

## SETTLEMENT AND RELEASE AGREEMENT

### 1. INTRODUCTION

#### 1.1. **Clean Product Advocates, LLC and Pacific Seafood Group**

This Settlement and Release Agreement (“Settlement Agreement”) is entered into by and between Clean Products Advocates, LLC (“CPA”), on the one hand, and Pacific Seafood Group (“Pacific Seafood”), on the other hand, with CPA and Pacific Seafood collectively referred to as the “Parties.”

#### 1.2. **General Allegations**

CPA alleges that Pacific Seafood manufactured and distributed and offered for sale in the State of California “Pacific Seafood Newport Steamed Clams in Garlic Butter” containing Cadmium and Lead (AG# 2022-01311), “Pacific Seafood Newport Wild Calico Scallops” containing Cadmium (AG# 2022-01309), “Newport White Hard Clams” containing Cadmium and Lead (AG# 2022-01143), “Newport Whole Mussels” containing Cadmium and Lead (AG# 2022-01142), “Pacific Frozen Seafood Mix” containing Cadmium and Lead (AG# 2022-01141) (Covered Product(s)), and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.6 *et seq.* and its implementing regulations (“Proposition 65”). CPA further alleges that California has identified and listed Cadmium and Lead under Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.

#### 1.3. **Product Description**

The products that are covered by this Settlement Agreement are defined as Seafood Newport Steamed Clams in Garlic Butter, Pacific Seafood Newport Wild Calico Scallops, Newport White Hard Clams, Newport Whole Mussels, and Pacific Frozen Seafood Mix that Pacific Seafood has manufactured, imported, sold, offered for sale or distributed in California (the “Covered Products”).

#### 1.4. **Notices of Violation**

On or about June 22, 2022, CPA served (1) Pacific Seafood Group, Dulcich, Inc., and Winco Foods, LLC (AG# 2022-01311); (2) Pacific Seafood Group, Dulcich, Inc., and Winco Foods, LLC (AG# 2022-01309); (3) Pacific Seafood, Weee! Inc., and Winco Foods, LLC (AG# 2022-01143); (4) Pacific Seafood, Weee! Inc., and Winco Foods, LLC (AG# 2022-01142); and (5) Pacific Seafood, Weee! Inc., and Winco Foods, LLC (AG# 2022-01141), and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with documents entitled “60-Day Notice of Violation” (the “Notices”) that provided Pacific Seafood and such public enforcers with notice that Pacific Seafood was allegedly

in violation of California Health & Safety Code § 25249.6 for failing to warn consumers and customers that the Covered Products exposed users in California to Cadmium and Lead.

To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting an action to enforce the allegations set forth in the Notices.

### **1.5. No Admission**

Pacific Seafood denies the material, factual, and legal allegations in the Notices and maintains that all of the product it sold and/or distributed for sale in California, including the Covered Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Pacific Seafood 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 Pacific Seafood of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Pacific Seafood. This Section shall not, however, diminish or otherwise affect Pacific Seafood'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 the date this Settlement Agreement is fully executed by the Parties.

## **2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

Beginning one hundred eighty days (180) from the Effective Date, Pacific Seafood shall not sell in California, or distribute for sale in California, any Covered Product that exposes a person to a "Daily Exposure Level" of more than 4.1 micrograms of Cadmium per day and 0.5 micrograms of Lead per day as calculated below, unless it meets the warning requirements under this Section.

The Covered Products shall be deemed to comply with Proposition 65 with regard to Cadmium and Lead and be exempt from any Proposition 65 warning requirements for Cadmium and Lead in the Covered Products if the exposure does not exceed 4.1 micrograms of Cadmium per day and 0.5 micrograms of Lead per day as calculated below.

The Covered Products that were supplied or contracted to be supplied to third parties by Pacific Seafood prior to six (6) months after the Effective Date shall be deemed exempted from the requirements of this Section and shall be permitted to be sold through as previously manufactured, packaged and labeled.

For the purposes of this Settlement Agreement only, no part of which amounts to an any admission by Pacific Seafood, the amount of Cadmium and Lead a person is exposed to from the Covered Product shall be calculated using the following formula: micrograms of Cadmium and Lead per gram of product, multiplied by grams of product per serving of the product, multiplied

by one serving of the product per day for purposes of this Settlement Agreement only, which equals micrograms of Cadmium or Lead exposure per day.

