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Environmental Health Advocates, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA**

ENVIRONMENTAL HEALTH  
ADVOCATES, INC.,

Plaintiff,

v.

OREGON SEAFOODS LLC, an Oregon  
limited liability company; GOLDEN GAIT  
MERCANTILE LLC, a California limited  
liability company; and DOES 1 through 100,  
inclusive,

Defendants.

Case No. 22CV020984

**[PROPOSED] CONSENT JUDGMENT**

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

1     **1.     INTRODUCTION**

2             **1.1     Parties**

3             This Consent Judgment is entered into by and between Environmental Health Advocates, Inc.,  
4     (“EHA” or “Plaintiff”) and Oregon Seafoods LLC (“Defendant” or “Oregon Seafoods ”) with EHA  
5     and Oregon Seafoods each individually referred to as a “Party” and collectively referred to as the  
6     “Parties.”

7             **1.2     Plaintiff**

8             EHA is a corporation organized in the state of California, acting in the interest of the general  
9     public. It seeks to promote awareness of exposures to toxic chemicals and to improve human health by  
10    reducing or eliminating hazardous substances contained in consumer products.

11            **1.3     Defendant**

12            Oregon Seafoods LLC employs ten or more individuals and for purposes of this Consent  
13    Judgment only, is a “person in the course of doing business” for purposes of the Safe Drinking Water  
14    and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.6 et seq. (“Proposition  
15    65”).

16            **1.4     General Allegations**

17            EHA alleges that Oregon Seafoods LLC manufactures, imports, sells, and distributes for sale  
18    Sea Fare Pacific Albacore Curry that contains Lead. EHA further alleges that Oregon Seafoods does  
19    so without providing a sufficient health hazard warning as required by Proposition 65 and related  
20    Regulations. Oregon Seafoods denies these allegations and asserts that its products are safe and in  
21    compliance with all applicable laws, rules, and regulations.

22            **1.5     Notice of Violation**

23            On or around July 27, 2022, EHA served Defendant Oregon Seafoods LLC, the California  
24    Attorney General, and all other required public enforcement agencies with a 60-Day Notice of  
25    Violation of Proposition 65 (“Notice”). The Notice alleged that Oregon Seafoods LLC had violated  
26    Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated  
27    with exposures to Lead contained in seafood curry products, including but not limited to Sea Fare  
28    Pacific Albacore Curry manufactured or processed by Oregon Seafoods LLC that allegedly contain

1 Lead and are imported, sold, shipped, delivered, or distributed for sale to consumers in California by  
2 Releasees (as defined in section 4.1).

3 No public enforcer has commenced or is otherwise prosecuting an action to enforce the  
4 violations alleged in the Notice.

5 **1.6 Product Description**

6 The products covered by this Consent Judgment are seafood curry products, including but not  
7 limited to Sea Fare Pacific Albacore Curry manufactured or processed by Oregon Seafoods LLC that  
8 allegedly contain Lead and are imported, sold, shipped, delivered, or distributed for sale to consumers  
9 in California by Releasees (as defined in section 4.1) (“Covered Products”).

10 **1.7 State of the Pleadings**

11 On or around November 2, 2022, EHA filed a Complaint against Oregon Seafoods LLC for the  
12 alleged violations of Proposition 65 that are the subject of the Notice (“Complaint”).

13 **1.8 No Admission**

14 Oregon Seafoods LLC denies the material factual and legal allegations of the Notice and  
15 Complaint and maintains that all of the products it has manufactured, imported, sold, and/or distributed  
16 for sale in California, including Covered Products, have been, and are, in compliance with all applicable  
17 laws, rules and regulations. Nothing in this Consent Judgment shall be construed as an admission of  
18 any fact, finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this  
19 Consent Judgment be construed as an admission of any fact, finding, conclusion of law, issue of law,  
20 or violation of law. This Section shall not, however, diminish or otherwise affect Oregon Seafoods  
21 LLC’ obligations, responsibilities, and duties under this Consent Judgment.

22 **1.9 Jurisdiction**

23 For purposes of this Consent Judgment and the Complaint only, the Parties stipulate that this  
24 Court has jurisdiction over Oregon Seafoods LLC as to the allegations in the Complaint, that venue is  
25 proper in the County of Alameda, and that the Court has jurisdiction to enter and enforce the provisions  
26 of this Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

27 **1.10 Effective Date**

28

1 For purposes of this Consent Judgment, the term “Effective Date” means the date on which the  
2 Motion to Approve this Consent Judgment is approved by the Court, as discussed in Section 5.

