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4 Attorneys for Plaintiff Keep America Safe and Beautiful

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO

10 KEEP AMERICA SAFE AND BEAUTIFUL,

11 Plaintiff,

12 v.

13 JFC INTERNATIONAL, INC
14 WALMART.COM

15 AND

16 DOES 1-25

17 Defendants,

Case No. 37-2022-00024335-CU-NP-CTL

**STIPULATION FOR ENTRY OF
CONSENT JUDGMENT AS TO
DEFENDANT JFC
INTERNATIONAL, INC.**

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20 **1. INTRODUCTION**

21 1.1 **The Parties.** This Consent Judgment is entered into by and between Plaintiff
22 Keep America Safe and Beautiful (“KASAB”) acting on behalf of the public interest (hereinafter
23 “KASAB”), and Defendant JFC International Inc. (“JFC”), with KASAB and JFC collectively
24 referred to as the “Parties” and each of them as a “Party.” KASAB is a California Nonprofit
25 Corporation seeking to promote awareness of exposures to toxic chemicals and improve human
26 health by reducing or eliminating hazardous substances contained in consumer products. JFC is a
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1 person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety Code
2 §§ 25249.6 *et seq.*

3 **1.2 Allegations and Representations.** KASAB alleges that JFC has offered for sale
4 in the State of California and has sold in California, the “Dynasty Bamboo Shoots Sliced” that
5 contains LEAD, and that such sales have not been accompanied by Proposition 65 warnings.
6 LEAD is listed under Proposition 65 as chemicals known to the State of California to cause
7 cancer and reproductive harm.

8 **1.3 Notices of Violation/Complaint.** On or about March 31, 2022, KASAB served
9 JFC, Walmart.com., and various public enforcement agencies with a document entitled "60-Day
10 Notice of Violation" pursuant to Health & Safety Code §25249.7(d) (the "Notice"), alleging that
11 JFC, and Walmart.com., were in violation of Proposition 65 for failing to warn consumers and
12 customers that the “Dynasty Bamboo Shoots Sliced” exposed users in California to LEAD. No
13 public enforcer diligently prosecuted the claims threatened in the Notice within sixty days plus
14 service time relative to the provision of the Notice to them by KASAB.

15 **1.4** For purposes of this Consent Judgment only, the Parties stipulate that this Court
16 has jurisdiction over JFC as to the allegations contained in the complaint filed in this matter, that
17 venue is proper in the County of San Diego, and that this Court has jurisdiction to approve, enter,
141 and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all
4 claims which were or could have been raised in the Complaint based on the facts alleged therein
19 and/or in the Notices.

20 **1.5** JFC denies the material allegations contained in KASAB’s Notice and Complaint
21 and maintains that it has not violated Proposition 65. Nothing in this Consent Judgment shall be
22 construed as an admission by JFC of any fact, finding, issue of law, or violation of law; nor shall
23 compliance with this Consent Judgment constitute or be construed as an admission by JFC of any
24 fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by JFC.
25 However, this section shall not diminish or otherwise effect the obligations, responsibilities, and
26 duties of JFC under this Consent Judgment.

1 **2. DEFINITIONS**

2 2.1 **Complaint.** The term “Complaint” shall have the meaning given in Section 1.3.

3 2.2 **Covered Product.** The term “Covered Product” means the “Dynasty Bamboo
4 Shoots Sliced” designed, manufactured, sold, distributed or otherwise made available to, by or for
5 JFC and its downstream distributors and retailers.

6 2.3 **Effective Date.** The term “Effective Date” shall mean the date this Consent
7 Judgment is entered as a Judgment of the Court.

8 2.4 **Listed Chemicals:** The term “Listed Chemicals” shall mean LEAD.

9 2.5 **Notice.** The term “Notice” shall have the meaning given in Section 1.3.

10 2.6 **Releasees.** The terms “Defendant Releasees” and “Downstream Defendant
11 Releasees” shall have the meanings given in Section 5.1.

12 2.7 **Execution Date.** The term “Execution Date” shall mean the date this Consent
13 Judgment is signed by the parties

14 **3. INJUNCTIVE RELIEF: WARNINGS**

15 3.1 Commencing on the Effective Date, JFC shall not sell, offer for sale, or ship for
16 sale in California any Covered Product, unless the Covered Product is accompanied by warning
17 substantially similar to the following warning statement:



19 **WARNING:** Cancer and Reproductive Harm - www.P65Warnings.ca.gov.

20 Or



24 **WARNING:** The use of this product can expose you to LEAD, which is a
25 chemical 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.

