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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 PRECILA BALABBO,

12 Plaintiff,

13 vs.

14 THE TJX COMPANIES, INC.,

15 Defendant.

Case No.: CGC-23-608550

CONSENT JUDGMENT

Judge: Joseph M. Quinn

Dept.: 302

Hearing Date: June 24, 2025

Hearing Time: 9:00 AM

Complaint Filed: August 22, 2023

1 **1. INTRODUCTION**

2 **1.1 The Parties.** This Consent Judgment is entered into by and between Precila Balabbo
3 acting on behalf of the public interest (hereinafter “Balabbo”) and The TJX Companies, Inc. (“TJX”
4 or “Defendant”) with Balabbo and Defendant collectively referred to as the “Parties” and each of
5 them as a “Party.” Balabbo is alleged to be an individual residing in California that seeks to promote
6 awareness of exposures to toxic chemicals and improve human health by reducing or eliminating
7 hazardous substances contained in consumer products. TJX is alleged to be a person in the course
8 of doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

9 **1.2 Allegations and Representations.** Balabbo alleges that Defendant has exposed
10 individuals to lead from its sales of (a) *Eaton Fine Dining*® mug and bowl sets, (b) *Cupcakes and*
11 *Cashmere*® trays, and (c) *Spring Collection by CornerRuby*® Easter candy tray, without providing
12 a clear and reasonable exposure warning pursuant to Proposition 65. Lead is listed pursuant to
13 Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or
14 other reproductive harm.

15 **1.3 Notices of Violation/Action.**

16 **1.3.1** On August 23, 2022, Balabbo served TJX and various public enforcement
17 agencies with documents entitled “60-Day Notice of Violation” pursuant to Health & Safety Code
18 §25249.7(d) (the “August Notice”), alleging that Defendant violated Proposition 65 for failing to
19 warn consumers and customers that use of *Eaton Fine Dining*® mug and bowl sets (as defined
20 below in section 2.1) exposes users in California to lead. No public enforcer has brought and is
21 diligently prosecuting the claims alleged in the August Notice.

22 **1.3.2** On September 22, 2022, Balabbo served TJX and various public
23 enforcement agencies with documents entitled “60-Day Notice of Violation” pursuant to Health &
24 Safety Code §25249.7(d) (the “September Notice”), alleging that Defendant violated Proposition
25 65 for failing to warn consumers and customers that use of *Cupcakes and Cashmere*® trays (as
26 defined below in section 2.1) exposes users in California to lead. No public enforcer has brought
27 and is diligently prosecuting the claims alleged in the September Notice.

1 1.3.3 On April 17, 2023, Balabbo served TJX and various public enforcement
2 agencies with documents entitled “60-Day Notice of Violation” pursuant to Health & Safety Code
3 §25249.7(d) (the “April Notice”), alleging that Defendant violated Proposition 65 for failing to
4 warn consumers and customers that use of *Spring Collection by CornerRuby®* Easter candy tray
5 (as defined below in section 2.1) exposes users in California to lead. No public enforcer has brought
6 and is diligently prosecuting the claims alleged in the April Notice.¹

7 1.3.4 On August 22, 2023, Balabbo filed a complaint (the “Complaint”). On
8 September 15, 2023, Balabbo filed a first amended complaint (the “First Amended Complaint”).
9 On March 14, 2025, Balabbo filed a second amended complaint (the “Second Amended
10 Complaint”). The Complaint, First Amended Complaint, and Second Amended Complaint are
11 collectively referred to herein as, the “Action.”

12 1.4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
13 jurisdiction over Defendant as to the allegations contained in the Action filed in this matter, that
14 venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve,
15 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution
16 of all claims which were or could have been raised in the Action based on the facts alleged therein
17 and in the Notice.

18 1.5 Defendant denies the material, factual, and legal allegations contained in Balabbo’s
19 Notices and Action and maintains that the Covered Products it has sold and distributed in
20 California (as defined below in section 2.1), have been, and are, in compliance with all laws.
21 Nothing in this Consent Judgment shall be construed as an admission by Defendant of any fact,
22 finding, conclusion, issue of law, or violation of law; nor shall compliance with this Consent
23 Judgment constitute or be construed as an admission by Defendant of any fact, finding, conclusion,
24 issue of law, or violation of law, such being specifically denied by Defendant. However, this
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27 ¹ The August Notice, September Notice, and April Notice are collectively referred to
28 herein as, the “Notices.”

