

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This settlement agreement ("Settlement Agreement") is entered into by and between CalSafe Research Center, Inc., ("CRC"), on the one hand, and Ziyad Brothers Importing, ("Ziyad" or "Defendant") on the other hand, with CRC and Ziyad each individually referred to as a "Party" and collectively as the "Parties." CRC 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. Ziyad 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

CRC alleges that Ziyad distributes ground turmeric, cumin powder, Aleppo pepper and baking dates for sale in California that contain lead and that it does so without first providing the health hazard warnings required by Proposition 65. Lead 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 product covered by this Settlement Agreement is defined as, and expressly limited to Ziyad Brand Ground Turmeric, Ziyad Brand Premium Cumin Powder, Ziyad Brand Za'Atar, Ziyad Brand Aleppo Pepper and Ziyad Brand Baking Dates (hereinafter collectively the "Products") that contain lead and that are manufactured, sold or distributed for sale in California by Ziyad. The Parties agree that no warning need be provided as to Ziyad Brand Za'Atar. Article 2 of this Agreement shall not apply to Ziyad Brand Za'Atar.

1.4 Notice of Violation

On September 13, 2021 and November 19, 2021, CRC served Ziyad, the California Attorney General and the other requisite public enforcers with 60-Day Notices of Violation ("Notices"), alleging that Ziyad violated Proposition 65 when it failed to warn its customers and consumers in California of the health risks associated with exposures to lead from the Products.

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 Notices.

1.5 No Admission

Ziyad denies the material, factual and legal allegations in the Notice 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 Ziyad or any of its officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers 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 Ziyad or any of its officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Ziyad. This Section shall not, however, diminish or otherwise affect Ziyad'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 ninety (90) days following the execution of this Settlement Agreement by the Parties.

2. INJUNCTIVE RELIEF

2.1 Clear and Reasonable Warnings

Ziyad agrees to only manufacture for sale, purchase for sale, import for sale, or distribute for sale in or into California (in person or online) the Products that are sold with a warning as provided for in this paragraph and paragraph 2.2.

2.2 General Warning Requirements

Ziyad agrees that each warning shall 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. Each warning shall be provided in a manner such that the consumer or user understands to which *specific* product the warning applies, so as to minimize the risk of consumer confusion.

For purposes of this Settlement Agreement, a clear and reasonable warning for the Products shall consist of a warning affixed to the packaging, label, tag, or directly to each of the Products sold or distributed in California by Ziyad that contains the following statement:

WARNING: Consuming this product can expose you to chemicals including Lead 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/food;

The warning shall be offset in a box with black outline. The same warning shall be posted on any websites where the Product is sold in California.

(i) Changes in Warning Regulations or Statutes

In the event that the Office of Environmental Health Hazard Assessment or another authorized agency promulgates one or more regulations requiring or permitting warning text and/or methods of transmission different than those set forth above, or legislation is enacted by the California legislature, United States Congress or voters with such requirements or permission, Ziyad shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement. If regulations, legislation or judicial rulings are enacted or issued providing that warnings as to lead in this type of food product is no longer required, a lack of warning by Ziyad will not thereafter be a breach of this Agreement.

2.3 Grace Period for Existing Inventory of Products

The injunctive requirements of Section 2 shall not apply to Product that is 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 Total Settlement Penalty

In full satisfaction of all potential civil penalties, attorneys' fees, and costs, Ziyad shall make a total settlement payment of twenty thousand dollars (**\$20,000.00**) ("Total Settlement Amount"). The Total Settlement Amount shall be apportioned into a Civil Penalty, Attorney's Fees and Costs, an Additional Settlement Payment and a Cost Reimbursement as set forth in Sections 3.2, 3.3, 3.4 and 3.5 below.

3.2 Civil Penalty Payment

Pursuant to Health and Safety Code§ 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Ziyad agrees to pay two thousand dollars (**\$2000.00**) 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 CRC. Within ten (10) days of the date this Settlement Agreement is executed by the Parties, Ziyad shall issue two separate checks for the initial civil penalty payment to (a) "OEHHA" in the amount of one thousand five hundred dollars (**\$1,500.00**) and (b) CRC in the amount of five hundred dollars (**\$500.00**).

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 Delivery Service:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS 19B
Sacramento, CA 95812-4010

For Non-United States Postal Delivery Service:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street MS #19B
Sacramento, CA 95814

All penalty payments owed to CRC shall be sent to:

Manning Law APC
Client Trust and CalSafe Research Center (taxpayer identification number 84-4419173)
20062 SW Birch Street, Suite 200
Newport Beach, CA 92660

3.3 Attorney Fees and Costs

The Parties reached an accord on the compensation due to CRC and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, within twenty-one (21) days of the date this Settlement Agreement is executed by the Parties, Ziyad agrees to pay eighteen

thousand dollars (**\$18,000**) to Manning Law, APC for all fees and costs incurred in investigating, bringing this matter to the attention of Ziyad, and negotiating a settlement. The \$18,000 in Attorney's Fees and Costs shall be paid via one check for \$18,000.00 payable to "Manning Law, APC" within twenty-one (21) days of the date this Settlement Agreement is executed by the Parties.

