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5 Attorneys for Plaintiff,
6 **BERJ PARSEGHIAN**

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10
11 **BERJ PARSEGHIAN,**
12 **Plaintiff,**

13 **v.**

14 **LONGRUN, LLC; and DOES 1 through 100,**
15 **inclusive,**
16 **Defendant.**

Case No.: 22STCV16155

**[PROPOSED] CONSENT JUDGMENT AS
TO LONGRUN, LLC**

**(Health & Safety Code § 25249.6 *et. seq.* and
Code Civ. Proc. § 664.6)**

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Jivalagian | Thomassian

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1. INTRODUCTION

1.1 The Parties

This [Proposed] Consent Judgment is hereby entered into by and between Berj Parseghian, acting on behalf of the public interest (hereinafter “Parseghian”) and LONGRUN, LLC (hereinafter “LONGRUN” or “Defendant”). Collectively Parseghian and LONGRUN shall be referred to hereafter as the “Parties” and each of them as a “Party.” Parseghian is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Defendant is a person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

1.2 Allegations and Representations

Parseghian alleges that Defendant has offered for sale in the State of California and has sold in California, products, which contain lead and cadmium, and that such sales have not been accompanied by Proposition 65 warnings. Lead is listed under Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm. The State of California has also listed cadmium as a chemical known to cause cancer, developmental toxicity and reproductive harm. Defendant denies the allegations and contends that there is no exposure and no violation under Proposition 65 for an alleged failure to warn.

1.3 Covered Product Description

The product that is covered by this Consent Judgment are identified as Keto and Co - Flatbread and Pizza - Keto Bread Mix; UPC #: 8 57227 00741 7. All such items shall be referred to herein as the “Covered Product.”

1.4 Notices of Violation/Complaint

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1.4.1 On or about November 24, 2021, Parseghian served LONGRUN and various public enforcement agencies with a document entitled "60-Day Notice of Violation" pursuant to Health & Safety Code §25249.7(d) (the "Notice"), alleging that LONGRUN was in violation of Proposition 65 for failing to warn consumers and customers that the Covered Product exposed users in California to lead and cadmium. No public enforcer diligently prosecuted the claims threatened in the Notice within sixty days plus service time relative to the provision of the Notice to them by Parseghian.

1.4.2 On May 16, 2022, Parseghian, acting in the interest of the general public in the State of California, filed a complaint in the Superior Court of Los Angeles County alleging violations of Health & Safety Code §25249.6 (the "Complaint") based on the alleged failure to warn of exposures to lead and cadmium contained in the Covered Product manufactured, distributed, or sold by Defendant.

1.5 Effective Date

For purposes of this Consent Judgment, the term "Effective Date" shall mean the date this Consent Judgment is entered as a judgment of the Court.

For purposes of this Consent Judgment, the term "Execution Date" shall mean the date this Consent Judgment is signed by all parties in Clause 16 below.

2. STIPULATION TO JURISDICTION/NO ADMISSION

For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over Defendant as to the allegations contained in the complaint filed in this matter, that venue is proper in the County of Los Angeles, and that this Court has jurisdiction to approve, enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all claims which were or could have been raised in the Complaint based on the facts alleged therein and/or in the Notice.

Nothing in this Consent Judgment shall be construed as an admission by Defendant of any

1 fact, finding, issue of law, or violation of law; nor shall compliance with this Consent Judgment
 2 constitute or be construed as an admission by Defendant of any fact, finding, conclusion, issue of law,
 3 or violation of law, such being specifically denied by Defendant, including, but not limited to, any
 4 admission related to exposure of failure to warn. However, this section shall not diminish or
 5 otherwise affect the obligations, responsibilities, and duties of Defendant under this Consent
 6 Judgment.
 7 Judgment.

