

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Environmental Health Advocates, Inc. (“EHA”), on the one hand, and Richin Trading Inc. (“Richin”), on the other hand, with EHA and Richin each individually referred to as a “Party” and collectively as the “Parties.” EHA is a corporation in the State of California serving in the interest of the general public by seeking to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. Richin employs ten or more individuals 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 § 25249.6 *et seq.* (“Proposition 65”).

1.2 General Allegations

EHA alleges that Richin distributes for sale in California, cookies that contain acrylamide and that it does so without first providing the health hazard warning required by Proposition 65. Acrylamide is listed pursuant to Proposition 65 as a chemical known to cause cancer and birth defects or other reproductive harm.

1.3 Product(s) Description

The product covered by this Settlement Agreement is defined as, and expressly limited to, Creamy French Cookie (Chocolate) (“the Product(s)”), that allegedly contains acrylamide and that is distributed for sale in California by Richin.

1.4 Notices of Violation

On December 11, 2020, EHA served Richin, Triko Foods Co., Ltd., Lion Supermarket Stores, Inc., the California Attorney General and other requisite public enforcers with a 60-Day Notice of Violation of Proposition 65 (“Initial Notice”). The Initial Notice alleged that Richin violated Proposition 65 when it failed to warn consumers in California of the health risks associated with exposures to acrylamide from the Products.

On January 7, 2021, EHA served Richin, Triko Foods Co., Ltd., Lion Market Story, LLC,

the California Attorney General and other requisite public enforcers with a 60-Day Notice of Violation of Proposition 65 (“Amended Notice”). The Amended Notice corrected the retailer to Lion Market Story, LLC.

To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently prosecuting an action to enforce the violations alleged in the Initial Notice or Amended Notice (hereinafter, the “Notices”).

1.5 No Admission

Richin denies the material, factual, and legal allegations in the Notices and maintains that all of the products it sold and/or distributed for sale 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 Richin 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 Richin of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Richin. This Section shall not, however, diminish or otherwise affect Richin’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 sixty (60) days following the execution of this Settlement Agreement by the Parties.

2. INJUNCTIVE RELIEF

2.1 Clear and Reasonable Warnings

Commencing on the Effective Date, and continuing thereafter, Richin agrees to only manufacture for sale, purchase for sale, import for sale, and/or distribute for sale in California Products that are sold with a clear and reasonable Proposition 65 warning as provided for in Section 2.2 below.

2.2 General Warning Requirements

For Products which are manufactured and packaged for distribution for authorized sale or use in California on or after the Effective Date, Richin shall provide one of the following Proposition 65 warnings:

- 1) ⚠ [California Prop 65] **WARNING:** This product can expose you to chemicals including Acrylamide, which is known to the State of California to cause cancer, birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov.
 - 2) ⚠ [California Prop 65] **WARNING:** Cancer and Reproductive Harm – www.P65Warnings.cs.gov
 - 3) ⚠ **WARNING:** Consuming this product can expose you to chemicals including Lead and Cadmium, which are 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
- ⚠ **警告:** 食用此產品可能會使您暴露於包括鉛和鎘在內、在加州已知會致癌及造成先天性缺陷或其他生殖系統損害的化學物質。欲瞭解更多資訊，請查閱 www.P65Warnings.ca.gov/food

Language in brackets is optional. The word “**WARNING**” shall be displayed in all capital letters and bold print. This warning statement shall be prominently displayed on the packaging of the Products, or on a placard, shelf tag, or sign provided that the statement is displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual prior to sale. If the warning statement is displayed on the Products’ label, it must be set off from other surrounding information. The same warning shall be posted on any websites, under the exclusive control of Richin, where Products are sold into California.

2.3 Sell-Through Period

Products that are manufactured on or prior to the Effective Date shall be subject to release of liability pursuant to this Settlement Agreement, without regard to when such Products were, or are in the future, distributed or sold to customers. As a result, the obligation of Richin, or any Releasees, do not apply to Products manufactured on or prior to the Effective Date.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notices or referred to in this Settlement Agreement, Richin agrees to pay one thousand five hundred dollars (\$1,500.00) in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code §§ 25249.12(c)(1) & (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty amount retained by EHA. Within fourteen (14) days of the date this Settlement Agreement is executed by the Parties, Richin shall issue two separate checks for the civil penalty payment to (1) “OEHHA” in the amount of one thousand one hundred and twenty-five dollars (\$1,125.00) and (2) Environmental Health Advocates, Inc., in the amount of three hundred and seventy-five dollars (\$375.00).

All payments owed to OEHHA (EIN: 68-0284486), pursuant to this Section shall be delivered directly to OEHHA (Memo Line "Prop 65 Penalties") at the following addresses:

For United States Postal Service Delivery:

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

For Federal Express 2-Day Delivery:

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

All penalty payments owed to EHA shall be sent to:

Environmental Health Advocates
225 Broadway, Suite 1900
San Diego, CA 92101

3.2 Attorneys’ Fees and Costs

The Parties reached an accord on the compensation due to EHA and its counsel under the

private attorney general doctrine and principles of contract law. Under these legal principles, within fourteen (14) days of the date this Settlement Agreement is executed by the Parties, Richin agrees to pay thirteen thousand five hundred dollars (\$13,500.00) to EHA's counsel for all fees and costs incurred in investigating, bringing this matter to the attention of Richin, and negotiating a settlement. Richin's payment shall be delivered in the form of two checks: (1) one check for six thousand seven hundred and fifty dollars (\$6,750.00) payable to "Glick Law Group"; and (2) one check for six thousand seven hundred and fifty dollars (\$6,750.00) payable to "Nicholas & Tomasevic LLP."

3.3 Payment Address

All payments required under this Section shall be delivered to:

Noam Glick
Glick Law Group
225 Broadway, Suite 1900
San Diego, CA 92101

Craig Nicholas
Nicholas & Tomasevic, LLP
225 Broadway, Suite 1900
San Diego, CA 92101

3.4 Tax Documentation

Richin agrees to provide a completed IRS 1099 for its payments to, and EHA agrees to provide IRS W-9 forms for, each of the payees under this Settlement Agreement. The Parties acknowledge that Richin cannot issue any settlement payments pursuant to Section 3.1 and 3.2 above until after Richin receives the requisite W-9 forms from EHA's counsel.

4. CLAIMS COVERED AND RELEASED

4.1 EHA's Release of Richin

This Settlement Agreement is a full, final, and binding resolution between EHA, on its own behalf and not on behalf of the public, and Richin of any violation of Proposition 65 that was or could have been asserted by EHA, on its own behalf, on behalf of its past and current agents, representatives, attorneys, successors and assignees, against Richin and each of its respective

parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, employees, attorneys, each upstream entity from whom the Product was purchased by Richin, and each entity to whom Richin directly or indirectly distributes or sells the Product, including, but not limited to, its downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees (“Releasees”), based on the failure to warn about exposures to acrylamide in the Product manufactured, sold or distributed for sale in California by Richin before the Effective Date, as alleged in the Notices.

In further consideration of the promises and agreements herein contained, EHA on its own behalf and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, successors and assignees hereby waives any and all rights it may have to institute or participate in, directly or indirectly, any form of legal action and releases all claims against Richin and Releasees including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not exclusively, investigation fees, expert fees and attorney fees arising under Proposition 65 with respect to the alleged or actual failure to warn about exposures to acrylamide required in the Product manufactured, distributed, sold or offered for sale by Richin, before the Effective Date.

4.2 Richin’s Release of EHA

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

4.3 California Civil Code Section 1542

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notices and relating to the Product will develop or be discovered. EHA on behalf of itself only, on the one hand, and Richin on behalf of itself only, on the other hand, acknowledge that this Settlement Agreement is expressly intended to cover and include all such claims up through the Effective Date. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 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.

5. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held 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.

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 Richin:

Joseph E. Hohenwarter
Law Office of Joseph E. Hohenwarter
333 North Lantana St. Suite 267
Camarillo, CA 93010

For EHA:

Noam Glick
Glick Law Group
225 Broadway, Suite 1900
San Diego, CA 92101

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)

EHA and its attorneys agree to comply with the reporting form requirements referenced in California Health and Safety Code § 25249.7(f).

10. MODIFICATION

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

10.1 Court Decision Regarding Similar Products.

If a court of competent jurisdiction renders a final judgment that one or more products that are sufficiently similar to the Product do not require a warning for acrylamide under Proposition 65, then the Parties agree to meet and confer in good faith on a modification of this Settlement Agreement to conform to such ruling and EHA agrees not to oppose any such modification except good cause shown.

10.2 Other Court Decisions.

If a final decision of a court determines that warnings for acrylamide exposures or that enforcement of Proposition 65 claims for acrylamide exposures are unconstitutional, preempted, or otherwise unlawful or unnecessary with respect to products that are similar to the Product, then the Parties agree to meet and confer in good faith to modify this Settlement Agreement to conform to such ruling in order to avoid unfair, inconsistent, or anti-competitive results and EHA agrees not to oppose any such modification except for good cause shown.

10.3 Change in Proposition 65

If Proposition 65 or its implementing regulations are changed from their terms as they exist on the date of execution of the Settlement Agreement, or if OEHHA or a federal regulatory agency takes some other final regulatory action for products similar to the Products in a manner that impacts reformulation standards, or that determines that warnings for acrylamide are not required or necessary or desired for such products, or that warnings for acrylamide should provide in a different

manner or different wording, then the Parties agree to meet and confer in good faith to modify this Settlement Agreement to conform to such changes and EHA agrees not to oppose such modification except for good cause shown.

10.4 Any Party seeking to modify this Settlement Agreement shall attempt in good faith to meet and confer with the other Party prior to filing an action and/or motion to terminate or modify this Settlement Agreement.

10.5 Any requested modification pursuant to this Section 10 will have no effect on Richin's financial obligations set forth in this Settlement Agreement.

11. AUTHORIZATION


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

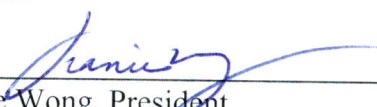
AGREED TO:

AGREED TO:

Date: 9/2/2021

Date: 9/2/2021

By: 
ENVIRONMENTAL HEALTH
ADVOCATES, INC.

RICHIN TRADING INC., A California
Corporation
By: 
Jeanie Wong, President