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Attorneys for Plaintiff,  
CONSUMER ADVOCACY GROUP, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

CONSUMER ADVOCACY GROUP, INC.,  
in the public interest,

Plaintiff,

v.

THE TJX COMPANIES, INC., a Delaware  
Corporation;  
WILDFARE INC., a New York Corporation;  
and DOES 1-20  
Defendants.

CASE NO. 22STCV01596

**REVISED CONSENT JUDGMENT  
[PROPOSED]**

Health & Safety Code § 25249.5 *et seq.*

**1. INTRODUCTION**

1.1 This Consent Judgment is entered into by and between Plaintiff, Consumer Advocacy Group, Inc. (referred to as “CAG”) acting on behalf of itself and in the interest of the public, and defendant, The TJX Companies, Inc. (hereinafter referred to as “Defendant”), with each a Party to the action collectively referred to as “Parties.”

**1.2 Defendant and Covered Products**

1.2.1 CAG alleges that Defendant is a Delaware corporation which employs ten or more persons. CAG further alleges that Defendant distributes, and sells the following to consumers in California:

(i) Yellow Polymer Purse, Style No. MAR- 921413 (“Purse”)

(ii) Smoked Sweet Paprika, Style No. MAR- 801899, TJMAXX-903156, TJMAXX-896137, HG-136817, HG-196593, HG-152924 (“Smoked Sweet Paprika”).

1.2.2 For purposes of this Consent Judgment only, Defendant is deemed a person in the course of doing business in California and are subject to the provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 et seq. (“Proposition 65”).

### 1.3 Listed Chemicals

1.3.1 Di(2-ethylhexyl)phthalate (hereinafter “DEHP”) is known to the State of California to cause cancer and/or birth defects or other reproductive harm.

1.3.2 Inorganic Arsenic Oxides (hereinafter “Arsenic”) is known to the State of California to cause birth defects or other reproductive harm.

### 1.4 Notices of Violation

1.4.1 On or about August 12, 2021, CAG served a “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (AG# 2021-02021) (“August 27, 2021 Notice”) that provided Defendant and various public enforcement agencies with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to DEHP contained in the Purse sold and/or distributed by Defendant. No public enforcer has commenced or diligently prosecuted the allegations set forth in the August 12, 2021 Notice.

1.4.2 On or about October 1, 2021, CAG served a “60-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986” (AG# 2021-02456) (“August 27, 2021 Notice”) that provided Defendant and various public enforcement agencies with notice of alleged violations of Health & Safety Code § 25249.6 for failing to warn individuals in California of exposures to Arsenic contained in the Smoked Sweet Paprika sold

and/or distributed by Defendant. No public enforcer has commenced or diligently prosecuted the allegations set forth in the October 1, 2021 Notice.

#### **1.5 Complaint**

1.5.1 On January 13, 2022, CAG filed a complaint for civil penalties and injunctive relief (“Complaint”) in Los Angeles Superior Court, Case No. 22STCV01596 against Defendant. The Complaint alleges, among other things, that Defendant violated Proposition 65 by failing to give clear and reasonable warnings of exposure to Listed Chemicals from the Covered Products.

#### **1.6 Consent to Jurisdiction**

1.6.1 For purposes of this Consent Judgment, the Parties stipulate that this Court has jurisdiction over the allegations of violations contained in the Action and personal jurisdiction over Defendant as to the acts alleged in the Action, that venue is proper in the County of Los Angeles and that this Court has jurisdiction to enter this Consent Judgment as a full settlement and resolution of the allegations contained in cause of action one of the Action and of all claims which were or could have been raised by any person or entity based in whole or in part, directly or indirectly, on the facts alleged therein or arising therefrom or related thereto.

#### **1.7 No Admission**

1.7.1 This Consent Judgment resolves claims that are denied and disputed. The Parties enter into this Consent Judgment pursuant to a full and final settlement of any and all claims between the Parties for the purpose of avoiding prolonged litigation. Nothing in this Consent Judgment shall be construed as an admission by the Parties of any material allegation of the Action (each and every allegation of which Defendant denies), any fact, conclusion of law, issue of law or violation of law, including without limitation, any admission concerning any violation of Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, or the meaning of the terms “knowingly and intentionally expose” or “clear and reasonable

1 warning” as used in Health and Safety Code section 25249.6. Nothing in this Consent Judgment,  
2 nor compliance with its terms, shall constitute or be construed as an admission by the Parties of  
3 any fact, conclusion of law, issue of law, or violation of law, or of fault, wrongdoing, or liability  
4 by any Defendant, its officers, directors, employees, or parent, subsidiary or affiliated  
5 corporations, or be offered or admitted as evidence in any administrative or judicial proceeding  
6 or litigation in any court, agency, or forum. Furthermore, nothing in this Consent Judgment shall  
7 prejudice, waive or impair any right, remedy, argument, or defense the Parties may have in any  
8 other or future legal proceeding, except as expressly provided in this Consent Judgment.

