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5 Attorneys for Plaintiff,
6 TAMAR KALOUSTIAN

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10
11 TAMAR KALOUSTIAN,

12 Plaintiff,

13 v.

14 Ancient Brands, LLC; and DOES 1 through 100,
15 inclusive,
16 Defendant.

Case No.: 23STCV30991

[PROPOSED] CONSENT JUDGMENT AS
TO ANCIENT BRANDS, LLC

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

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1. INTRODUCTION

1.1 The Parties

This [Proposed] Consent Judgment is hereby entered into by and between Tamar Kaloustian, acting on behalf of the public interest (hereinafter “Kaloustian”) and ANCIENT BRANDS, LLC (hereinafter “Ancient Brands” or “Defendant”). Collectively Kaloustian and Ancient Brands shall be referred to hereafter as the “Parties” and each of them as a “Party.” Kaloustian is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Defendant is a person in the course of doing business for purposes of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

1.2 Allegations and Representations

Kaloustian alleges that Defendant has offered for sale in the State of California and has sold in California, products, which contain lead, and that such sales have not been accompanied by Proposition 65 warnings. Lead is listed under Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm. Defendant denies the allegations and contends that there is no exposure and no violation under Proposition 65 for an alleged failure to warn.

1.3 Covered Product Description

The products that are covered by this Consent Judgment are identified as Organic Super Greens, including but not limited to: “Ancient Nutrition – Organic Super Greens – Detox Digest Energize – Mint Flavor; UPC #:8 16401 02573 9.” All such products shall be referred to herein as the “Covered Product.”

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1.4 Notices of Violation/Complaint

1.4.1 On or about December 20, 2022, Kaloustian served Ancient Brands and various public enforcement agencies with a document entitled "60-Day Notice of Violation" pursuant to Health & Safety Code §25249.7(d) (the "Notice"), alleging that Ancient Brands was in violation of Proposition 65 for failing to warn consumers and customers that the Covered Product exposed users in California to lead. No public enforcer diligently prosecuted the claims threatened in the Notice within sixty days plus service time relative to the provision of the Notice to them by Kaloustian.

1.4.2 On December 20, 2023, Kaloustian, acting in the interest of the general public in the State of California, filed a complaint in the Superior Court of Los Angeles County alleging violations of Health & Safety Code §25249.6 (the "Complaint") based on the alleged failure to warn of exposures to lead contained in the Covered Product manufactured, distributed, or sold by Defendant.

1.5 Effective Date

For purposes of this Consent Judgment, the term "Effective Date" shall mean the date this Consent Judgment is entered as a judgment of the Court.

For purposes of this Consent Judgment, the term "Execution Date" shall mean the date this Consent Judgment is signed by all parties in Clause 16 below.

2. STIPULATION TO JURISDICTION/NO ADMISSION

For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over Defendant as to the allegations contained in the complaint filed in this matter, that venue is proper in the County of Los Angeles, and that this Court has jurisdiction to approve, enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution of all claims which were or could have been raised in the Complaint based on the facts alleged therein and/or in the Notice.

Defendant denies the material, factual and legal allegations contained in Plaintiff's Notice and

1 Complaint, and maintains that all products, including but not limited to the Covered Product, that
 2 they have sold and distributed in California have been and are in compliance with all applicable laws,
 3 and are completely safe for their intended use. Nothing in this Consent Judgment shall be construed
 4 as an admission by Defendant of any fact, finding, issue of law, or violation of law; nor shall
 5 compliance with this Consent Judgment constitute or be construed as an admission by Defendant of
 6 any fact, finding, conclusion, issue of law, or violation of law, such being specifically denied by
 7 Defendant, including, but not limited to, any admission related to exposure of failure to warn.
 8 However, this section shall not diminish or otherwise affect the obligations, responsibilities, and
 9 duties of Defendant under this Consent Judgment.
 10

11 **3. INJUNCTIVE RELIEF: WARNINGS, REFORMULATION AND TESTING**

12 **3.1** Beginning 60 days after the Effective Date (“Compliance Date”), Ancient Brands shall
 13 be permanently enjoined from manufacturing for sale in the State of California, "Distributing into the
 14 State of California," or directly selling in the State of California, any Covered Product that expose a
 15 person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day, unless it
 16 meets the warning requirements under Section 3.2.
 17

