**

24 This Consent Judgment shall apply to and be binding upon the Parties and their respective  
25 officers, directors, successors and assigns, and it shall benefit the Parties and their respective  
26 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,  
27 affiliates, franchisees, licensors, licensees, customers, distributors, wholesalers, retailers,  
28 predecessors, successors, and assigns of any of them.

1 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

2 **8.1** This Consent Judgment is a full, final, and binding resolution between  
3 MCCARTNEY, on behalf of herself and in the public interest, and Z NATURAL FOODS, of any  
4 and all direct or derivative violations (or claimed violations) of Proposition 65 or its implementing  
5 regulations for alleged failure to provide Proposition 65 warnings for exposure to the Listed  
6 Chemical (cadmium) from the handling, use, or consumption of Covered Product and fully  
7 resolves all claims that have been or could have been asserted in this Action up to and including  
8 the Compliance Date for alleged failure to provide Proposition 65 warnings for the Covered  
9 Product regarding the Listed Chemical as alleged in the Notice of Violation and Complaint.  
10 MCCARTNEY, on behalf of herself and in the public interest, hereby forever releases and  
11 discharges, Z NATURAL FOODS and its past and present officers, directors, owners,  
12 shareholders, employees, agents, attorneys, parent companies, subsidiaries, divisions, affiliates,  
13 suppliers, franchisees, licensors, licensees, customers, distributors, wholesalers, private labelers,  
14 co-packers, retailers, and all other upstream and downstream entities and persons in the distribution  
15 chain of any Covered Product, and the predecessors, successors and assigns of any of them  
16 (collectively, “Released Parties”), from any and all claims and causes of action and obligations to  
17 pay damages, restitution, fines, civil penalties, payment in lieu of civil penalties and expenses of  
18 any other kind (including but not limited to expert analysis fees, expert fees, attorney’s fees and  
19 expenses) (collectively, “Claims”) arising under, based on, or derivative of Proposition 65 or its  
20 implementing regulations related to Covered Products manufactured, Distributed, and/or sold up  
21 through the Compliance Date, based on alleged exposure to the Listed Chemical and/or failure to  
22 warn about the Listed Chemical in Covered Products, as set forth in the Notice of Violation and  
23 Complaint.

24 **8.2** Z NATURAL FOODS compliance with the terms of this Consent Judgment shall  
25 be deemed to constitute compliance by any Released Party with Proposition 65 regarding alleged  
26 exposures to the Listed Chemical from Covered Products as set forth in the Notice of Violation  
27 and Complaint.

1 In addition, Z NATURAL FOODS Cacao Based Products as defined in the *As You Sow*  
2 Consent Judgment that comply with Section 3.4 shall also be deemed to comply with this Consent  
3 Judgment and Proposition 65 as to lead and cadmium.

4 **8.3** It is possible that other Claims not known to MCCARTNEY arising out of the facts  
5 alleged in the Notice of Violation or the Complaint and relating to Covered Products and/or other  
6 Cacao Based Products covered by the *As You Sow* Consent Judgment that were manufactured,  
7 imported, sold or Distributed into California by Z NATURAL FOODS before the Compliance  
8 Date will develop or be discovered. MCCARTNEY, on behalf of herself, and each of her  
9 successors, assigns, legatees, heirs, attorneys and personal representatives only, acknowledges that  
10 any such Claims released herein as to the Released Parties include all known and unknown Claims  
11 related to Covered Products or such cacao based products, and waives California Civil Code  
12 Section 1542 as to any such unknown Claims. California Civil Code Section 1542 reads as  
13 follows:

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

18 MCCARTNEY, on behalf of herself only, acknowledges and understands the significance and  
19 consequences of this specific waiver of California Civil Code section 1542, and expressly waives  
20 and relinquishes any and all rights and benefits that she may have under, or which may be conferred  
21 on her by the provisions of Section 1542 of the California Civil Code as well as under any other  
22 state or federal statute or common law principle of similar effect, to the fullest extent that she may  
23 lawfully waive such rights or benefits pertaining to the released matters. In furtherance of such  
24 intention, the release hereby given shall be and remain in effect as a full and complete release  
25 notwithstanding the discovery or existence of any such additional or different claims or facts  
26 arising out of the released matters.

