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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF LOS ANGELES**

16 **CLEAN PRODUCT ADVOCATES, LLC, a**  
17 **California Limited Liability Company,**

18 **Plaintiff,**  
19 **vs.**

20 **AQUA STAR; AQUA STAR (USA) CORP.;**  
21 **WINCO FOODS, LLC; WINCO FOODS;**  
22 **DOES 1-100**

23 **Defendants.**

**CASE NO. 23STCV15294**

**SETTLEMENT AGREEMENT**

Judge: Hon. Jill Feeney  
Dept.: 78

Complaint Filed: June 30, 2023  
Trial Date: None set

24 **1. INTRODUCTION**

25 **1.1 The Parties.** This Settlement Agreement is entered into by and between CLEAN  
26 PRODUCT ADVOCATES, LLC ("CPA" or "Plaintiff") on the one hand, and Aqua Star (USA)  
27 Corp. ("Defendant") on the other hand. Together, Plaintiff and Defendant are collectively referred  
28 to as the "Parties." Plaintiff is a California Limited Liability Company and as a private enforcer

1 and in the public interest, seeks to promote awareness of exposures to toxic chemicals and to  
2 improve human health by reducing or eliminating hazardous substances contained in consumer  
3 products. Plaintiff alleges that Defendant is an entity in the course of doing business for purposes  
4 of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6,  
5 et seq. ("Proposition 65").

6       **1.2 Complaint and General Allegations.** Plaintiff alleges that a product  
7 manufactured, distributed, or sold by Defendant contains cadmium, a chemical listed under  
8 Proposition 65 as a carcinogen and reproductive toxin, and exposes consumers to this chemical  
9 at a level requiring a Proposition 65 warning. On June 30, 2023, plaintiff initiated this action  
10 by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the  
11 "Complaint") pursuant to the provisions of California Health and Safety Code section 25249.5  
12 et seq. ("Proposition 65"), against Defendants Aqua Star, Aqua Star (USA) Corp, Winco  
13 Foods, LLC and Winco Foods. On December 31, 2023, plaintiff filed a request for dismissal of  
14 the complaint as to defendants Aqua Star and Winco Foods only and will file a request for  
15 dismissal without prejudice of the complaint as to defendant Winco Foods, LLC within ten  
16 (10) days of filing this agreement with the Court for approval. For purposes of this agreement,  
17 the parties agree that Plaintiff has alleged Defendant is a business entity which employed ten or  
18 more persons at all times relevant to this action and qualifies as a "person in the course of  
19 doing business" within the meaning of Proposition 65 and that Defendant manufactures,  
20 distributes and/or sells the Covered Product.

21       **1.3 Covered Products:** As used herein the term "Covered Products" shall mean "Wild  
22 Calamari Rings & Tentacles".

23       **1.4 Notice of Violation.** On July 12, 2022, Plaintiff served Defendant, and various public  
24 enforcement agencies with documents entitled "Notice of Violation of California Health & Safety  
25 Code § 25249.6, et seq." (the "Notice"). The Notice provided Defendant and others, including  
26 public enforcers, with notice that alleged that Defendant was in violation of California Health &  
27 Safety Code § 25249.6, for failing to warn California consumers and customers that use of the  
28

1 Product will expose them to cadmium. No public enforcer has diligently prosecuted the allegations  
2 set forth in the Notice.

3       **1.5 No Admission.** Defendant denies the material factual and legal allegations  
4 contained in the Notice and Complaint and maintains that, to the best of its knowledge, all products  
5 that are or have been sold and distributed in California, including the Covered Product have been  
6 and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as  
7 an admission by Defendant of any fact, finding, issue of law, or violation of law; nor shall  
8 compliance with this Settlement Agreement constitute or be construed as an admission by  
9 Defendant of any fact, finding, conclusion, issue of law or violation of law, such being specifically  
10 denied by Defendant. However, this § 1.5 shall not diminish or otherwise affect the obligations,  
11 responsibilities and duties under this Settlement Agreement. Further, notwithstanding the  
12 allegations in the Complaint and Notice, Defendant maintains that it has not knowingly  
13 manufactured, imported, distributed or sold or caused to be manufactured, imported, distributed or  
14 sold the Covered Product for sale in California in violation of Proposition 65.

15       **1.6 Effective Date.** For purposes of this Settlement Agreement, the term "Effective Date" shall  
16 mean the date this Agreement is approved by the Court.

