

SETTLEMENT AGREEMENT AND RELEASE

The Chemical Toxin Working Group Inc. dba Healthy Living Foundation Inc. (“HLF”) and Beaver Street Fisheries, Inc. and Beaver Street Foods, Inc. (“BSF,” “Company”) enter into this Settlement Agreement (this “Agreement”). HLF and BSF are referred to individually as a “Party” and collectively as the “Parties.” The Parties agree as follows:

1. Introduction

1.1 The “Matter” arises out of the Notices of Violations of California Health & Safety Code §25249.5, *et seq.* (also known as “Proposition 65”) that HLF served to Beaver Street Fisheries, Inc., Beaver Street Foods, Inc., Amazon.com, Inc., and Amazon.com Services LLC (collectively, the “Noticed Companies”) on January 18, 2022 (AG 2022-00108). In the Notice(s), HLF alleges that the following products require warnings for **cadmium** under Proposition 65:

Sea Best Bay Scallops, Water Added, Premium Raw (“Covered Product”).

1.2 The Parties enter into this Agreement in order to fully resolve all claims, demands, and allegations regarding the Notices and for the purpose of avoiding prolonged litigation. Nothing in this Agreement shall be construed as an admission of the Parties of any fact, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission by the Parties of any fact, issue of law, or violation of law including but not limited to Proposition 65. Nothing in this Agreement or any document referred to shall be construed as giving rise to any presumption or inference of admission or concession by the Parties as to any fault, wrongdoing or liability. Company denies the claims in the Notices and denies any liability under Proposition 65.

1.3. “Effective Date” is the date on which this Agreement is fully executed by the Parties.

1.4. “Compliance Date” refers to the date that is 60 days after the Effective Date.

1.5. “Distributor” is any entity or individual that sells Covered Products.

1.6 The term “Reasonably Foreseeable” means that a reasonable inquiry would have revealed to the Company that a Distributor could sell Covered Products to California. Some, but not all examples of such circumstances include: where the Distributor sells bay scallop products in California (i) online/over the internet, telephone, telephone applications (apps), or mail-order; and/or (ii) maintains or intends to maintain storage, warehouse(s), brick-and-mortar retail establishment(s) located in California.

1.7 The term “Distribute[s] into the State of California” shall mean to directly ship a Covered Product into California for sale in California, or to sell a Covered Product to a Distributor that Company knows, or for which it is Reasonably Foreseeable that such distributor will sell the Covered Products in California and such Distributor actually does sell the Covered Products in the State of California after the Compliance Date.

2. Company’s Duties

2.1 Beginning as of the Compliance Date, the Company shall not sell in the State of California, or “Distribute into the State of California,” any Covered Product that exposes a person to a “Daily Cadmium Exposure Level” of more than 4.1 micrograms of cadmium per day, unless it meets the warnings requirements under Section 2.2. Any Covered Products that Company Distributes into the State of California after the Compliance Date, shall either (1) qualify as Reformulated Covered Products under Section 2.3 or (2) comply with the warning requirements of Section 2.2.

2.2 Warnings:

2.2.1. The term “WARNING” shall be in bold and capitalized.

2.2.2. If the short-form warning is used under Section 2.2.4 Option 2, a pictogram with a yellow equilateral triangle outlined in bold black with a black exclamation point in the center must be placed to the left of the word “WARNING”. The size of the pictogram cannot be smaller than the word “WARNING”. Where the label for the product is not printed using the color yellow, the symbol may be in black and white.

2.2.3. For any Covered Product sold by Company over the internet, the warning shall be prominently displayed as follows: (a) on the primary display page for the Covered Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital and bold letters on the Covered Product’s primary display page; (c) on the checkout page or any other page in the checkout process when a California delivery address is indicated for any purchase of any Covered Product and with the warning clearly associated with the Covered Product to indicate that the product is subject to the warning; or (d) by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. For Company’s internet/online sales, in addition to the warning on the internet product display page described above, Company must also ensure a warning under Section 2.2.4 appears on the label of the Covered Product.

