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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

CENTER FOR ENVIRONMENTAL)
HEALTH,)
)
Plaintiff,)
)
v.)
)
SNACK INNOVATIONS, INC., *et al.*,)
)
Defendants.)
)
)
)

Case No. RG 17-851470
**[PROPOSED] CONSENT JUDGMENT
AS TO UNCLE RAYS, LLC**

1. DEFINITIONS

1.1 The “Complaint” means the operative First Amended complaint in the above-captioned matter.

1.2 “Covered Products” means sliced potato chips that are manufactured, distributed or sold by Uncle Ray’s, LLC (“Settling Defendant”). An initial list of the Covered Products is attached as Exhibit A hereto.

1.3 “Effective Date” means the date on which notice of entry of this Consent Judgment by the Court is served upon Settling Defendant.

1 **2. INTRODUCTION**

2 2.1 The Parties to this Consent Judgment are the Center for Environmental Health,
3 a California non-profit corporation (“CEH”) and Uncle Rays, LLC. CEH and Settling
4 Defendant (the “Parties”) enter into this Consent Judgment to settle certain claims asserted by
5 CEH against Settling Defendant as set forth in the Complaint in the above-captioned matter.

6 2.2 On or about January 12, 2017, CEH provided a 60-day Notice of Violation of
7 Proposition 65 to the California Attorney General, to the District Attorneys of every county in
8 California, to the City Attorneys of every California city with a population greater than
9 750,000, and to Settling Defendant in which CEH alleged that Settling Defendant violated
10 Proposition 65 by exposing persons to acrylamide contained in Covered Products without first
11 providing a clear and reasonable Proposition 65 warning.

12 2.3 Settling Defendant is a business entity that manufactures, distributes, sells, or
13 offers for sale Covered Products that are sold in the State of California or has done so in the
14 past.

15 2.4 On March 2, 2017, CEH filed the original complaint in the above-captioned
16 matter. On April 3, 2017, CEH filed the Complaint, naming Settling Defendant as a
17 defendant.

18 2.5 For purposes of this Consent Judgment only, the Parties stipulate that this Court
19 has jurisdiction over the allegations of violations contained in the operative Complaint and
20 personal jurisdiction over Settling Defendant as to the acts alleged in the operative Complaint,
21 that venue is proper in the County of Alameda, and that this Court has jurisdiction to enter and
22 enforce this Consent Judgment as a full and final resolution of all claims which were or could
23 have been raised in the operative Complaint based on the facts alleged therein with respect to
24 Covered Products manufactured, distributed, and/or sold by Settling Defendant.

25 2.6 Nothing in this Consent Judgment is or shall be construed as an admission by
26 the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall
27 compliance with the Consent Judgment constitute or be construed as an admission by the
28 Parties of any fact, conclusion of law, issue of law, or violation of law. Nothing in this

1 Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense
2 the Parties may have in any other pending or future legal proceedings. This Consent Judgment
3 is the product of negotiation and compromise and is accepted by the Parties solely for purposes
4 of settling, compromising, and resolving issues disputed in this Action.

5 **3. INJUNCTIVE RELIEF**

6 **3.1 Reformulation of Covered Products.** On or before March 1, 2019
7 (“Compliance Date”), Settling Defendant shall not purchase, manufacture, or import Covered
8 Products that are thereafter offered for sale in California that exceed the following acrylamide
9 concentration levels (the “Reformulation Levels”):

10 3.1.1 The average acrylamide concentration shall not exceed 281 parts per
11 billion (“ppb”) by weight (the “Average Level”). The Average Level is determined by randomly
12 selecting and testing at least 1 sample each from 5 different lots of a particular type of Covered
13 Product (or the maximum number of lots available for testing if less than 5) during a testing
14 period of at least 60 days.

15 3.1.2 The acrylamide concentration of any individual unit of Covered Products
16 shall not exceed 350 ppb by weight, based on a representative composite sample taken from the
17 individual unit being tested (the “Unit Level”). Testing for acrylamide shall be performed using
18 either GC/MS (Gas Chromatography/Mass Spectrometry), LC-MS/MS (Liquid Chromatograph-
19 Mass Spectrometry/Mass Spectrometry), or any other testing method agreed upon by the Parties
20 to this Consent Judgment.

