

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Clean Product Advocates, LLC and Baker's Breakfast Cookies, Inc.

This Settlement Agreement is entered into by and between Clean Products Advocates, LLC ("CPA"), on the one hand, and Baker's Breakfast Cookies, Inc. ("Erin Baker's"), on the other hand, with CPA and Erin Baker's collectively referred to as the "Parties."

1.2. General Allegations

CPA alleges that Erin Baker's manufactured and distributed and offered for sale in the State of California "Grain Free Better Cookie UPC: 708875006034" containing lead, and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* and its implementing regulations ("Proposition 65"). California has identified and listed lead under Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

1.3. Product Description

The products that are covered by this Settlement Agreement are defined as Grain Free Better Cookie UPC: 708875006034 that Erin Baker's has manufactured, imported, sold, offered for sale, or distributed in California. All such items shall be referred to herein as the "Covered Products."

1.4. Notice of Violation

On 11/07/2022 CPA served Sprouts Farmers Market, Inc., Baker's Breakfast Cookies, Inc. dba Erin Baker's and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of California with a document entitled "60-Day Notice of Violation" ("Notice") that provided Erin Baker's and such public enforcers with notice that Erin Baker's was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Covered Products exposed users in California to lead. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

1.5. No Admission

The Parties enter into this Settlement Agreement to settle disputed claims between them, as set forth herein and in the Notice concerning Erin Baker's compliance with Proposition 65. Erin Baker's denies the material factual and legal allegations contained in CPA's Notice and maintains that all products that it has manufactured for sale and distribution in California, including the Covered Products, have been and are in compliance with Proposition 65 or any other applicable statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by Erin Baker's of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Erin Baker's of any fact, binding, conclusion, issue of law, or violation of law, such being specifically denied by Erin Baker's on its behalf. However, nothing

in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Erin Baker's under this Settlement Agreement.

1.6. Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date this Settlement Agreement is fully executed.

2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS

As of the Effective Date, Erin Baker's, at its sole discretion, agrees to either (a) cease selling, offering for sale, or distributing the Covered Products in California, (b) manufacture, import, or otherwise source for authorized sale in California only Reformulated Products, as defined pursuant to Section 2.1 below, or (c) provide a clear and reasonable Proposition 65 warning on the Covered Products pursuant to Section 2.2 below.

2.1. Reformulation Standards

The Covered Products shall be deemed to comply with Proposition 65 with regard to lead and be exempt from any Proposition 65 warning requirements for lead, if lead in the Covered Products does not exceed 0.5 micrograms of lead per day ("Reformulated Products"). Covered Products that were supplied or contracted to be supplied to third parties by Erin Baker's prior to 6 months after the Effective Date shall be deemed exempted from the requirements of this Section 2 and shall be permitted to be sold through as previously manufactured, packaged and labeled.

For the Purpose of this Agreement, the amount of lead a person is exposed to from the Reformulated Products shall be measured in micrograms, and shall be calculated using the following formula: micrograms of lead per gram of product, multiplied by grams of product per serving of the product (using the largest serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of recommended daily servings appearing on the product label), which equals micrograms of lead exposure per day. If the label contains no recommended daily servings, then the number of recommended daily servings shall be one.

2.2. Warning Option

Covered Products that do not meet the warning exemption standard set forth in Section 2.1 above shall be accompanied by a warning as described in Section 2.3 below. This warning requirement shall only be required as to Covered Products that are manufactured, distributed, marketed, imported, sold, shipped for sale, or offered for sale by Erin Baker's to consumers in the State of California. No Proposition 65 warning shall be required for any Covered Products that are supplied or contracted to be supplied to third parties by Erin Baker's prior to 6 months after the Effective Date, and all such Covered Products are hereby deemed to be exempt from Proposition 65 enforcement.

2.3. Warning Language

(a) Where required to meet the criteria set forth in Section 2.2, Erin Baker's shall display one of the following warning statements on the packaging label of the Covered Products that do not meet the warning exemption standard set forth in Section 2.1 above:

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

(2) **WARNING:** [Cancer and] Reproductive Harm - www.P65Warnings.ca.gov/food

Erin Baker's may use "cancer and" in the warning at its option. Erin Baker's may include the names of additional chemicals in the warning if they are present in the Covered Products at a level that Erin Baker's reasonably believes would require a Proposition 65 warning.

(b) The requirements for warnings, set forth in subsection (a) above, are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations. Erin Baker's shall be deemed to be in compliance with the warning requirements of this Settlement Agreement by either adhering to this Section 2.3 or by complying with the Proposition 65 warning requirements adopted by the State of California Office of Environmental Health Hazard Assessment ("OEHHA") as of or after the Effective Date.

(c) If Proposition 65 warnings for lead should no longer be required, Erin Baker's shall have no further obligations pursuant to this Settlement Agreement.

