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6 Attorneys for Plaintiff,
BERJ PARSEGHIAN

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

10
11 **BERJ PARSEGHIAN,**
12 **Plaintiff,**

13 **v.**

14 **Andean Dream, LLC; Whole Foods Market**
15 **California, Inc.; and DOES 1 through 100,**
16 **inclusive;**
17 **Defendant.**

Case No.: 24STCV16927

**[PROPOSED] CONSENT JUDGMENT AS
TO ANDEAN DREAM, LLC**

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

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1 **1. INTRODUCTION**

2 **1.1 The Parties**

3 This [Proposed] Consent Judgment is hereby entered into by and between BERJ
4 PARSEGHIAN, acting on behalf of the public interest (hereinafter "PARSEGHIAN") and
5 ANDEAN DREAM, LLC (hereinafter "ANDEAN DREAM"). Collectively Parseghian and
6 ANDEAN DREAM shall be referred to hereafter as the "Parties" and each of them as a "Party."
7 Parseghian is an individual residing in California who seeks to promote awareness of exposures to
8 toxic chemicals and improve human health by reducing or eliminating hazardous substances
9 contained in consumer products. For the purposes of this Consent Judgment, the Parties agree that
10 ANDEAN DREAM is a person in the course of doing business within the meaning of Proposition
11 65, Cal. Health & Safety Code §§ 25249.6 et seq.

12 **1.2 Allegations and Representations**

13 Parseghian alleges that Defendant has offered for sale in the State of California and has sold in
14 California, Quinoa Cookies, which contain lead and expose consumers to this chemical at a level
15 requiring a Proposition 65 warning. Lead is listed under Proposition 65 as a chemical known to the
16 State of California to cause cancer and birth defects or other reproductive harm. Defendant denies
17 the allegations and contends that there is no exposure requiring a warning and no violation under
18 Proposition 65 for an alleged failure to warn.

19 **1.3 Covered Products Description**

20 The products that are covered by this Consent Judgment are defined as Quinoa Cookies,
21 including but are not limited to: "Andean Dream - Quinoa Products - Quinoa Cookies - Chocolate
22 Chip; UPC #: 8 93470 00102 4. All such items shall be referred to herein as the "Covered Products."

23 **1.4 Notice of Violation/Complaint**

24 1.4.1 On or about July 10, 2023, Parseghian served ANDEAN DREAM and various public
25 enforcement agencies with a document entitled "60-Day Notice of Violation" pursuant to Health and
26 Safety Code §25249.7(d) (the "Notice"), alleging that ANDEAN DREAM was in violation of
27 Proposition 65 for failing to warn consumers and customers that the Covered Products exposed users
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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 Parseghian.

1.4.2 On July 8, 2024, Parseghian, 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 Covered Products manufactured, distributed, or sold by ANDEAN DREAM.

1.5 Effective Date and Application of this Consent Judgment

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 “Compliance Date” shall mean ninety (90) days after the Effective Date.

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. This Consent Judgment may apply to, be binding upon, and benefit the Parties and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees, customers, distributors, wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no application to any Covered Products that ANDEAN DREAM distributes or sells exclusively outside the State of California.

2. STIPULATION TO JURISDICTION/NO ADMISSION

For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over ANDEAN DREAM 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

1 alleged therein and/or in the Notice.

2 Nothing in this Consent Judgment shall be construed as an admission by ANDEAN
3 DREAM of any fact, finding, issue of law, or violation of law; nor shall compliance with this Consent
4 Judgment constitute or be construed as an admission by ANDEAN DREAM of any fact, finding,
5 conclusion, issue of law, or violation of law, such being specifically denied by ANDEAN DREAM,
6 including, but not limited to, any admission related to exposure of failure to warn. However, this
7 section shall not diminish or otherwise affect the obligations, responsibilities, and duties of ANDEAN
8 DREAM under this Consent Judgment.

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

11 **3.1** Beginning on the Compliance Date, ANDEAN DREAM shall be permanently
12 enjoined from manufacturing for sale in the State of California, "Distributing into the State of
13 California," or directly selling in the State of California, any Covered Product that expose a person to
14 a "Daily Lead Exposure Level" of more than 0.5 micrograms of lead per day, unless it meets the
15 warning requirements under Section 3.2.