17       **1.7** Except as expressly set forth herein, nothing in this agreement shall prejudice,  
18 waive, or impair any right, remedy, argument, or defense the Parties may have in any current  
19 or future legal proceeding unrelated to these proceedings.

## 21       **2. JURISDICTION AND VENUE**

22       For purposes of this agreement and any further court action that may become necessary to  
23 enforce this agreement, the Parties stipulate that this Court has subject matter jurisdiction over the  
24 allegations of violations contained in the Complaint and personal jurisdiction over Defendant as to  
25 the acts alleged in the Complaint, that venue is proper in Los Angeles County, and that this Court  
26 has jurisdiction to approve this agreement as a full and final resolution of all claims up through  
27 and including the Effective Date that were or could have been asserted in this action based on the  
28 facts alleged in the Notice and Complaint.

1     **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

2             3.1 Beginning on the Effective Date, Defendant shall be permanently enjoined from  
3 manufacturing for sale in the State of California, "distributing into the State of California," or  
4 directly selling in the State of California, any Covered Product that exposes a person to a  
5 "Daily Lead Exposure Level" of more than 4.1 micrograms of cadmium per day unless it meets  
6 the warning requirements under Section 3.2.

7             3.1.1 As used in this agreement, the term "distributing into the State of California" shall  
8 mean to directly ship a Covered Product into California for sale in California or to sell a  
9 Covered Product to a distributor that Defendant knows or has reason to know will sell the  
10 Covered Product in California. The injunctive relief in Section 3 does not apply to any Covered  
11 Product that has left the possession and is no longer under the control of Defendant prior to the  
12 Effective Date and all claims as to such Covered Products are released in this agreement.

13            3.1.2 For purposes of this agreement, the "Daily Cadmium Exposure Level" shall be  
14 measured in micrograms, and shall be calculated using the following formula: micrograms of  
15 Cadmium per gram of product, multiplied by grams of product per serving of the product (using  
16 the largest serving size appearing on the product label), multiplied by servings of the product  
17 per day (using the largest number of recommended daily servings appearing on the label),  
18 which equals micrograms of Cadmium exposure per day. If the label contains no recommended  
19 daily servings, then the number of recommended daily servings shall be one.

20            **3.2 Clear and Reasonable Warning**

21            If Defendant is required to provide a warning pursuant to Section 3.1, the warning  
22 substantially in the following form needs to be utilized for Covered Products ("Warning"):

23            **WARNING:** Consuming this product can expose you to chemicals including cadmium  
24 which is known to the State of California to cause cancer and birth defects or other  
25 reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

26            Defendant shall use the phrase "cancer and" in the Warning if Defendant has reason to  
27 believe that the "Daily Cadmium Exposure Level" is greater than 4.1 micrograms of Cadmium as  
28 determined pursuant to the quality control methodology set forth in Section 3.1.2 or if Defendant  
has reason to believe that another Proposition 65 chemical is present which may require a cancer

1 warning.

2 The Warning shall be securely affixed to or printed upon the label of the Covered  
3 Product and it must be set off from other surrounding information and enclosed in a box. In  
4 addition, if the Covered Product is sold over the internet purchased by a consumer located in  
5 California when ordering the Covered Product, the Warning shall appear on the checkout page  
6 in full text or through a clearly marked hyperlink using the word **"WARNING"** in all capital  
7 and bold letters when a California delivery address is indicated for said purchase of the  
8 Covered Product. If a hyperlink is used, the hyperlink must go directly to a page prominently  
9 displaying the Warning without content that detracts from the Warning. An asterisk or other  
10 identifying method must be utilized to identify which product on the checkout page is subject  
11 to the Warning.

12 The Warning shall be at least the same size as the largest of any other health or safety  
13 warnings also appearing on the website or on the label and the word **"WARNING"** shall be in all  
14 capital letters and in bold print. No statements intended to or likely to have the effect of  
15 diminishing the impact of the Warning on the average lay person shall accompany the Warning.  
16 Further, no statements may accompany the Warning that state or imply that the source of the listed  
17 chemical has an impact on or results in a less harmful effect of the listed chemical.

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

22 For purposes of this agreement, the term "label" means a display of written, printed or  
23 graphic material that is printed on or affixed to a Covered Product or its immediate container or  
24 wrapper.