21 **3.2 Clear and Reasonable Warnings.** A Covered Product purchased,
22 manufactured, imported by Settling Defendant after the Compliance Date may, as an
23 alternative to meeting the Reformulation Levels set forth in Section 3.1, thereafter be sold or
24 offered for sale in California with a warning that complies with the provisions of this Section
25 3.2 (a “Clear and Reasonable Warning”). A Clear and Reasonable Warning under this
26 Consent Judgment shall state:

27 3.2.1 For warnings on the packaging of the Covered Product:
28

1 **WARNING:** Consuming this product can expose you to acrylamide, which is known
2 to the State of California to cause cancer. For more information go to
3 www.P65Warnings.ca.gov/food.

4 Or,

5 3.2.2 For internet or catalog sales:

6 **WARNING:** Consuming this product can expose you to acrylamide,
7 which is known to the State of California to cause cancer. For more information go to
8 www.P65Warnings.ca.gov/food.

9 Either statement shall be prominently displayed with such conspicuousness, as compared with
10 other words, statements or designs as to render it likely to be read and understood by an
11 ordinary individual prior to sale. The word “**WARNING**” shall be displayed in all capital
12 letters and bold print. If the warning statement is displayed on the Covered Product’s label, it
13 must be set off from other surrounding information and enclosed in a text box. For internet or
14 catalog sales where the consumer is not physically present, the warning statement shall be
15 displayed in such a manner that it is likely to be read and understood by an ordinary
16 individual prior to the authorization of or actual payment. If Settling Defendant elects to avail
17 itself of the warning option provided by this Section 3.2, Settling Defendant shall provide
18 written notice to CEH prior to Settling Defendant’s first distribution or sale of Covered
19 Products with warnings under this Section 3.2, and Settling Defendant concurrently shall
20 make the additional payment specified in Section 5.2.4 below.

21 3.3 **Alternative Compliance.** For Covered Products that Settling Defendant
22 manufactures, purchases, or imports after the Compliance Date, Settling Defendant may
23 thereafter sell or distribute such Covered Products in the alternative to complying with
24 Sections 3.1 or 3.2 only if (1) Settling Defendant provides written notice to its customers that
25 the Covered Products are not labeled for sale in California and (2) the statement “Not for
26 Sale in California,” or substantially similar language, is prominently placed upon such
27 Covered Product’s package as compared with other words or statements on the label or
28 labeling as to render it likely to be read and understood by an ordinary individual under
customary conditions of purchase or use.

1 **4. ENFORCEMENT**

2 4.1 **General Enforcement Provisions.** CEH may, by motion or application for an
3 order to show cause before this Court, enforce the terms and conditions contained in this
4 Consent Judgment. Any action to enforce alleged violations of Section 3 by Settling
5 Defendant shall be brought exclusively pursuant to this Section 4, and be subject to the meet
6 and confer requirement of Section 4.2.5 if applicable.

7 4.2 **Enforcement of Injunctive Relief by CEH.**

8 4.2.1 Notice of Violation. In the event that CEH purchases a Covered
9 Product in California with a best-by or sell-by (or equivalent) date or other code that reflects
10 that the Covered Product was manufactured, purchased, or imported on or after the
11 Compliance Date, and for which CEH has laboratory test results showing that the Covered
12 Product exceeds the Unit Level, and which lacks a Clear and Reasonable Warning that
13 complies with Section 3.2, CEH may issue a Notice of Violation pursuant to this Section.
14 Provided, however, CEH may not issue any Notice of Violation if the packaging of the
15 Covered Product is marked or labeled with the statement “Not for Sale in California” or
16 substantially similar language as long as such statement is prominently placed upon such
17 Covered Product’s label or other labeling as compared with other words or statements on the
18 label or labeling as to render it likely to be read and understood by an ordinary individual
19 under customary conditions of purchase or use. If Settling Defendant marks or labels a
20 Covered Product with such a statement, Settling Defendant shall include a letter to their
21 retailer or distributor customer notifying the customer that the Covered Product may not be
22 sold in California.