(d) INTERNET - Covered Products that are sold by Erin Baker's on the Internet to persons located in California shall also provide the warning message by a clearly marked hyperlink on the product display page, or otherwise prominently displayed to the purchaser before the purchaser completes his or her purchase of the Covered Product.

(e) FOREIGN LANGUAGE - If the Product has consumer information in a foreign language, then the package must also contain the WARNING in the foreign language.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.7(b)

In full satisfaction of all potential civil penalties and attorney's fees, costs and any other expenses incurred by CPA or its counsel. Erin Baker's shall pay the total Settlement amount of Eighteen Thousand Dollars (\$18,000) (The "Settlement Amount") as set forth below.

3.1 Civil Penalties to Health & Safety Code 25249.7 (B):

Five Hundred Dollars of the Settlement Amount shall be considered a "civil penalty" pursuant to California Health and Safety Code. Erin Baker's shall issue two separate checks within sixty (60) days of the Effective Date for a total amount of Five Hundred Dollars (\$500) as follows, and all payments shall be delivered to the addresses listed below.

3.1 (a) One Check made payable to the State of California's Office of Environmental Health Hazard Assessment ("OEHHA") in the amount of Three Hundred Seventy Five Dollars (\$375), representing 75% of the total civil penalty; and

3.1 (b) One check payable to "Clean Product Advocates, LLC" in the amount of One Hundred Twenty Five Dollars (\$125), representing 25% of the total civil penalty.

3.2 Attorney's Fees and Costs:

Seventeen Thousand Five Hundred Dollars (\$17,500) of the total Settlement Amount shall be paid to Cliffwood Law Firm, PC within sixty (60) days of the Effective Date, as CPA's attorneys, for reasonable investigation fees, and costs, attorney's fees, and any other cost incurred as a result of investigating and bringing this matter to Erin Baker's attention.

4. PAYMENT PROCEDURES

4.1 All Payments owed to OEHHA, pursuant to section 3.1(a) shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties NOV #2022-02708") at the following address:

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

4.2 All Payments owed to CPA, pursuant to Section 3.1(b) shall be delivered to:

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

4.3 All Payments owed to Cliffwood Law Firm, PC pursuant to Section 4.3, shall be delivered to:

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

4.4 PROOF OF PAYMENT

A copy of each check payable to OEHHA, shall be mailed to Cliffwood Law firm, PC, simultaneous with payment to Cliffwood Law Firm, PC at the address set forth above, as proof of payment to OEHHA.

5. RELEASE OF ALL CLAIMS

5.1. Release of Erin Baker's, Downstream Customers and Upstream Vendors

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, CPA, on behalf of itself *and on behalf of the public interest*, and its respective owners, principals, shareholders, officers, directors, employees, parents, subsidiaries its past and current agents, representatives, attorneys, successors and/or assignees (collectively, "Releasers"), hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and fully releases all claims relating to the Products, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against (a) Erin Baker's (b) each of Erin Baker's downstream distributors in the stream of commerce (including but not limited to Sprouts Farmers Market, Inc.), and any other upstream or downstream entities in the distribution chain for the Products, including, but not limited to, manufacturers, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, third-party resellers, and users, (c) Erin Baker's parent companies, corporate affiliates, subsidiaries, affiliates, doing business as entities ("DBAs"), successor companies, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities, and (d) the employees, shareholders, officers, directors, members, managers, equity owners, insurers, attorneys, predecessors, successors and assigns of any of the entities identified in subsection (a) and (c), above (collectively "Releasees"). CPA also, on behalf of itself, its past and current agents, representatives, attorneys, successors, and/or assignees and *not* in its representative capacity, provides a general release herein which shall be effective as a full and final accord and satisfaction, as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of any nature, character or kind, known or unknown, suspected or unsuspected, against Erin Baker's and the Releasees.

5.2 Erin Baker's Release of CPA

Erin Baker's, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against CPA, its attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by CPA and/or its attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

5.3 California Civil Code § 1542.

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. CPA on behalf of itself only, on one hand, and Erin Baker's, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective Date, including all rights of action thereof. The Parties acknowledge that the claims released in §§ 5.1 and 5.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 1542 reads as follows:

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

CPA and Erin Baker's each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

6. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Covered Products, then Erin Baker's shall have no further obligations pursuant to this Settlement Agreement.

7. NOTICES

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

For Baker's Breakfast Cookies, Inc.:

Matthew C. Bures, Esq.
Wolfe & Wyman LLP
2212 Dupont Drive
Irvine, CA 92612

For Clean Product Advocates, LLC:

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

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

8. COUNTERPARTS; FACSIMILE/E-SIGNATURES

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

9. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions.

10. MODIFICATION

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

11. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understand, and agree to all of the terms and conditions of this Settlement Agreement.

Agreed to:

Date: January 30 2024

CLEAN PRODUCTS ADVOCATES, LLC

Signature:




Name: Deena Mendez

Title: Director

Date: January 30, 2024

BAKER'S BREAKFAST COOKIES, INC.

Signature:



Name: Rob McCormack

Title: CEO