### **2.1. Warning Option**

Covered Products that do not meet the warning exemption standard set forth in this Section shall be accompanied by a warning as described in Section 2.2 below. This warning requirement shall only be required as to the Covered Products that are manufactured, distributed, marketed, imported, sold, shipped for sale or offered for sale to consumers by Pacific Seafood in the State of California. No Proposition 65 warning shall be required for any Covered Products that are supplied or contracted to be supplied to third parties by Pacific Seafood prior to six (6) months after the Effective Date, and all such Covered Products are hereby deemed to be exempt from Proposition 65 enforcement.

### **2.2. Clear and Reasonable Warnings**

If Pacific Seafood is required to provide a warning pursuant to this Section, one of the following warnings must be utilized (“Warning”):

#### **Option 1 (Long-Form):**

**WARNING:** Consuming this product can expose you to chemicals including [Cadmium and/or Lead], which are 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](http://www.P65Warnings.ca.gov/food).

#### **Option 2 (Short-Form):**

**WARNING [or] CA WARNING [or] CALIFORNIA WARNING:** Risk of cancer and reproductive harm from exposure to [Cadmium and/or Lead]. See [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

#### **Option 3 (Short-Form):**

**WARNING [or] CA WARNING [or] CALIFORNIA WARNING:** Can expose you to [Cadmium and/or Lead], a carcinogen and reproductive toxicant. See [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

#### **Option 4 (Short-Form):**

**WARNING [or] CA WARNING [or] CALIFORNIA WARNING:** The shellfish in this package are natural and raised in seawater. Consuming shellfish can expose you to substances that are found in seawater, such as [cadmium and/or lead], a carcinogen and reproductive toxicant. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food) and [www.pacificseafood.com/prop-65](http://www.pacificseafood.com/prop-65).

The Warning shall be securely affixed to or printed upon the label of each Covered Product and it must be set off from other surrounding information and enclosed in a box. For purposes of this Settlement Agreement, the term "label" means a display of written, printed or graphic material that is printed on or affixed to a Covered Product or its immediate container or wrapper. The font size of the Short-Form warning must be a minimum of six (6) points. The Warning shall be at least the same size as the largest of any other health or safety warnings also appearing on the website or on the label and the word "WARNING" shall be in all capital letters and in bold print.

No statements intended to or likely to have the effect of diminishing the impact of the Warning on the average lay person shall accompany the Warning. Further, no statements may accompany the Warning that state or imply that the source of the listed chemical has an impact on or results in a less harmful effect of the listed chemical. Pacific Seafood must display the above Warning with such conspicuousness, as compared with other words, statements or designs on the label, or on its website, if applicable, to render the Warning likely to be read and understood by an ordinary individual under customary conditions of purchase or use of the product.

If Proposition 65 warnings for Lead and Cadmium are no longer required, Pacific Seafood shall have no further obligations pursuant to this Settlement Agreement.

### **2.3. Internet Warnings**

Any Covered Product that is sold by Pacific Seafood on the Internet to persons located in California shall also provide the warning language by a clearly marked hyperlink on the product display page, or otherwise prominently displayed to the purchaser before the purchaser completes his or her purchase of the Covered Product.

For internet purchases made before January 1, 2028, a retail seller is not responsible under § 25600.2(e)(4) for conspicuously posting or displaying the new warning online until 60 calendar days after the retailer receives a warning or a written notice under §§ 25600.2(b) and (c) which updates a short-form warning compliant with § 25603(c) with content compliant with § 25603(b).

### **2.4. Foreign Language**

Where a sign, labeling, or label, as defined in § 25600.1, is used to provide a warning that 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.

## **3. MONETARY TERMS**

In full satisfaction of all potential civil penalties and attorney's fees, costs and any other expenses incurred by CPA or its counsel. Pacific Seafood agrees to pay the total settlement amount of thirty-six thousand dollars (\$36,000) (the "Settlement Amount") as set forth below.

### **3.1 Civil Penalties Pursuant to Health & Safety Code 25249.7(b)**

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notices or referred to in this Settlement Agreement, Pacific Seafood agrees to pay two thousand dollars (\$2,000.00) in civil penalties. The penalty amount 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 CPA. Pacific Seafood shall issue two separate checks for the civil penalty payment to (a) OEHHA and (b) CPA within thirty (30) days of the Effective Date, as follows:

- One Check made payable to the “State of California’s Office of Environmental Health Hazard Assessment (OEHHA)” in the amount of one thousand five hundred dollars (\$1,500), representing 75% of the total civil penalty; and
- One check payable to “Clean Product Advocates, LLC” in the amount of five hundred dollars (\$500), representing 25% of the total civil penalty.