23 4.2.2 Service of Notice of Violation and Supporting Documentation.

24 4.2.2.1 The Notice of Violation shall be sent to the person(s) identified
25 in Section 8.2 to receive notices for Settling Defendant, and must be served within sixty (60)
26 days of the later of the date the Covered Product at issue was purchased or otherwise acquired
27 by CEH or the date that CEH can reasonably determine that the Covered Product at issue was
28 manufactured, shipped, sold, or offered for sale by Settling Defendant, provided, however, that

1 CEH may have up to an additional sixty (60) days to send the Notice of Violation if,
2 notwithstanding CEH's good faith efforts, the test data required by Section 4.2.2.2 below
3 cannot be obtained by CEH from its laboratory before expiration of the initial sixty (60) day
4 period.

5 4.2.2.2 The Notice of Violation shall, at a minimum, set forth: (a) the
6 date the Covered Product was purchased; (b) the location at which the Covered Product was
7 purchased; (c) a description of the Covered Product giving rise to the alleged violation,
8 including the name and address of the retail entity from which the sample was obtained and
9 pictures of the product packaging from all sides, which identifies the product lot; and (d) all
10 test data obtained by CEH regarding the Covered Product and supporting documentation
11 sufficient for validation of the test results, including any laboratory reports, quality assurance
12 reports, and quality control reports associated with testing of the Covered Product.

13 4.2.3 Notice of Election of Response. No more than thirty (30) days after
14 effectuation of service of a Notice of Violation, Settling Defendant shall provide written notice
15 to CEH whether it elects to contest the allegations contained in a Notice of Violation ("Notice
16 of Election"). Failure to provide a Notice of Election within thirty (30) days of effectuation of
17 service of a Notice of Violation shall be deemed an election to contest the Notice of Violation.
18 Upon notice to CEH, Settling Defendant may have up to an additional sixty (60) days to elect
19 if, notwithstanding Settling Defendant's good faith efforts, Settling Defendant is unable to
20 verify the test data provided by CEH before expiration of the initial thirty (30) day period.

21 4.2.4 If a Notice of Violation is contested, the Notice of Election shall
22 include all documents upon which Settling Defendant is relying to contest the alleged
23 violation, including all available acrylamide test data for Covered Products with the same lot
24 number as that of the Covered Product identified in CEH's Notice of Violation (the "Noticed
25 Covered Products"). If Settling Defendant or CEH later acquires additional test or other data
26 regarding the alleged violation during the meet and confer period described in Section 4.2.5, it
27 shall notify the other party and promptly provide all such data or information to the party
28 unless either the Notice of Violation or Notice of Election has been withdrawn.

1 4.2.5 Meet and Confer. If a Notice of Violation is contested, CEH and
2 Settling Defendant shall meet and confer to attempt to resolve their dispute. Within thirty (30)
3 days of serving a Notice of Election contesting a Notice of Violation, Settling Defendant may
4 withdraw the original Notice of Election contesting the violation and serve a new Notice of
5 Election to not contest the violation, provided, however, that, in this circumstance, Settling
6 Defendant shall pay \$2,500 in addition to any other payment required under this Consent
7 Judgment. At any time, CEH may withdraw a Notice of Violation, in which case for purposes
8 of this Section 4.2 the result shall be as if CEH never issued any such Notice of Violation. If
9 no informal resolution of a Notice of Violation results within thirty (30) days of a Notice of
10 Election to contest, CEH may file an enforcement motion or application pursuant to Section
11 4.1. In any such proceeding, CEH may seek whatever fines, costs, penalties, attorneys' fees,
12 or other remedies are provided by law for an alleged failure to comply with the Consent
13 Judgment.

14 4.2.6 Non-Contested Notices. If Settling Defendant elects to not contest the
15 allegations in a Notice of Violation, they shall undertake corrective action(s) and make
16 payments, if any, as set forth below.