1 section shall not diminish or otherwise affect the obligations, responsibilities, and duties of
2 Defendant under this Consent Judgment.

3 **2. DEFINITIONS**

4 2.1 **Covered Products.** The term “Covered Products” means (a) *Eaton Fine Dining®*
5 mug and bowl sets, Style No. 685849, (b) *Cupcakes and Cashmere®* trays, Style No. 436974, and
6 (c) *Spring Collection by CornerRuby®* Easter candy tray, Style No.# 744327, offered for sale in
7 California by TJX.

8 2.2 **Effective Date.** The term “Effective Date” means the date this Consent Judgment is
9 entered as a Judgment of the Court.

10 **3. INJUNCTIVE RELIEF: WARNINGS**

11 3.1 **Clear and Reasonable Warning.** Commencing within ninety (90) days after the
12 Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in
13 this §§ 3.1 and 3.2 must be provided for all Covered Products that TJX purchases for sale into
14 California. There shall be no obligation for TJX to provide an exposure warning for Covered
15 Products that entered the stream of commerce within 90 days after the Effective Date. The warning
16 shall consist of either the **Warning** or **Alternative Warning**² described in §§ 3.1(a) and (b),
17 respectively:

18 (a) **Warning.** The “Warning” shall consist of the statement:

19 ⚠ **WARNING:** This product can expose you to chemicals including lead,
20 which is known to the State of California to cause cancer and birth defects
21 or other reproductive harm. For more information go to
www.P65Warnings.ca.gov.

22 (b) **Alternative Warning:** TJX may, but is not required to, use the alternative
23 short-form warning as set forth in this § 3.1(b) (“**Alternative Warning**”) as follows:

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

25 3.2 **A Warning or Alternative Warning** provided pursuant to § 3.1 must print the word
26 “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to

27 ² An **Alternative Warning** on a Covered Product manufactured and labeled after January 1, 2028
28 shall be provided in accordance with Title 27, California Code of Regulations, § 25603(b).

1 the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral
2 triangle with a black outline, except that if the sign or label for the Covered Products does not use
3 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller
4 than the height of the word “**WARNING:**”. The **Warning** or **Alternative Warning** shall be
5 affixed to or printed on the Covered Products’ packaging or labeling, or on a placard, shelf tag,
6 sign or electronic device or automatic process only if such electronic device or automatic process
7 provides the **Warning** or **Alternative Warning** without the purchaser having to seek it out,
8 provided that the **Warning** or **Alternative Warning** is displayed with such conspicuousness, as
9 compared with other words, statements, or designs as to render it likely to be read and understood
10 by an ordinary individual under customary conditions of purchase or use. The **Warning** or
11 **Alternative Warning** may be contained in the same section of the packaging, labeling, or
12 instruction booklet that states other safety warnings, if any, concerning the use of the Covered
13 Products and shall be at least the same size as those other safety warnings. If “consumer
14 information,” as that term is defined in Title 27, California Code of Regulations, Section
15 25600.1(c) as it may be amended from time to time, is provided in a foreign language, TJX shall
16 provide the **Warning** or **Alternative Warning** in the foreign language in accordance with
17 applicable warning regulations adopted by the State of California’s Office of Environmental
18 Health Hazard Assessment (“OEHHA”).

19 In addition to affixing the **Warning** or **Alternative Warning** to the Product’s packaging
20 or labeling, the **Warning** or **Alternative Warning** shall be posted on websites where TJX offers
21 Covered Products for sale to consumers in California. The requirements of this Section shall be
22 satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink using the word
23 “**WARNING,**” appears on the product display page, or by otherwise prominently displaying the
24 warning to the purchaser prior to completing the purchase. To comply with this Section, TJX shall
25 (a) post the **Warning** or **Alternative Warning** on its own website and, if it has the ability to do
26 so, on the websites of its third-party internet sellers; and (b) if it does not have the ability to post
27 the **Warning** or **Alternative Warning** on the websites of its third-party internet sellers, provide
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1 such sellers with written notice in accordance with Title 27, California Code of Regulations,
2 Section 25600.2. Third-party internet sellers of the Covered Products that have been provided with
3 written notice in accordance with Title 27, California Code of Regulations, Section 25600.2 are
4 not released in Section 5 of this Agreement if they fail to meet the warning requirements of this
5 Section.