2.2.4 For any Covered Product sold by Company to a Distributor that will or for which it is Reasonably Foreseeable will sell those Covered Products over the internet in California, Company shall provide the written notice attached hereto as Exhibit A to each entity. Confirmation of receipt of the notice must be received electronically or in writing from the entity or an authorized agent for the entity to which Company sent the notice.

2.2.5 Warning statement

If Company provides warnings under Section 2.2, Company shall provide one of the following warning statements:

A) Option 1, Long-Form Warning:

WARNING: Consuming this product can expose you to chemicals including cadmium, 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/food.

B) Option 2, Short-Form Warning: The font size of this short-form warning must be a minimum of 6 points, and it cannot be smaller than the largest size font used for other consumer information (as defined in 27 Cal. Code Regs. § 25600.1(c) included on the label:

WARNING: Cancer and Reproductive Harm – www.P65Warnings.ca.gov/food
The bracketed terms may be provided at Company’s option if the Covered Product is compliant with Proposition 65 for the bracketed indication.

2.2.6 Warning Method of Transmission

The warning statement shall be prominently displayed for the Covered Product (1) on the label of the Covered Product, or (2) 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 Covered Product's label, it must be set off from other surrounding information and enclosed in a text box. If the warning statement is displayed on a placard, shelf tag, or sign where the Covered Product is offered for sale in a physical store, the warning placard or sign must enable an ordinary individual to determine which Covered Products the warning applies to. Where the Covered Products' sign, label, or shelf tag used to provide a warning includes consumer information about a product in a language other than English, the warning must also be provided in that language in addition to English.

2.3. Reformulated Covered Product(s); Daily Lead Exposure Level.

For purposes of this Agreement, the "Daily Lead Exposure Level" shall be measured in micrograms, and shall be calculated using the following formula: micrograms of cadmium per gram of product, multiplied by grams of product per serving of the product (using the largest serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of recommended daily servings appearing on the label), which equals micrograms of cadmium exposure per day. If the label contains no recommended daily servings, then the number of recommended daily servings shall be one.

2.3.1 For purposes of determining if a warning is required pursuant to Section 2.3, the average cadmium concentration of nine (9) samples of the Covered Products randomly selected from different lot numbers by Company shall be used. HLF reserves the right to test reformulated products and, if the results are violative of Section 2.3, assert any new claims that may arise, subject to the provisions of Section 5.

2.3.2 All testing pursuant to this Agreement shall be performed using a laboratory with ISO 17025 accreditation or equivalent certification and an analytical method equivalent to AOAC 993.14, 2015.06, or other official AOAC method as given in the "Official Methods of Analysis of the AOAC International", which complies with the performance and quality control factors appropriate for the method used, including limit of detection, limit of quantification, accuracy, and precision and meets the following criteria: Inductively Coupled Plasma Mass Spectroscopy (ICP-MS), achieving a limit of quantification (LOQ) of less than or equal to 10 parts per billion (10 ng/g), or any other testing method subsequently agreed upon in writing by the Parties.

2.3.3 All testing pursuant to this Agreement shall be performed by an independent third party laboratory accredited to perform cadmium testing using the methodology in Section 2.3.2. Testing shall be performed prior to Company's first distribution into California or sale in California of any Covered Product manufactured or purchased by Company after the Compliance Date, and testing shall continue at least once per year thereafter for as long as Company sells the Covered Product.

2.3.4. The reformulation and testing requirements of Section 2.3 do not apply to any of the Covered Products for which the Company has provided a warning as specified in Section 2.2.

2.4. For any Covered Products that Company has currently in its inventory as of the Effective Date that are not a Reformulated Covered Product, Company shall not Distribute into the State of California after the Compliance Date these Covered Products unless they contain a warning pursuant to Section 2.2.

3. Settlement Payments

3.1 In satisfaction of all claims for civil penalties and attorneys' fees and costs related to the Notices, Company shall pay a total settlement amount of \$100,000.00 (the "Settlement Amount") within 10 days of the Effective Date by wire transfer to HLF's counsel Poulsen Law P.C. escrow account, for which HLF's counsel will give Company the necessary account information.