17 4.2.6.1 Settling Defendant shall include in its Notice of Election a
18 detailed description with supporting documentation of the corrective action(s) that it has
19 undertaken or proposes to undertake to address the alleged violation. Any such correction
20 shall, at a minimum, provide reasonable assurance that all Noticed Covered Products will not
21 be thereafter be sold or offered for sale in California. Settling Defendant shall make available
22 to CEH for inspection and copying records of non-privileged correspondence sufficient to
23 show market withdrawal of the Noticed Covered Products to the extent it has such documents
24 on file. If the Notice of Violation is based on a violation of the Unit Level with respect to a
25 single Covered Product, Settling Defendant may be excused from the recall obligation
26 described in the foregoing (but not the monetary payments, if any, required by this Section 4)
27 if Settling Defendant produces test results and other evidence that: (1) demonstrates that the
28 acrylamide levels found by CEH in the unit alleged to be in violation is an aberration; and (2)

1 otherwise provides reasonable assurance that the remainder of the Noticed Covered Products,
2 aside from the unit alleged to be in violation, comply with the Reformulation Levels. The
3 Parties agree that this Section 4.2.6.1 is satisfied if Settling Defendant can demonstrate that the
4 type of Covered Product at issue in the Notice of Violation satisfies the Average Level.
5 However, to avail itself of this provision, Settling Defendant must provide CEH with all non-
6 privileged acrylamide test data in its possession, custody or control pertaining to the type of
7 Covered Product at issue in the Notice of Violation that was performed within the year prior to
8 the date of the Notice of Election. If there is a dispute over whether Settling Defendant is
9 excused from the corrective action, Settling Defendant and CEH shall meet and confer before
10 seeking any remedy in court. In no case shall CEH issue more than one Notice of Violation
11 per manufacturing lot of a type of Covered Product, nor shall CEH issue more than two
12 Notices of Violation in the first year following the Compliance Date.

13 4.2.6.2 If the Notice of Violation is the first, second, third, or fourth
14 Notice of Violation received by Settling Defendant under Section 4.2.1 that was not
15 successfully contested or withdrawn, then Settling Defendant shall pay \$15,000 for each
16 Notice of Violation. If Settling Defendant has received more than four (4) Notices of
17 Violation under Section 4.2.1 that were not successfully contested or withdrawn, then Settling
18 Defendant shall pay \$25,000 for each Notice of Violation. If Settling Defendant produces
19 with its Notice of Election test data for the Covered Product that : (i) was conducted prior to
20 the date CEH gave Notice of Violation; (ii) was conducted on the same type of Covered
21 Product; and (iii) demonstrates acrylamide levels below the applicable Reformulation Level,
22 then any payment under this Section shall be reduced by 100 percent (100%) for the first
23 Notice of Violation, by seventy-five percent (75%) for the second Notice of Violation, and by
24 fifty percent (50%) for any subsequent Notice of Violation. If Settling Defendant is excused
25 from the corrective action obligation pursuant to Section 4.2.6.1, then Settling Defendant shall
26 pay \$2,500 for that Notice of Violation. In no case shall Settling Defendant be obligated to
27 pay more than \$100,000 for all Notices of Violation not successfully contested or withdrawn
28 in any calendar year irrespective of the total number of Notices of Violation issued.

1 4.2.7 Payments. Any payments under Section 4.2 shall be made by check
2 payable to the “Lexington Law Group” and shall be paid within thirty (30) days of service of a
3 Notice of Election triggering a payment and shall be used as reimbursement for costs for
4 investigating, preparing, sending, and prosecuting Notices of Violation, and to reimburse
5 attorneys’ fees and costs incurred in connection with these activities.

6 4.3 **Repeat Violations.** If Settling Defendant has received four (4) or more Notices
7 of Violation concerning the same type of Covered Product that were not successfully contested
8 or withdrawn in any two (2) year period then, at CEH’s option, CEH may seek whatever fines,
9 costs, penalties, attorneys’ fees, or other remedies that are provided by law for failure to
10 comply with the Consent Judgment. Prior to seeking such relief, CEH shall meet and confer
11 with Settling Defendant for at least thirty (30) days to determine if Settling Defendant and
12 CEH can agree on measures that Settling Defendant can undertake to prevent future alleged
13 violations.