3 **2. INJUNCTIVE RELIEF**


4 **2.1 Reformulation of the Covered Products**

5 Beginning thirty (30) days after the Effective Date, Defendant shall be permanently enjoined  
6 from manufacturing, distributing, or directly selling in the State of California, any Covered Product  
7 that exposes a person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of Lead based  
8 on a single serving per day unless such Covered Products comply with the warning requirements of  
9 Section 2.2. The Chemical Exposure Limits shall be calculated by multiplying the recommended  
10 serving size in Covered Product by the concentration of Lead in Covered Products. As used in this  
11 Section 2, “distributed for sale in CA” means to directly ship Covered Products into California or to  
12 sell Covered Products to a distributor Defendant knows will sell Covered Products in California.


13 **2.2 Clear and Reasonable Warnings**

14 For Covered Products that contain Lead in a concentration exceeding the Reformulation  
15 Standard set forth in section 2.1 above, and which are distributed or directly sold by Oregon Seafoods  
16 in the State of California on or after the Effective Date, Oregon Seafoods LLC shall provide one of the  
17 following warning statements.

18 **Option 1:**

19  **WARNING:** This product can expose you to chemicals including  
20 Lead which is known to the State of California to cause cancer. For  
more information go to [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

21 **Option 2:**

22  **WARNING:** Cancer and Reproductive Harm –  
23 [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov)

24 This warning statement shall be prominently displayed on the Covered Products, on the packing  
25 of the Covered Products, or on a placard, shelf tag, or sign provided that the statement is displayed with  
26 such conspicuousness, as compared with other words, statements, or designs as to render it likely to be  
27 read and understood by an ordinary individual prior to sale. If the warning statement is displayed on  
28 the Covered Products’ packaging, it must be in a type size no smaller than the largest type size used

1 for other consumer information on the product. In no case shall a warning statement displayed on the  
2 Covered Products' packaging appear in a type size smaller than 6-point type. The same warning shall  
3 be posted on any websites under the exclusive control of Oregon Seafoods where Covered Products  
4 are sold into California. Oregon Seafoods shall instruct any third-party website to which it directly sells  
5 its Covered Products to include the same warning as a condition of selling the Covered Products in  
6 California.

### 7 **2.3 Sell-Through Period**

8 Notwithstanding anything else in this Consent Judgment, Covered Products that are  
9 manufactured, packaged, or put into commerce on or after the date this Agreement is executed shall be  
10 subject to the release of liability pursuant to this Consent Judgment, without regard to when such  
11 Covered Products were, or are in the future, distributed or sold to customers. As a result, the obligations  
12 of Oregon Seafoods LLC, or any Releasees (if applicable), stated in this Section 2 do not apply to  
13 Covered Products manufactured, packaged, or put into commerce between the date this Agreement is  
14 executed and the Effective Date.

## 15 **3. MONETARY SETTLEMENT TERMS**

### 16 **3.1 Settlement Amount**

17 Oregon Seafoods shall pay fifty thousand dollars (\$50,000.00) in settlement and total  
18 satisfaction of all the claims referred to in the Notice(s), the Complaint, and this Consent Judgment.  
19 This includes civil penalties in the amount of five thousand dollars (\$5,000.00) pursuant to Health and  
20 Safety Code section 25249.7(b) and attorneys' fees and costs in the amount of forty-five thousand  
21 dollars (\$45,000.00) pursuant to Code of Civil Procedure section 1021.5.

### 22 **3.2 Civil Penalty**

23 The portion of the settlement attributable to civil penalties shall be allocated according to Health  
24 and Safety Code section 25249.12I(1) and (d), with seventy-five percent (75%) of the penalty paid to  
25 the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining  
26 twenty-five percent (25%) of the penalty paid to EHA individually. The five thousand dollars  
27 (\$5,000.00) in civil penalties shall be paid as follows:

- 28 • One payment of \$3,750.00 to OEHHA, due 30 (thirty) days after the Effective date.

- One payment of \$1,250.00 to EHA, due 30 (thirty) days after the Effective date.

All payments owed to EHA shall be delivered to the following address:

Isaac Fayman  
 Environmental Health Advocates  
 225 Broadway, Suite 2100  
 San Diego, CA 92101

All payments owed to OEHHA (EIN: 68-0284486) shall be delivered directly to OEHHA (Memo Li“e "Prop 65 Penalt”es") at the following addresses:

For United States Postal Service Delivery:

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

For Federal Express 2-Day Delivery:

Mike Gyurics  
 Fiscal Operations Branch Chief  
 Office of Environmental Health Hazard Assessment  
 1001 I Street  
 Sacramento, CA 95814

Oregon Seafoods agrees to provide EHA’s counsel with a copy of the check payable to OEHHA, simultaneous with its penalty payment to EHA.

Plaintiff and its counsel will provide completed IRS 1099, W-9, or other tax forms as required.