17 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State of California"
18 shall mean to directly ship a Covered Product into California for sale in California or to sell a
19 Covered Product to a distributor that ANDEAN DREAM knows will sell the Covered Product in
20 California. The injunctive relief in Section 3 does not apply to any Covered Product that was
21 manufactured, packaged, distributed, shipped or sold by ANDEAN DREAM prior to the
22 Compliance Date. All claims as to such Covered Product are released in this Consent Judgment.

24 **3.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure Level" shall be
25 measured in micrograms, and shall be calculated using the following formula: micrograms of lead per
26 gram of product, multiplied by grams of product per serving of the product (using the largest serving
27 size appearing on the product label), multiplied by servings of the product per day (using the largest
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1 number of recommended daily servings appearing on the label), which equals micrograms of lead
2 exposure per day. If the label contains no recommended daily servings, then the number of
3 recommended daily servings shall be one.

4 **3.2 Clear and Reasonable Warnings**

5 If ANDEAN DREAM is required to provide a warning pursuant to Section 3.1, one of the
6 following warnings must be utilized ("Warning"):
7

8 **Option 1:**

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

12 **Option 2:**

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

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

16 The Warning shall be provided through one of the following methods: (1) a product-specific
17 warning provided on a posted sign, shelf tag, or shelf sign, for the consumer product at each point of
18 display of the product; or (2) a product-specific warning provided via any electronic device or process
19 that automatically provides the warning to the purchaser prior to or during the purchase of the
20 consumer product, without requiring the purchaser to seek out the warning; or (3) a warning on the
21 label that is securely affixed to or printed upon the label and complies with this Section 3.2. If the
22 Warning is printed upon the label of the Covered Product, it must be set off from other surrounding
23 information and enclosed in a box. In addition, for any Covered Product sold over the internet, the
24 Warning shall appear prior to check-out on the primary product page, or as a pop-up when a
25 California zip code is input into the shipping instructions, or on the checkout page when a California
26 delivery address is indicated for any purchase of any Covered Product. Where a Warning subject to
27 this section is provided solely on the checkout page, an asterisk or other identifying method must be
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utilized to identify which products on the checkout page are subject to the Warning. The Warning may be provided with a conspicuous hyperlink stating “WARNING” in all capital and bold letters so long as the hyperlink goes directly to a page prominently displaying the Warning without content that detracts from the Warning. If a Covered Product is being sold by an online third-party seller or downstream reseller customer (collectively referred to as “Third-Party Seller(s)”), who are subject to Proposition 65 and known to and authorized to sell such Covered Product by ANDREAN DREAM, and ANDEAN DREAM cannot itself post the warning on the authorized Third-Party Seller’s website because ANDEAN DREAM lacks control over such authorized Third-Party Seller’s website, then ANDEAN DREAM must notify the authorized Third-Party Seller and/or its authorized agent, in writing, of the authorized Third-Party Seller’s duty to provide an internet warning as part of the condition of sale of the Covered Product. ANDEAN DREAM shall comply with this obligation to notify authorized Third-Party Sellers by complying with 27 C.C.R. § 25600.2. The Warning shall be at least the same size as the largest of any other health or safety warnings also appearing on the website or on the label and the word "WARNING" shall be in all capital letters and in bold print. No statements intended to or likely to have the effect of diminishing the impact of the Warning on the average lay person shall accompany the Warning. Further, no statements may accompany the Warning that state or imply that the source of the listed chemical has an impact on or results in a less harmful effect of the listed chemical.

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

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If subsequently enacted changes to Proposition 65 or its implementing regulations require the use of additional or different information on any warning, the Parties agree that the new safe harbor warning may be utilized in place of the warnings set forth in this Section.

Notwithstanding the above, the content and method of transmission shall be provided in any form as authorized by Proposition 65 law or regulation effective on or after the Compliance Date. If Parseghian alleges that any Covered Product fails to adhere to this Consent Judgment, then Parseghian shall inform ANDEAN DREAM of its test results, including information sufficient to permit ANDEAN DREAM to identify the Covered Product at issue and investigate. ANDEAN DREAM shall, within thirty (30) days following such notice, provide Parseghian with testing information demonstrating ANDEAN DREAM’s compliance with the Consent Judgment, or proof that omission of the Warning was due to the Covered Product being packaged, distributed, shipped or sold prior to the Compliance Date. The Parties shall first attempt to resolve the matter prior to Parseghian taking any further legal action.