## 9 **2. DEFINITIONS**

10 2.1 “Covered Products” means Purse and Smoked Sweet Paprika identified in Section  
11 1.2.1 of the consent judgment.

12 2.2 “Effective Date” means the date that this Consent Judgment is approved by the  
13 Court.

14 2.3 “DEHP” means Di(2-ethylhexyl)phthalate.

15 2.4 “Arsenic” means Inorganic Arsenic Oxides.


16 2.5 “Listed Chemicals” shall mean DEHP as to Purse and Arsenic as to Smoked  
17 Sweet Paprika.

18 2.7 “Notices” shall mean the February 25, 2021 Notice, the August 12, 2021 Notice,  
19 and the October 1, 2021 Notice.


## 20 **3. INJUNCTIVE RELIEF / REFORMULATION / CLEAR AND REASONABLE** 21 **WARNINGS.**

22 3.1 After the Effective Date, Defendant shall not order the Purse for sale in California  
23 unless it contains DEHP in concentrations less than 0.1% by weight (1,000 parts per million  
24 “ppm”). For any Purse that is ordered for sale in California prior to the Effective Date that contains  
25 DEHP in concentrations over than 0.1% by weight (1,000 parts per million “ppm”), Defendant  
26 must provide a Proposition 65 compliant warning for the Purse as permitted by Proposition 65 and  
27 its implementing regulations or as set forth below. The Parties agree that the following warning  
28

language shall constitute compliance with Proposition 65 with respect to the alleged DEHP in  
Purse ordered for manufacture by Defendant prior to the Effective Date:

 **WARNING:** This product can expose you to chemicals including Di(2-ethylhexyl)phthalate (DEHP), 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](http://www.P65Warnings.ca.gov).

3.2 After the Effective Date, Defendant shall not order Sweet Smoked Paprika for sale in California unless the level of Arsenic does not exceed 20 parts per billion (“ppb”), unless Proposition 65 compliant warnings are used as set forth below. For any Sweet Smoked Paprika that exceeds 20ppb of Arsenic that are ordered for manufacture for sale into California after the Effective Date, Defendant must provide a Proposition 65 compliant warning for the Sweet Smoked Paprika as permitted by Proposition 65 and its implementing regulations or as set forth below. The Parties agree that the following warning language shall constitute compliance with Proposition 65 with respect to the alleged Arsenic in the Sweet Smoked Paprika that are ordered for manufacture by Defendant after the Effective Date:

 **WARNING:** Consuming this product can expose you to chemicals including Inorganic Arsenic Oxides, which are known to the State of California to cause birth defects or other reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

3.3 Any warning provided pursuant to this section shall be affixed to the packaging of, or directly on, the Covered Product, and be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. The warning must be set off from other surrounding information, enclosed in a box. Where the packaging of the Covered Product or a sign referring to the Covered Product includes consumer information as defined by California Code of Regulations title 27 §25600.1(c) in a language other than English, the warning must also be provided in that language in addition to English. Should Defendant sell or distribute any Covered Product through the internet, the warning will be posted in the manner provided for with respect to internet sales, as provided for in 27 CCR sections 25601 and 25602, as they may be subsequently amended.

3.4 Changes in the law and regulations applicable to Prop 65, including changes resulting from federal and/or state court rulings, occurring after this date may be incorporated into the terms of this Consent Judgment, pursuant to the modification provisions set forth in Section 7.

3.5 Covered Products already distributed to Downstream Releasees prior to the Effective Date may continue to be sold through as is.