All Payments owed to OEHHA shall be delivered directly to OEHHA (Memo line “Prop 65 Penalties NOV #2022-01141, 2022-01142, 2022-01143, 2022-01309, 2022-01311”) at the following address:

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

All penalty payments owed to CPA shall be delivered to:

c/o CPA  
Attn: Elham Shabatian  
Cliffwood Law Firm, PC  
12100 Wilshire Blvd, Suite 800  
Los Angeles, CA 90025

### **3.2 Attorney’s Fees and Costs**

The Parties reached an accord on the compensation due to CPA and its counsel under the private attorney general doctrine and principles of contract. Under these legal principles, Pacific Seafood agrees to pay thirty-four thousand dollars (\$34,000) to CPA and its counsel for all fees and costs incurred in investigating, bringing this matter to the attention of Pacific Seafood, and

negotiating a settlement. The thirty-four thousand dollars (\$34,000) in Attorney's Fees and Costs shall be payable to Cliffwood Law Firm, PC within thirty (30) days of the Effective Date.

All payments required under this Section shall be delivered to:

Cliffwood Law Firm, PC  
Attn: Elham Shabatian  
12100 Wilshire Blvd, Suite 800  
Los Angeles, CA 90025

## **5. CLAIMS COVERED AND RELEASED**

### **5.1. Release of Pacific Seafood, Downstream Customers and Upstream Vendors**

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Section 3 above, CPA, on behalf of itself and its respective owners, principals, shareholders, officers, directors, employees, parents, subsidiaries its past and current agents, representatives, attorneys, successors and/or assignees (collectively, "Releasers"), hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and fully releases all claims relating to the Covered Products, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against (a) Pacific Seafood (b) each of Pacific Seafood's downstream distributors in the stream of commerce (including but not limited to Dulcich, Inc., Weee! Inc., Winco Foods, LLC and any other upstream or downstream entities in the distribution chain for the Covered Products, including, but not limited to, manufacturers, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, third-party re-sellers, and users, (c) Pacific Seafood 's parent companies, corporate affiliates, subsidiaries, affiliates, doing business as entities ("DBAs"), successor companies, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities, and (d) the employees, shareholders, officers, directors, members, managers, equity owners, insurers, attorneys, predecessors, successors and assigns of any of the entities identified in subsection (a) and (c), above (collectively "Releasees"). CPA also, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any nature, character or kind, known or unknown, suspected or unsuspected, against Pacific Seafood and the Releasees.

## **5.2 Pacific Seafood's Release of CPA**

Pacific Seafood, on behalf of itself and its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against CPA and its attorneys and other representatives, for any and all actions taken or statements made by CPA and/or its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Covered Products.

## **5.3 California Civil Code § 1542**

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. CPA on behalf of itself only, on one hand, and Pacific Seafood, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action thereof. The Parties acknowledge that the claims released in Sections 5.1 and 5.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 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.

CPA and Pacific Seafood each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

## **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. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Covered Products, then Pacific Seafood shall have no further obligations pursuant to this Settlement Agreement.

## **7. NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) electronic mail; or (ii) overnight courier on any party by the other party to the following addresses:

**For Pacific Seafood Group:**

Eric Mills

Pacific Seafood Group  
16797 SE 130th Avenue  
Clackamas, OR 97015  
emills@pacificseafood.com

With a copy to:

Kerry E. Shea, Esq.  
Davis Wright Tremaine LLP  
50 California Street, 23rd Floor  
San Francisco CA 94111  
kerryshea@dwt.com

**For Clean Product Advocates, LLC:**

Elham Shabatian, Esq.  
Cliffwood Law Firm, PC  
12100 Wilshire Blvd, Suite 800  
Los Angeles, CA 90025  
ellie@cliffwoodlaw.com

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

**8. COUNTERPARTS; FACSIMILE/E-SIGNATURES**

This Settlement Agreement may be executed in counterparts and by facsimile or e-signatures, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

**9. ENTIRE AGREEMENT**

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No agreements, oral or otherwise, exist to bind either of the Parties.

**10. MODIFICATION**

This Settlement Agreement may be modified only by a written agreement signed by 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.

Agreed to:

May 19, 2025  
Date: April , 2025

DocuSigned by:  
  
Signature: \_\_\_\_\_  
203E14DB68644F1...

Name:

Title:

Date: April , 2025  
5/21/2025

Signature: \_\_\_\_\_  


Name: *DEREK YANGZOM, DIRECTOR*

Title: