

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement is entered into by and between Tamar Kaloustian (“Kaloustian”) and Artisan Tropic, LLC (“Artisan Tropic”). Together, Kaloustian and Artisan Tropic are collectively referred to as the “Parties.” Kaloustian is a citizen of the State of California, dedicated to protecting the consumer environment, improving human health, and supporting environmentally sound commercial practices. Kaloustian alleges that Artisan Tropic is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, et seq. (“Proposition 65”).

1.2 General Allegations. Kaloustian alleges that Artisan Tropic has exposed individuals to the chemical lead from its sales of cassava and plantain strips without first providing users and consumers of the products with clear and reasonable health hazard exposure warnings as required pursuant to Proposition 65. Lead is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and reproductive toxicity.

1.3 Product Description. The products covered by this Settlement Agreement are all Artisan Tropic cassava and plantain strips, including, but not limited to, all varieties and package sizes (the “Covered Products”) that have been imported, distributed, offered for sale and/or sold in California by Artisan Tropic or its affiliates.

1.4 Notice of Violation. On April 20, 2020, Kaloustian served Artisan Tropic, Whole Foods Markets California, Inc. (“Whole Foods”), and various public enforcement agencies with a document entitled “SIXTY-DAY NOTICE OF INTENT TO SUE FOR VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986” (the “Notice”). The Notice provided Artisan Tropic, Whole Foods and such others, including public enforcers, with notice that alleged that Artisan Tropic was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of Artisan Tropic’s cassava strips will expose them to lead. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission. Artisan Tropic denies the material factual and legal allegations contained in the Notice and maintains that, to the best of its knowledge, all products that are or have been sold and distributed in California, including the Covered Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Artisan Tropic of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Artisan Tropic of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Artisan Tropic. However, this Section 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notice, Artisan Tropic maintains that it has not knowingly manufactured, or caused to be manufactured, the Covered Products for sale in California in violation of Proposition 65.

1.6 Effective Date and Compliance Date. For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Agreement is last executed by the Parties. For the Covered Products, the “Compliance Date” shall mean the date that is three months from the Effective Date.

2. INJUNCTIVE RELIEF

2.1 Reformulation Option

For any Covered Products that are manufactured or processed on or after the Compliance Date that are Distributed in California, the Daily Lead Exposure Level shall not exceed 0.5 micrograms of lead per day as calculated pursuant to Section 2.1.1, excluding allowances pursuant to Section 2.1.2, as validated by the testing methodology described in Section 2.1.3, unless the label of the Covered Product contains a Proposition 65 compliant warning as set forth in Section 2.2. “Distributed in California” means to directly ship, sell, or offer for sale a Covered Product into California or sell a Covered Product to a distributor that Artisan Tropic knows will sell the Covered Product in California (collectively, “Distribute[s] in California”). Nothing in this Settlement Agreement shall prejudice Artisan Tropic’s rights to establish that an alternative Daily

Lead Exposure Level is more appropriate based on the Proposition 65 statute or regulations as they are now constituted or may be amended. The prohibition in this section shall not apply to Covered Products Distributed in California that contain a Proposition 65 compliant warning as set forth in Section 2.2.

2.1.1 For purposes of this Consent Judgment, the “Daily Lead Exposure Level” shall be measured in micrograms and shall be calculated using the following formula: micrograms of lead per gram of product multiplied by grams of product per serving assuming one serving per day.

2.1.2 The Daily Lead Exposure Level shall exclude amounts of naturally occurring lead in the ingredients listed in the table below, in accordance with the Attorney General’s Stipulation Modifying Consent Judgments in *People v. Warner Lambert, et al.*, SF Superior Court Case No. 984503.

INGREDIENT	NATURALLY OCCURRING LEAD AMOUNT
Calcium	0.8 micrograms/gram
Ferrous Fumarate	0.4 micrograms/gram
Zinc Oxide	8.0 micrograms/gram
Magnesium Oxide	0.4 micrograms/gram
Magnesium Carbonate	0.332 micrograms/gram
Magnesium Hydroxide	0.4 micrograms/gram
Zinc Gluconate	0.8 micrograms/gram
Potassium Chloride	1.1 micrograms/gram

In the event that a dispute arises with respect to compliance with the terms of this Settlement Agreement as to any contribution from naturally occurring lead levels under this section, the Parties shall first meet and confer to attempt to resolve the dispute.

2.1.3 Artisan Tropic may establish the Daily Lead Exposure Level by averaging test results derived from three samples from three different production lots or batches of each of the

Covered Products (or from as many lots or batches as are available if there are fewer than three) that may or will be Distributed in California. This testing may be conducted on an annual basis. Such testing shall be performed by Eurofins, Silliker, KPrime or another accredited laboratory using either:

1. GC/MS (Gas Chromatograph/Mass Spectrometry),
2. LC-MS/MS (Liquid Chromatograph-Mass Spectrometry), or
3. any other testing method agreed upon by the Parties.