#### **4. SETTLEMENT PAYMENT**

4.1 **Payment and Due Date:** Within fifteen (15) days of the Effective Date, or upon receipt of W-9 Forms from the appropriate payees, whichever is later, Defendant shall pay a total of seventy thousand dollars (\$70,000.00) in full and complete settlement of all monetary claims by CAG related to the Notices, as follows:

4.1.1 **Civil Penalty:** Defendant shall issue separate checks totaling five thousand seven hundred and twenty dollars (\$5,720.00) as penalties pursuant to Health & Safety Code § 25249.12:

(a) Defendant will issue a check made payable to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of four thousand two hundred and ninety dollars (\$4,290.00) representing 75% of the total penalty and Defendant will issue a separate check to CAG in the amount of one thousand four hundred and thirty dollars (\$1,430.00) representing 25% of the total penalty; and

(b) Separate 1099s shall be issued for each of the above payments: Defendant will issue a 1099 to OEHHA, P.O. Box 4010, Sacramento, CA 95184 (EIN: 68-0284486). Defendant will also issue a 1099 to CAG c/o Yeroushalmi & Yeroushalmi, 9100 Wilshire Boulevard, Suite 240W, Beverly Hills, California 90212.

4.1.2 **Additional Settlement Payments:** Defendant shall make a separate payment, in the amount of four thousand two hundred and eighty dollars (\$4,280.00) as an additional settlement payment to "Consumer Advocacy Group, Inc." pursuant to Health & Safety Code § 25249.7(b) and California Code of Regulations, Title 11 § 3203(d). Defendant will issue a separate check to CAG for the Additional Settlement Payment. CAG will use this payment as

1 follows, eighty percent (80%) for fees of investigation, purchasing and testing for Proposition 65  
2 listed chemicals in various products, and for expert fees for evaluating exposures through various  
3 mediums, including but not limited to consumer product, occupational, and environmental  
4 exposures to Proposition 65 listed chemicals, and the cost of hiring consulting and retaining  
5 experts who assist with the extensive scientific analysis necessary for those files in litigation and  
6 to offset the costs of future litigation enforcing Proposition 65 but excluding attorney fees;  
7 twenty percent (20%) for administrative costs incurred during investigation and litigation to  
8 reduce the public's exposure to Proposition 65 listed chemicals by notifying those persons and/or  
9 entities believed to be responsible for such exposures and attempting to persuade those persons  
10 and/or entities to reformulate their products or the source of exposure to completely eliminate or  
11 lower the level of Proposition 65 listed chemicals including but not limited to costs of  
12 documentation and tracking of products investigated, storage of products, website enhancement  
13 and maintenance, computer and software maintenance, investigative equipment, CAG's  
14 member's time for work done on investigations, office supplies, mailing supplies and postage.  
15 Within 30 days of a request from the Attorney General, CAG shall provide to the Attorney  
16 General copies of documentation demonstrating how the above funds have been spent. CAG  
17 shall be solely responsible for ensuring the proper expenditure of such additional settlement  
18 payment.  
19

20                   **4.1.3 Reimbursement of Attorneys Fees and Costs:** Defendant shall pay sixty  
21 thousand dollars (\$60,000.00) to "Yeroushalmi & Yeroushalmi" as reimbursement for  
22 reasonable investigation fees and costs, attorneys' fees, and any other costs incurred as a result of  
23 investigating, bringing this matter to Defendant's attention, litigating, and negotiating a  
24 settlement in the public interest.

25                   4.2 Other than the payment to OEHHA described above, all payments referenced in  
26 paragraphs 4.1.1, 4.1.2, and 4.1.3 above, shall be delivered to: Reuben Yeroushalmi,  
27 Yeroushalmi & Yeroushalmi, 9100 Wilshire Blvd., Suite 240W, Beverly Hills, CA 90212. The  
28

1 payment to OEHHA shall be delivered to Office of Environmental Health Hazard Assessment,  
2 Attn: Mike Gyurics, 1001 I Street, Mail Stop 12-B, Sacramento, California 95812. Concurrently  
3 with payment to OEHHA, Defendant shall provide CAG with written confirmation that the  
4 payment to OEHHA was delivered.

