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10 Consumer Advocacy Group, Inc.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF LOS ANGELES

13 CONSUMER ADVOCACY GROUP, INC.,  
14 in the public interest,

15 Plaintiff,

16 v.

17 TAWA SUPERMARKET, INC. DBA 99  
18 RANCH MARKET DBA 168 MARKET, a  
19 California Corporation *et al.*,

20 Defendants.

CASE NO. 20STCV17732

[Assigned for All Purposed to the Hon.  
Michelle Williams Court, Dept. 74]

CONSENT JUDGMENT [PROPOSED]

Health & Safety Code § 25249.5 *et seq.*

21 **1. INTRODUCTION**

22 1.1 This Consent Judgment is entered into by and between plaintiff, CONSUMER  
23 ADVOCACY GROUP, INC. (referred to as “CAG”) acting on behalf of itself and in the interest  
24 of the public, and defendant, KIM SENG COMPANY DBA IHA BEVERAGE (hereinafter  
25 referred to as “Defendant”), with each a Party to the action and collectively referred to as  
26 “Parties.”

27 1.2 Defendant and Products

28 1.2.1 CAG alleges that Defendant is a California corporation which employs ten  
or more persons. For purposes of this Consent Judgment only, Defendant is deemed a person in  
the course of doing business in California and are subject to the provisions of the Safe Drinking

1 Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq.  
2 (“Proposition 65”).

3 1.2.2 CAG alleges that Defendant distributes and sells: (i) **Ground Cinnamon**  
4 **Powder** and **Dried Cinnamon Powder**, including but not limited to (a) "SUPERBRAND®";  
5 "DRIED CINNAMON POWDER"; "100%"; "Net Wt: 160z (454g)"; "PRODUCT OF  
6 CHINA"; "DISTRIBUTOR: IHA BEVERAGE COMMERCE, CA, 90040";  
7 UPC#610232012612 and (b) "Super Brand TM"; "Dried Cinnamon Powder"; "Net Wt: 4 oz  
8 (113g)"; "UPC 6 10232 01247 6"; "Product of China" and (ii) **Broken Rice** including but not  
9 limited to “Jasmine Broken Rice”; “Gao Tam Thom Dac Biet”; “Nang Thom Cho Dao”; “Thai  
10 Hom Mali Broken Rice”; “Double Parrot Brand”; “Net Wt. 4 Lbs. (1.816 KGS.)”; “Qualified  
11 System Certified: HACCP/GMP/ISO 9001/BRC”; “UPC 6 10232 009902” “Product of  
12 Thailand” “Distributor: IHA Beverage, Commerce, CA. 90040” (herein after referred to as the  
13 “Covered Products”). This Consent Judgment includes the Covered Products manufactured  
14 through the date of this Consent Judgment and those chemicals in the Covered Products.

### 15 1.3 **Listed Chemicals**

16 1.3.1 Lead and Lead Compounds (hereinafter “Lead”) are known to the State of  
17 California to cause cancer and/or birth defects or other reproductive harm.

18 1.3.2 Cadmium and Cadmium Compounds (hereinafter “Cadmium”) are known  
19 to the State of California to cause cancer and/or birth defects or other reproductive harm.

20 1.3.3 Inorganic Arsenic and Inorganic Arsenic Compounds (“Arsenic”) is known  
21 to the State of California to cause birth defects or other reproductive harm.

### 22 1.4 **Notices of Violation**

23 1.4.1 On or about July 2, 2019, CAG served Defendant and various public enforcement  
24 agencies with a document entitled “60-Day Notice of Violation,” Attorney General Notice  
25 Number 2019-01266 (hereinafter “Notice 1”), that provided the Defendant with notice of alleged  
26 violations of Health & Safety Code § 25249.6 for failing to warn individuals in California of  
27 exposures to Cadmium, Arsenic and Lead, contained in Ground Spices, specifically Ground  
28

1 Cinnamon Powder and Dried Cinnamon Powder, sold and/or distributed by Defendant. No other  
2 public enforcer has commenced or diligently prosecuted the allegations set forth in the Notice 1.  
3 Kim Seng agrees that Notice 1 is part of this settlement and Consent Judgment.

