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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 EMA BELL,

12 Plaintiff,

13 v.

14 NOWHERE PARTNERS, LLC DBA
15 EREWHON,

16 Defendants.

Case No.: CGC-24-616644

CONSENT JUDGMENT

Judge: Joseph M. Quinn
Dept.: 302

Hearing Date: May 29, 2026

Hearing Time: 9:00 AM

Complaint Filed: July 22, 2024

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1 **1. INTRODUCTION**

2 1.1 **The Parties.** This Consent Judgment is entered into by and between Ema Bell acting
3 on behalf of the public interest (hereinafter “Bell”) and EcoFish, Inc. (“EcoFish” or “Defendant”)
4 with Bell and Defendant collectively referred to as the “Parties” and each of them as a “Party.” Bell
5 is an individual residing in California that seeks to promote awareness of exposures to toxic
6 chemicals and improve human health by reducing or eliminating hazardous substances contained
7 in consumer products. EcoFish is alleged to be a person in the course of doing business for purposes
8 of Proposition 65, Cal. Health & Safety Code §§ 25249.6 et seq.

9 1.2 **Allegations and Representations.** Bell alleges that Defendant has exposed
10 individuals to lead from its sales of Henry & Lisa’s wild sardines in spring water, UPC #
11 812410000590 without providing a clear and reasonable exposure warning pursuant to Proposition
12 65. Lead is listed pursuant to Proposition 65 as a chemical known to the State of California to cause
13 cancer and birth defects or other reproductive harm.

14 1.3 **Notice of Violation/Action.** On October 3, 2023, Bell served EcoFish and various
15 public enforcement agencies with documents entitled “60-Day Notice of Violation” pursuant to
16 Health & Safety Code §25249.7(d) (the “Notice”), alleging that Defendant violated Proposition 65
17 for failing to warn consumers and customers that use of Henry & Lisa’s wild sardines in spring
18 water, UPC # 812410000590 exposes consumers in California to lead. No public enforcer has
19 brought and is diligently prosecuting the claims alleged in the Notice. On July 22, 2024, Bell filed
20 a complaint (the “Complaint”). On February 26, 2026, Bell filed a first amended complaint (the
21 “First Amended Complaint”)¹.

22 1.4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
23 jurisdiction over Defendant as to the allegations contained in the Action filed in this matter, that
24 venue is proper in the County of San Francisco, and that this Court has jurisdiction to approve,
25 enter, and oversee the enforcement of this Consent Judgment as a full and final binding resolution

26 _____
27 ¹ The Complaint and First Amended Complaint are collectively referred to herein as, the
28 “Action.”

1 of all claims which were or could have been raised in the Action based on the facts alleged therein
2 and in the Notice.

3 1.5 Defendant denies the material allegations contained in Bell's Notice and Action and
4 maintains that it has not violated Proposition 65. Nothing in this Consent Judgment shall be
5 construed as an admission by Defendant of any fact, finding, issue of law, or violation of law; nor
6 shall compliance with this Consent Judgment constitute or be construed as an admission by
7 Defendant of any fact, finding, conclusion, issue of law, or violation of law, such being specifically
8 denied by Defendant. However, this section shall not diminish or otherwise affect the obligations,
9 responsibilities, and duties of Defendant under this Consent Judgment.

10 **2. DEFINITIONS**

11 2.1 **Covered Products.** The term "Covered Products" means Henry & Lisa's wild
12 sardines, including but not limited to wild sardines in spring water, UPC # 812410000590, and
13 substantially similar packaged fish products² that are manufactured, distributed, shipped into
14 California and/or offered for sale in California by EcoFish.

15 2.2 **Effective Date.** The term "Effective Date" means the date this Consent Judgment is
16 entered as a Judgment of the Court.

17 **3. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS**

18 **3.1 Reformulation of Products.** Commencing within ninety (90) days after the
19 Effective Date (the "Compliance Date"), and continuing thereafter, Products that EcoFish directly
20 manufactures, imports, distributes, sells, or offers for sale in California shall either be: (a)
21 reformulated Products pursuant to § 3.2, below; or (b) labeled with a clear and reasonable exposure
22 warning pursuant to §§ 3.3 - 3.4, below. For purposes of this Settlement Agreement, a
23 "Reformulated Product" is a Covered Product that is in compliance with the standard set forth in §
24 3.2, below. The warning requirement set forth in §§ 3.3 - 3.4 shall not apply to any Reformulated
25 Product.

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27 ² Including packaged fish products under the brands "Freshé" and "Henry & Lisa's
28 Natural Seafood" that contain fish known to consume sardines.