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

With regard to all claims that have been raised or which could be raised with respect to failure to warn pursuant to Proposition 65 with regard to lead in the Covered Products, ANDEAN DREAM shall pay a civil penalty of \$4,000.00 pursuant to Health and Safety Code section 25249.7(b), to be apportioned in accordance with California Health & Safety Code § 25192, with 75% of these funds remitted to the State of California’s Office of Environmental Health Hazard Assessment and the remaining 25% of the penalty remitted to Parseghian, as provided by California Health & Safety Code § 25249.12(d) and the instructions directly below.

ANDEAN DREAM shall issue two separate checks for the penalty payment: (a) one check made payable to “OEHHA” (tax identification number: 68-0284486) in an amount representing 75% of the total penalty (i.e., \$3,000.00 and (b) one check in an amount representing 25% of the total penalty (i.e., \$1,000.00 made payable directly to Parseghian. ANDEAN DREAM shall mail these payments within ten (10) business days following the Effective Date, at which time such payments shall be mailed to the following addresses respectively:

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

KJT LAW GROUP LLP
230 N. Maryland Avenue, Suite 306
Glendale, CA 91206

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

For United States Postal Delivery:

Mike Gyurics
Fiscal Operations Branch Chief -- MS 19-B
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA. 95812-0410

For Non-United States Postal Service Delivery:

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

5. REIMBURSEMENT OF FEES AND COSTS

The parties reached an accord on the compensation due to Parseghian and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, ANDEAN DREAM shall reimburse Parseghian’s counsel for fees and costs, incurred as a result of investigating, bringing this matter to ANDEAN DREAM attention, and negotiating a settlement in the public interest. ANDEAN DREAM shall pay Parseghian’s counsel \$36,000.00 for all attorneys’ fees, expert and investigation fees and related costs associated with this matter and the Notice. ANDEAN DREAM shall mail a check payable to “KJT Law Group,” via certified mail to the address for Parseghian’s counsel referenced above within ten (10) business days following the Execution Date. Other than the payment required hereunder, each side is to bear its own attorneys’ fees and costs.

6. RELEASE OF ALL CLAIMS

6.1 Parseghian's Release of ANDEAN DREAM, Releasees, and Downstream Releasees

As to those matters raised in the Complaint and in the Notice of Violation, Parseghian, on

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1 behalf of himself, and on behalf of the public interest, hereby waives and releases any and all claims
 2 against ANDEAN DREAM its parent companies, corporate affiliates, subsidiaries, predecessors,
 3 successors and assigns (collectively “Releasees”) and each of its distributors, wholesalers, licensors,
 4 licensees, auctioneers, retailers, including but not limited to Whole Foods Market California, Inc.,
 5 franchisees, dealers, customers, owners, purchasers, users (collectively “Downstream Releasees”) and
 6 their respective officers, directors, attorneys, representatives, shareholders, agents, and employees,
 7 and sister and parent entities for injunctive relief or damages, penalties, fines, sanctions, mitigation,
 8 fees (including fees of attorneys, experts, and others), costs, expenses, or any other sum incurred or
 9 claimed, for the alleged failure of ANDEAN DREAM, Releasees or Downstream Releasees to
 10 provide clear, accurate and reasonable warnings under Proposition 65 about exposure to lead arising
 11 from the sale, distribution, or use of any Covered Products sold, manufactured or distributed by
 12 ANDEAN DREAM, Releasees or Downstream Releasees in California. Compliance with the
 13 Consent Judgment by ANDEAN DREAM or a Releasee shall constitute compliance with Proposition
 14 65 by that ANDEAN DREAM, Releasee, or Downstream Releasee with respect to the presence of
 15 lead in the Covered Products. The release shall not extend to third-party websites and internet sellers
 16 who fail to provide clear and reasonable warnings pursuant to Section 3.2 or to any business that is
 17 subject to Proposition 65 to which ANDEAN DREAM provided notice pursuant to 27 CCR section
 18 25600.2. Plaintiff agrees that any and all claims in the Complaint are resolved with prejudice by this
 19 Consent Judgment.