HLF shall be solely responsible for allocating the Settlement Amount pursuant to Section 3. Upon request, HLF or its legal counsel shall supply the Company with a completed W-9 form. The Settlement Amount shall be allocated as follows:

3.1.1 \$20,000 shall be considered a "civil penalty", of which HLF shall remit seventy-five percent (75%) to the "Safe Drinking Water and Toxic Enforcement Fund" managed by the State of California's Office of Environmental Health Hazard Assessment.

3.1.2 \$80,000 shall be considered reimbursement of HLF's attorneys' fees and costs related to the Matter.

3.2 Except as expressly set forth in this Section 3 and 12 below, the Parties shall bear their own costs, expenses, and attorneys' fees related to this Matter.

4. Binding Effect; Claims Covered and Released

4.1 This Agreement is a full, final, and binding resolution between HLF, on behalf of itself, and its respective principals, officers, directors, employees, parents, subsidiaries, executors, administrators, successors, and assigns, on the one hand, and Company, on behalf of itself, and its respective owners, principals, shareholders, officers, directors, employees, parent companies, subsidiaries, heirs, executors, divisions, administrators, predecessors, successors and assigns, on the other, of any alleged violation of Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings for exposure to cadmium from the import, manufacturing, marketing, distribution, sale or offering for sale, handling, use or consumption of the Covered Products, and fully resolves all claims that have been asserted or could have been asserted based on the Notices, for failure to provide Proposition 65 warnings. HLF hereby releases, waives all claims against, and discharges Company, its respective owners, principals, shareholders, officers, directors, employees, parent companies, subsidiaries, suppliers, franchisees, licensees, customers, distributors, wholesalers, retailers and any of Company's suppliers only for ingredients or components used by Company to make the Covered Products, downstream entities in the distribution chain for the Covered Products, and the predecessors, successors and assigns of any of them (collectively, "Released Parties"), for any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses related to any alleged violation of Proposition 65 arising from any failure to provide Proposition 65 warnings for cadmium for the Covered Products.

4.2 HLF, on its own behalf only, on the one hand, and Company, on its own behalf only, on the other hand, further waive and release any and all claims they may have against each other for all actions or statements made or undertaken in the course of seeking or opposing enforcement of Proposition 65 in connections with the Notice(s).

4.3 It is possible that other claims not known to the Parties, arising out of the facts alleged in the Notices, and relating to the Covered Products, will develop or be discovered. HLF on behalf of itself only, and Company on behalf of itself only, acknowledge that this Agreement is expressly intended to cover and include all such claims up through and including the Effective Date, including all rights of action therefore.

4.4 The Parties agree that compliance with the terms of this Agreement shall constitute compliance by any Released Party with Proposition 65 regarding alleged exposures to cadmium in the Covered Products manufactured, purchased, distributed, or sold by Company after the Compliance Date.

5. Resolution of Disputes

If HLF alleges that Company has failed to comply with this Agreement, prior to filing an action or notice of violation as to any Releasee, HLF shall first provide Company thirty (30) days' advance written notice of the alleged violation(s). HLF shall provide testing results, lot numbers, photographs of the Covered Product packaging, and purchase receipts for the Covered Product at issue. The Parties shall meet and confer during such thirty (30) day period in an effort to resolve the matter informally without the need for litigation.

6. Entire Agreement

This Agreement contains the entire agreement between the Parties with regard to settlement of this Matter, and supersedes all prior or contemporaneous agreements or understandings, written or oral, with regard to the matters set forth in this Agreement.

7. Modification

7.1 Except as provided in this Section 7, this Agreement may be modified only by a written agreement of the Parties.

7.3 If, in the future, there is a Proposition 65 regulation that specifies a naturally occurring allowance for cadmium in the Covered Products, or there is any other change in the law that Company believes warrants a modification to this Agreement, Company may notify HLF of its intent to modify the Agreement and the Parties shall meet and confer to discuss any appropriate modification.

7.4 If a dispute should arise concerning a modification of this Agreement, then the Parties shall meet and confer in good faith to attempt to resolve the dispute, but if it cannot be resolved in that manner, either Party may present the dispute to the court for resolution.

8. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective owners, principals, shareholders, members, managers, officers, directors, employees, agents, successors, and assigns.