26 3.2 The warning provided pursuant to Section 3.1 shall be affixed to or printed on the
27 Covered Product’s packaging or labeling. The warning shall be prominently affixed to or printed

1 on the packaging or labeling, and displayed with such conspicuousness, as compared with other
2 words, statements, or designs as to render it likely to be read and understood by an ordinary
3 individual under customary conditions of purchase or use. A warning may be contained in the
4 same section of the packaging or labeling that states other safety warnings, if any, concerning the
5 use of the product and shall be at least the same size as those other safety warnings, but no less
6 than 6 point font. The warning shall be accompanied by a symbol consisting of a black
7 exclamation point in a yellow equilateral triangle with a bold black outline. Where the label for
8 the product is not printed using the color yellow, the symbol may be printed in black and white.
9 The symbol shall be placed to the left of the text of the warning, in a size no smaller than the
10 height of the word "WARNING". To the extent the warning statement used is clear and
11 reasonable in accordance with Title 27, California Code of Regulations § 25600 *et seq.* (and as
12 those regulations may hereafter be amended), it will be deemed substantially similar to the
13 warning statement provided above.
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15 **4. MONETARY TERMS**

16 4.1 **Penalty.** JFC shall pay a civil penalty of \$100.00 pursuant to Health and Safety
17 Code section 25249.7(b), to be apportioned in accordance with California Health & Safety Code
141 § 25192, with 75% of these funds remitted to the State of California's Office of Environmental
4 Health Hazard Assessment and the remaining 25% of the penalty remitted to KASAB, as
19 provided by California Health & Safety Code § 25249.12(d). Such payment shall be made within
20 10 days of the Effective Date.

21 4.2 **Attorney's Fees.** JFC agrees to pay reasonable attorney fees, inclusive of all
22 expenses and costs incurred as a result of investigating, bringing this matter to JFC's attention,
23 litigating and negotiating and obtaining judicial approval of a settlement in the public interest,
24 pursuant to Code of Civil Procedure section 1021.5, in an amount of \$18,900.00. JFC shall wire
25 KASAB's counsel the total sum of \$19,000.00 representing the civil penalty and attorney fees in
26 Sections 4.1 and 4.2 within 10 days following Effective Date, and wire instruction information
27 from KASAB's counsel.

1 **5. RELEASE OF ALL CLAIMS**

2 5.1 This consent judgment is a full, final, and binding resolution between KASAB
3 acting in the public interest, and JFC, its owners, investors employees, directors, officers,
4 managers, attorneys, parents, shareholders, divisions, subdivisions, subsidiaries, partners, sister
5 companies, and affiliates, and their successors and assigns including, without limitations to, as
6 Walmart, Inc., Walmart.com USA, LLC (“Defendant Releasees”), and all entities from whom
7 they obtain and to whom they directly or indirectly distribute or sell Covered Products, including
8 but not limited to manufacturers, suppliers, distributors, wholesalers, customers, licensors,
9 licensees, retailers, franchisees, and cooperative members, and their successors and assigns
10 (“Downstream Defendant Releasees”). Upon the Effective Date of this Consent Judgment, and
11 subject to payment by JFC of the full settlement amount and compliance with the terms of this
12 Consent Judgment, KASAB, on behalf of itself, it’s agents, successors, heirs, and assigns, hereby
13 fully and irrevocably releases and discharges JFC, the Defendant Releasees, and the Downstream
14 Defendant Releasees from all claims for violations of Proposition 65 that were, or which could
15 have been, asserted in the Complaint based on exposure to and/or failure to warn about Listed
16 Chemicals from Covered Products as set forth in the Notice, with respect to any Covered
17 Products manufactured, distributed, or sold by JFC, the Defendant Releasees, and/or the
141 Downstream Defendant Releasees prior to the Effective Date. Compliance with the terms of this
4 Consent Judgment constitutes compliance with Proposition 65 with regard to the Covered
19 Products.

20 5.2 In addition to the foregoing, KASAB, on behalf of itself, it’s past and current
21 agents, representatives, attorneys, and successors and/or assignees, and *not* in its representative
22 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of
23 legal action and releases any JFC, Defendant Releasees, and Downstream Defendant Releasees
24 from any and all manner of actions, causes of action, claims, demands, rights, suits, obligations,
25 debts, contracts, agreements, promises, liabilities, damages, charges, losses, costs, expenses, and
26 attorneys’ fees, of any nature whatsoever, known or unknown, in law or equity, fixed or
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1 contingent, now or in the future, with respect to any alleged violations of Proposition 65 related to
2 or arising from Covered Products manufactured distributed or sold by JFC or Defendant
3 Releasees, or Downstream Defendant Releasees. With respect to the foregoing waivers and
4 releases in this paragraph, KASAB hereby specifically waives any and all rights and benefits
5 which she now has, or in the future may have, conferred by virtue of the provisions of Section
6 1542 of the California Civil Code, which provides as follows:
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9 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
10 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
11 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
12 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
13 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR**
14 **OR RELEASED PARTY.**

15 5.3 JFC waives any and all claims against KASAB, its attorneys and other
16 representatives, for any and all actions taken or statements made (or those that could have been
17 taken or made) by KASAB and its attorneys and other representatives, whether in the course of
18 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
19 and/or with respect to Covered Products. This agreement is also intended to be the final and
20 binding resolution between the parties without relation to time. To the extent permitted by
21 applicable law, the Releasees hereby expressly waive and release their right to plead any statute
22 of limitations as a defense to any claim relating to the Covered Products or any matter covered
23 under the Parties' agreement and Stipulated Consent Judgment.

24 **6. INTEGRATION**

25 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
26 any and all prior negotiations and understandings related hereto shall be deemed to have been
27 merged within it. No representations or terms of agreement other than those contained herein
exist or have been made by any Party with respect to the other Party or the subject matter hereof.

