

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 Hankook Supermarket (“Hankook”), on the other hand, with EHA and Hankook 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. Hankook 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 Hankook sells in California, sweet potato shaped and tteokpokki snacks 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 Description

The products covered by this Settlement Agreement are defined as, and expressly limited to, the Sweet Potato Shaped Snack and CosMos Tteokpokki Snack (“the Products”), that contain acrylamide and that are sold in California by Hankook.

1.4 Notices of Violation

On or around October 22, 2020, EHA served Osmos Confectionary Co., Ltd., Korean Farm, Inc., Hankook, Rhee Bros., Inc., the California Attorney General, and all other required public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Tteokpokki Notice”). The Tteokpokki Notice alleged that Hankook had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to acrylamide contained

in CosMos Tteokpokki Snack.

On or around November 24, 2020, EHA served Osmos Confectionary Co., Ltd., Korean Farm, Inc., The K Market, Rhee Bros., Inc., the California Attorney General, and all other required public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Sweet Potato Notice”). The Sweet Potato Notice alleged that Osmos Confectionary Co., Ltd. had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to acrylamide contained in Sweet Potato Shaped Snack.

On or around February 4, 2021, EHA served New Kukje Inc., Osmos Confectionary Co., Ltd., Korean Farm, Inc., The K Market, Rhee Bros., Inc., the California Attorney General, and all other required public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Sweet Potato Amended Notice”). The Sweet Potato Amended Notice included New Kukje Inc. as a retailer.

On or around July 2, 2021, EHA served New Kukje Inc., Cosmos Confectionary Co., Ltd., Korean Farm, Inc., The K Market, Rhee Bros., Inc., the California Attorney General, and all other required public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Sweet Potato Second Amended Notice”). The Sweet Potato Second Amended Notice corrected the manufacturer to Cosmos Confectionary Co., Ltd.

On or around July 2, 2021, EHA served Cosmos Confectionary Co., Ltd., Korean Farm, Inc., Hankook, Rhee Bros., Inc., the California Attorney General, and all other required public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Tteokpokki Amended Notice”). The Tteokpokki Amended Notice corrected the manufacturer to Cosmos Confectionary Co., Ltd.

On or around November 17, 2021, EHA served Hankook, New Kukje Inc., Cosmos Confectionary Co., Ltd., Korean Farm, Inc., The K Market, Rhee Bros., Inc., the California Attorney General, and all other required public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Sweet Potato Third Amended Notice”). The Sweet Potato Third Amended Notice added the retailer Hankook.

No public enforcer has commenced or is otherwise prosecuting an action to enforce the violations alleged in the Tteokpokki Notice, Sweet Potato Notice, Sweet Potato Amended Notice, Sweet Potato Second Amended Notice, Tteokpokki Amended Notice, and Sweet Potato Third

Amended Notice (hereinafter, the “Notices”).

1.5 No Admission

Hankook denies the material, factual, and legal allegations in the Notices and maintains that all of the products it sold 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 Hankook 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 Hankook of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Hankook. This Section shall not, however, diminish or otherwise affect Hankook’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 the date this Settlement Agreement is fully executed by the Parties.

2. INJUNCTIVE RELIEF

2.1 Clear and Reasonable Warnings

As of the Effective Date, and continuing thereafter, a clear and reasonable Proposition 65 warning as set forth in § 2.2 must be provided for all Products that Hankook sells in California.

2.2 Warning Requirements

On or after the Effective Date, for Products that are set forth in § 2.1, Hankook shall provide one of the following warning statements:

- 1) **WARNING:** Consuming this product can expose you to chemicals including Acrylamide, 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.
- 2) **WARNING:** Cancer and Reproductive Harm – www.P65Warnings.ca.gov

This warning statement shall be prominently displayed on the Products, on the packing 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' packaging, it must be in a type size no smaller than the largest type size used for other consumer information on the product. In no case shall a warning statement displayed on the Products' packaging appear in a type size smaller than 6-point type. The same warning shall be posted on any websites under the exclusive control of Hankook where the Products are sold into California.

