

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement is entered into by and between Ema Bell (“Bell”) and Precila Balabbo (“Balabbo”) on the one hand, and The Nuts Shop, LLC (“Nuts Shop”) on the other hand. Bell and Balabbo are collectively referred to herein as, “Enforcers.” Together, Enforcers and Nuts Shop are collectively referred to as the “Parties.” Enforcers are individuals who reside in the State of California, and seek to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Enforcers allege that Nuts Shop is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, et seq. (“Proposition 65”).

1.2 General Allegations. Enforcers allege that Nuts Shop has exposed individuals to lead from its manufacture and sale of dried fruits, including (a) dried kiwi slices, (b) dried papaya chunks, and (c) dried unsulfured mango slices (collectively, the “Products” and each a “Product”) without first providing users and consumers of the product with a clear and reasonable health hazard exposure warning as required pursuant to Proposition 65. Lead is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.

1.3 Notices of Violation. On July 3, 2023, Bell served Ross Stores, Inc. (“Ross”), Nuts Shop, and various public enforcement agencies with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “First July Notice”). The First July Notice provided Nuts Shop and such others, including public enforcers, with notice that alleged that Nuts Shop was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of the Rustica dried papaya chunks will expose them to lead. No public enforcer has diligently prosecuted the allegations set forth in the First July Notice.

On July 28, 2023, Bell served Burlington Stores, Inc., Burlington Coat Factory of Texas, Inc. (collectively, “Burlington”), Nuts Shop, and various public enforcement agencies with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “Second

July Notice”). The Second July Notice provided Nuts Shop and such others, including public enforcers, with notice that alleged that Nuts Shop was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of the Rustica dried papaya chunks will expose them to lead. No public enforcer has diligently prosecuted the allegations set forth in the Second July Notice.

On August 16, 2023, Balabbo served The TJX Companies, Inc., The TJX Companies, Inc. dba TJ Maxx (collectively, “TJX”), Nuts Shop, Sincerely Nuts, Inc. and various public enforcement agencies with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “August Notice”). The August Notice provided Nuts Shop and such others, including public enforcers, with notice that alleged that Nuts Shop was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of the Sincerely Nuts lightly sweetened dried unsulfured mango slices will expose them to lead. No public enforcer has diligently prosecuted the allegations set forth in the August Notice.

The First July Notice, Second July Notice, and Third July Notice are collectively referred to herein as, the “Notices.”

1.4 No Admission. Nuts Shop denies the material factual and legal allegations contained in the Notices and maintains that, to the best of its knowledge, all products that are or have been sold and distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Nuts Shop 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 Nuts Shop of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Nuts Shop. However, this § 1.4 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notices, Nuts Shop maintains that it has not knowingly manufactured, imported, distributed, offered for sale and/or sold, nor caused to be manufactured, imported, distributed, offered for sale and/or sold, the Products for sale in California in violation of Proposition 65.

1.5 Effective Date. For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Agreement is last executed by the Parties.

2. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS

2.1 Reformulation of Products. Commencing within sixty (60) days after the Effective Date, and continuing thereafter, Products that Nuts Shop directly manufactures, imports, distributes, sells, or offers for sale in California shall either be: (a) reformulated Products pursuant to § 2.2, below; or (b) labeled with a clear and reasonable exposure warning pursuant to §§ 2.3 - 2.4, below. For purposes of this Settlement Agreement, a “Reformulated Product” is a Product that is in compliance with the standard set forth in § 2.2, below. The warning requirement set forth in §§ 2.3 - 2.4 shall not apply to any Reformulated Product.

2.2 Reformulation Standard. “Reformulated Products” shall mean Products that expose a person to an exposure level of less than 0.5 micrograms of lead per day. For the purpose of this Agreement, the amount of lead a person is exposed to from a Product shall be calculated using the following formula: micrograms of lead per gram of Product, multiplied by grams of Product per serving size 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 servings in a recommended dosage appearing on the label), which equates to micrograms of lead exposure per day. If the Product label contains no recommended daily servings, then the number of recommended daily servings shall be one (1). For avoidance of doubt, there shall be no obligation for Nuts Shop to reformulate Products that were manufactured within 60 days after the Effective Date. For the avoidance of doubt, such Products specifically include, but are not limited to, Products manufactured or otherwise in the custody of Nuts Shop after manufacturing within 60 days after the Effective Date.

2.3 Clear and Reasonable Warning. Commencing within 60 days after the Effective Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 2.3 and 2.4 must be provided for all Products that Nuts Shop manufactures, imports, distributes, sells, or offers for sale in California that is not a Reformulated Product. There shall be no obligation for Nuts Shop to provide an exposure warning for Products that were manufactured within 60 days after the

Effective Date. For the avoidance of doubt, such Products specifically include, but are not limited to, Products manufactured or otherwise in the custody of Nuts Shop after manufacturing within 60 days after the Effective Date. The warning shall consist of either the **Warning** or one of the **Alternative Warnings** described in §§ 2.3(a) or (b), respectively:

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

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.

(b) **Alternative Warnings:** Nuts Shop may, but is not required to, use the alternative short-form warning as set forth in this § 2.3(b) (“**Alternative Warning**”) as follows:

WARNING: Risk of cancer and reproductive harm from exposure to lead. See www.P65Warnings.ca.gov/food.

OR

WARNING: Can expose you to lead, a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov/food.

2.4 A Warning or Alternative Warning provided pursuant to § 2.3 must print the word “**WARNING:**” in all capital letters and in bold font, followed by a colon. As an alternative to the word “**WARNING:**”, the **Warning** or **Alternative Warning** may use “**CA WARNING:**” or “**CALIFORNIA WARNING:**”. The **Warning** or **Alternative Warning** shall be affixed to or printed on the Products’ packaging or labeling, or on a placard, shelf tag, sign or electronic device or automatic process only if such electronic device or automatic process provides the **Warning** or **Alternative Warning** without the purchaser having to seek it out, provided that the **Warning** or **Alternative Warning** is 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 under customary conditions of purchase or use. Where the **Warning** or **Alternative Warning** is provided on the food product label, it must be set off from other surrounding information, and enclosed in a box and comply with the content requirements specified in Section 25607.2. If “consumer information,” as that term is defined in Title 27, California Code of Regulations, Section 25600.1(c) as it may be amended from

time to time, is provided in a foreign language, Nuts Shop shall provide the **Warning** or **Alternative Warning** in the foreign language in accordance with applicable warning regulations adopted by the State of California's Office of Environmental Health Hazard Assessment ("OEHHA").

Alternatively, the content and method of transmission may be provided in any form as authorized by Proposition 65 law or regulation effective on or after the Effective Date.

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

2.5 Compliance with Warning Regulations. The Parties agree that Nuts Shop shall be deemed to be in compliance with this Settlement Agreement by either adhering to § 2 of this Settlement Agreement or by complying with warning regulations adopted by the State of California's OEHHA applicable to the Products and the exposure at issue within 60 days after the Effective Date. In the event that the OEHHA promulgates one or more regulations requiring or permitting Proposition 65 warning text and/or methods of transmission applicable to the Products and the chemical at issue that are different than those set forth above, Nuts Shop shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement.

If regulations or legislation are enacted providing that Proposition 65 warnings as to lead in Products are no longer required, a lack of warning by Nuts Shop will not thereafter be a breach of this Agreement.

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

In settlement of all the claims referred to in this Settlement Agreement, Nuts Shop shall pay \$1,500.00 as a Civil Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Penalty remitted to OEHHA and the remaining 25% of the Penalty remitted to Enforcers. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below

3.1 Civil Penalty. By or before February 9, 2026, Nuts Shop shall issue two (2) separate checks for the Civil Penalty payment to (a) “OEHHA” in the amount of \$1,125.00; and to (b) “Brodsky Smith in Trust for Enforcers” in the amount of \$375.00. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

3.2 Payment Procedures.

(a) Issuance of Payments. Payments shall be delivered as follows:

(i) All payments owed to Enforcers, pursuant to § 3.1 shall be delivered to the following payment address:

Evan J. Smith, Esquire
Brodsky Smith
Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to § 3.1 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 Non-United States Postal Service Delivery:

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

(b) **Copy of Payments to OEHHA.** Nuts Shop agrees to provide Enforcers's counsel with a copy of the checks payable to OEHHA, simultaneous with its penalty payments to Enforcers, to be delivered to the address provided in § 3.2(a)(i), as proof of payment to OEHHA.

(c) **Tax Documentation.** Nuts Shop agrees to provide a completed IRS 1099 for its payments to, and Enforcers agrees to provide IRS W-9 forms for, each of the following payees under this Settlement Agreement:

(i) "Enforcers" whose address and tax identification number shall be provided within five (5) days after this Settlement Agreement is fully executed by the Parties;

(ii) "Brodsky Smith" (EIN: 23-2971061) at the address provided in Section 3.2(a)(i); and

(iii) "Office of Environmental Health Hazard Assessment" 1001 I Street, Sacramento, CA 95814.

4. **REIMBURSEMENT OF FEES AND COSTS**

The Parties acknowledge that Enforcers and their counsel offered to reach preliminary agreement on the material terms of this dispute before reaching terms on the amount of fees and costs to be reimbursed to them. The Parties thereafter reached an accord on the compensation due to Enforcers and their counsel under general contract principles and the private attorney general doctrine and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Under these legal principles, Nuts Shop shall reimburse Enforcers's counsel \$22,500.00 for fees and costs incurred as a result of investigating and bringing this matter to the attention of Nuts Shop, and negotiating a settlement in the public interest.

Payment pursuant to this Section is as follows: Within ten (10) days of the Effective Date, Nuts Shop shall issue fifteen (15) settlement checks payable to “Brotsky Smith” for delivery to the address identified in § 3.2(a)(i), above. Each settlement check shall be dated for deposit on the 9th of each month beginning with March 9, 2026. The March 9, 2026 settlement check shall be in the amount of \$1,500.00. The remaining fourteen (14) settlement checks shall be in the amount of \$1,500.00 each beginning with April 9, 2026. The final settlement check of \$1,500.00 shall be dated for deposit on May 9, 2027. Total payment pursuant to this Section shall equal \$22,500.00.

The Parties acknowledge that Nuts Shop cannot issue any settlement payments pursuant to Sections 3.1 and 4 above until after Nuts Shop receives the requisite W-9 forms from Enforcers.

5. RELEASE OF ALL CLAIMS

5.1 Release of Nuts Shop and Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution between Enforcers, acting on their own behalf, and Nuts Shop, of any violation of Proposition 65 that was or could have been asserted by Enforcers or on behalf of their past and current agents, representatives, attorneys, successors, and/or assigns (“Releasers”) for failure to provide warnings for alleged exposures to lead from use of the Products manufactured before the Effective Date or within 60 days after the Effective Date, and Releasers hereby release any such claims against Nuts Shop and its parents, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors and assignees, and each entity to whom Nuts Shop directly or indirectly distributes or sells the Products, including but not limited to, downstream distributors, wholesalers, customers, retailers, including but not limited to TJX, Ross, Burlington, their respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the “Releasees”), from all claims for violations of Proposition 65 based on exposure to lead from use of Products manufactured before the Effective Date or within 60 days after the Effective Date.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to §§ 3 and 4 above, Enforcers, on behalf of themselves, their past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives

any right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that they may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys' fees, expert fees, and investigation fees, and costs), damages, losses, liabilities and demands against any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to lead from use of the Products manufactured before the Effective Date or within 60 days after the Effective Date.

5.2 Nuts Shop's Release of Enforcers. Nuts Shop, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Enforcers, their attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Enforcers and/or their 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 exposure to lead from 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 Notices and relating to the Products will develop or be discovered. Enforcers on behalf of themselves only, on one hand, and Nuts Shop, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through 60 days after the Effective Date, including all rights of action therefor. 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 HER OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HER OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Enforcers and Nuts Shop each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

5.4 Deemed Compliance with Proposition 65. The Parties agree that compliance by Nuts Shop with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposure to lead from use of the Products.

6. PUBLIC BENEFIT

It is the Parties' understanding that the commitments they have agreed to herein, and actions to be taken by Nuts Shop under this Settlement Agreement confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of the Parties that to the extent any other private party serves a notice and/or initiates an action alleging a violation of Proposition 65 with respect to Nuts Shop's alleged failure to provide a warning concerning actual or alleged exposure to lead in the Products it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Products addressed in this Settlement Agreement, provided that Nuts Shop is in material compliance with this Settlement Agreement.

7. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

8. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law 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 Products, then Nuts Shop shall have no further injunctive obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected.

9. 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) first-class (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party to the following addresses:

For Nuts Shop:

Sean Newland
Greenberg Traurig, LLP
2375 E. Camelback Rd., Ste. 800
Phoenix, AZ 85016

For Enforcers:

Evan J. Smith
Brodsky Smith
Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

Either 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.

10. COUNTERPARTS: SIGNATURES

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

11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Enforcers agrees to comply with the reporting requirements referenced in Health & Safety Code § 25249.7(f).

12. MODIFICATION

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

13. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement of the Parties and 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.

14. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: _____

Date: 01/14/2026 _____

By: _____
Ema Bell

By:  _____
The Nuts Shop, LLC

AGREED TO:

Date: _____

By: _____
Precila Balabbo

13. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement of the Parties and 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.

14. AUTHORIZATION


The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: 1/16/26

Date: _____

By: 
Emma Bell

By: _____
The Nuts Shop, LLC

AGREED TO:

Date: 1/16/26

By: 
Precila Balabbo