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 23 In addition to the foregoing, Parseghian, on behalf of himself, his past and current agents,
 24 representatives, attorneys, and successors and/or assignees, and not in his representative capacity,
 25 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and
 26 releases any other Claims that he could make against ANDEAN DREAM, Releasees or Downstream
 27 Releasees arising up to the Compliance Date with respect to violations of Proposition 65 based upon
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1 the Covered Products. With respect to the foregoing waivers and releases in this paragraph,
2 Parseghian hereby specifically waives any and all rights and benefits which he now has, or in the
3 future may have, conferred by virtue of the provisions of Section 1542 of the California Civil Code,
4 which provides as follows:

5 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
6 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR
7 AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY
8 HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
9 SETTLEMENT WITH THE DEBTOR.**

6.2 **ANDEAN DREAM's Release of Parseghian**

10 ANDEAN DREAM waives any and all claims against Parseghian, his attorneys and other
11 representatives, for any and all actions taken or statements made (or those that could have been taken
12 or made) by Parseghian and her attorneys and other representatives, in the course of investigating
13 claims or otherwise seeking enforcement of Proposition 65 against them in this matter, and/or with
14 respect to the Covered Products.

15 **7. SEVERABILITY AND MERGER**

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

19 This Consent Judgment contains the sole and entire agreement of the Parties and any and all
20 prior negotiations and understandings related hereto shall be deemed to have been merged within it.
21 No representations or terms of agreement other than those contained herein exist or have been made
22 by any Party with respect to the other Party or the subject matter hereof.

23 **8. GOVERNING LAW**

24 The terms of this Consent Judgment shall be governed by the laws of the State of California
25 and apply within the State of California. Compliance with the terms of this Consent Judgment
26 resolves any issue, now or in the future, as to the requirements of Proposition 65 with respect to

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1 alleged exposures to lead arising from the Covered Products. In the event that Proposition 65 is
2 repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Covered
3 Products, then ANDEAN DREAM shall provide written notice to Parseghian of any asserted change
4 in the law, and shall have no further obligations pursuant to this Consent Judgment with respect to,
5 and to the extent that, the Covered Products are so affected.

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7 **9. NOTICES**

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

12 For ANDEAN DREAM, LLC:

13 Abhishek K. Gurnani
14 **Amin Wasserman Gurnani, LLP**
15 230 W. Monroe Street, Suite 1405
16 Chicago, IL 60606
17 Telephone: 312.327.3325
18 Email: agurnani@awglaw.com

19 and

20 For Parseghian:

21 Tro Krikorian, Esq.
22 **KJT LAW GROUP, LLP**
23 230 N. Maryland Ave. Suite 306
24 Glendale, CA 91206
25 Phone: 818-507-8528
26 Fax: 818-507-8588

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

10. DRAFTING

The terms of this Consent Judgment have been reviewed by the respective counsel for each
Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and

1 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
2 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
3 and no provision of this Consent Judgment shall be construed against any Party, based on the fact that
4 one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion
5 of the Consent Judgment. It is conclusively presumed that all of the Parties participated equally in the
6 preparation and drafting of this Consent Judgment.
7

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

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

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

13 Parseghian agrees to comply with the requirements set forth in California Health & Safety
14 Code §25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment and
15 ANDEAN DREAM shall not oppose approval of such Motion.
16

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

20 **13. MODIFICATION**

21 This Consent Judgment may be modified only by further stipulation of the Parties and the
22 approval of the Court or upon the granting of a motion brought to the Court by either Party.
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24 **14. ATTORNEY'S FEES**

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

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4 **15. RETENTION OF JURISDICTION**

5 This Court shall retain jurisdiction of this matter to implement or modify the Consent
6 Judgment.

7
8 **16. AUTHORIZATION**

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

11 **STIPULATED AND AGREED TO:**

12 Date: 12/30/2024
13 DocuSigned by:
14 By: BERJ PARSEGHIAN
15 17B4A0E5087E404...

16 **BERJ PARSEGHIAN**

12 Date: 12/23/2024
13 DocuSigned by:
14 By: Ingrid Lazcano
15 0BBD2853DA0042D...

16 **Ingrid Lazcano**

17 [print name]
18 **ANDEAN DREAM, LLC**

19 **APPROVED AS TO FORM:**

20 Date: 12/30/2024
21 Signed by:
22 By: [Signature]
23 D911CF9328F0472...

24 **TRO KRIKORIAN, ESQ.**
25 **ATTORNEY FOR PLAINTIFF,**
26 **BERJ PARSEGHIAN**

20 Date: 12/26/2024
21 Signed by:
22 By: [Signature]
23 FA8C4B257D3649A...

24 **JENNIFER ADAMS, ESQ.**
25 **ATTORNEY FOR DEFENDANT,**
26 **ANDEAN DREAM, LLC**

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

28 Dated: _____

Judge of the Superior Court

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