25 For purposes of this agreement, when Defendant is required to provide a warning for the  
26 Covered Product pursuant to Section 3, Defendant may satisfy the warning requirement by  
27 providing the required information in compliance with 27 C.C.R. § 25600.2 (2024) to any  
28 business that is subject to Proposition 65 to which it is selling or transferring the Covered Product.

1 The Parties agree that Defendant shall be deemed to be in compliance with this Settlement Agreement  
2 by either adhering to § 3 of this Settlement Agreement or by complying with warning regulations adopted  
3 by the State of California's OEHHA. Further, Defendant agrees that, as of January 1, 2028, it shall  
4 ensure that all consumer products it manufactures, distributes, or sells in California, requiring a  
5 warning under Proposition 65, comply with the revised Proposition 65 warning regulations,  
6 including updated short-form warnings. The required warnings shall specify at least one chemical  
7 for which the warning is given, in accordance with Title 27, California Code of Regulations,  
8 Section 25603.

9 3.3 Foreign Language Warning Requirement: Where any Covered Product label,  
10 packaging, or accompanying written materials include information in a language other than  
11 English, Defendant agrees to provide the Proposition 65 warning in the same language(s) in  
12 addition to English. The foreign language warning must contain the same content as the English  
13 warning and must be prominently displayed.  
14

#### 15 4. SETTLEMENT PAYMENT

16 4.1 In full satisfaction of all potential civil penalties, additional settlement  
17 payments, attorney's fees, and costs, Defendant shall make a total payment of \$5,000.00  
18 ("Total Settlement Amount") to Plaintiff within 30 business days of the Effective Date ("Due  
19 Date"). Defendant shall make this payment by the delivery of certified funds to Cliffwood Law  
20 Firm, Attn: Elham Shabatian. The Total Settlement Amount shall be apportioned as follows:

21 4.2 \$500.00 shall be considered a civil penalty pursuant to California Health and  
22 Safety Code section 25249.7(b)(1). Plaintiff shall remit 75% (\$375.00) of the civil penalty to  
23 the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
24 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
25 Code section 25249.12(c). Plaintiff will retain the remaining 25% (\$125.00) of the civil  
26 penalty.

27 4.3 \$4,500.00 shall be distributed to the Cliffwood Law Firm as reimbursement for  
28 reasonable costs and fees incurred in bringing this action. Except as explicitly provided herein,  
each Party shall bear its own fees and costs.

1     **5.     MODIFICATION OF AGREEMENT**

2             **5.1**     This agreement may be modified only as by written stipulation of the Parties  
3 and upon entry by the Court of a modified agreement or by motion of either Party and upon  
4 approval by the Court of a modified agreement.

5             **5.2**     If Defendant seeks to modify this agreement, then Defendant must provide  
6 written notice to Plaintiff of its intent ("Notice of Intent"). If Plaintiff seeks to meet and confer  
7 regarding the proposed modification in the Notice of Intent, then Plaintiff must provide written  
8 notice to Defendant within thirty (30) days of receiving the Notice of Intent. If Plaintiff  
9 notifies Defendant in a timely manner of Plaintiff's intent to meet and confer, then the Parties  
10 shall meet and confer in good faith as required in this Section. The Parties shall meet in person  
11 or via telephone within thirty (30) days of Plaintiff's notification of its intent to meet and  
12 confer. Within thirty (30) days of such meeting, if Plaintiff disputes the proposed modification,  
13 Plaintiff shall provide to Defendant a written basis for its position. The Parties shall continue  
14 to meet and confer for an additional thirty (30) days in an effort to resolve any remaining  
15 disputes. Should it become necessary, the Parties may agree in writing to different deadlines  
16 for the meet-and-confer period.

17             **5.3**     In the event that Defendant initiates or otherwise requests a modification under  
18 this agreement, and the meet and confer process leads to a joint motion or application for a  
19 modification of the agreement, Defendant shall reimburse Plaintiff its costs and reasonable  
20 attorney's fees for the time spent in the meet-and-confer process and filing and arguing the  
21 motion or application.

22     **6.     RETENTION OF JURISDICTION, ENFORCEMENT OF AGREEMENT**

23             **6.1**     This Court shall retain jurisdiction of this matter to enforce, modify, or  
24 terminate this agreement.