14 **5. PAYMENTS**

15 5.1 **Payments by Settling Defendant.** Within ten (10) calendar days of the
16 Effective Date, Settling Defendant shall pay the total sum of \$90,000 as a settlement payment
17 as further set forth in this Section.

18 5.2 **Allocation of Payments.** The total settlement amount for Settling Defendant
19 shall be paid in four (4) separate checks in the amounts specified below and delivered as set
20 forth below. Any failure by Settling Defendant to comply with the payment terms herein shall
21 be subject to a stipulated late fee to be paid by Settling Defendant to CEH in the amount of
22 \$100 for each day the full payment is not received after the payment due date set forth in
23 Section 5.1. The late fees required under this Section shall be recoverable, together with
24 reasonable attorneys’ fees, in an enforcement proceeding brought pursuant to Section 4 of this
25 Consent Judgment. The funds paid by Settling Defendant shall be allocated as set forth below
26 between the following categories and made payable as follows:

27 5.2.1 \$15,590 as a civil penalty pursuant to Health & Safety Code §
28 25249.7(b). The civil penalty payment shall be apportioned in accordance with Health &

1 Safety Code § 25249.12 (25% to CEH and 75% to the State of California’s Office of
2 Environmental Health Hazard Assessment (“OEHHA”). Accordingly, the OEHHA portion of
3 the civil penalty payment for \$11,692.50 shall be made payable to OEHHA and associated
4 with taxpayer identification number 68-0284486. This payment shall be delivered as follows:

5 For United States Postal Service Delivery:

6 Attn: Mike Gyurics
7 Fiscal Operations Branch Chief
8 Office of Environmental Health Hazard Assessment
9 P.O. Box 4010, MS #19B
10 Sacramento, CA 95812-4010

11 For Non-United States Postal Service Delivery:

12 Attn: Mike Gyurics
13 Fiscal Operations Branch Chief
14 Office of Environmental Health Hazard Assessment
15 1001 I Street, MS #19B
16 Sacramento, CA 95814

17 The CEH portion of the civil penalty payment for \$3,897.50 shall be made
18 payable to the Center for Environmental Health and associated with taxpayer identification
19 number 94-3251981. This payment shall be delivered to Lexington Law Group, 503
20 Divisadero Street, San Francisco, CA 94117.

21 5.2.2 \$11,690 as an Additional Settlement Payment (“ASP”) to CEH pursuant
22 to Health & Safety Code § 25249.7(b), and California Code of Regulations, Title 11, § 3204.
23 CEH intends to restrict use of the ASPs received from this Consent Judgment to the following
24 purposes: the funds will be placed in CEH’s Toxics in Food Fund and used to support CEH
25 programs and activities that seek to educate the public about acrylamide and other toxic
26 chemicals in food, to work with the food industry and agriculture interests to reduce exposure
27 to acrylamide and other toxic chemicals in food, and to thereby reduce the public health
28 impacts and risks of exposure to acrylamide and other toxic chemicals in food sold in
California. CEH shall obtain and maintain adequate records to document that ASPs are spent
on these activities and CEH agrees to provide such documentation to the Attorney General
within thirty (30) days of any request from the Attorney General. The payment pursuant to

1 this Section shall be made payable to the Center for Environmental Health and associated with
2 taxpayer identification number 94-3251981. This payment shall be delivered to Lexington
3 Law Group, 503 Divisadero Street, San Francisco, CA 94117.

4 5.2.3 \$62,720 as a reimbursement of a portion of CEH's reasonable
5 attorneys' fees and costs. The attorneys' fees and cost reimbursement shall be made payable
6 to the Lexington Law Group and associated with taxpayer identification number 94-3317175.
7 This payment shall be delivered to Lexington Law Group, 503 Divisadero Street, San
8 Francisco, CA 94117.