## 5 **5. MATTERS COVERED BY THIS CONSENT JUDGMENT**

6 5.1 This Consent Judgment is a full, final, and binding resolution between CAG on  
7 behalf of itself and in the public interest and Defendant for alleged failure to provide any  
8 required Proposition 65 warning of exposure to Listed Chemicals from the Covered Products as  
9 defined in Section 1.2, and fully resolves all claims that have been asserted against Defendant in  
10 the Action up through the Effective Date. CAG, on behalf of itself and in the public interest,  
11 hereby discharges Defendant, and their respective owners, officers, directors, insurers,  
12 employees, parents, shareholders, divisions, subdivisions, subsidiaries, partners, affiliates, sister  
13 companies, predecessors, and their successors and assigns (“Defendant Releasees”) and all  
14 entities to whom Defendant directly or indirectly distributes or sells Covered Products, including,  
15 but not limited to, downstream distributors, downstream wholesalers, customers, retailers,  
16 marketplace hosts, franchisees, cooperative members, licensees, and other downstream entities in  
17 the distribution chain of the Covered Products,, and the predecessors, successors and assigns of  
18 any of them, and all of their respective officers, directors, shareholders, members, managers,  
19 employees, agents only as to Covered Products sold by the Defendant (collectively,  
20 “Downstream Releasees”), for Covered Products placed into the stream of commerce up through  
21 the Effective Date for any alleged violations of Proposition 65 based on alleged exposure to  
22 Listed Chemicals from the Covered Products. Defendant’s compliance with the terms of this  
23 Consent Judgment shall be deemed to constitute compliance with Proposition 65 regarding  
24 alleged exposures to Listed Chemicals from the Covered Products. Nothing in this Section  
25 affects CAG’s right to commence or prosecute an action under Proposition 65 against any person  
26  
27  
28



1 other than Defendant Releasees or Downstream Releasees after the Effective Date and against  
2 Defendant for any products not identified as Covered Products.

3         5.2       CAG on behalf of itself, its past and current agents, representatives, attorneys,  
4 successors, and/or assignees, hereby waives all rights to institute or participate in, directly or  
5 indirectly, any form of legal action and releases all claims, including, without limitation, all  
6 actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations,  
7 damages, costs, fines, penalties, losses, or expenses (including, but not limited to, investigation  
8 fees, expert fees, and attorneys' fees) of any nature whatsoever, whether known or unknown,  
9 fixed or contingent (collectively "Claims"), against the Released Parties arising from any alleged  
10 violation of Proposition 65 or any other statutory or common law regarding any failure to warn  
11 about alleged exposure to Listed Chemicals from the Covered Products. In furtherance of the  
12 foregoing, as to alleged exposures to Listed Chemicals from the Covered Products, CAG on  
13 behalf of itself only, hereby waives any and all rights and benefits which it now has, or in the  
14 future may have, conferred upon it with respect to Claims arising from any alleged violation of  
15 Proposition 65 or any other statutory or common law regarding any failure to warn about alleged  
16 exposure to Listed Chemicals from the Covered Products by virtue of the provisions of section  
17 1542 of the California Civil Code, which provides as follows:  
18

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

25 CAG understands and acknowledges that the significance and consequence of this waiver of  
26 California Civil Code section 1542 is that even if CAG suffers future damages arising out of or  
27 resulting from, or related directly or indirectly to, in whole or in part, Claims arising from any  
28 alleged violation of Proposition 65 or any other statutory or common law regarding any failure to  
warn about alleged exposure to Listed Chemicals from the Covered Products, including but not  
limited to any exposure to, or failure to warn with respect to alleged exposure to Listed

Chemicals from the Covered Products, CAG will not be able to make any claim for those damages against Released Parties.

## **6. ENTRY OF CONSENT JUDGMENT**

6.1 CAG shall file a motion seeking approval of this Consent Judgment pursuant to California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment, CAG and Defendant waive their respective rights to a hearing or trial on the allegations of the Action.

6.2 The Parties shall make all reasonable efforts to have the Consent Judgment approved by the Court.

6.3 If this Consent Judgment is not approved in full by the Court, (a) this Consent Judgment and any and all prior agreements between the Parties merged herein shall terminate and become null and void, and the actions shall revert to the status that existed prior to the execution date of this Consent Judgment; (b) no term of this Consent Judgment or any draft thereof, or of the negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose in this Action, or in any other proceeding; and (c) the Parties agree to meet and confer to determine whether to modify the terms of the Consent Judgment and to resubmit it for approval.

## **7. MODIFICATION OF JUDGMENT**

7.1 This Consent Judgment may be modified only upon written agreement of the Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon motion of any party as provided by law and upon entry of a modified Consent Judgment by the Court.

7.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

## **8. RETENTION OF JURISDICTION**

8.1 This Court shall retain jurisdiction of this matter to implement and enforce the terms of this Consent Judgment under Code of Civil Procedure § 664.6.