All test results shall remain confidential unless required to be produced to the California Attorney General or court order.

2.2 Warning Option. Commencing on or before the Compliance Date, Covered Products that Artisan Tropic Distributes in California that do not meet the Reformulation Option standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.2.1 below. The warning requirements set forth herein apply only to Covered Products Artisan Tropic Distributes in California after the Compliance Date.

2.2.1 Where required under Section 2.2, Artisan Tropic shall provide an on-product Proposition 65 warning that reads: “**WARNING:** [Cancer and] Reproductive Harm – www.P65Warnings.ca.gov”, which shall be immediately preceded on the left by a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline unless the remainder of the package labeling is not printed with the color yellow, in which case the symbol may be printed in black and white (“Warning”). Artisan Tropic shall use the bracketed phrase in the Warning only if Artisan Tropic has reason to believe that the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined pursuant to the methodology set forth in Section 2.1 or if Artisan Tropic has reason to believe that another Proposition 65 chemical is present that may require a cancer warning. The entire Warning must be in a type size no smaller than the largest type size used for other Consumer Information on the product, but in no case smaller than 6-point type. “Consumer Information” includes warnings, directions for use, ingredient lists, and nutritional information, but does not include the brand name, product name,

company name, location of manufacture, or product advertising. For Covered Products contained in multi-packs that are not intended for individual resale, the Warning may appear on the outer packaging and is not required to be displayed on the individual packages not intended for individual resale. For internet purchases on websites owned or controlled by Artisan Tropic, the Warning shall also appear on the display page of the Covered Products, or by otherwise prominently displaying the Warning to a purchaser with a California delivery address prior to completing the purchase. Nothing in this Section 2.2.1 shall prevent Artisan Tropic, in its sole discretion, from modifying or changing the Warning specified herein as long as the warning fully complies with Proposition 65 and the regulations promulgated thereunder, both as may be amended from time to time. For the avoidance of doubt, Artisan Tropic shall be deemed in compliance with this Settlement Agreement by either adhering to Sections 2.1 of this Settlement Agreement or by complying with the warning alternative in this Section 2.2.

2.3 Sell-Through Period

Notwithstanding anything else in this Settlement Agreement, the Covered Products that are manufactured or processed prior to the Compliance Date shall be subject to the release of liability contained herein, without regard to when such products were, or are in the future, shipped, delivered, distributed or sold to customers in California. As a result, the obligation of Releasees do not apply to the Covered Products manufactured or processed prior to the Compliance Date.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)

3.1 Civil Penalty.

In settlement of all the claims referred to in this Settlement Agreement, Artisan Tropic shall pay \$1000.00 as a Civil Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Penalty remitted to OEHHA and the remaining 25% of the Penalty remitted to Kaloustian. The Civil Penalty payment(s) shall be delivered to the addresses identified in Section 3.2, below. For all amounts due and owing that are not received within the payment times set forth

below, Artisan Tropic shall pay a late civil penalty payment fee equal to \$100/day to be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d).

Artisan Tropic shall issue two separate checks for the Civil Penalty payment to (a) “OEHHA” in the amount of \$750.00 (75%); and to (b) “KJT Law Group, LLP in Trust for Tamar Kaloustian” in the amount of \$250.00 (25%). The Civil Penalty payment(s) shall be delivered to the addresses identified in Section 3.2, below.

3.2 Payment Procedures.

(a) Issuance of Payments. Payments shall be delivered as follows:

(i) All payments owed to Kaloustian, pursuant to Section 3.1 shall be delivered to the following payment address no later than 10 days following the

Effective Date:

Vache Thomassian, Esq.
KJT Law Group, LLP
230 N. Maryland Avenue, Suite 306
Glendale, California 91206

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to Section 3.1 shall be delivered directly to OEHHA (Memo Line “Prop 65 Penalties”) at the following address, and shall be sent no later than 10 days following the

Effective Date:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS#19B
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

(b) Tax Documentation. Kaloustian agrees to provide IRS W-9 forms for each of the following payees under this Settlement Agreement along with his executed copy of the Settlement Agreement (and Artisan Tropic will issue IRS 1099 forms as appropriate):

(i) KJT Law Group, LLP at the address provided in Section 3.2(a)(i);
and

(ii) “Office of Environmental Health Hazard Assessment” at 1001 I Street, Sacramento, CA 95814.

4. REIMBURSEMENT OF FEES AND COSTS

Artisan Tropic shall reimburse Kaloustian’s counsel \$12,250.00 for fees and costs incurred as a result of investigating and bringing this matter to Artisan Tropic’s attention and negotiating a settlement in the public interest. Artisan Tropic shall issue a checks payable to KJT Law Group, LLP totaling \$12,250.00 for delivery to the address identified in Section 3.2(a)(i), above, in accordance with the following schedule:

- \$4,250.00 within thirty (30) days of the Effective Date;
- \$4,000.00 within sixty (60) days of the Effective Date;
- \$4,000.00 within ninety (90) days of the Effective Date.