2.3 Grace Period for Existing Inventory of Products

The injunctive requirements of Section 2 shall not apply to Products that are already in the stream of commerce as of the Effective Date, which Products are expressly subject to the releases provided in Section 4.1.

3. MONETARY SETTLEMENT TERMS

3.1 Civil Penalty Payment

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, Hankook agrees to make arrangement for and ensure the payment of three thousand dollars (\$3,000.00) 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 ten (10) days of the Effective Date, Hankook shall make arrangement for and ensure issuance of two separate checks for the initial civil penalty payment to (a) "OEHHA", in the amount of two thousand two hundred and fifty dollars (\$2,250.00) and (b) Environmental Health Advocates, Inc., in the amount of seven hundred and fifty dollars (\$750.00).

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:

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

3.2 Attorney 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, Hankook agrees to make arrangement for and ensure the payment of twenty-two thousand dollars (\$22,000.00) to EHA and its counsel for all fees and costs incurred in investigating, bringing this matter to the attention of Hankook and negotiating a settlement. Hankook shall make arrangement for and ensure the payment to EHA's counsel in two installments as follows:

- The first installment shall be in the amount of eleven thousand dollars (\$11,000.00), with five thousand five hundred dollars (\$5,500.00) payable to "Glick Law Group, PC" and five thousand five hundred dollars (\$5,500.00) payable to "Nicholas & Tomasevic, LLP", within ten (10) days of the Effective Date
- The second installment shall be in the amount of eleven thousand dollars (\$11,000.00), with five thousand five hundred dollars (\$5,500.00) payable to "Glick Law Group, PC" and five

thousand five hundred dollars (\$5,500.00) payable to “Nicholas & Tomasevic, LLP”, within sixty (60) days of the Effective Date.

3.3 Payment Address

All payments required under this Section shall be delivered to:

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

Craig Nicholas
Nicholas & Tomasevic, LLP
225 Broadway, 19th Floor
San Diego, CA 92101

3.4 Tax Documentation

Hankook agrees to provide a completed IRS 1099 for the payments to, and EHA agrees to provide IRS W-9 forms for, each of the payees under this Settlement Agreement. The Parties acknowledge that Hankook cannot make arrangement for the issuance of any settlement payments pursuant to Sections 3.1 and 3.2 above until after Hankook receives the requisite W-9 forms from EHA’s counsel.

4. CLAIMS COVERED AND RELEASED

4.1 EHA’s Release of Hankook

This Settlement Agreement is a full, final, and binding resolution of all claims under Proposition 65 between EHA, on its own behalf and not on behalf of the public, and Hankook 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 Hankook and each of its respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, employees, and attorneys and each upstream entity from whom the Products were purchased by Hankook (including but not limited to Korean Farm, Inc. and Rhee Bros., Inc.) (“Releasees”), based on the failure to warn about exposures to acrylamide required under Proposition 65 in the Products sold in California by Hankook 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 Hankook 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 under Proposition 65 in the Products sold by Hankook, before the Effective Date.

4.2 Hankook's Release of EHA

Hankook, 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 Products.

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 Products will develop or be discovered. EHA on behalf of itself only, on one hand, and Hankook 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. ENFORCEMENT

In any action to enforce the terms of this Settlement Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

8. 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 Hankook:

David C. Bolstad
Safarian Choi & Bolstad LLP
555 S. Flower Street, Suite 650
Los Angeles, CA 90071

For EHA:

Noam Glick
Glick Law Group, PC
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.

9. 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.

10. 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).

11. MODIFICATION

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

12. 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: 01/24/2022

Date: 1/31/22

By: 

ENVIRONMENTAL HEALTH
ADVOCATES, INC.

By: 

HANKOOK SUPERMARKET