8.2 In any proceeding brought by either Party to enforce this Consent Judgment, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

## **10. DUTIES LIMITED TO CALIFORNIA**

9.1 This Consent Judgment shall have no effect on Covered Products sold by Defendant outside the State of California.

## **10. SERVICE ON THE ATTORNEY GENERAL**

10.1 CAG shall serve a copy of this Consent Judgment, signed by the Parties, on the California Attorney General so that the Attorney General may review this Consent Judgment prior to its approval by the Court. No sooner than forty-five (45) days after the Attorney General has received the aforementioned copy of this Consent Judgment, and in the absence of any written objection by the Attorney General to the terms of this Consent Judgment, may the Court approve this Consent Judgment.

## **11. ENTIRE AGREEMENT**

11.1 This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

## **12. ATTORNEY FEES**

12.1 Except as specifically provided in Section 4.1.3 and 8.2, each Party shall bear its own costs and attorney fees in connection with this action.

## **13. GOVERNING LAW**

13.1 The validity, construction and performance of this Consent Judgment shall be governed by the laws of the State of California, without reference to any conflicts of law provisions of California law.

1           13.2   The terms of this Consent Judgment shall be governed by the laws of the State of  
2 California. In the event that Proposition 65 is amended, repealed, preempted, or is otherwise  
3 rendered inapplicable by reason of law generally, or if any of the provisions of this Consent  
4 Judgment are rendered inapplicable or are no longer required as a result of any such amendment,  
5 repeal or preemption, or rendered inapplicable by reason of law generally as to the Covered  
6 Products, then such amendments may be incorporated into the terms of this Consent  
7 Judgment, pursuant to the modification provisions set forth in Section 7 to the extent there are  
8 still obligations with respect to the Covered Products. Nothing in this Consent Judgment shall be  
9 interpreted to relieve Defendant from any obligation to comply with any pertinent state or federal  
10 law or regulation.

11           13.3   The Parties, including their counsel, have participated in the preparation of this  
12 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties. This  
13 Consent Judgment was subject to revision and modification by the Parties and has been accepted  
14 and approved as to its final form by all Parties and their counsel. Accordingly, any uncertainty or  
15 ambiguity existing in this Consent Judgment shall not be interpreted against any Party as a result  
16 of the manner of the preparation of this Consent Judgment. Each Party to this Consent Judgment  
17 agrees that any statute or rule of construction providing that ambiguities are to be resolved  
18 against the drafting Party should not be employed in the interpretation of this Consent Judgment  
19 and, in this regard, the Parties hereby waive California Civil Code § 1654.

#### 20           **14.   EXECUTION AND COUNTERPARTS**

21           14.1   This Consent Judgment may be executed in counterparts and by means of  
22 facsimile or portable document format (pdf), which taken together shall be deemed to constitute  
23 one document and have the same force and effect as original signatures.

#### 24           **15.   NOTICES**

25           15.1   Any notices under this Consent Judgment shall be by First-Class Mail or E-mail.

26           If to CAG:  
27  
28

Reuben Yeroushalmi  
YERUSHALMI & YERUSHALMI  
9100 Wilshire Boulevard, Suite 240W  
Beverly Hills, CA 90212  
(310) 623-1926  
Email: [lawfirm@veroushalmi.com](mailto:lawfirm@veroushalmi.com)


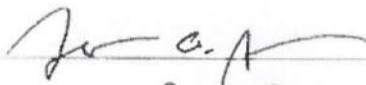
If to Defendant:

The TJX Companies, Inc.  
770 Cochituate Road  
Framingham, MA 01701

Jeffrey Margulies  
NORTON ROSE FULBRIGHT US LLP  
555 South Flower Street, 41st Floor  
Los Angeles, CA 90071  
(213) 892-9311  
Email:

**16. AUTHORITY TO STIPULATE**

16.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party he or she represents to enter into this Consent Judgment and to execute it on behalf of the party represented and legally to bind that party.

AGREED TO:	AGREED TO:
Date: <u>January 13<sup>th</sup></u> , 2025	Date: <u>January 14<sup>th</sup></u> , 2025
	
Name: <u>Willard Bayer</u>	Name: <u>Jennifer A. Peoples</u>
Title: <u>President</u>	Title: <u>VP, Legal - Litigation &amp; Regulatory Counsel</u>
CONSUMER ADVOCACY GROUP, INC.	THE TJX COMPANIES, INC.

**IT IS SO ORDERED.**

1 Date: \_\_\_\_\_

2 JUDGE OF THE SUPERIOR COURT