3.4 Payment Address

All payments required under this section to Manning Law APC shall be delivered to:

Manning Law, APC (taxpayer identification number 83-0502205)
20062 SW Birch Street, Suite 200
Newport Beach, CA 92660

3.5 Tax Documentation

Ziyad agrees to provide a completed IRS 1099 form for its payments to, and CRC and Manning Law agree to provide IRS W-9 forms to Ziyad. The Parties acknowledge that Ziyad cannot issue any settlement payments pursuant to Section 3 above until after Ziyad receives the requisite W-9 forms from CRC's counsel.

4. CLAIMS COVERED AND RELEASED

4.1 CRC's Release of Ziyad

CRC, acting on its own behalf and not on behalf of the public, fully releases and discharges Ziyad and its respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers, distributors (the "Defendant Releasees") and all entities to which Defendant Releasees directly or indirectly distribute or sell the Product, including but not limited to Wholesome Choice and any other distributors, wholesalers, customers, retailers, franchisees, licensors, and licensees, (collectively, the "Released Parties" and individually, a "Released Party"). CRC, on behalf of itself and its officers, directors, shareholders, employees, agents, parent companies, subsidiaries and divisions hereby fully releases and discharges the Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses asserted, or that could have been asserted based on or related to the handling, use, sale, distribution or consumption of the Products in California, as to any alleged violation of Proposition 65 or its implementing regulations, including without limitation any failure to provide Proposition 65 warnings on the Products with respect to exposures to lead.

4.2 Ziyad's Release of CRC

Ziyad on behalf of its past and current agents, representatives, attorneys, successors and assignees hereby waives any and all claims against CRC and its attorneys and other representatives, for any and all actions taken, or statements made by CRC 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 Complaint, and relating to the Products, will develop or be discovered. CRC on behalf of itself only, and Ziyad on behalf of itself only, acknowledge that this Settlement Agreement is expressly

intended to cover and include all such claims up through and including the Effective Date, including all rights of action therefore. CRC and Ziyad acknowledge that the claims released in Sections 4.1 and 4.2 above 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**

In the event that any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the remaining enforceable 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**

When any Party is entitled to receive any notice under this Settlement Agreement, the notice shall be sent by first class mail or electronic mail to the address set forth in this Paragraph. Any Party may modify the person and address to whom the notice is to be sent by sending the other Party notice by certified mail, return receipt requested. Said change shall take effect on the date the return receipt is signed by the Party receiving the change.

Notices shall be sent to:

For CRC

Joseph R. Manning, Jr.
Manning Law, APC
20062 SW Birch St. Suite 200
Newport Beach, CA 92660

For Ziyad:

Thomas G. Gardiner
Gardiner Koch Weisberg & Wrona
53 W. Jackson Blvd., Suite 950
Chicago, IL 60604

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 AND SAFETY CODE §25249.7(f)**

CRC and its attorneys agree to comply with the reporting form requirements referenced in

California Health and Safety Code §25249.7(f).

10. **MODIFICATION**

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

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.

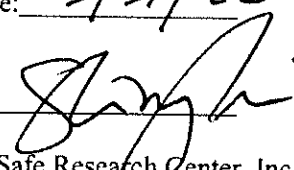
12. **WARRANTY**

CRC further represents, on its own behalf and not on behalf of the public, that at the time this Settlement Agreement is executed, CRC is not pursuing and has no immediate plans to pursue another Proposition 65 enforcement action involving products manufactured, distributed, sold, or offered for sale in California by Ziyad.

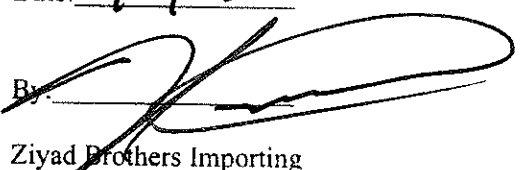
Ziyad represents that it would not enter into this Settlement Agreement without assurances from CRC's counsel that they have no current intention to bring, maintain, resume, file or prosecute litigation, arbitration, or any other legal proceeding against all Releasees over the same or similar issues as those presented in this Settlement Agreement or that may have been included in CRC's 60-Day Notice.

CRC's counsel represents and warrants on behalf of themselves and all others acting on their behalf that: (a) they are not aware of any person other than CRC that has or may have claims against Ziyad or any of the Releasees, as it pertains to Ziyad products, but has not yet asserted such claim; (b) they are not aware of any person who, based on the pendency of the Notices of Violation, has declined to bring any demand, claim, action, suit, or proceeding against Ziyad or any of the Releasees, as it pertains to Ziyad products; and (c) they are not aware of any other person, including but not limited to any potential plaintiff, putative class member, or attorney, who intends to bring any demand, notice, claim, action, suit or proceeding against any of the Releasees, as it pertains to Ziyad products, but has not yet asserted such claim.

AGREED TO:

Date: 3/31/22
By: 
CalSafe Research Center, Inc.

AGREED TO:

Date: 4-4-22
By: 
Ziyad Brothers Importing