9 5.2.4 **Additional Civil Penalty.** If Settling Defendant avails itself of the
10 warning option provided for by Section 3.2, Settling Defendant shall make an additional
11 payment of \$45,000 as a civil penalty, concurrently with its written notice as provided in
12 Section 3.2. This additional civil penalty payment shall be apportioned in accordance with
13 Health & Safety Code § 25249.12 (25% to CEH and 75% to the State of California's Office of
14 Environmental Health Hazard Assessment ("OEHHA")). Accordingly, the OEHHA portion of
15 the civil penalty payment for \$33,750 shall be made payable to OEHHA, associated with
16 taxpayer identification number 68-0284486, and sent to the OEHHA address set forth in
17 section 5.2.1 above. The CEH portion of the additional civil penalty payment for \$11,250
18 shall be made payable to the Center for Environmental Health and associated with taxpayer
19 identification number 94-3251981. This payment shall be delivered to Lexington Law Group,
20 503 Divisadero Street, San Francisco, CA 94117.

21 **6. MODIFICATION AND DISPUTE RESOLUTION**

22 6.1 **Modification.** This Consent Judgment may be modified from time to time by
23 express written agreement of the Parties, with the approval of the Court and prior notice to the
24 Attorney General's Office, or by an order of this Court upon motion and prior notice to the
25 Attorney General's Office and in accordance with law.

26 6.2 **Notice; Meet and Confer.** Any Party seeking to modify this Consent
27 Judgment shall attempt in good faith to meet and confer with all affected Parties prior to filing
28 a motion to modify the Consent Judgment.

1 **7. CLAIMS COVERED AND RELEASE**

2 7.1 This Consent Judgment is a full, final and binding resolution between CEH on
3 behalf of itself and the public interest and Settling Defendant and its parent (currently, The
4 H.T. Hackney Co.), subsidiaries, affiliated entities that are under common ownership,
5 directors, officers, employees, agents, shareholders, successors, assigns, and attorneys
6 (“Defendant Releasees”), and all entities to which Settling Defendant directly or indirectly
7 distribute or sell Covered Products, including but not limited to distributors, wholesalers,
8 customers, retailers, franchisees, licensors, and licensees (“Downstream Defendant
9 Releasees”), of any violation of Proposition 65 based on failure to warn about alleged
10 exposure to acrylamide contained in Covered Products that were manufactured, purchased or
11 imported by Settling Defendant prior to the Compliance Date.

12 7.2 CEH, for itself, its agents, successors and assigns, releases, waives, and forever
13 discharges any and all claims against Settling Defendant, Defendant Releasees, and
14 Downstream Defendant Releasees arising from any violation of Proposition 65 or any other
15 statutory or common law claims that have been or could have been asserted by CEH
16 individually or in the public interest regarding the failure to warn about exposure to acrylamide
17 arising in connection with Covered Products manufactured or purchased, or imported by
18 Settling Defendant prior to the Compliance Date.

19 7.3 Compliance with the terms of this Consent Judgment by Settling Defendant
20 shall constitute compliance with Proposition 65 by Settling Defendant, Defendant Releasees
21 and Downstream Defendant Releasees with respect to any alleged failure to warn about
22 acrylamide in Covered Products manufactured, purchased or imported by Settling Defendant
23 on and after the Compliance Date.

24 **8. PROVISION OF NOTICE**

25 8.1 When CEH is entitled to receive any notice under this Consent Judgment, the
26 notice shall be sent by first class and electronic mail to:
27
28

Howard Hirsch
Lexington Law Group
503 Divisadero Street
San Francisco, CA 94117
hhirsch@lexlawgroup.com

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

Trenton H. Norris
Sarah Esmaili
Arnold & Porter Kaye Scholer
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111
Trent.Norris@arnoldporter.com
Sarah.Esmaili@arnoldporter.com

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

9. COURT APPROVAL

9.1 This Consent Judgment shall become effective upon the date signed by CEH and Settling Defendant, whichever is later, provided however, that CEH shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant shall support entry of this Consent Judgment by the Court.

9.2 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 9.1.

9.3 Within ten (10) days of receiving the payments required by Section 5.1, CEH shall file a request for dismissal without prejudice of The H.T. Hackney Co. from this action, and The H.T. Hackney Co. shall waive all costs in this action.