5. RELEASE OF ALL CLAIMS

5.1 Release of Artisan Tropic and Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution between Kaloustian, acting on her own behalf, and Artisan Tropic, of any violation of Proposition 65 that was or could have been asserted by Kaloustian or on behalf of her past and current agents, representatives, attorneys, successors, and/or assigns (“Releasors”) for failure to provide warnings for alleged exposures to lead contained in the Covered Products, and Releasors hereby release any such claims against Artisan Tropic and its parents, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors, assignees, manufacturers and each entity to whom Artisan Tropic directly or indirectly distributes or sells the Covered Products, including but not limited to,

downstream distributors, wholesalers, customers, retailers (including but not limited to Whole Foods), and their respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the “Releasees”), from all claims for violations of Proposition 65 through the Effective Date based on their failure to warn of alleged exposure to the chemical lead from use of the Covered Products.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Kaloustian, on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives any right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that he may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys’ fees, expert fees, and investigation fees, and costs), damages, losses, liabilities and demands against any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, arising out of the alleged or actual exposure to the chemical lead in the Covered Products.

5.2 Artisan Tropic’s Release of Kaloustian. Artisan Tropic, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Kaloustian, her attorneys and other representatives, for any and all actions taken or statements made by Kaloustian and/or her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

5.3 California Civil Code § 1542. It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. Kaloustian on behalf of herself only, on one hand, and Artisan Tropic, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action therefor. The Parties acknowledge that the claims released in Sections 5.1 and 5.2, above, may include unknown claims, and nevertheless

waive California Civil Code Section 1542 as to any such unknown claims. California Civil Code Section 1542 reads as follows:

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

Kaloustian and Artisan Tropic each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code Section 1542.

5.4 Deemed Compliance with Proposition 65. Compliance by Artisan Tropic with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposure to acrylamide from use of the Covered Products.

5.5. Public Benefit. It is Artisan Tropic's understanding that the commitments it has agreed to herein, and actions to be taken by Artisan Tropic under this Settlement Agreement, would confer a significant benefit to the general public, as set forth in Code of Civil Procedure Section 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of Artisan Tropic that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Artisan Tropic's failure to provide a warning concerning exposure to lead prior to use of the Covered Products it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Products addressed in this Settlement Agreement, provided that Artisan Tropic is in material compliance with this Settlement Agreement.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable

provisions remaining shall not be adversely affected but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable or limited by reason of law generally, or as to the Products, Artisan Tropic shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, a Covered Product is so affected.

8. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Artisan Tropic:

Camilo Guzman
5712-C Stillwell Dr
Monroe, NC 28110

For Kaloustian:

Vache Thomassian, Esq.
KJT Law Group, LLP
230 N. Maryland Avenue, Suite 306
Glendale, California 91206

Either party, from time to time, may specify in writing to the other party a change of address to which all notices and other communications shall be sent.

9. COUNTERPARTS: SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or .pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Kaloustian agrees to comply with the reporting requirements referenced in Health & Safety Code § 25249.7(f).

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

13. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

14. POST EXECUTION CONVERSION TO CONSENT JUDGMENT

Within twelve months of the execution of this Settlement Agreement Artisan Tropic may ask Kaloustian, in writing, to file a complaint, incorporate the terms of this Settlement Agreement into a proposed consent judgment, and to seek the court's approval of the consent judgment pursuant to Health and Safety Code section 25249.7, or as may be otherwise allowed by law. If so requested, Kaloustian agrees to reasonably cooperate with Artisan Tropic and to use her best efforts, and that of her counsel, to support the entry of a consent judgment by a superior court in California. Pursuant to Code of Civil Procedure sections 1021 and 1021.5, Artisan Tropic will reimburse Kaloustian and her counsel for their reasonable fees and costs incurred in filing the complaint, converting the Settlement Agreement

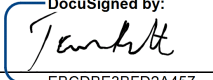
into a proposed consent judgment and seeking judicial approval of the consent judgment, in an amount not to exceed \$15,000, exclusive of fees and cost that may be incurred on appeal. Artisan Tropic will remit payment to KJT Law Group, LLP, at the address set forth in Section 3.2(a) above. Such additional fees shall be paid by Artisan Tropic, within twenty (20) business days after its receipt of any invoice from Kaloustian for work performed under this paragraph. Artisan Tropic understands no motion to approve any proposed consent judgment will be filed absent payment for the work performed under this paragraph.

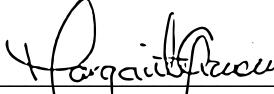
AGREED TO:

AGREED TO:

Date: 9/15/2020

Date: 09/18/20

By: 
Tamar Kaloustian

By: 
Artisan Tropic, LLC