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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ENVIRONMENTAL HEALTH ADVOCATES, INC., Plaintiff, v. ARMANINO FOODS OF DISTINCTION, INC., a Colorado corporation; RESTAURANT DEPOT, LLC., a Delaware limited liability company; INSTACART, a Delaware corporation; and DOES 1 through 100, inclusive, Defendants.	Case No. 23CV027276 **[PROPOSED] AMENDED CONSENT JUDGMENT** (Health & Safety Code § 25249.6 *et seq.* and Code Civ. Proc. § 664.6)

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1. INTRODUCTION

1.1 Parties

This Consent Judgment and Release ("Consent Judgment") is entered into by and between Environmental Health Advocates, Inc. ("EHA"), on the one hand, and Armanino Foods of Distinction, Inc. ("Armanino"), on the other hand, with EHA and Armanino each individually referred to as a "Party" and collectively as the "Parties."

1.2 Plaintiff

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

1.3 Defendant

Armanino employs ten or more individuals and is a "person in the course of doing business" for purposes of this Consent Judgement and the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.6 *et seq.* ("Proposition 65").

1.4 General Allegations

EHA alleges that Releasees (as defined in Section 4.1) manufacture, import, sell, or distribute for sale in California pesto products including but not limited to "Armanino Basil Pesto," that contains lead. EHA further alleges that Releasees do so without first providing a sufficient health hazard warning required by Proposition 65 and related Regulations. Lead is listed pursuant to Proposition 65 as a chemical known to cause cancer and birth defects or other reproductive harm.

1.5 Product Description

The products covered by this Consent Judgement are Armanino's pesto products, including, but not limited to, "Armanino Basil Pesto," that EHA alleges contain lead and that are manufactured, imported, sold, or distributed in California by Releasees (as defined in Section 4.1) ("Covered Products").

1.6 Notice of Violation and Complaint

On or around October 27, 2022, EHA served Armanino, Restaurant Depot, LLC ("Resturaunt Depot"), Instacart, the California Attorney General, and all other requisite public enforcers with a 60-

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Day Notice of Violation ("Notice"). The Notice alleged that Armanino and others violated Proposition 65 by failing to sufficiently warn consumers of the health hazards associated with exposure to lead contained in the Armanino Basil Pesto manufactured or processed by Armanino that allegedly contain lead and are imported, sold, shipped, delivered, or distributed for sale to consumers in California by Releasees (as defined in section 4.1).

To the best of the Parties' knowledge, no public enforcer has commenced and is diligently prosecuting an action to enforce the violations alleged in the Notice.

1.7 State of the Pleadings

On or around February 3, 2023, EHA filed a Complaint against Armanino, Resturaunt Depot, and Instacart for the alleged violation of Proposition 65 that are the subject of the Notice ("Complaint").

1.8 No Admission

Armanino denies the material factual and legal allegations of the Notice and Complaint and maintains that all of the Covered Products it has manufactured, imported, sold, and/or distributed for sale in California have been, and are, in compliance with all laws. As used in this Consent Judgement, "distributed for sale in California" means to directly ship Covered Products into California or to sell Covered Products to a distributor Armanino knows will sell Covered Products in California. Nothing in this Consent Judgment shall be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this Consent Judgment be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law. This Section shall not, however, diminish or otherwise affect Armanino's obligations, responsibilities, and duties under this Consent Judgment.

1.9 Jurisdiction

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

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1.10 Effective Date

For purposes of this Consent Judgment, the term "Effective Date" shall mean the date on which this Consent Judgment is approved and entered as a judgement of the Court, as discussed in Section 4.5.

1.11 Compliance Date

For purposes of this Consent Judgment, the term "Compliance Date" means 90 days from the date on which this Consent Judgment is approved and entered as a judgment of the Court, as discussed in Section 4.5.

2. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS

2.1 Daily Lead Exposure Level

Beginning on or before the Compliance Date, Armanino shall be permanently enjoined from manufacturing, distributing, or directly selling in the State of California, any Covered Product that exposes a person to a "Daily Lead Exposure Level" of more than 0.5 micrograms of lead based on a single serving per day (defined as 57 grams) unless such Covered Product complies with the warning requirements of Section 2.2. The "Daily Lead Exposure Level" shall be calculated by multiplying the recommended serving size in Covered Product by the concentration of lead in the Covered Product. As used in this Section 2, "distributed for sale in CA" means to directly ship Covered Product into California or to sell the Covered Product to a distributor Defendant knows will sell the Covered Product in California.

2.2 Clear and Reasonable Warnings

As of the Compliance Date, and continuing thereafter, if and only if, the Daily Lead Exposure Level for Covered Products that are manufactured and packaged for distribution for authorized sale or use in California exceeds 0.5 micrograms of lead pursuant to the formula set forth in Section 2.1 above, Armanino shall provide one of the following warning statements:

> 1) **"WARNING:" [or] "CA WARNING:" [or] "CALIFORNIA WARNING:"**: Consuming this product can expose you to chemicals including lead, which is 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.

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OR

SHORT FORM	**2) "WARNING:" [or] "CA WARNING:" [or] "CALIFORNIA WARNING**:" Risk of cancer and reproductive harm from exposure to lead. See www.P65Warnings.ca.gov/food.

OR

SHORT FORM	**3) "WARNING:" [or] "CA WARNING:" [or] "CALIFORNIA WARNING:"** Can expose you to lead, a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov/food.

OR

SHORT FORM ON A PRODUCT MANUFACTURED /LABELED PRIOR TO 1/1/28, REGARDLESS OF DATE OF SALE	**4) WARNING:** Cancer and Reproductive Harm www.P65Warnings.ca.gov/food.

For purposes of this Settlement Agreement, a clear and reasonable warning for the Covered Products shall consist of a product-specific warning via one or more of the following methods: (1) A posted sign, shelf tag, or shelf sign for the consumer product at each point of display of the product; (2) Any electronic device or process that automatically provides the warning to the purchaser (not applicable to internet purchases, which are subject to the provisions of § 25602(b)); (3) A warning directly affixed to the product's label or tag; or (4) A short-form warning on the label that complies with the content requirements set forth in §§ 25603(b) and 25603(a).

Pursuant to Section 25607.1, where the warning is provided on the food product label, it must be set off from other surrounding information and enclosed in a box. Where a specific food product sign, label, placard, or shelf tag is used to provide a warning, it must be displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual prior to sale. In no case shall a warning statement appear in a type size smaller than 6-point type. Where a sign, labeling, or label as defined in Section 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.

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As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are sold online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603, in addition to the on-product warning, must also be provided via one of the following methods: (1) A warning on the product display page; (2) A clearly marked hyperlink using the word **"WARNING"** or the words **"CA WARNING"** or **"CALIFORNIA WARNING"** on the product display page that links to the warning; or (3) An otherwise prominently displayed warning provided to the purchaser prior to completing the purchase. If a warning is provided using the short-form label content pursuant to Section 25602(a)(4), the warning provided on the website may use the same content. For purposes of this section, a warning is not prominently displayed if the purchaser must search for it in the general content of the website. For internet purchases made prior to 1/1/28, a retail seller is not responsible under Section 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 Section 25600.2(b) and (c) which updates a short form warning compliant with Section 25603(c) with content compliant with Section 25603(b). These requirements extend to any websites under the exclusive control of Armanino, Inc., where Covered Products are sold into California. In addition, Armanino shall instruct any third-party website to which it directly sells its Covered Products to include the same online warning, as set forth above, as a condition of selling the Covered Products in California.

2.3 Sell-Through Period

Notwithstanding anything else in this Consent Judgment, Covered Products that are manufactured, packaged, or put into commerce on or prior to the Compliance Date shall be subject to release of liability pursuant to this Consent Judgment, without regard to when such Covered Products were, or are in the future, distributed or sold to customers. As a result, the obligations of Armanino, or any Releasees (if applicable), do not apply to Covered Products manufactured, on or prior to the Compliance Date.

3. MONETARY SETTLEMENT TERMS

3.1 Settlement Amount

Armanino shall pay one hundred and five thousand dollars ($105,000.00) in settlement and total satisfaction of all the claims referred to in the Notice, the Complaint, and this Consent Judgment. This

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includes civil penalties in the amount of ten thousand five hundred dollars ($10,500.00) pursuant to Health and Safety Code section 25249.7(b) and attorneys' fees and costs in the amount of nintey four thousand five hundred dollars ($94,500.00) pursuant to Code of Civil Procedure section 1021.5.

3.2 Civil Penalty

The portion of the settlement attributable to civil penalties shall be allocated according to Health and Safety Code section 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty. $7,875.00, paid to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining twenty-five percent (25%) of the penalty, $2,625.00, paid to EHA individually. The ten thousand five hundred dollars ($10,500.00) in civil penalties shall be paid as follows:

- One payment of $7,875.00 to OEHHA, due fourteen (14) days after the Effective Date.
- One payment of $2,625.00 to EHA, due fourteen (14) 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 Line "Prop 65 Penalties") 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

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Armanino 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 complete 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.

All payments referenced in this section shall be paid within fourteen (14) days of the Effective Date.

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 Armanino's attention, as well as litigating and negotiating a settlement in the public interest.

Armanino shall provide its payment for civil penalty as outlined above in Section 3.2 Armanino shall provide its payment for attorneys' fees and costs to EHA's counsel by physical check or by electronic means, including wire transfers, at Armanino's discretion, as follows:

- One payment of ninety four thousand five hundred dollars ($94,500.00) in Attorney's Fees and Costs, due within sixty (60) days of the Effective Date. If the deadline is on a Sunday or holiday, it will be extended until the next court day.
- The attorney fee payments shall be made payable to Entorno Law, LLP and delivered to:

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

3.4 Tax Documentation

Armanino agrees to provide a completed IRS 1099 for its payments to, and EHA agrees to provide IRS W-9 forms for each of the payees under this Consent Judgement. The Parties

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acknowledge that Armanino cannot issue any settlement payments pursuant to Section 3.2 and 3.3 above until after Armanino receives the requisite W-9 forms from EHA's counsel.

4. CLAIMS COVERED AND RELEASE

4.1 EHA's Public Release of Proposition 65 Claims

For any claim or violation arising under Proposition 65 alleging a failure to warn about exposures to lead from Covered Products prior to the Compliance Date, EHA, acting for the general public, releases Armanino and each of its respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, employees, contractors, attorneys, each upstream entity from whom the Product was purchased by Armanino, and each entity to whom Armanino directly or indirectly distributes or sells the Product including, but not limited to, its downstream distributors, wholesalers, customers, retailers (including, but not limited to: Restaurant Depot and Instacart, and each of their respective parents, subsidiaries, affiliated entities under common ownership, directors, officers, members, employees, and contractors), franchisees, cooperative members and licensees ("Releasees") of any and all liability arising under Proposition 65 in connection with the failure to warn about exposure to lead from Covered Products prior to the Compliance Date. Releasees include all named defendants in the above-captioned action, their parents, and all subsidiaries and affiliates thereof and their respective employees, agents, and assigns that sell Armanino's Covered Products. Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to the alleged or actual failure to warn about exposures to lead from Covered Products manufactured, imported, sold, or distributed by Armanino on or after the Compliance Date. This Consent Judgment is a full, final, and binding resolution of all claims under Proposition 65 that were or could have been asserted against Armanino and/or Releasees for failure to provide warnings required under Proposition 65 for alleged exposure to lead contained in Covered Products. This release does not extend to any third-party retailers selling the product on a website who, after receiving instruction from Armanino to include a warning as set forth above in section 2.2, do not include such a warning.

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4.2 EHA's Individual Release of Claims

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

4.3 Armanino's Release of EHA

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

4.4 California Civil Code Section 1542

Each of the Parties acknowledges that it is familiar with California Civil Code section 1542, which provides 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.

Each of the Parties waives and relinquishes any right or benefit it has or may have under Section 1542 of California Civil Code or any similar provision under the statutory or non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights and benefits. The Parties acknowledge that each may subsequently discover facts in addition to, or different from, those that it believes to be true with respect to the claims released herein. The Parties agree that this Consent Judgment and the releases contained herein shall be and remain effective in all respects notwithstanding the discovery of such additional or different facts.

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4.5 Court Approval

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

5. SEVERABILITY

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

6. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the state of California as applied within the state of California. In the event that Proposition 65 is repealed, or is otherwise rendered inapplicable for reasons, including but not limited to changes in the law; or in the event the California Office of Health Hazard Assessment adopts a regulation or safe use determination, or issues an interpretive guideline that exempts Covered Products from meeting the requirements of Proposition 65; or if lead cases are permanently enjoined by a court of competent jurisdiction; or if Proposition 65 is determined to be preempted by federal law or a burden on First Amendment rights with respect to lead in Covered Products or Covered Products substantially similar to Covered Products, then Armanino, Inc. may seek relief from the injunctive obligations imposed by this Consent Judgment to the extent any Covered Products are so affected by modifying the agreement via the mechanisms set forth in Section 12.

7. ENFORCEMENT

In any action to enforce the terms of this Consent Judgment, the prevailing party shall be entitled to its reasonable attorneys' fees and costs. The injunctive terms of this Consent Judgment may be enforced by public agency prosecutors pursuant to California Health and Safety Code section 25249.7(c), and/or by private party prosecutors acting "in the public interest" under California Health and Safety Code section 25249.7(d).

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8. NOTICE

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

If to Armanino, Inc.:	If to EHA:
Daniel Herling Mintz Levin Cohn Ferris Glovsky and Popeo, P.C. 44 Montgomery Street, 36th Floor San Francisco, CA 94104 DJHerling@mintz.com	Noam Glick Entorno Law, LLP 225 Broadway, Suite 2100 San Diego, CA 92101 noam@entornolaw.com

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

9. COUNTERPARTS; FACSIMILE SIGNATURES

This Consent Judgment may be executed in counterparts and by facsimile or portable document format (PDF) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

10. POST EXECUTION ACTIVITIES

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

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11. MODIFICATION

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

12. AUTHORIZATION

The undersigned are authorized to execute this Consent Judgment on behalf of their respective Party and have read, understood, and agreed to all of the terms and conditions of this Consent Judgement.

13. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

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

14. ENTIRE AGREEMENT

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

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AGREED TO:

Date: 1/30/26

By: _____
ENVIRONMENTAL HEALTH ADVOCATES, INC.

AGREED TO:

Date: 1/29/2026 | 10:44:15 AM PST

Signed by:
By: Deanna Jurgens
A7CBFA0F9D8B43A...
ARMANINO FOODS OF DISTINCTION, INC.

IT IS SO ORDERED.

Date: _____

_____
JUDGE OF THE SUPERIOR COURT