6 **3.3 Compliance with Warning Regulations.** The Parties agree that TJX shall be
7 deemed to be in compliance with this Settlement Agreement by either adhering to § 3 of this
8 Settlement Agreement or by complying with warning regulations adopted by the State of
9 California's OEHHA applicable to the Covered Products and the exposure at issue.

10 **4. MONETARY TERMS**

11 **4.1 Civil Penalty.** TJX shall pay \$1,000.00 as a Civil Penalty pursuant to Health and
12 Safety Code section 25249.7(b), to be apportioned in accordance with California Health & Safety
13 Code § 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the Civil
14 Penalty remitted to Balabbo, as provided by California Health & Safety Code § 25249.12(d).

15 **4.1.1** Within fifteen (15) business days of the Effective Date, and upon receipt
16 of appropriate W-9 forms, whichever is later, TJX shall issue two separate checks for the Civil
17 Penalty payment to (a) "OEHHA" in the amount of \$750.00; and to (b) "Precila Balabbo" in the
18 amount of \$250.00. Payment owed to Balabbo pursuant to this Section shall be delivered to the
19 following payment address:

20 Evan J. Smith, Esquire
21 Brodsky Smith
22 Two Bala Plaza, Suite 805
23 Bala Cynwyd, PA 19004

24 Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly
25 to OEHHA (Memo Line "Prop 65 Penalties") at one of the following address(es):

26 For United States Postal Service Delivery:

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

1 For Non-United States Postal Service Delivery:

2 Mike Gyurics
3 Fiscal Operations Branch Chief
4 Office of Environmental Health Hazard Assessment
5 1001 I Street
6 Sacramento, CA 95814

7 Upon request, a copy of the check payable to OEHHA shall be mailed to Brodsky Smith at the
8 address set forth above as proof of payment to OEHHA.

9 4.2 **Attorneys' Fees.** Within fifteen (15) business days of the Effective Date, and upon
10 receipt of appropriate W-9 forms, whichever is later, TJX shall pay \$16,500.00, in the form of a
11 check made payable to Brodsky Smith as complete reimbursement for Balabbo's attorneys' fees
12 and costs incurred as a result of investigating, bringing this matter to the attention of TJX, litigating
13 and negotiating and obtaining judicial approval of a settlement in the public interest, pursuant to
14 Code of Civil Procedure § 1021.5.

15 4.3 TJX may also choose to wire all payments as set forth in Section 4 and counsel for
16 Balabbo shall be responsible for apportioning the funds as appropriate. Counsel for Bell shall
17 provide wire information upon request.

18 **5. RELEASE OF ALL CLAIMS**

19 5.1 This Consent Judgment is a full, final, and binding resolution between Balabbo
20 acting on her own behalf, and on behalf of the public interest, and TJX, and its parents,
21 shareholders, members, directors, officers, managers, employees, representatives, agents,
22 attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their
23 predecessors, successors and assigns ("Defendant Releasees"), of all claims for violations of
24 Proposition 65 based on exposure to lead from use of the Covered Products manufactured,
25 distributed, or sold by TJX within 90 days after the Effective Date, as set forth in the Notices. It is
26 the Parties' intention that this Consent Judgment shall have preclusive effect such that no other
27 actions by private enforcers, whether purporting to act in his, her, or its interests or the public
28 interest shall be permitted to pursue and take any action with respect to any violation of Proposition
65 based on exposure to lead from use of the Covered Products that was alleged in the Action, or

1 that could have been brought pursuant to the Notice against TJX and the Defendant Releasees
2 (“Proposition 65 Claims”). TJX’s compliance with the terms of this Consent Judgment constitutes
3 compliance with Proposition 65 by TJX with regard to exposure to lead from use of the Covered
4 Products.

5 5.2 In addition to the foregoing, Balabbo, on behalf of herself, her past and current
6 agents, representatives, attorneys, and successors and assignees, and not in her representative
7 capacity, hereby waives all rights to institute or participate in, directly or indirectly, any form of
8 legal action and releases TJX and Defendant Releasees from any and all manner of actions, causes
9 of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises,
10 liabilities, damages, charges, losses, costs, expenses, and attorneys’ fees, of any nature whatsoever,
11 known or unknown, in law or equity, fixed or contingent, now or in the future, with respect to any
12 alleged violations of Proposition 65 related to or arising from Covered Products manufactured,
13 distributed, or sold by TJX or Defendant Releasees. With respect to the foregoing waivers and
14 releases in this paragraph, Balabbo hereby specifically waives any and all rights and benefits which
15 she now has, or in the future may have, conferred by virtue of the provisions of § 1542 of the
16 California Civil Code, which provides as follows:

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

22 5.3 TJX waives any and all claims against Balabbo, her attorneys and other
23 representatives, for any and all actions taken, or statements made (or those that could have been
24 taken or made) by Balabbo and her attorneys and other representatives regarding the enforcement
25 of Proposition 65 against it in this matter, and with respect to Covered Products.

26 6. INTEGRATION

27 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
28 any and all prior negotiations and understandings related hereto shall be deemed to have been

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.

7. GOVERNING LAW

7.1 The terms of this Consent Judgment shall be governed by the laws of the State of California and apply within the State of California.

8. NOTICES

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

For Defendant:

The TJX Companies, Inc.
770 Cochituate Road
Framingham, MA 01701

Eva Yang
Norton Rose Fulbright US LLP
555 S. Flower St., 41st Fl.
Los Angeles, CA 90071

And

For Balabbo:

Evan Smith
Brodsky Smith
9465 Wilshire Blvd., Ste. 300
Beverly Hills, CA 90212

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.

9. COUNTERPARTS; FACSIMILE SIGNATURES

9.1 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.

1 **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT**
2 **APPROVAL**

3 10.1 Balabbo agrees to comply with the requirements set forth in California Health &
4 Safety Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment.
5 Defendant agrees it shall support approval of such Motion.

6 10.2 This Consent Judgment shall not be effective until it is approved and entered by the
7 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case,
8 the Parties agree to meet and confer on how to proceed and if such agreement is not reached within
9 30 days, the case shall proceed on its normal course.

10 10.3 If the Court approves this Consent Judgment and is reversed or vacated by an
11 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
12 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed
13 on its normal course on the trial court's calendar.

14 **11. MODIFICATION**

15 11.1 This Consent Judgment may be modified only by further stipulation of the Parties
16 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

17 **12. ATTORNEY'S FEES**

18 12.1 A Party who unsuccessfully brings or contests an action arising out of this Consent
19 Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

20 12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions
21 pursuant to law.

22 **13. RETENTION OF JURISDICTION**

23 13.1 This Court shall retain jurisdiction of this matter to implement or modify the
24 Consent Judgment.

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1 **14. AUTHORIZATION**

2 14.1 The undersigned are authorized to execute this Consent Judgment on behalf of their
3 respective Parties and have read, understood, and agree to all of the terms and conditions of this
4 document and certify that he or she is fully authorized by the Party he or she represents to execute
5 the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as
6 explicitly provided herein each Party is to bear its own fees and costs.

7 **AGREED TO:**

8 **AGREED TO:**

9 Date: _____

10 Date: April 15, 2025

11 By: _____
12 PRECILA BALABBO

13 By: _____
14 THE TJX COMPANIES, INC.
15 Jennifer A. Peoples
16 VP, Legal

17 **IT IS SO ORDERED, ADJUDGED AND DECREED:**

18 Dated: _____

19 Judge of Superior Court

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14. AUTHORIZATION

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

AGREED TO:	AGREED TO:
Date: <u>5 / 6 / 25</u>	Date: _____
By: <u></u>	By: _____
PRECILA BALABBO	THE TJX COMPANIES, INC.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: _____	_____ Judge of Superior Court
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