25     **7.     APPLICATION OF AGREEMENT**

26             This agreement may apply to, be binding upon, and benefit the Parties and their respective  
27 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,  
28 franchisees, licensees, customers (excluding private labelers), distributors, wholesalers, retailers,

1 predecessors, successors, and assigns. This agreement shall have no application to any Covered  
2 Product that is distributed or sold exclusively outside the State of California and that is not used  
3 by California consumers, except that Plaintiff fully releases Defendant from any and all claims  
4 pertaining to the Covered Product that may be brought by Plaintiff in any jurisdiction other than  
5 California.

6 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

7 **8.1** This agreement is a full, final, and binding resolution between Plaintiff, on  
8 behalf of itself and in the public interest, and Defendant and its respective officers, directors,  
9 shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,  
10 franchisees, licensees, customers (not including private label customers of Defendant),  
11 distributors, wholesalers, retailers, and all other upstream and downstream entities in the  
12 distribution chain of any Covered Product, and the predecessors, successors, and assigns of any  
13 of them (collectively, "Released Parties"). Plaintiff, on behalf of itself and in the public  
14 interest, hereby fully releases and discharges the Released Parties from any and all claims,  
15 actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and  
16 expenses asserted, or that could have been asserted from the handling, use, or consumption of  
17 the Covered Product, as to any alleged violation of Proposition 65 or its implementing  
18 regulations arising from the failure to provide Proposition 65 warnings on the Covered Product  
19 regarding lead up to and including the Effective Date.

20 **8.2** Plaintiff on its own behalf only, and Defendant on its own behalf only,  
21 further waive and release any and all claims they may have against each other for all actions or  
22 statements made or undertaken in the course of seeking or opposing enforcement of  
23 Proposition 65 in connection with the Notice and Complaint up through and including the  
24 Effective Date, provided, however, that nothing shall affect or limit any Party's right to seek to  
25 enforce the terms of this agreement.

26 **8.3** It is possible that other claims not known to the Parties, arising out of the facts  
27 alleged in the Notice and Complaint, and relating to the Covered Product, will develop or be  
28 discovered. Plaintiff on behalf of itself only, and Defendant on behalf of itself only,



1 acknowledge that this agreement is expressly intended to cover and include all such claims up  
2 through and including the Effective Date, including all rights of action therefore. Plaintiff and  
3 Defendant acknowledge that the claims released in above may include unknown claims, and  
4 nevertheless waive California Civil Code section 1542 as to any such unknown claims.

5 California Civil Code section 1542 reads as follows:

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

10 Plaintiff on behalf of itself only, and Defendant on behalf of itself only, acknowledge and  
11 understand the significance and consequences of this specific waiver of California Civil Code  
12 Section 1542.

13 **8.4** Compliance with the terms of this agreement shall be deemed to constitute  
14 compliance with Proposition 65 by any releasee regarding alleged exposures to Cadmium in  
15 the Covered Product.

16 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

17 In the event that any of the provisions of this agreement are held by a court to be  
18 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected  
19 but in no event the releases provided herein shall ever be construed as unenforceable once this  
20 agreement has been approved by the Court as set forth in Section 12 below.

21 **10. GOVERNING LAW**

22 The terms and conditions of this agreement shall be governed by and construed in  
23 accordance with the laws of the State of California.

24 **11. PROVISION OF NOTICE**

25 All notices required to be given to either Party to this agreement by the other shall be in  
26 writing and sent to the following agents listed below via first-class mail or via electronic mail  
27 where required. Courtesy copies via email may also be sent.

28 **FOR CLEAN PRODUCTS ADVOCATES, LLC:**

1 Elham Shabatian  
2 Cliffwood Law Firm, PC  
3 12100 Wilshire Boulevard  
4 Suite 800  
5 Los Angeles, California 90025  
6 Ph: (310) 200-3227  
7 Email: [ell.e@cliffwoodlaw.com](mailto:ell.e@cliffwoodlaw.com)

8 FOR AQUA STAR (USA) CORP.

9 David L. Prince  
10 1912 East Vernon Avenue, Suite 100  
11 Los Angeles, CA 90058  
12 Ph: (323) 234-2989  
13 Email: [dlp@redchamber.com](mailto:dlp@redchamber.com)

## 14 12. COURT APPROVAL

15 12.1 Upon execution of this agreement by the Parties, Plaintiff shall notice a Motion  
16 for Court Approval. The Parties shall use their best efforts to support approval by the Court of  
17 this agreement. All costs and fees associated with the motion shall be borne solely by Plaintiff.