4 1.4.2 On or about August 26, 2019, 2019, CAG served Defendant and various public  
5 enforcement agencies with a document entitled “60-Day Notice of Violation,” Attorney General  
6 Notice Number 2019-01656 (hereinafter “Notice 2”) that provided the Defendant with notice of  
7 alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in  
8 California of exposures to Lead contained in Broken Rice sold and/or distributed by Defendant.  
9 No other public enforcer has commenced or diligently prosecuted the allegations set forth in  
10 Notice 2. Kim Seng agrees that Notice 2 is part of this settlement and Consent Judgment.

11 1.4.3 On or about May 14, 2020, CAG served Defendant and various public  
12 enforcement agencies with a document entitled “60-Day Notice of Violation,” Attorney General  
13 Notice Number 2020-01224 (hereinafter “Notice 3”) that provided the Defendant with notice of  
14 alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in  
15 California of exposures to Lead and Cadmium contained in Dried Cinnamon Powder 16 oz.  
16 (barcode 610232-012117) sold and/or distributed by Defendant. No other public enforcer has  
17 commenced or diligently prosecuted the allegations set forth in Notice 3. Kim Seng agrees that  
18 Notice 3 is part of this settlement and Consent Judgment.

19 1.4.4 On or about December 3, 2020, CAG served Defendant and various public  
20 enforcement agencies with a document entitled “60-Day Notice of Violation,” Attorney General  
21 Notice Number 2020-03282 (hereinafter “Notice 4”) that provided the Defendant with notice of  
22 alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in  
23 California of exposures to Lead contained in Dried Cinnamon Powder sold and/or distributed by  
24 Defendant. No other public enforcer has commenced or diligently prosecuted the allegations set  
25 forth in Notice 4. Kim Seng agrees that Notice 4 is part of this settlement and Consent  
26 Judgment.  
27 Judgment.

1           1.4.4 Notice 1, Notice 2, Notice 3 and Notice 4 collectively are referred to as the  
2 “Notices.”

3           1.5     **Complaint**

4           1.5.1 On May 8, 2020, CAG filed a complaint for civil penalties and injunctive  
5 relief (“Complaint 1”) in Los Angeles Superior Court, Case No. 20STCV17732 against  
6 Defendant. The Complaint alleges, among other things, that Defendant violated Proposition 65  
7 by failing to give clear and reasonable warnings of exposure to Lead, Arsenic, and Cadmium  
8 from the Covered Products. Upon acceptance by the court of this Consent Judgment, Kim Seng  
9 and CAG agree that this lawsuit will be dismissed with prejudice as to Kim Seng only.

10           1.5.2 On July 12, 2021, CAG filed a complaint for civil penalties and injunctive  
11 relief (“Complaint 2”) in Los Angeles Superior Court, Case No. 21STCV25539 against  
12 Defendant. The Complaint alleges, among other things, that Defendant violated Proposition 65  
13 by failing to give clear and reasonable warnings of exposure to Lead from Dried Cinnamon  
14 Powder. Kim Seng contends it was never served with this lawsuit, but consents to the jurisdiction  
15 of this Court to enter and enforce the Consent Judgment, and upon acceptance by the court of  
16 this Consent Judgment, Kim Seng and CAG agree that this lawsuit will be dismissed with  
17 prejudice as to Kim Seng.

18           1.5.3 Complaint 1 and Complaint 2 are referred to as the “Complaints.”

19           1.6     **Consent to Jurisdiction**

20           1.6.1 For purposes of this Consent Judgment only, the Parties stipulate that this  
21 Court has jurisdiction over the allegations of violations contained in the Notices and Complaints  
22 and personal jurisdiction over Defendant as to the acts alleged in the Notices and Complaints,  
23 that venue is proper in the County of Los Angeles and that this Court has jurisdiction to enter this  
24 Consent Judgment as a full and final settlement and resolution of all the allegations against  
25 Defendant contained in the Notices and Complaints and of all claims which were or could have  
26 been raised by any person or entity based in whole or in part, directly or indirectly, on the facts  
27

1 alleged therein or arising therefrom or related thereto.

2 **1.7 No Admission**

3 1.7.1 This Consent Judgment resolves claims that are denied and disputed. The  
4 Parties enter into this Consent Judgment pursuant to a full and final settlement of any and all  
5 claims between the Parties for the purpose of avoiding prolonged litigation. Defendant expressly  
6 maintains that all of its warnings on the Covered Products provide a clear and reasonable  
7 warning of exposure to Lead, Arsenic, and Cadmium from the Covered Products and that said  
8 Proposition 65 compliant warnings were on the Covered Products prior to the filing of the  
9 Complaints. Nothing in this Consent Judgment shall be construed as an admission by the Parties  
10 of any material allegation of the Complaints (each and every allegation of which Defendant  
11 denies), any fact, conclusion of law, issue of law or violation of law, including without  
12 limitation, any admission concerning any violation of Proposition 65 or any other statutory,  
13 regulatory, common law, or equitable doctrine, or the meaning of the terms “knowingly and  
14 intentionally expose” or “clear and reasonable warning” as used in Health and Safety Code  
15 section 25249.6. Nothing in this Consent Judgment, nor compliance with its terms, shall  
16 constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of  
17 law, or violation of law, or of fault, wrongdoing, or liability by any Defendant, its officers,  
18 directors, employees, or parent, subsidiary or affiliated corporations, or be offered or admitted as  
19 evidence in any administrative or judicial proceeding or litigation in any court, agency, or forum.  
20 Furthermore, nothing in this Consent Judgment shall prejudice, waive or impair any right,  
21 remedy, argument, or defense the Parties may have in any other or future legal proceeding,  
22 except as expressly provided in this Consent Judgment.  
23

24 **1.8 Purpose of Consent Judgment**

25 1.8.1 This Consent Judgment resolves claims that are denied and disputed. The  
26 Parties enter into this Consent Judgment pursuant to a full and final settlement of any and all  
27 claims between the parties for the purpose of avoiding prolonged litigation. The Parties intend  
28

1 that this Consent Judgment provide, to the maximum extent permitted by law, *res judicata and*  
2 *collateral estoppel* protection for Defendant against any and all other claims based on the same  
3 or similar allegations under Proposition 65 pertaining to the Covered Products.

4 **2. DEFINITIONS**

5 2.1 “Covered Products” means Dried Cinnamon Powder (alleged in Notices 1, 3, and  
6 4), Ground Cinnamon Powder (as alleged in Notice 1), and Broken Rice (as alleged in Notice 2)  
7 sold or supplied by Defendant, manufactured through the date of this Consent Judgment.

8 2.2 “Effective Date” means the date that this Consent Judgment is approved by the  
9 Court.

10 2.3 “Lead” means Lead and Lead Compounds.

11 2.4 “Cadmium” means Cadmium and Cadmium Compounds.

12 2.5 “Arsenic” means Inorganic Arsenic and Inorganic Arsenic Compounds.

13 **3. INJUNCTIVE RELIEF / REFORMULATION / CLEAR AND REASONABLE**  
14 **WARNINGS.**

15 3.1 After the Effective Date, Defendant shall not sell in California, offer for sale in  
16 California, or ship for sale in California any Covered Products unless the level of Lead does not  
17 exceed 34 parts per billion (“ppb”) and the level of Cadmium does not exceed 85 ppb, and the  
18 level of Arsenic does not exceed 20 ppb.

19 3.2 For any Covered Products that will be offered by Defendant for sale in California  
20 exceeding the levels specified in section 3.1, after the Effective Date Defendant shall place a  
21 Proposition 65 compliant warning on these products as set forth below. Any warning provided  
22 pursuant to this section shall be affixed to the packaging of, or directly on, the Covered Products,  
23 and be prominently placed with such conspicuousness as compared with other words, statements,  
24 designs, or devices as to render it likely to be read and understood by an ordinary individual  
25 under customary conditions before purchase or use. The warning must be set off from other  
26 surrounding information, enclosed in a box. Where the packaging of the Covered Product  
27  
28

1 includes consumer information as defined by California Code of Regulations title 27 §25600.1(c)  
2 in a language other than English, the warning must also be provided in that language in addition  
3 to English. The Parties agree that current law permits the long form or short form warning to be  
4 used for food products. Where a short form warning is used, the entire warning must be in a type  
5 size no smaller than the largest type size used for other consumer information on the product. In  
6 no case shall the warning appear in a type size smaller than 6-point type. The Parties also agree  
7 that current law does not require the use of the “/food” on short-form warnings URL, but that  
8 such is recommended under a proposed regulation of OEHHA still in the regulatory process.  
9 Should the proposed regulation be adopted, Defendant agrees to follow any compliance period  
10 specified by the California Code of Regulations for parties to redesign their labels to comply  
11 with the new law. The Parties agree that the following long form and short form warning  
12 language reflects the current law as it presently exists and shall constitute compliance with  
13 Proposition 65 with respect to all chemicals alleged in this Lawsuit and Notice as to the Covered  
14 Products placed into the steam of commerce by Defendant after the Effective Date:  
15

16  
17 **WARNING:** Consuming this product can expose you to Lead,  
18 a chemical known to the State of California to cause cancer  
19 and birth defects or other reproductive harm. For more  
20 information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

21 or


22 **WARNING:** Consuming this product can expose you to  
23 Cadmium, a chemical known to the State of California to cause  
24 cancer and birth defects or other reproductive harm. For more  
25 information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

26 or

27 **WARNING:** Consuming this product can expose you to  
28 Inorganic Arsenic, a chemical known to the State of California

1 to cause birth defects or other reproductive harm. For more  
2 information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

3 or

4  **WARNING:** Cancer and Reproductive Harm –  
5 [www.p65Warnings.ca.gov](http://www.p65Warnings.ca.gov).

6 3.3 For any Covered Products still existing in the Defendant's inventory as of the  
7 Effective Date, Defendant shall place a Proposition 65 compliant warning on them, unless the  
8 Covered Products does not exceed their respective levels of Lead, Arsenic, or Cadmium. Any  
9 warning provided pursuant to this section shall comply with the warning requirements under  
10 Section 3.2 above.

11 3.4 The Parties have agreed that an essential term of this settlement is that the  
12 injunctive relief agreed to herein is a full and complete recitation of this settlement term, as  
13 enumerated above, and acceptable to both Parties such that warnings may be provided without  
14 product reformulation when the Covered Products contain levels of Lead, Arsenic, and/or  
15 Cadmium in exceedance of levels enumerated in section 3.1.

#### 16 **4. SETTLEMENT PAYMENT**

17 4.1 **Payment and Due Date:** Within sixty (60) days of the Effective Date,  
18 Defendant shall pay an all-inclusive total of One Hundred Eighty Four Thousand dollars  
19 (\$184,000) in full and complete settlement of any and all claims for monetary relief of any kind,  
20 including but not limited to claims for civil penalties, damages, attorney's fees, expert fees, or  
21 any other claim for costs, expenses, or monetary relief of any kind, for all claims that were or  
22 could have been asserted in the Notices and Complaints (the "Total Settlement Payment"). The  
23 \$184,000.00 Total Settlement Payment shall be allocated as follows:

24 4.1.1 **Civil Penalty:** Defendant shall issue separate checks totaling Twenty-  
25 Four Thousand Two Hundred dollars (\$24,200.00) as penalties pursuant to Health & Safety  
26 Code § 25249.12:  
27



1 (a) Defendant will issue a check made payable to the State of California's  
2 Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of Eighteen  
3 Thousand and One Hundred and Fifty dollars (\$18,150.00) representing 75% of the total penalty  
4 and Defendant will issue a separate check to CAG in the amount of Six Thousand and Fifty  
5 dollars (\$6,050.00) representing 25% of the total penalty; and

6 (b) Separate 1099s shall be issued for each of the above payments:  
7 Defendant will issue a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-  
8 0284486). Defendant will also issue a 1099 to CAG c/o Yeroushalmi & Yeroushalmi, 9100  
9 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

10 4.1.2 **Additional Settlement Payments:** Pursuant to Health & Safety Code §  
11 25249.7(b) and California Code of Regulations, Title 11 § 3203(d), Defendant shall make a  
12 separate payment, in the amount of Eighteen Thousand and Fifty dollars (\$18,050.00) as an  
13 additional settlement payment to "Consumer Advocacy Group, Inc." Defendant will issue a  
14 separate check to CAG for the Additional Settlement Payment. CAG will use this portion of the  
15 Total Settlement Payment as follows, eighty five percent (85%) for fees of investigation,  
16 purchasing and testing for Proposition 65 listed chemicals in various products, and for expert  
17 fees for evaluating exposures through various mediums, including but not limited to consumer  
18 product, occupational, and environmental exposures to Proposition 65 listed chemicals, and the  
19 cost of hiring consulting and retaining experts who assist with the extensive scientific analysis  
20 necessary for those files in litigation and to offset the costs of future litigation enforcing  
21 Proposition 65 but excluding attorney fees; fifteen percent (15%) for administrative costs  
22 incurred during investigation and litigation to reduce the public's exposure to Proposition 65  
23 listed chemicals by notifying those persons and/or entities believed to be responsible for such  
24 exposures and attempting to persuade those persons and/or entities to reformulate their products  
25 or the source of exposure to completely eliminate or lower the level of Proposition 65 listed  
26 chemicals including but not limited to costs of documentation and tracking of products  
27

1 investigated, storage of products, website enhancement and maintenance, computer and software  
2 maintenance, investigative equipment, CAG's member's time for work done on investigations,  
3 office supplies, mailing supplies and postage. Within 30 days of a request from the Attorney  
4 General, CAG shall provide to the Attorney General copies of documentation demonstrating how  
5 the above funds have been spent. CAG shall be solely responsible for ensuring the proper  
6 expenditure of such additional settlement payment.

7           **4.1.3 Reimbursement of Attorneys' Fees and Costs:** In full and complete  
8 resolution of any claims to Plaintiff's attorney's fees and expenses related to this matter,  
9 notwithstanding sections 6.2 and 9.2 below, Defendant shall pay One Hundred Forty-One  
10 Thousand and Seven Hundred and Fifty dollars (\$141,750.00) to "Yeroushalmi & Yeroushalmi"  
11 as full and complete reimbursement for any and all costs, reasonable investigation fees,  
12 expenses, attorneys' fees, expert fees, and any and all other costs and expenses of any kind  
13 incurred as a result of investigating, bringing this matter to Defendant's attention, preparing and  
14 serving the Notices, litigating, negotiating a settlement in the public interest, and seeking and  
15 obtaining court approval of this Consent Judgment.

16           4.2 Other than the payment to OEHHA described above, all payments referenced in  
17 paragraphs 4.1.1, 4.1.2, and 4.1.3 above, shall be delivered to: Reuben Yeroushalmi,  
18 Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212. The  
19 payment to OEHHA shall be delivered to Office of Environmental Health Hazard Assessment,  
20 Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento, California 95812. Concurrently  
21 with payment to OEHHA, Defendant shall provide CAG with written confirmation that the  
22 payment to OEHHA was delivered.

## 24 **5. MATTERS COVERED BY THIS CONSENT JUDGMENT**

25           5.1 This Consent Judgment is a full, final, and binding resolution between CAG on  
26 behalf of itself and in the public interest and Defendant for the alleged failure to provide  
27 Proposition 65 warning of exposure to Lead, Arsenic, and Cadmium from the Covered Products  
28

1 as set forth in the three Notices and two filed lawsuits, 20STCV17732 and 21STCV25539 (  
2 which Kim Seng contends was not served on Kim Seng, but Kim Seng consents to the Court’s  
3 jurisdiction to enter and enforce this Consent Judgment), and fully resolves all claims for all  
4 products and chemicals that have been asserted against Defendant by CAG in these Notices and  
5 Lawsuits up through the Effective Date for the alleged failure to provide Proposition 65 warnings  
6 for the Covered Products CAG, on behalf of itself and in the public interest, hereby discharges  
7 Defendant and its officers, directors, insurers, employees, parents, shareholders, divisions,  
8 subdivisions, subsidiaries, and their successors and assigns (“Defendant Releasees”) and all  
9 customers, retailers and downstream entities in the distribution chain of the Covered Products to  
10 whom Defendant distributed or sold Covered Products, and the predecessors, successors and  
11 assigns of any of them, and all of their respective officers, directors, shareholders, members,  
12 managers, employees, agents only as to Covered Products sold by the Defendant (collectively,  
13 “Downstream Releasees”), for all Covered Products placed into the stream of commerce up  
14 through the Effective Date for violations of Proposition 65 based on exposure to Lead, Arsenic,  
15 and Cadmium from the Covered Products. Defendant’s compliance with the terms of this  
16 Consent Judgment shall be deemed to constitute compliance with Proposition 65 regarding  
17 alleged exposures to Lead, Arsenic, and Cadmium from the Covered Products. Nothing in this  
18 Section affects CAG’s right to commence or prosecute an action under Proposition 65 against  
19 any person other than Defendant Releasees or Downstream Releasees after the Effective Date.

20  
21 5.2 CAG on behalf of itself, its past and current agents, representatives, attorneys,  
22 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or  
23 indirectly, any form of legal action and releases all claims, including, without limitation, all  
24 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations,  
25 damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation  
26 fees, expert fees, and attorneys’ fees) of any nature whatsoever, whether known or unknown,  
27 fixed or contingent (collectively “Claims”), against the Released Parties arising from any  
28 violation of Proposition 65 or any other statutory or common law regarding the failure to warn

1 about exposure to Lead, Arsenic, and Cadmium from the Covered Products that could have  
2 originally been brought in the current lawsuits. If there were chemicals listed in the Notice  
3 which were not named in the current lawsuits, CAG waives the right to file lawsuits for those  
4 chemicals in the Covered Products. In furtherance of the foregoing, as to alleged exposures to  
5 Lead, Arsenic, and Cadmium from the Covered Products, CAG on behalf of itself only, hereby  
6 waives any and all rights and benefits which it now has, or in the future may have, conferred  
7 upon it with respect to Claims arising from any violation of Proposition 65 or any other statutory  
8 or common law regarding the failure to warn about exposure to Lead, Arsenic, and Cadmium  
9 from the Covered Products by virtue of the provisions of section 1542 of the California Civil  
10 Code, which provides as follows:

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

17 CAG understands and acknowledges that the significance and consequence of this waiver of  
18 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or  
19 resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any  
20 violation of Proposition 65 or any other statutory or common law regarding the failure to warn  
21 about exposure to Lead, Arsenic, and Cadmium from the Covered Products, including but not  
22 limited to any exposure to, or failure to warn with respect to exposure to Lead, Arsenic, and  
23 Cadmium from the Covered Products, CAG will not be able to make any claim for those  
24 damages against Released Parties. Furthermore, CAG acknowledges that it intends to release  
25 Defendant fully and completely from these Covered Products and fully accepts these  
26 consequences for any such Claims arising from any violation of Proposition 65 or any other  
27 statutory or common law regarding the failure to warn about exposure to Lead, Arsenic, and  
28 Cadmium from Covered Products as may exist as of the date of this release but which CAG does  
not know exist, and which, if known, would materially affect their decision to enter into this

1 Consent Judgment, regardless of whether their lack of knowledge is the result of ignorance,  
2 oversight, error, negligence, or any other cause.

3 **6. ENFORCEMENT OF JUDGMENT**

4 6.1 Any alleged violation of the terms of this Consent Judgment shall be enforced  
5 exclusively hereunder by the Parties hereto and may only be through the terms of the entered  
6 consent judgment. Before CAG moves to enforce the terms of this Consent Judgment, CAG must  
7 provide written notice to Defendant of any alleged violation, including the date and location of  
8 the alleged violation and provide all evidence supporting the alleged violation including any  
9 applicable test results, product photographs, and purchase receipts, subject to a reasonable  
10 confidentiality agreement if requested. The Parties will thereafter meet and confer for a  
11 minimum period of 30 days to allow time for Defendant to present CAG any relevant  
12 compliance information and/or corrective action taken related to the alleged violation, including  
13 if applicable the date of manufacture, import, distribution, or sale of the Covered Product at issue  
14 for purposes of determining the applicability of the release hereunder. If the Parties cannot  
15 resolve the alleged violation, either Party may move to enforce the terms of this Consent  
16 Judgment consistent with the terms herein. If the Parties cannot resolve the alleged violation at  
17 the conclusion of the meet and confer process, CAG has the right to enforce the terms of the  
18 Consent Judgment herein and seek penalties and fees against Defendant.

19  
20 6.2 In any proceeding brought by either Party to enforce this Consent Judgment, the  
21 prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs.

22 **7. ENTRY OF CONSENT JUDGMENT**

23 7.1 CAG shall be responsible for preparing a motion seeking approval of this Consent  
24 Judgment pursuant to California Health & Safety Code § 25249.7(f). The Parties agree to act in  
25 good faith to obtain Court approval of the Consent Judgment. Upon entry of the Consent  
26 Judgment, CAG and Defendant waive their respective rights to a hearing, trial, or appeal on the  
27 allegations in the Notices and/or Complaints.



1 **11. SERVICE ON THE ATTORNEY GENERAL**

2 11.1 CAG shall serve a copy of this Consent Judgment, signed by the Parties, on the  
3 California Attorney General so that the Attorney General may review this Consent Judgment  
4 prior to its approval by the Court. No sooner than forty-five (45) days after the Attorney General  
5 has received the aforementioned copy of this Consent Judgment, and in the absence of any  
6 written objection by the Attorney General to the terms of this Consent Judgment, CAG will then  
7 submit the Consent Judgment to the Court for approval.

8 **12. ATTORNEY FEES**

9 12.1 Except as specifically provided in Section 4.1.3 6.2, and 9.2, each Party shall bear  
10 its own costs and attorney fees in connection with the claims alleged in the Notices and  
11 Complaints which are entirely resolved in this Consent Judgment.

12 **13. GOVERNING LAW**

13 13.1 The validity, construction and performance of this Consent Judgment shall be  
14 governed by the laws of the State of California, without reference to any conflicts of law  
15 provisions of California law.

16 13.2 The terms of this Consent Judgment shall be governed by the laws of the State of  
17 California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered  
18 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are  
19 rendered inapplicable or are no longer required as a result of any such repeal or preemption, or  
20 rendered inapplicable by reason of law generally as to the Covered Products, then any Defendant  
21 subject to this Consent Judgment may provide written notice to CAG of any asserted change in  
22 the law, and shall have no further obligations pursuant to this Consent Judgment with respect to,  
23 and to the extent that, the Covered Products are so affected. Nothing in this Consent Judgment  
24 shall be interpreted to relieve a Defendant from any obligation to comply with any pertinent state  
25 or federal law or regulation.  
26

1           13.3    The Parties, including their counsel, have participated in the preparation of this  
2 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This  
3 Consent Judgment was subject to revision and modification by the Parties and has been accepted  
4 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or  
5 ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result  
6 of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment  
7 agrees that any statute or rule of construction providing that ambiguities are to be resolved  
8 against the drafting Party should not be employed in the interpretation of this Consent Judgment  
9 and, in this regard, the Parties hereby waive California Civil Code § 1654.

10 **14.    EXECUTION AND COUNTERPARTS**

11           14.1    This Consent Judgment may be executed in counterparts and by means of  
12 facsimile or portable document format (pdf), which taken together shall be deemed to constitute  
13 one document and have the same force and effect as original signatures.

14 **15.    NOTICES**

15           15.1    Any notices under this Consent Judgment shall be by First-Class Mail or E-mail.

16  
17           If to CAG:

18           Reuben Yeroushalmi  
19           Shannon Royster  
20           YEROUSHALMI & YEROUSHALMI  
21           9100 Wilshire Boulevard, Suite 240W  
22           Beverly Hills, CA 90212  
23           (310) 623-1926  
24           Email: lawfirm@yeroushalmi.com

25           If to Kim Seng Company:  
26           Kathleen N. Strickland  
27           Briana Bramer  
28           ROPERS MAJESKI PC  
            505 Sansome Street, Suite 1925  
            San Francisco, CA 94111  
            (415) 543-4800



Email: kathleen.strickland@ropers.com

**16. AUTHORITY TO STIPULATE**

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

<b>AGREED TO:</b>	<b>AGREED TO:</b>
Date: _____, 2022	Date: <u>April 01</u> , 2022
_____	
Name: _____	Name: <u>GARY TSAI</u>
Title: _____	Title: <u>Manager / Director</u>
CONSUMER ADVOCACY GROUP, INC.	KIM SENG COMPANY, INC. dba IHA BEVERAGE

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

Email: kathleen.strickland@ropers.com

**16. AUTHORITY TO STIPULATE**

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

<b>AGREED TO:</b> Date: <u>April 1</u> , 2022 <u>Michael Marcus</u> Name: <u>Michael Marcus</u> Title: <u>Director</u> CONSUMER ADVOCACY GROUP, INC.	<b>AGREED TO:</b> Date: _____, 2022 _____ Name: _____ Title: _____ KIM SENG COMPANY, INC. dba IHA BEVERAGE
---	---

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

Email: kathleen.strickland@ropers.com

**16. AUTHORITY TO STIPULATE**

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

<b>AGREED TO:</b> Date: _____, 2022  _____ Name: _____ Title: _____ CONSUMER ADVOCACY GROUP, INC.	<b>AGREED TO:</b> Date: _____, 2022  _____ Name: _____ Title: _____ KIM SENG COMPANY, INC. dba IHA BEVERAGE
---	--

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT