

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Audrey Donaldson (“Donaldson”) and Dennis Johnson (“Johnson”) (collectively “Citizen Enforcers”) on the one hand, and Coastline Imports (“Coastline”), on the other hand, with Citizen Enforcers and Coastline each individually referred to as a “Party” and collectively as the “Parties.” The Citizen Enforcers are individuals residing in the State of California who seek to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. Citizen Enforcers alleges that Coastline employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

Citizen Enforcers allege that Coastline manufactures, sells, and distributes for sale in California, ceramic plates and serving trays with decorations containing lead. Lead is listed pursuant to Proposition 65 as a chemical known to cause birth defects and other reproductive harm. Citizen Enforcers alleges that Coastline failed to provide the health hazard warning required by Proposition 65 for exposures to lead.

1.3 Product Description

The products covered by this Settlement Agreement are specifically identified as, and limited to, the following products manufactured, sold, or distributed for sale in California by Coastline: (i) the “*Elegance Ceramic Plate With Floral Pattern*” SKU: 400203391750; DV03, D1049, C6555 ; and (ii) the *Coastline Imports Kathryn White “On Beach Time” Serving Tray With Flamingo Decoration*, Dept.: 31, Style: 277540, Type: 2, Cat.: 4090 (hereinafter collectively referred to as “Products”).

1.4 Notice of Violation

On March 27, 2020, Johnson served Ross Stores, Inc and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that Ross Stores, Inc. violated Proposition 65 when it failed to warn its customers and consumers in California of the health hazards associated with exposures to lead from the ceramic plate products. Thereafter, Coastline informed Citizen Enforcers' counsel that Coastline was the supplier of the Products and would be resolving the claims in Johnson's notice.

On September 22, 2020, Donaldson served Coastline, HomeGoods, Inc., and the requisite public enforcement agencies with a 60-Day Notice of Violation, alleging that they violated Proposition 65 by failing to warn customers and consumers in California of the health hazards associated with exposures to lead from the serving tray products.

The March 27, 2020 and September 22, 2020 notices shall hereinafter be collectively referred to as the "Notices". No public enforcer has commenced and is diligently prosecuting the allegations set forth in the Notices.

1.5 No Admission

Coastline denies the material, factual, and legal allegations contained in the Notices and maintains that all of the products that it has sold and distributed in California, including the Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Coastline of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Coastline of any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by Coastline. This Section shall not, however, diminish or otherwise affect Coastline's obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean May 30, 2021.

2. INJUNCTIVE RELIEF: REFORMULATION

2.1 Reformulation Standards

“Reformulated Products” are defined as those Products that: (a) contain no more than 90 parts per million (“ppm”) lead in any decoration, colored artwork, designs and/or marking on the surface of the Products when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies 3050B or equivalent methodologies utilized by federal or state agencies for the purpose of determining lead content in a solid substance; and (b) yield no more than 1.0 microgram of lead on any surface sampled and analyzed pursuant to the NIOSH 9100 testing protocol.

If the decoration is tested after it is affixed to the Product, the percentage of the lead by weight must related only to the decorating materials and must not include any quantity attributable to non-decorating material (e.g., ceramic substrate).

2.2 Reformulation Commitment

As of the Effective Date, Coastline shall not manufacture, import, distribute, sell or offer the Products for sale in the State of California unless they are Reformulated Products pursuant to Section 2.1.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payment

Pursuant to Health and Safety Code section 25249.7(b)(2), and as consideration for the releases set forth in Sections 4.1 and 4.2 below, Coastline agrees to pay \$3,500 in civil penalties no later than the Effective Date. The penalty payment will be allocated in accordance with California Health and Safety Code section 25249.12(c)(1) & (d), with 75% of the penalty amount remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount paid to Citizen Enforcers, and delivered to the address in Section 3.3 herein. Coastline will provide its payment in three checks as follows: (1) “OEHHA” in the amount of \$2,625;

“Audrey Donaldson” in the amount of \$437.50; and (3) “Dennis Johnson” in the amount of \$437.50.