18 12.2 If the California Attorney General objects to any term in this agreement, the  
19 Parties shall use their best efforts to resolve the concern in a timely manner, and if possible,  
20 prior to the hearing on the motion.

21 12.3 If this agreement is not approved by the Court, it shall be void and have no force  
22 or effect.

## 23 13. EXECUTION AND COUNTERPARTS

24 This agreement may be executed in counterparts, which taken together shall be deemed to  
25 constitute one document. A facsimile or .pdf signature shall be construed to be as valid as the  
26 original signature.

## 27 14. DRAFTING

28 The terms of this agreement 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

1 construction of this agreement, no inference, assumption, or presumption shall be drawn, and no  
2 provision of this agreement shall be construed against any Party, based on the fact that one of the  
3 Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion of the  
4 agreement. It is conclusively presumed that all of the Parties participated equally in the  
5 preparation and drafting of this agreement.

6 **16. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

7 If a dispute arises with respect to either Party's compliance with the terms of this  
8 agreement approved by the Court, the Parties shall meet and confer in person, by telephone,  
9 and/or in writing and endeavor to resolve the dispute in an amicable manner. No action or motion  
10 may be filed in the absence of such a good faith attempt to resolve the dispute beforehand.

11 **17. ENFORCEMENT**

12 Plaintiff may, by motion or order to show cause before the Superior Court of Los  
13 Angeles County, enforce the terms and conditions contained in this agreement. In any action  
14 brought by Plaintiff to enforce this agreement, Plaintiff may seek recovery of its reasonable ,  
15 attorney's fees court costs.

16 **18. ENTIRE AGREEMENT, AUTHORIZATION**

17 18.1 This agreement contains the sole and entire agreement and understanding of  
18 the Parties with respect to the entire subject matter herein, including any and all prior  
19 discussions, negotiations, commitments, and understandings related thereto. No  
20 representations, oral or otherwise, express or implied, other than those contained herein have  
21 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
22 herein, shall be deemed to exist or to bind any Party. Further, upon Court approval of this  
23 agreement and execution of the terms contained herein, Plaintiff's Complaint shall be  
24 dismissed with prejudice.

25 18.2 Each signatory to this agreement certifies that he or she is fully authorized by the  
26 Party he or she represents to stipulate to this agreement.

27 **19. REQUEST FOR FINDINGS & APPROVAL OF SETTLEMENT**

28 This agreement has come before the Court upon the request of the Parties. The Parties

1 request the Court to fully review this agreement and, being fully informed regarding the matters  
2 which are the subject of this action, to:

3 (1) Find that the terms and provisions of this agreement represent a fair and equitable  
4 settlement of all matters raised by the allegations of the Complaint that the matter has been  
5 diligently prosecuted, and that the public interest is served by such settlement; and

6 (2) Make the findings pursuant to California Health and Safety Code section  
7 25249.7(f)(4) and approve the Settlement.

8 **IT IS SO STIPULATED:**

9 Dated: 5/5/2025, 2025

CLEAN PRODUCT ADVOCATES, LLC

10 By: *Deke Yangzom*

11 Deke Yangzom

12 *DEKE YANGZOM, DIRECTOR*

13  
14  
15 Dated: \_\_\_\_\_, 2025

AQUA STAR (USA) CORP.

16  
17 By: \_\_\_\_\_

18 Its:

1 request the Court to fully review this agreement and, being fully informed regarding the matters  
2 which are the subject of this action, to:

3 (1) Find that the terms and provisions of this agreement represent a fair and equitable  
4 settlement of all matters raised by the allegations of the Complaint that the matter has been  
5 diligently prosecuted, and that the public interest is served by such settlement; and

6 (2) Make the findings pursuant to California Health and Safety Code section  
7 25249.7(f)(4) and approve the Settlement.

8 **IT IS SO STIPULATED:**

9 Dated: \_\_\_\_\_, 2025

CLEAN PRODUCT ADVOCATES, LLC

10 By: \_\_\_\_\_  
11 Dekee Yangzom

12  
13  
14 Dated: May 20, 2025

AQUA STAR (USA) CORP.

15  
16  
17 By: *DANIEL LEON BERGER*  
18 Its: *CEO, Aqueta*  
19 *5/20/25*  
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**ORDER APPROVING AGREEMENT**

Based upon the Parties' Stipulation, and good cause appearing, this agreement is approved and is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_, 2025

\_\_\_\_\_  
Judge of the Superior Court