8 **3. INJUNCTIVE RELIEF: WARNINGS, REFORMULATION AND TESTING**

9 **3.1** Beginning on the Effective Date, LONGRUN shall be permanently enjoined from
 10 manufacturing for sale in the State of California, "Distributing into the State of California," or directly
 11 selling in the State of California, any Covered Product that expose a person to a "Daily Lead
 12 Exposure Level" of more than 0.5 micrograms of lead per day or to a "Daily Cadmium Exposure
 13 Level" of more than 4.1 micrograms of cadmium per day, unless it meets the warning requirements
 14 under Section 3.2.
 15

16 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State of California"
 17 shall mean to directly ship a Covered Product into California for sale in California or to sell a
 18 Covered Product to a distributor that LONGRUN knows or has reason to know will sell the Covered
 19 Product in California. The injunctive relief in Section 3 does not apply to any Covered Product that
 20 has left the possession, and is no longer under the control of LONGRUN prior to the Effective Date
 21 and all claims as to such Covered Product are released in this Consent Judgment.
 22

23 **3.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure Level" and the
 24 "Daily Cadmium Exposure Level" shall be measured in micrograms, and shall be calculated using the
 25 following formula: micrograms of lead or cadmium per gram of product, multiplied by grams of
 26 product per serving of the product as stated on the label, multiplied by servings of the product per day
 27 stated on the label, which equals micrograms of lead or cadmium exposure per day. If the label
 28

1 contains no recommended daily servings, then the number of recommended daily servings shall be
2 one.

3 **3.2 Clear and Reasonable Warnings**

4 If LONGRUN is required to provide a warning pursuant to Section 3.1, one of the following
5 warnings must be utilized ("Warning"):
6

7 **Option 1:**

8 **WARNING:** Consuming this product can expose you to chemicals including [lead and/or
9 cadmium], which [is or are] known to the State of California to cause [cancer and] birth
10 defects or other reproductive harm. For more information go to
11 www.P65Warnings.ca.gov/food

12 **Option 2:**

13 **WARNING:** [Cancer and] Reproductive Harm - <http://www.p65warnings.ca.gov/food>

14 LONGRUN shall use the phrase "cancer and" in the Warning if LONGRUN has reason to
15 believe that the "Daily Lead Exposure Level" is greater than 15 micrograms of lead or if
16 LONGRUN has reason to believe that another Proposition 65 chemical is present which may
17 require a cancer warning. LONGRUN may reference lead, cadmium, or both in the warning,
18 depending on what chemical causes an exposure above the thresholds set in Section 3.1

19 The Warning shall be securely affixed to or printed upon the label of each Covered Product
20 and it must be set off from other surrounding information. In addition, for any Covered Product sold
21 over the internet, the Warning shall appear on the checkout page in full text or through a clearly
22 marked hyperlink using the word "**WARNING**" in all capital and bold letters when a California
23 delivery address is indicated for any purchase of any Covered Product. If a hyperlink is used, the
24 hyperlink must go directly to a page prominently displaying either the Option 1 Warning or the
25 Option 2 Warning without content that detracts from the Warning. An asterisk or other identifying
26 method must be utilized to identify which products on the checkout page are subject to the Warning.
27
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1 The Warning shall be at least the same size as the largest of any other health or safety
2 warnings also appearing on the website or on the label and the word **"WARNING"** shall be in all
3 capital letters and in bold print. No statements intended to or likely to have the effect of diminishing
4 the impact of the Warning on the average lay person shall accompany the Warning. Further, no
5 statements may accompany the Warning that state or imply that the source of the listed chemical has
6 an impact on or results in a less harmful effect of the listed chemical. For the Option 2 Warning, a
7 symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black
8 outline shall be placed to the left of the text of the Warning, in a size no smaller than the height of the
9 word **"WARNING."**

11 LONGRUN must display the above Warning with such conspicuousness, as compared with
12 other words, statements or designs on the label, or on its website, if applicable, to render the Warning
13 likely to be read and understood by an ordinary individual under customary conditions of purchase
14 or use of the product.

16 For purposes of this Consent Judgment, the term "label" means a display of written, printed or
17 graphic material that is printed on or affixed to a Covered Product or its immediate container or
18 wrapper.

19 **4. PAYMENTS PURSUANT TO HEALTH & SAFETY CODE §25249.7(b)**

21 With regard to all claims that have been raised or which could be raised with respect to failure
22 to warn pursuant to Proposition 65 with regard to lead and cadmium in the Covered Product,
23 Defendant shall pay a civil penalty of \$5,000.00 pursuant to Health and Safety Code section
24 25249.7(b), to be apportioned in accordance with California Health & Safety Code § 25192, with 75%
25 of these funds remitted to the State of California’s Office of Environmental Health Hazard
26 Assessment and the remaining 25% of the penalty remitted to Parseghian, as provided by California
27 Health & Safety Code § 25249.12(d) and the instructions directly below.

1 Defendant shall issue two separate checks for the penalty payment: (a) one check made
2 payable to "OEHHA" (tax identification number: 68-0284486) in an amount representing 75% of the
3 total penalty (i.e., \$3,750.00) and (b) one check in an amount representing 25% of the total penalty
4 (i.e., \$1,250.00) made payable directly to Parseghian. Defendant shall mail these payments within ten
5 (10) business days following the Effective Date, at which time such payments shall be mailed to the
6 following addresses respectively:
7

8 All payments owed to Plaintiff shall be delivered to the following payment address:

9
10 **KJT LAW GROUP LLP**
11 **230 N. Maryland Avenue, Suite 306**
12 **Glendale, CA 91206**

13 All payments owed to OEHHA shall be delivered directly to OEHHA at the following
14 addresses:

15 For United States Postal Delivery:

16 Mike Gyurics
17 Senior Accounting Officer -- MS 19-B
18 Office of Environmental Health Hazard Assessment
19 P.O. Box 4010
20 Sacramento, CA. 95812-0410

21 For Non-United States Postal Service Delivery:

22 Mike Gyurics
23 Fiscal Operations Branch Chief
24 Office of Environmental Health Hazard Assessment
25 1001 I Street
26 Sacramento, CA 95814

27 **5. REIMBURSEMENT OF FEES AND COSTS**

28 The parties reached an accord on the compensation due to Parseghian and his counsel under
the private attorney general doctrine and principles of contract law. Under these legal principles,
Defendant shall reimburse Parseghian's counsel for fees and costs, incurred as a result of
investigating, bringing this matter to Defendant attention, and negotiating a settlement in the public

1 interest. Defendant shall pay Parseghian’s counsel \$45,000.00 for all attorneys’ fees, expert and
 2 investigation fees and related costs associated with this matter and the Notice. Within thirty (30)
 3 calendar days of the Effective Date, Defendant shall mail a check payable to “KJT Law Group,” via
 4 certified mail to the address for Parseghian’s counsel referenced above.

5 **6. RELEASE OF ALL CLAIMS**

6 **6.1 Parseghian’s Release of Defendant, Releasees, and Downstream Releasees**

7 As to those matters raised in the Complaint and in the Notice of Violation, Parseghian, on
 8 behalf of himself, and on behalf of the public interest, hereby waives and releases any and all claims
 9 against Defendant its parent companies, corporate affiliates, subsidiaries, predecessors, successors
 10 and assigns (collectively “Releasees”) and each of its distributors, wholesalers, licensors, licensees,
 11 auctioneers, retailers, franchisees, dealers, customers, owners, purchasers, users (collectively
 12 “Downstream Releasees”) and their respective officers, directors, attorneys, representatives,
 13 shareholders, agents, and employees, and sister and parent entities for injunctive relief or damages,
 14 penalties, fines, sanctions, mitigation, fees (including fees of attorneys, experts, and others), costs,
 15 expenses, or any other sum incurred or claimed, for the alleged failure of Defendant, Releasees or
 16 Downstream Releasees to provide clear, accurate and reasonable warnings under Proposition 65.
 17 about exposure to lead and cadmium arising from the sale, distribution, or use of any Covered
 18 Product sold, manufactured or distributed by Defendant, Releasees or Downstream Releasees in
 19 California. Compliance with the Consent Judgment by Defendant or a Releasee shall constitute
 20 compliance with Proposition 65 by that Defendant, Releasee, or Downstream Releasee with respect
 21 to the presence of lead and cadmium in the Covered Product. Plaintiff agrees that any and all claims
 22 in the Complaint are resolved with prejudice by this Consent Judgment.

23 In addition to the foregoing, Parseghian, on behalf of himself, his past and current agents,
 24 representatives, attorneys, and successors and/or assignees, and not in his representative capacity,
 25

1 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and
2 releases any other Claims that he could make against Defendant, Releasees or Downstream Releasees
3 with respect to violations of Proposition 65 based upon the Covered Product. With respect to the
4 foregoing waivers and releases in this paragraph, Parseghain hereby specifically waives any and all
5 rights and benefits which he now has, or in the future may have, conferred by virtue of the provisions
6 of Section 1542 of the California Civil Code, which provides as follows:
7

8 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR
9 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR
10 HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF
11 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR
12 HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

11 **6.2 Defendant’s Release of Parseghian**

12 Defendant waives any and all claims against Parseghian, his attorneys and other
13 representatives, for any and all actions taken or statements made (or those that could have been taken
14 or made) by Parseghian and his attorneys and other representatives, in the course of investigating
15 claims or otherwise seeking enforcement of Proposition 65 against them in this matter, and/or with
16 respect to the Covered Product.
17

18 **7. SEVERABILITY AND MERGER**

19 If, subsequent to the execution of this Consent Judgment, any of the provisions of this
20 document are held by a court to be unenforceable, the validity of the enforceable provisions
21 remaining shall not be adversely affected.
22

23 This Consent Judgment contains the sole and entire agreement of the Parties and any and all
24 prior negotiations and understandings related hereto shall be deemed to have been merged within it.
25 No representations or terms of agreement other than those contained herein exist or have been made
26 by any Party with respect to the other Party or the subject matter hereof.

27 **8. GOVERNING LAW**

28 The terms of this Consent Judgment shall be governed by the laws of the State of California

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and apply within the State of California. Compliance with the terms of this Consent Judgment resolves any issue, now or in the future, as to the requirements of Proposition 65 with respect to alleged exposures to lead and cadmium arising from the Covered Product. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Covered Product, then Defendant shall provide written notice to Parseghian of any asserted change in the law, and shall have no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, the Covered Product is so affected.

9. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party at the following addresses:

For LONGRUN, LLC:

Matthew Orr
AMIN TALATI WASSERMAN, LLP
515 South Flower Street, 18th Floor
Los Angeles, CA 90071
Phone: 213-933-2330
Fax: 312-884-7352

and

For PARSEGHIAN:

Tro Krikorian, Esq.
KJT LAW GROUP, LLP
230 N. Maryland Ave. Suite 306
Glendale, CA 91206
Phone: 818-507-8528
Fax: 818-507-8588

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

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10. DRAFTING

The terms of this Consent Judgment have been reviewed by the respective counsel for each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Consent Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated equally in the preparation and drafting of this Consent Judgment.

11. COUNTERPARTS; EMAIL OR FACSIMILE SIGNATURES

This Consent Judgment may be executed in counterparts and by email or facsimile, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT APPROVAL

Parseghian agrees to comply with the requirements set forth in California Health & Safety Code §25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment and Defendants shall support approval of such Motion.

This Consent Judgment shall not be effective until it is approved and entered by the Court and shall be null and void if, for any reason, it is not approved and entered by the Court within twelve months after it has been fully executed by the Parties.

13. MODIFICATION

This Consent Judgment may be modified only by further stipulation of the Parties and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

14. ATTORNEY'S FEES

KJT LAW GROUP LLP
Jivajagian | Thomassian

1 A party who unsuccessfully brings or contests an action arising out of this Consent Judgment
2 shall be required to pay the prevailing party's reasonable attorney's fees and costs unless the
3 unsuccessful party has acted with substantial justification. For purposes of this Consent Judgment, the
4 term substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,
5 Code of Civil Procedure Section 2016, et seq.

6
7 **15. RETENTION OF JURISDICTION**

8 This Court shall retain jurisdiction of this matter to implement or modify the Consent
9 Judgment.

10 **16. AUTHORIZATION**

11 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party
12 he or she represents to stipulate to this Consent Judgment.

13 **STIPULATED AND AGREED TO:**

14 Date: 7/22/2022
15 By: DocuSigned by:
16 BERJ PARSEGHIAN
17 17B4A0E5087E404...

18 BERJ PARSEGHIAN

Date: 7/22/2022
By: [Signature]

RICHARD TIEKEN
[print name]
LONGRUN, LLC PBC FKA LONGRUN, LLC

19 **APPROVED AS TO FORM:**

20 Date: 7/25/2022
21 By: DocuSigned by:
22 [Signature]
23 D911CF9328F0472...

24 **TRO KRIKORIAN, ESQ.**
ATTORNEY FOR PLAINTIFF,
BERJ PARSEGHIAN

Date: July 22, 2022
By: [Signature]

MATTHEW ORR, ESQ.
ATTORNEY FOR DEFENDANT,
LONGRUN, LLC

25 **IT IS SO ORDERED, ADJUDGED, AND DECREED:**

26 Dated: _____
27 _____
28 Judge of the Superior Court