3.2 Attorneys’ Fees and Costs

The Parties acknowledge that Citizen Enforcers and their counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving the issue to be resolved after the material terms of the agreement had been settled. Shortly after the other settlement terms had been reached, Coastline expressed a desire to resolve Citizen Enforcers’ fees and costs. The Parties reached an accord on the compensation due to Citizen Enforcers’ counsel under general contract principles and the private attorney general doctrine codified at Code of Civil Procedure section 1021.5 for all work performed in this matter. Under these legal principles, on or before the Effective Date, Coastline agrees to pay \$18,000, in the form of a check made payable to “Voorhees & Bailey, LLP,” for all fees and costs incurred investigating, bringing this matter to the attention of Coastline’s management, and negotiating a settlement.

3.3 Payment Address

All payments under this Settlement Agreement shall be delivered to the following address:

Voorhees & Bailey, LLP
990 Amarillo Avenue
Palo Alto, CA 94303

4. CLAIMS COVERED AND RELEASED

4.1 Citizen Enforcers’ Release of Proposition 65 Claims

Citizen Enforcers acting on their own behalf, and *not* on behalf of the public, releases Coastline, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, agents employees, attorneys, and each entity to whom Coastline directly or indirectly distributes or sells the Products, including, but not limited, to downstream distributors, wholesalers, customers, retailers—including but not limited to,

Ross Stores, Inc. and HomeGoods, Inc., and their parents, subsidiaries, and affiliates—franchisees, cooperative members, importers, and licensees (collectively, “Releasees”), from all claims for violations of Proposition 65 through the Effective Date based on unwarned exposures to lead in the Products. The Parties understand and agree that this Section 4.1 release shall not extend upstream to any entities that manufactured the Products or any component parts thereof, or any distributors or suppliers who sold the Products or any component parts thereof to Coastline.

4.2 Citizen Enforcers’ Individual Release of Claims

Citizen Enforcers, in their individual capacity only and *not* in their representative capacity, provide a release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys’ fees, damages, losses, claims, liabilities, and demands of Citizen Enforcers of any nature, character, or kind, whether known or unknown, suspected or unsuspected, including but not limited to all failure to warn claims, arising out of alleged or actual exposures to lead in the Products manufactured, imported, distributed, or sold by Coastline prior to the Effective Date. The Parties understand and agree that this Section 4.2 release shall not extend upstream to any entities that manufactured the Products, or any component parts thereof, or any distributors or suppliers who sold the Products, or any component parts thereof to Coastline. Nothing in this Section affects Citizen Enforcers’ right to commence or prosecute an action under Proposition 65 against a Releasee that does not involve Coastline’s Products.

Citizens Enforcers acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date and acknowledge that such release may include unknown claims, and nevertheless waive any rights or benefits conferred by section Civil Code 1542, which provides 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.

4.3 Coastline’s Release of Citizen Enforcers

Coastline, on its own behalf, and on behalf of its past and current agents, representatives, attorneys, successors, and/or assignees, hereby waives any and all claims against Citizen Enforcers and their attorneys and other representatives, for any and all actions taken or statements made by Citizen Enforcers and their attorneys and other representatives, whether in the course of investigating claims, seeking to enforce Proposition 65 against it in this matter, or with respect to the Products.

5. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is deemed by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

6. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws 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 by reason of law generally, or as to the Products, then Coastline may provide written notice to Citizen Enforcers of any asserted change in the law and shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

7. NOTICE

Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (a) personal delivery; (b) first-class, registered or certified mail, return receipt requested; or (c) a recognized overnight courier on any Party by the other at the following addresses:

For Coastline:

Grace Ma, President/CEO
Coastline Imports, Inc.
15302 Nelson Avenue
City of Industry, CA 91744

For Citizen Enforcers:

Dennis Johnson
Audrey Donaldson
c/o Voorhees & Bailey, LLP
535 Ramona Street; Suite 1
Palo Alto, CA 94301

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

8. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (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 & SAFETY CODE § 25249.7(f)

Citizen Enforcers and their attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code section 25249.7(f).

10. MODIFICATION

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

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11. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understand, and agreed to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: May , 2021

Date: May 18, 2021

By: _____
Dennis Johnson

By: Grace Ma
Grace Ma, President/CEO
Coastline Imports

Date: May 16, 2021

By: [Signature]
Audrey Donaldson

11. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understand, and agreed to all of the terms and conditions of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: May 18, 2021

Date: May 18, 2021

By: 
Dennis Johnson

By: 
Grace Ma, President/CEO
Coastline Imports

Date: May ____, 2021

By: _____
Audrey Donaldson