Relevant information is set out below:

- “Environmental Health Advocates, Inc.” (EIN: 84-2322975) at the address provided above.
- “Office of Environmental Health Hazard Assessment” 1001 I Street, Sacramento, CA 95814.

**3.3 Attorney’s Fees and Costs**

The portion of the settlement attributable to attorneys’ fees and costs shall be paid to EHA’s counsel, who are entitled to attorneys’ fees and costs incurred by it in this action, including but not limited to investigating potential violations, bringing this matter to Oregon Seafo’ds's attention, as well as litigating and negotiating a settlement in the public interest.

1 Oregon Seafoods LLC shall provide its payment for civil penalty and for attorneys’ fees and  
2 costs to EHA’s counsel by physical check or by electronic means, including wire transfers, at Oregon  
3 Seafoods's discretion, as follows: forty-five thousand dollars (\$45,000.00) in Attorney’s Fees and Costs  
4 shall be paid as follows:

- 5 • One payment of \$7,500.00, due thirty (30) days after the Effective Date.
- 6 • One payment of \$7,500.00, due sixty (60) days after the Effective Date.
- 7 • One payment of \$7,500.00, due ninety (90) days after the Effective Date.
- 8 • One payment of \$7,500.00, due one hundred twenty (120) days after the Effective Date.
- 9 • One payment of \$7,500.00, due one hundred fifty (150) days after the Effective Date.
- 10 • One payment of \$7,500.00, due one hundred eighty (180) days after the Effective Date.

11 The attorney fee payments shall be made payable to Entorno Law, LLP. The address for this  
12 entity is:

13 Noam Glick  
14 Entorno Law, LLP  
225 Broadway, Suite 1900  
San Diego, CA 92101

15 **4. CLAIMS COVERED AND RELEASE**

16 **4.1 EHA’s Public Release of Proposition 65 Claims**

17 Plaintiff, acting on its own behalf and in the public interest, releases Oregon Seafoods LLC,  
18 and its parents, subsidiaries, affiliated entities under common ownership or control, its directors,  
19 officers, principals, agents, employees, attorneys, insurers, accountants, predecessors, successors, and  
20 assigns (“Defendant Entities”), each entity to whom Defendant directly or indirectly distributes, ships,  
21 or sells the Covered Products, including but not limited to downstream distributors, wholesalers,  
22 customers, retailers (including but not limited to Golden Gait Mercantile LLC), and marketplaces  
23 franchisees, franchisors, cooperative members, suppliers, licensees, and licensors, and all of the  
24 foregoing entities’ owners, directors, officers, agents, principals, employees, attorneys, insurers,  
25 accountants, representatives, predecessors, successors, and assigns (collectively referred to as the  
26 “Releasees”) from all claims for violations of Proposition 65 up through the Effective Date based on  
27 exposure to Lead from Covered Products as set forth in the Notice(s). Compliance with the terms of  
28 this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to Lead

1 from Covered Products as set forth in the Notice(s). This Consent Judgment is a full, final, and binding  
2 resolution of all claims under Proposition 65 that were or could have been asserted against Oregon  
3 Seafoods LLC and/or Releasees for failure to comply with Proposition 65 for alleged exposure to Lead  
4 from Covered Products. This release does not extend to any third-party retailers selling the product on  
5 a website who, after receiving instruction from Oregon Seafoods to include a warning as set forth above  
6 in section 2.2, do not include such a warning.

#### 7 **4.2 EHA's Individual Release of Claims**

8 EHA, in its individual capacity, also provides a release to Oregon Seafoods LLC and/or  
9 Releasees, which shall be a full and final accord and satisfaction of, as well as a bar to, all actions,  
10 causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and  
11 demands of every nature, character, and kind, whether known or unknown, suspected or unsuspected,  
12 arising out of alleged or actual exposures to Lead in Covered Products manufactured, imported, sold,  
13 or distributed by Oregon Seafoods before the Effective Date.

#### 14 **4.3 Oregon Seafoods's Release of EHA**

15 Oregon Seafoods LLC on its own behalf, and on behalf of Releasees as well as its past and  
16 current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims  
17 against EHA and its attorneys and other representatives, for any and all actions taken or statements  
18 made by EHA and its attorneys and other representatives, whether in the course of investigating claims,  
19 otherwise seeking to enforce Proposition 65 against them, in this matter or with respect to the Covered  
20 Products.

#### 21 **4.4 No Other Known Claims or Violations**

22 EHA and EHA's counsel affirm that they are not presently aware of any actual or alleged  
23 violations of Proposition 65 by Oregon Seafoods or for which Oregon Seafoods LLC bears legal  
24 responsibility other than those that are fully resolved by this Consent Judgment.