1 **7. GOVERNING LAW**

2 7.1 The terms of this Consent Judgment shall be governed by the laws of the State of
3 California and apply within the State of California. In the event that Proposition 65 is repealed or
4 is otherwise rendered inapplicable by reason of law generally, or as to Covered Products, then
5 JFC shall provide written notice to KASAB of any asserted change in the law, and shall have no
6 further obligations pursuant to this Consent Judgment with respect to, and to the extent that,
7 Covered Products are so affected.

8 **8. ENFORCEMENT**

9 8.1 KASAB may, by motion or application for an order to show cause before the
10 Superior Court of San Diego County, enforce the terms and conditions contained in this Consent
11 Judgment. Prior to bringing any motion or application to enforce the requirements of this
12 Consent Judgment, KASAB shall provide JFC with a proposed Notice of Violation, and a copy of
13 any documentary evidence which purportedly supports KASAB's Notice of Violation. The
14 Parties shall then meet and confer in good faith for a period of at least sixty (60) days regarding
15 the basis for KASAB's anticipated motion or application in an attempt to resolve it informally.
16 Should such attempts at informal resolution fail, KASAB may file its enforcement motion or
17 application. This Consent Judgment may only be enforced by the Parties.

141 **9. NOTICES**

4 9.1 Unless specified herein, all correspondence and notices required to be provided
19 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i)
20 first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any
21 party by the other party at the following addresses:

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23 For JFC:

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25 Steven Garrett, Esq.
26 Steve Teraoka, Esq.
27 Teraoka & Partners LLP
 4 Embarcadero Center, Suite 1400
 San Francisco, CA 94111

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And

For KASAB:

Stephanie Sy, Esq.
Law Office of Stephanie Sy
11622 El Camino Real, Suite 100
San Diego, CA 92130

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.

10. COUNTERPARTS; FACSIMILE SIGNATURES

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

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

11.1 KASAB 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 JFC agrees it shall support approval of such Motion.

11.2 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 eighteen months after it has been fully executed by the Parties. In such a scenario, the Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30-days, any monies that have been paid pursuant to Section 4 shall be refunded and the case shall proceed on its normal course.

11.3 If the Court approves this Consent Judgment and is reversed or vacated by an appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent Judgment. If the Parties do not jointly agree on a course of action to take, any monies that have been paid pursuant to Section 4 shall be refunded within 15 days after remittitur to the trial court, and the case shall proceed on its normal course on the trial court’s calendar.

1 **12. MODIFICATION**

2 12.1 This Consent Judgment may be modified only by express written agreement of the
3 Parties and the approval of the Court or upon the granting of a motion brought to the Court by
4 either Party.

5 12.2 Any Party seeking to modify this Consent Judgment shall attempt in good faith to
6 meet and confer with the other Party prior to filing a motion to modify the Consent Judgment.

7 **13. ATTORNEY'S FEES**

8 13.1 A party who unsuccessfully brings or contests an action arising out of this Consent
9 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs
10 unless the unsuccessful party has acted with substantial justification. For purposes of this
11 Consent Judgment, the term substantial justification shall carry the same meaning as used in the
12 Civil Discovery Act of 1986, Code of Civil Procedure Section 2016, et seq.

13 13.2 Except as otherwise provided in this Consent Judgment, each Party shall bear its
14 own attorneys' fees and costs.

15 13.3 Nothing in this Section shall preclude a Party from seeking an award of sanctions
16 pursuant to law.

17 **14. RETENTION OF JURISDICTION**

141 14.1 This Court shall retain jurisdiction of this matter to implement or modify the
4 Consent Judgment.


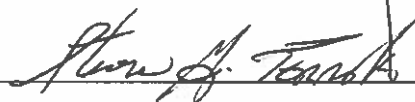
19 **15. AUTHORIZATION**

20 15.1 The undersigned are authorized to execute this Consent Judgment on behalf of
21 their respective Parties and have read, understood and agree to all of the terms and conditions of
22 this document and certifies that he or she is fully authorized by the Party he or she represents to
23 execute the Consent Judgment on behalf of the Party represented and legally bind that Party.
24 Except as explicitly provided herein each Party is to bear its own fees and costs.

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26 **APPROVED AS TO FORM:**

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20170623

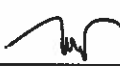
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AGREED TO: Date : <u>August 1, 2022</u> , 2022 By: <u></u> On Behalf of KASAB Stephanie Sy Law Office of Stephanie Sy	AGREED TO: Date: <u>August 8, 2022</u> , 2022 By: <u></u> On Behalf of JFC International, Inc. Steve Teraoka Teraoka & Partners LLP
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IT IS HEREBY SO STIPULATED:


AGREED TO:

Date: 08/01/2022

By:  NGOC-BICH HOANG VO, CEO
Keep America Safe And Beautiful

AGREED TO:

Date: Aug 8, 2022

By:  Yoshiyuki Ishigaki
Yoshiyuki Ishigaki (Aug 8, 2022 12:17 PDT)
JFC International, Inc.