18 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State of California"
 19 shall mean to directly ship a Covered Product into California for sale in California or to sell a
 20 Covered Product to a distributor that Ancient Brands knows or has reason to know will sell the
 21 Covered Product in California. The injunctive relief in Section 3 does not apply to any Covered
 22 Product that has left the possession, and is no longer under the control of Ancient Brands prior to the
 23 Effective Date and all claims as to such Covered Product are released in this Consent Judgment.
 24

25 **3.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure Level" shall be
 26 measured in micrograms, and shall be calculated using the following formula: micrograms of lead per
 27 gram of product, multiplied by grams of product per serving of the product (using the largest serving
 28

1 size appearing on the product label), multiplied by servings of the product per day (using the largest
2 number of recommended daily servings appearing on the label), which equals micrograms of lead
3 exposure per day. If the label contains no recommended daily servings, then the number of
4 recommended daily servings shall be one.

5 **3.2 Clear and Reasonable Warnings**

6
7 3.2.1 If Ancient Brands is required to provide a warning pursuant to Section 3.1, one of the
8 following warnings must be utilized ("Warning"):

9 **Option 1:**

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

13 **Option 2:**

14 **WARNING:** [Cancer and] Reproductive Harm - <http://www.p65warnings.ca.gov/food>

15 Ancient Brands shall use the phrase "cancer and" in the Warning if Ancient Brands has reason
16 to believe that the "Daily Lead Exposure Level" is greater than 15 micrograms of lead.

17 The Warning shall be securely affixed to or printed upon the label of each Covered Product
18 and it must be set off from other surrounding information. In addition, for any Covered Product sold
19 over the internet, the Warning shall appear on the checkout page, or prominently displayed to the
20 purchaser prior to completing the purchase, in full text or through a clearly marked hyperlink using
21 the word "**WARNING**" in all capital and bold letters when a California delivery address is indicated
22 for any purchase of any Covered Product. If a hyperlink is used, the hyperlink must go directly to a
23 page prominently displaying the Warning without content that detracts from the Warning.

24
25 The Warning shall be at least the same size as the largest of any other health or safety
26 warnings also appearing on the website or on the label and the word "**WARNING**" shall be in all
27 capital letters and in bold print. No statements intended to or likely to have the effect of diminishing
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1 the impact of the Warning on the average lay person shall accompany the Warning. Further, no
2 statements may accompany the Warning that state or imply that the source of the listed chemical has
3 an impact on or results in a less harmful effect of the listed chemical.

4 Ancient Brands must display the above Warning with such conspicuousness, as compared
5 with other words, statements or designs on the label, or on its website, if applicable, to render the
6 Warning likely to be read and understood by an ordinary individual under customary conditions of
7 purchase or use of the product. For purposes of this Consent Judgment, the term "label" means a
8 display of written, printed or graphic material that is printed on or affixed to a Covered Product or its
9 immediate container or wrapper. If consumer information on the package is in a foreign language, the
10 warning must also be provided in the foreign language.

11 Notwithstanding the foregoing, Defendant may comply with this Section 3 by providing
12 warnings as specified in the Proposition 65 regulations applicable to the Covered Product and
13 chemical at issue, in effect as of the Effective Date, or as such regulations may be modified or
14 amended in the future.

15 **4. PAYMENTS PURSUANT TO HEALTH & SAFETY CODE §25249.7(b)**

16 With regard to all claims that have been raised or which could be raised with respect to failure
17 to warn pursuant to Proposition 65 with regard to lead in the Covered Product, Defendant shall pay a
18 civil penalty of \$5,000.00 pursuant to Health and Safety Code section 25249.7(b), to be apportioned
19 in accordance with California Health & Safety Code § 25192, with 75% of these funds remitted to the
20 State of California’s Office of Environmental Health Hazard Assessment and the remaining 25% of
21 the penalty remitted to Kaloustian, as provided by California Health & Safety Code § 25249.12(d)
22 and the instructions directly below.