### 25 **5. COURT APPROVAL**

26 This Consent Judgment is not effective until it is approved by the Court and shall be null and  
27 void if it is not approved by the Court within one year after it has been fully executed by the Parties, or  
28 by such additional time as the Parties may agree to in writing.



1     **6. SEVERABILITY**

2             Subsequent to the Court’s approval and entry of this Consent Judgment, if any provision is held  
3 by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

4     **7. GOVERNING LAW**

5             The terms of this Consent Judgment shall be governed by the laws of the state of California as  
6 applied within the state of California. In the event that Proposition 65 is repealed, or is otherwise  
7 rendered inapplicable for reasons, including but not limited to changes in the law, then Oregon  
8 Seafoods may provide written notice to EHA of any asserted change, and shall have no further  
9 injunctive obligations pursuant to this Consent Judgment with respect to, and to the extent that, the  
10 Covered Products are so affected.

11             In the event the California Office of Health Hazard Assessment adopts a regulation or safe use  
12 determination, or issues an interpretive guideline that exempts Covered Products from meeting the  
13 requirements of Proposition 65; or if Lead cases are permanently enjoined by a court of competent  
14 jurisdiction; or if Proposition 65 is determined to be preempted by federal law or a burden on First  
15 Amendment rights with respect to Lead in Covered Products or Covered Products substantially similar  
16 to Covered Products, then Oregon Seafoods shall be relieved of its obligation to comply with Section  
17 2 herein.

18     **8. ENFORCEMENT**

19             In any action to enforce the terms of this Consent Judgment, the prevailing party shall be entitled  
20 to its reasonable attorneys’ fees and costs.

21     **9. NOTICE**

22             Unless otherwise specified herein, all correspondence and notice required by this Consent  
23 Judgment shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered, or certified  
24 mail, return receipt requested; or (iii) a recognized overnight courier; and (iv) with a copy by email; to  
25 the following addresses:  
26  
27  
28

1 If to Oregon Seafoods:

2 Randy Harvey  
3 Employment Law Professionals LLC  
4 20015 SW Pacific Hwy. Suite 221  
5 Sherwood, OR 97140  
6 randy@elpnw.com

If to EHA:

Noam Glick  
Entorno Law, LLP  
225 Broadway, Suite 2100  
San Diego, CA 92101  
noam@entornolaw.com

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

9 **10. COUNTERPARTS; DIGITAL SIGNATURES**

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

13 **11. POST EXECUTION ACTIVITIES**

14 EHA agrees to comply with the reporting form requirements referenced in Health and Safety  
15 Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety Code  
16 section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement, which  
17 motion EHA shall draft and file. In furtherance of obtaining such approval, the Parties agree to mutually  
18 employ their reasonable best efforts, including those of their counsel, to support the entry of this  
19 agreement as judgment, and to obtain judicial approval of their settlement in a timely manner. For  
20 purposes of this Section, “best efforts” shall include, at a minimum, supporting the motion for approval,  
21 responding to any objection that any third-party may make, and appearing at the hearing before the  
22 Court if so requested.

23 **12. MODIFICATION**

24 This Consent Judgment may be modified by: (i) a written agreement of the Parties and entry of  
25 a modified consent judgment thereon by the Court; or (ii) a successful motion or application of any  
26 Party, and the entry of a modified consent judgment thereon by the Court.

27 **13. AUTHORIZATION**

28 The undersigned are authorized to execute this Consent Judgment and acknowledge that they  
have read, understand, and agree to all of the terms and conditions contained herein.

1 **14. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

2 If a dispute arises with respect to either Party’s compliance with the terms of this Consent  
3 Judgment entered by the Court, the Parties shall meet and confer in person, or by telephone, and/or in  
4 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed  
5 in the absence of such a good faith attempt to resolve the dispute beforehand.

6 **15. ENTIRE AGREEMENT**

7 This Consent Judgment contains the sole and entire agreement and understanding of the Parties  
8 with respect to the entire subject matter herein, and any and all prior discussions, negotiations,  
9 commitments, and understandings related hereto. No representations, oral or otherwise, express, or  
10 implied, other than those contained herein have been made by any Party. No other agreements, oral or  
11 otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

12 **AGREED TO:**

**AGREED TO:**

13  
14 Date: 08/30/23

Date: 8/30/2023 | 06:40:58 PDT

15  
16 By:   
17 ENVIRONMENTAL HEALTH  
18 ADVOCATES, INC.

DocuSigned by:  
16 By:   
17 OREGON SEAFOODS LLC

19 **IT IS SO ORDERED.**

20  
21 Date: \_\_\_\_\_

\_\_\_\_\_

JUDGE OF THE SUPERIOR COURT