9. No inference, assumption or presumption shall be drawn, and no provision of this Agreement shall be construed against any of the Parties, based upon the fact that one of the Parties and/or one of the Parties' attorneys prepared and/or drafted all or any portion of this Agreement. It is conclusively presumed that the Parties participated equally in the preparation and drafting of this Agreement.

10. This Agreement shall be deemed to have been entered into in the State of California and governed and interpreted by the laws of the State of California, regardless of the physical locations of the individuals executing this Agreement at the time of execution.

11. The Parties acknowledge that they have a right to consult an attorney and they have consulted their attorneys with respect to the terms and conditions of this Agreement or by signing this Agreement hereby acknowledge they have made the decision not to consult with an attorney in this Matter. The Parties further acknowledge that they fully understand this Agreement and the effect of signing and executing this Agreement.

12. Any legal action to enforce this Agreement or related to this Matter may be brought in any California superior court. In any legal action brought to enforce this Agreement, the prevailing party shall be entitled to recovery its reasonable attorney's fees and costs.

13. This Agreement may be signed in counterparts, and each counterpart, as well as any facsimile, e-mail (.pdf), copy of this Agreement, or any other counterpart, shall be deemed to be an original.

14. All notices required to be given to either Party under this Agreement shall be in writing and sent by

U.S. Certified Mail, postage prepaid, return receipt requested, or by FedEx or UPS delivery service with proof of delivery to:

For HLF:

Poulsen Law P.C.
282 11th Avenue, Suite 2612
New York, New York, 10001
Tel: +1 (646) 776 5999
Tel: + 1(650) 296 1014 Direct
ap@poulsenlaw.org

For Company:

Corporate General Legal Counsel
Beaver Street Fisheries, Inc.
1741 W. Beaver Street
Jacksonville, Florida 32209
Telephone: (904) 354-8533

15. Each of the individuals who executes this Agreement represents and warrants he/she has the authority to execute this document and bind the respective Parties to the terms and conditions of this Agreement, and has read, understood, and agreed to all the terms and conditions in this Agreement.

DATED: June 1, 2022

THE CHEMICAL TOXIN WORKING GROUP INC. DBA
HEALTHY LIVING FOUNDATION INC.



David Steinman
Chief Officer

DATED:

June 1, 2022

Beaver Street Fisheries, Inc. and Beaver Street Foods, Inc.



Name: Mark Frisch

Title: Executive Vice President

EXHIBIT A
Notice to Retailers and Distributors

This is to notify you that _____ has entered into a settlement with The Chemical Toxin Working Group Inc. dba Healthy Living Foundation Inc. regarding violations of California Health and Safety Code §§ 25246.5 et seq. (“Proposition 65”) for the presence of _____ in:

_____ (each a “Covered Product,” or collectively, the “Covered Products”).

Under the terms of this settlement, _____ is providing the following notice to you regarding the Covered Products and the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65”) of California (Proposition 65”)

- The consumption of the Covered Products may result in an exposure to _____ and therefore requires a warning under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65”) of California (Proposition 65”).
- For any Covered Product sold by you or your downstream distributors, customers, retailers (collectively “Purchaser(s)”) in or to California, you or the Purchaser **must provide a warning to a consumer** which meets the “Content Requirements” and “Method of Transmission” below:

Content Requirements

The warning shall state:

WARNING: Consuming this product can expose you to _____, 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.

Method of Transmission

The warning shall be prominently displayed as follows: (a) on the primary display page for the Covered Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital and bold letters on the Covered Product’s primary display page; (c) on the checkout page or any other page in the checkout process when a California delivery address is indicated for any purchase of any Covered Product and with the warning clearly associated with the Covered Product to indicate that the product is subject to the warning; or (d) by otherwise prominently displaying the warning to the purchaser prior to completing the purchase.

Confirmation of receipt:

Please confirm receipt of this notice within 30 days of receiving it either electronically or in writing, by filling out the form below and returning a signed copy, to acknowledge that you have received this notice and that the warnings for internet sales will be posted in accordance

with these specifications.

You may use this notice to notify your downstream Purchasers.

Acknowledged by:

_____ (Signature)

_____ (Print Name)

_____ (Company/Store Location)

_____ (Date)