27 **8.4** MCCARTNEY, on behalf of herself only, on the one hand, and Z NATURAL  
28 FOODS, on the other hand, each release and waive all Claims they may have against each other

1 for any statements or actions made or undertaken by them in connection with the Notice of  
2 Violation or the Complaint. However, this shall not affect or limit any Party's right to seek to  
3 enforce the terms of this Consent Judgment.

4 **9. CONSTRUCTION AND SEVERABILITY**

5 **9.1** The terms and conditions of this Consent Judgment have been reviewed by the  
6 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to  
7 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or  
8 construction of this Consent Judgment, the terms and conditions shall not be construed against any  
9 Party.

10 **9.2** In the event that any of the provisions of this Consent Judgment are held by a court  
11 to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely  
12 affected.

13 **9.3** The terms and conditions of this Consent Judgment shall be governed by and  
14 construed in accordance with the laws of the State of California.

15 **10. PROVISION OF NOTICE**

16 All notices required to be given to either Party to this Consent Judgment by the other shall  
17 be in writing and sent to the following agents listed below by: (a) first-class, registered, certified  
18 mail; (b) overnight courier; or (c) personal delivery to the following:

19 **For Erika McCartney:**

20 Melvin B. Pearlston  
21 PACIFIC JUSTICE CENTER  
22 50 California Street, Suite 1500  
23 San Francisco, California 94111

24 **For Z NATURAL FOODS:**

25 Bryon Parker  
26 Z Natural Foods  
27 5407 N Haverhill Rd Unit 337  
28 West Palm Beach, FL 33407

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1 With Copy to:

2 J. Robert Maxwell, Esq.  
3 ROGERS JOSEPH O'DONNELL, APC  
4 311 California Street, 10th Floor  
5 San Francisco, California 94104

6 **11. COURT APPROVAL**

7 **11.1** Upon execution of this Consent Judgment by the Parties, MCCARTNEY shall  
8 prepare and file a notice of Motion for Court Approval and supporting papers. The Parties shall  
9 use their best efforts to support entry of this Consent Judgment.

10 **11.2** If the California Attorney General objects to any term in this Consent Judgment,  
11 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
12 prior to the hearing on the motion.

13 **11.3** If, despite the Parties' best efforts, the Court does not approve this Stipulated  
14 Consent Judgment it shall be null and void and have no force or effect and cannot be used in any  
15 proceeding for any purpose.

16 **12. EXECUTION AND COUNTERPARTS**

17 This Stipulated Consent Judgment may be executed in counterparts, which taken together  
18 shall be deemed one document. A facsimile or .pdf signature on this Consent Judgment shall be  
19 construed as valid and the same as an original signature.

20 **13. ENTIRE AGREEMENT, AUTHORIZATION**

21 **13.1** This Consent Judgment contains the sole and entire agreement and understanding  
22 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
23 negotiations, commitments and understandings related hereto. No representations, oral or  
24 otherwise, express or implied, other than those contained herein have been made by any Party with  
25 respect to the subject matter herein. No other agreements, oral or otherwise, unless specifically  
26 referred to herein, shall be deemed to exist or to bind any Party with respect to the subject matter  
27 herein.  
28

1           **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized  
2 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly  
3 provided herein, each Party shall bear its own attorney's fees and costs.

4 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

5           **14.1** This Consent Judgment has come before the Court upon the request of the Parties.  
6 The Parties request that the Court fully review this Consent Judgment and, being fully informed  
7 regarding the matters which are the subject of this Action:


8                   (a) Find that the terms and provisions of this Consent Judgment represent a  
9 good faith settlement of all matters raised by the allegations of the Notice of Violation and  
10 Complaint, that the matter has been diligently prosecuted, and that the public interest is served by  
11 such settlement; and

12                   (b) Make the required findings pursuant to California Health and Safety Code  
13 Section 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.

14           **14.2** Upon entry of the Consent Judgment, MCCARTNEY and Z NATURAL FOODS  
15 waive their respective rights to a hearing or trial on the allegations of the Complaint, or to appeal  
16 from this judgment.

17 **IT IS SO STIPULATED.**

18  
19 Dated: 2/5/19

  
\_\_\_\_\_  
Erika McCartney

20  
21 Dated: 2-5-2019

Z NATURAL FOODS, LLC

22  
23 Name:   
\_\_\_\_\_  
Bryon Parker

24  
25 Title: President

**ORDER AND JUDGMENT**

Based upon the Parties' Stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_, 2019.

\_\_\_\_\_  
Judge of the Superior Court

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