10. GOVERNING LAW AND CONSTRUCTION

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

1 **11. ATTORNEYS' FEES**

2 11.1 A Party who unsuccessfully brings or contests an action, motion, or application
3 arising out of this Consent Judgment shall be required to pay the prevailing Party's reasonable
4 attorneys' fees and costs.

5 11.2 Nothing in this Section 11 shall preclude a party from seeking an award of
6 sanctions pursuant to law.

7 **12. ENTIRE AGREEMENT**

8 12.1 This Consent Judgment contains the sole and entire agreement and
9 understanding of the Parties with respect to the entire subject matter hereof, and any and all
10 prior discussions, negotiations, commitments, or understandings related thereto, if any, are
11 hereby merged herein and therein. There are no warranties, representations, or other
12 agreements between the Parties except as expressly set forth herein. No representations, oral
13 or otherwise, express or implied, other than those specifically referred to in this Consent
14 Judgment have been made by any Party hereto. No other agreements not specifically
15 contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the
16 Parties hereto. Any agreements specifically contained or referenced herein, oral or otherwise,
17 shall be deemed to exist or to bind any of the Parties hereto only to the extent that they are
18 expressly incorporated herein. No supplementation, modification, waiver, or termination of
19 this Consent Judgment shall be binding unless executed in writing by the Party to be bound
20 thereby. No waiver of any of the provisions of this Consent Judgment shall be deemed or shall
21 constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such
22 waiver constitute a continuing waiver.

23 **13. RETENTION OF JURISDICTION**

24 13.1 This Court shall retain jurisdiction of this matter to implement or modify the
25 Consent Judgment.
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1 **14. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

2 14.1 Each signatory to this Consent Judgment certifies that he or she is fully
3 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter
4 into and execute the Consent Judgment on behalf of the Party represented and legally to bind
5 that Party.

6 **15. NO EFFECT ON OTHER SETTLEMENTS**

7 15.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim
8 against an entity other than Settling Defendant on terms that are different than those contained
9 in this Consent Judgment. Settling Defendant may move to modify this Consent Judgment
10 pursuant to Section 6 to substitute higher Reformulation Levels that CEH agrees to in a future
11 consent judgment applicable to products identical to the Covered Products, and CEH agrees
12 not to oppose any such motion except for good cause shown.

13 **16. EXECUTION IN COUNTERPARTS**

14 16.1 The stipulations to this Consent Judgment may be executed in counterparts and
15 by means of facsimile or portable document format (pdf), which taken together shall be
16 deemed to constitute one document.

17 **IT IS SO ORDERED, ADJUDGED,**
18 **AND DECREED**

19
20 Dated: _____
21 _____
22 Judge of the Superior Court
23
24
25
26
27
28

1 **IT IS SO STIPULATED:**

2
3 Dated: 30 Apr, 2018

**CENTER FOR ENVIRONMENTAL
HEALTH**



Signature

CHARLIE PIZARRO

Printed Name

ASSOCIATE DIRECTOR

Title

11 Dated: _____, 2018

UNCLE RAYS, LLC

Signature

Printed Name

Title

1 **IT IS SO STIPULATED:**

2
3 Dated: _____, 2018

**CENTER FOR ENVIRONMENTAL
HEALTH**

4
5
6 Signature _____

7
8 Printed Name _____

9
10 Title _____

11 Dated: August 28, 2018

UNCLE RAYS, LLC

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14 Signature Joseph W. Dilly _____

15
16 Printed Name Joseph W. Dilly _____

17
18
19 Title General Manager _____

EXHIBIT A

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- Sour Cream & Cheddar Potato Chips
- Chipotle Jack Potato Chips
- Salt & Vinegar Potato Chips
- Ripple and Wavy Potato Chips
- Barbeque Potato Chips
- Sour Cream and Onion Potato Chips
- Plain Potato Chips
- Hot Potato Chips
- Assorted Potato Chips
- Hawaiian Barbeque Potato Chips
- Maui Onion Potato Chips