

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement is entered into by and between Citizens of California Safety Corp. (“CCSC”) and SilverOnyx, LLC, collectively referred to as the “Parties”

1.2 General Allegations. CCSC alleges SilverOnyx, LLC manufactures, markets, distributes, and/or sells Certified Organic Ceylon Cinnamon Supplements that contain lead in the State of California without first providing consumers of the product with clear and reasonable warnings as required pursuant California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which codified at Cal. Health & Safety Code §25249.5 et seq. Lead is listed by the State of California as known to cause cancer and reproductive harm and is subject to Proposition 65 warning requirements.

1.3 Product Description. The products covered by this Settlement Agreement are nutritional supplements containing lead including but not limited to “Certified Organic Ceylon Cinnamon Supplements” (“Products”) that have been imported, distributed, offered for sale and/or sold in California by SilverOnyx, LLC or its customers or vendors.

1.4 Notice of Violation. On September 10, 2020, CCSC served SilverOnyx, LLC, and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with documents entitled “60 Day Notice of Violation” (“Notice”) that provided SilverOnyx, LLC and such others, including public enforcers, with notice that alleged SilverOnyx, LLC was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers that use of the Products will expose them to lead. To the Parties’ knowledge, none of the public prosecutors with authority to prosecute violations of Proposition 65 has commenced and is diligently prosecuting an action based on the allegations set forth in the Notice.

1.5 No Admission. The parties enter into this Settlement Agreement to settle a disputed claim between them as set forth herein. SilverOnyx, LLC denies the material factual and legal allegations contained in the Notice and maintains that all products that are or have been sold and distributed into California, including the Products, have been and are in compliance with Proposition 65 and any other applicable laws. Nothing in this Settlement Agreement shall be construed as an admission by SilverOnyx, LLC 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 SilverOnyx, LLC of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by SilverOnyx, LLC However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement.

1.6 Effective Date. For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Agreement is fully executed by the Parties.

2. INJUNCTIVE RELIEF, REFORMULATION, AND WARNINGS

2.1 Reformulation of Products. As of the Effective Date, and continuing thereafter, SilverOnyx, LLC shall be enjoined from manufacturing, distributing, importing, or directly selling into the State of California, any Covered Product which exposes a person to a “Daily Intake Level” of more than .5 micrograms of lead per day unless it meets the warning requirements under Section 2.3.

2.2 Daily Intake Level. For purposes of this Agreement “Daily Intake Level” shall be measured relative to the Covered Product consumption in micrograms, and calculated by multiplying the micrograms of lead per gram of the product by the grams of product per serving (based on the SilverOnyx, LLC **product label template**), multiplied by the serving of the product per day based on the recommended daily serving on the label, which equals the “Daily Intake Level”.

2.3 Clear and Reasonable Warning. If SilverOnyx, LLC is required to provide a warning pursuant to Section 2.1, one of the following warnings must be utilized (“Warning”)

(a) the text, “**WARNING:** Consuming this product can expose you to chemicals including lead which is known to the State of California to cause cancer and birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.” accompanied by and placed to the right of a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline sized to be no smaller than the word “WARNING” as provided by regulations adopted on or about August 30, 2016; or

(b) the text, “**WARNING:** Cancer or Reproductive Harm www.P65Warnings.ca.gov.” accompanied by and placed to the right of a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline sized to be no smaller than the word “WARNING” as provided by regulations adopted on or about August 30, 2016.

2.4 Compliance with Warning Regulations. The Parties agree that SilverOnyx, LLC shall be deemed to be in compliance with this Settlement Agreement by either adhering to Section 2.3 of this Settlement Agreement or by complying with warning requirements adopted by the State of California’s Office of Environmental Health Hazard Assessment (“OEHA”) after the Effective Date or by providing notification and the specific warning(s) required to the authorized seller of the product. [27 CCR §25600.2(b)]. The triangular warning symbol specified in Section 2.3 shall be in yellow with a black exclamation mark; provided however, the symbol may be printed in black and white if the Covered Product label is not printed against a yellow background.

3. PAYMENTS

3.1 Penalties. In settlement of all the claims referred to in this Settlement Agreement, within thirty (30) days SilverOnyx, LLC shall pay \$500.00 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 CCSC. Brown Bear Law, APC shall be responsible for ensuring that the Civil Penalty payments to (a) ³OEHHA' in the amount of \$375.00; and to (b) ³CCSC' in the amount of \$125.00 are delivered within ten (10) days of receipt of said settlement monies.

3.2 Attorney Fees and Costs: Within thirty (30) days, a total of nine thousand five hundred dollars (\$9,500) shall be paid to Brown Bear Law, APC as compensation for reasonable attorney fees and costs and other costs incurred as a result of bringing this matter to SilverOnyx, LLC's attention.

3.3 Payment Procedures. (a) Issuance of Payments. Payments shall be delivered as follows: (i) All payments owed by SilverOnyx, LLC pursuant to this Agreement shall be delivered by check.

For courier delivery:
Brown Bear Law, APC IOLTA
6232 Wynne Ave
Tarzana, CA 91335

For U.S. Mail delivery:
Brown Bear Law, APC IOLTA
PO Box 573423,
Tarzana, CA 91357

4. RELEASE

4.1 Release of SilverOnyx, LLC and Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution between CCSC, and SilverOnyx, LLC, of any violation of Proposition 65 that was or could have been asserted by CCSC or on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees. CCSC hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims relating to the Products, including, without limitation, all actions, and causes of action, in law or in equity whether known or unknown, fixed or contingent (collectively "Claims"), against SilverOnyx, LLC, downstream distributors, wholesalers, customers, retailers, corporate affiliates, subsidiaries and their respective officers including but not limited to SilverOnyx, LLC (collectively "Releases").



4.2 Release of CCSC. SilverOnyx, LLC, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against CCSC, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by CCSC and/or its attorneys and other representatives, in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

4.3 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. CCSC in its capacity only, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and SilverOnyx, LLC in its capacity only, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action thereof. The Parties acknowledge that the claims released, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims.

California Civil Code § 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. CCSC and SilverOnyx, LLC each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

5. 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, SilverOnyx, LLC shall have no further obligations pursuant to 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. **NOTICES**

Unless specified herein, all notices and correspondence 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 courier on any party by the other party at the following addresses:

For: SilverOnyx, LLC

Elizabeth V. McNulty, Esq.
Evans, Fears & Schuttert, LLP
4440 Von Karman Avenue, Suite 250
Newport Beach, Ca. 92660

For: CCSC

Shant Vayvayan, Esq.
Brown Bear Law, APC
PO Box 573423
Tarzana, CA 91357

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

8. **COUNTERPARTS**

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.

9. **COMPLIANCE WITH HEALTH AND SAFETY CODE §25249.7(f)**

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

10. **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.



11. **MODIFICATION**

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

12. **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.

SILVERONYX LLC.

Date: 07-01-, 2021

By: 

**CITIZENS OF CALIFORNIA
SAFETY CORP.**

Date: July 2 , 2021

By: 
Melody Rahimi
Title: Director