23 Defendant shall issue two separate checks for the penalty payment: (a) one check made
24 payable to “OEHHA” (tax identification number: 68-0284486) in an amount representing 75% of the
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1 total penalty (i.e., \$3,750.00) and (b) one check in an amount representing 25% of the total penalty
2 (i.e., \$1,250.00) made payable directly to Kaloustian. Defendant shall mail these payments within ten
3 (10) days following the Effective Date, at which time such payments shall be mailed to the following
4 addresses respectively:

5 All payments owed to Plaintiff shall be delivered to the following payment address:

6 **KJT LAW GROUP LLP**
7
8 **230 N. Maryland Avenue, Suite 306**
9 **Glendale, CA 91206**

10 All payments owed to OEHHA shall be delivered directly to OEHHA at the following
11 addresses:

12 For United States Postal Delivery:

13
14 Mike Gyurics
15 Senior Accounting Officer -- MS 19-B
16 Office of Environmental Health Hazard Assessment
17 P.O. Box 4010
18 Sacramento, CA. 95812-0410

19 For Non-United States Postal Service Delivery:

20
21 Mike Gyurics
22 Fiscal Operations Branch Chief
23 Office of Environmental Health Hazard Assessment
24 1001 I Street
25 Sacramento, CA 95814

26 **5. REIMBURSEMENT OF FEES AND COSTS**

27 The parties reached an accord on the compensation due to Kaloustian and her counsel under
28 the private attorney general doctrine and principles of contract law. Under these legal principles,
the Defendant shall reimburse Kaloustian’s counsel for fees and costs, incurred as a result of
investigating, bringing this matter to Defendant attention, and negotiating a settlement in the public
interest. Defendant shall pay Kaloustian’s counsel \$40,000.00 for all attorneys’ fees, expert and

1 investigation fees and related costs associated with this matter and the Notice. Defendant shall mail a
 2 check payable to “KJT Law Group,” via certified mail to the address for Kaloustian's counsel
 3 referenced above within ten (10) days following the Effective Date. Other than the payment required
 4 hereunder, each side is to bear its own attorneys’ fees and costs.

5 **6. RELEASE OF ALL CLAIMS**

6 **6.1 Kaloustian’s Release of Defendant, Releasees, and Downstream Releasees**

7 As to those matters raised in the Complaint and in the Notice of Violation, Kaloustian, on
 8 behalf of herself, *and on behalf of the public interest*, and her past and current agents, representatives,
 9 attorneys, successors and/or assignees (the “Releasers”), hereby waives and releases any and all claims
 10 against Defendant and its trustees, parent companies, corporate affiliates, subsidiaries, predecessors,
 11 successors and assigns (collectively “Releasees”) and each entity or party to whom Defendant directly
 12 or indirectly distributes or sells the Covered Product including without limitation, distributors,
 13 wholesalers, licensors, licensees, auctioneers, retailers, franchisees, dealers, customers, owners,
 14 purchasers, users (collectively “Downstream Releasees”), and their respective officers, directors,
 15 attorneys, representatives, shareholders, agents, and employees, and sister and parent entities for
 16 injunctive relief or damages, penalties, fines, sanctions, mitigation, fees (including fees of attorneys,
 17 experts, and others), costs, expenses, or any other sum incurred or claimed, for the alleged failure of
 18 Defendant, Releasees, or Downstream Releasees to provide clear, accurate and reasonable warnings
 19 under Proposition 65 about exposure to lead arising from the sale, distribution, or use of any
 20 Covered Product sold, manufactured or distributed by Defendant, Releasees, or Downstream
 21 Releasees in California, up through the Effective Date. Compliance with the Consent Judgment by
 22 Defendant, a Releasee, or a Downstream Releasee shall constitute compliance with Proposition 65 by
 23 that Defendant, Releasee, or Downstream Releasee with respect to the presence of lead in the
 24 Covered Product. Plaintiff agrees that any and all claims in the Complaint are resolved with prejudice
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1 by this Consent Judgment.

2 In addition to the foregoing, Kaloustian, on behalf of herself, her past and current agents,
3 representatives, attorneys, and successors and/or assignees, and not in his representative capacity,
4 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and
5 releases any other Claims that she could make against Defendant, Releasees or Downstream
6 Releasees with respect to violations of Proposition 65 based upon the Covered Product. With
7 respect to the foregoing waivers and releases in this paragraph, Kaloustian hereby specifically waives
8 any and all rights and benefits which she now has, or in the future may have, conferred by virtue of
9 the provisions of Section 1542 of the California Civil Code, which provides as follows:
10

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

14 **6.2 Defendant's Release of Kaloustian**

15 Defendant waives any and all claims against Kaloustian, her attorneys and other
16 representatives, for any and all actions taken or statements made (or those that could have been taken
17 or made) by Kaloustian and her attorneys and other representatives, in the course of investigating
18 claims or otherwise seeking enforcement of Proposition 65 against them in this matter, and/or with
19 respect to the Covered Product.
20

21 **7. SEVERABILITY AND MERGER**

22 If, subsequent to the execution of this Consent Judgment, any of the provisions of this
23 document are held by a court to be unenforceable, the validity of the enforceable provisions
24 remaining shall not be adversely affected.
25

26 This Consent Judgment contains the sole and entire agreement of the Parties and any and all
27 prior negotiations and understandings related hereto shall be deemed to have been merged within it.
28 No representations or terms of agreement other than those contained herein exist or have been made

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1 by any Party with respect to the other Party or the subject matter hereof.

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3 **8. GOVERNING LAW**

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

6 **9. NOTICES**

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

12 For Ancient Brands:

13 Caitlin C. Blanche, Esq.
14 **VENABLE LLP**
15 2049 Century Park East, Suite 2300
16 Los Angeles, CA 90067

16 For Kaloustian:

17 Tro Krikorian, Esq.
18 **KJT LAW GROUP, LLP**
19 230 N. Maryland Ave. Suite 306
20 Glendale, CA 91206
21 Phone: 818-507-8528

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

24 **10. DRAFTING**

25 The terms of this Consent Judgment have been reviewed by the respective counsel for each
26 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and
27 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
28 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
and no provision of this Consent Judgment shall be construed against any Party, based on the fact that

1 one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion
2 of the Consent Judgment. It is conclusively presumed that all of the Parties participated equally in the
3 preparation and drafting of this Consent Judgment.

4 **11. COUNTERPARTS; EMAIL OR FACSIMILE SIGNATURES**

5 This Consent Judgment may be executed in counterparts and by email or facsimile, each of
6 which shall be deemed an original, and all of which, when taken together, shall constitute one and the
7 same document.
8

9 **12. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)/COURT APPROVAL**

10 Kaloustian agrees to comply with the requirements set forth in California Health & Safety
11 Code §25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment and
12 Defendants shall support approval of such Motion.

13 This Consent Judgment shall not be effective until it is approved and entered by the Court
14 and shall be null and void if, for any reason, it is not approved and entered by the Court within twelve
15 months after it has been fully executed by the Parties.
16

17 **13. MODIFICATION**

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

20 **14. ATTORNEY'S FEES**

21 A party who unsuccessfully brings or contests an action arising out of this Consent Judgment
22 shall be required to pay the prevailing party's reasonable attorney's fees and costs unless the
23 unsuccessful party has acted with substantial justification. For purposes of this Consent Judgment, the
24 term substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,
25 Code of Civil Procedure Section 2016, et seq.
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27 **15. RETENTION OF JURISDICTION**

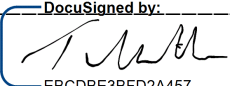
28 This Court shall retain jurisdiction of this matter to implement or modify the Consent

1 Judgment.

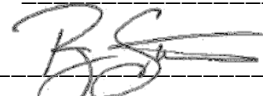
2 **16. AUTHORIZATION**

3 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party
4 he or she represents to stipulate to this Consent Judgment.

5
6 **STIPULATED AND AGREED TO:**

7 Date: 4/4/2024
8 By:  DocuSigned by:
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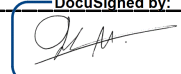
10 TAMAR KALOUSTIAN

Date: 4/1/2024
By: 


Ryan Stammen

[print name]
ANCIENT BRANDS, LLC

11
12 **APPROVED AS TO FROM:**

13 Date: 4/4/2024
14 By:  DocuSigned by:
15 D911CE9328E0472...

16 TRO KRIKORIAN, ESQ.
17 ATTORNEY FOR PLAINTIFF,
TAMAR KALOUSTIAN

Date: 4/4/2024
By: 

CAITLIN C. BLANCHE, ESQ.
ATTORNEY FOR DEFENDANT,
ANCIENT BRANDS, LLC

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

19 Dated: _____

Judge of the Superior Court

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