1 **3.2 Reformulation Standard.** “Reformulated Products” shall mean Covered Products
2 that expose a person to an exposure level of no more than 0.5 micrograms of lead per day. For the
3 purpose of this Agreement, the amount of lead a person is exposed to from a Covered Product shall
4 be calculated using the following formula: micrograms of lead per gram of Covered Product,
5 multiplied by grams of Covered Product per serving size of the Covered Product (using the largest
6 serving size appearing on the Covered Product label), multiplied by servings of the Covered
7 Product per day (using the largest number of servings in a recommended dosage appearing on the
8 label), which equates to micrograms of lead exposure per day. If the Covered Product label contains
9 no recommended daily servings, then the number of recommended daily servings shall be one (1).
10 Products manufactured prior to the Compliance Date are not subject to this requirement.

11 **3.3 Clear and Reasonable Warning.** Commencing on the Compliance Date, and
12 continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 3.3 and 3.4
13 must be provided for all Covered Products that EcoFish manufacturers, imports, distributes, sells,
14 or offers for sale in California that is not a Reformulated Product. There shall be no obligation for
15 EcoFish to provide an exposure warning for Covered Products that entered the stream of commerce
16 prior to the Compliance Date. The warning shall consist of either the **Warning** or **Alternative**
17 **Warning** described in §§ 3.3(a) or (b), respectively:

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

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

23 (b) **Alternative Warning:** EcoFish may, but is not required to, use one of the
24 alternative short-form warnings as set forth in this § 3.3(b) (“**Alternative Warning**”) as follows:

25 **CA WARNING:** Risk of [cancer and] reproductive harm from exposure to lead. See
26 www.P65Warnings.ca.gov/food.

27 **CA WARNING:** Can expose you to lead, a [carcinogen and] reproductive toxicant. See
28 www.P65Warnings.ca.gov/food.

1 Defendant shall use the phrase “cancer and” or “carcinogen and” in the **Warning** or
2 **Alternative Warning** only if the daily lead exposure level is greater than 15 micrograms of lead
3 as determined pursuant to the test methodology identified in § 3.2.

4 **3.4 A Warning or Alternative Warning** provided pursuant to § 3.3 must print the word
5 **“WARNING:”** in all capital letters and in bold font, followed by a colon. The warning symbol to
6 the left of the word **“WARNING:”** must be a black exclamation point in a yellow equilateral
7 triangle with a black outline, except that if the sign or label for the Covered Products does not use
8 the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller
9 than the height of the word **“WARNING:”**. The **Warning or Alternative Warning** shall be affixed
10 to or printed on the Covered Products’ packaging or labeling, or on a placard, shelf tag, sign or
11 electronic device or automatic process only if such electronic device or automatic process provides
12 the **Warning or Alternative Warning** without the purchaser having to seek it out, provided that
13 the **Warning or Alternative Warning** is displayed with such conspicuousness, as compared with
14 other words, statements, or designs as to render it likely to be read and understood by an ordinary
15 individual under customary conditions of purchase or use. A **Warning or Alternative Warning**
16 provided via an electronic device or automatic process does not apply to internet purchases, which
17 are subject to the provisions of Section 25602(b). The **Warning or Alternative Warning** may be
18 contained in the same section of the packaging, labeling, or instruction booklet that states other
19 safety warnings, if any, concerning the use of the Covered Product and shall be at least the same
20 size as those other safety warnings. Where the **Warning or Alternative Warning** is provided on
21 the food product label, it must be set off from other surrounding information, and EcoFish shall
22 enclose the **Warning or Alternative Warning** in a black box and comply with the content
23 requirements specified in Section 25607.2. If “consumer information,” as that term is defined in
24 Title 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to
25 time, is provided in a foreign language, EcoFish shall provide the **Warning or Alternative**
26 **Warning** in the foreign language in accordance with applicable warning regulations adopted by
27 the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”).
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1 In addition to affixing the **Warning** or **Alternative Warning** to the Covered Product’s
2 packaging or labeling, the **Warning** or **Alternative Warning** shall be posted on websites where
3 EcoFish offers Covered Products for sale to consumers in California. The requirements of this
4 Section shall be satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink
5 using the word “**WARNING**,” appears on the product display page, or by otherwise prominently
6 displaying the warning to the purchaser prior to completing the purchase. To comply with this
7 Section, EcoFish shall (a) post the **Warning** or **Alternative Warning** on its own website and, if it
8 has the ability to do so, on the websites of its third-party internet sellers; and (b) if it does not have
9 the ability to post the **Warning** or **Alternative Warning** on the websites of its third-party internet
10 sellers and EcoFish has actual knowledge that the retailer is offering the Covered Products for sale
11 to consumers in California, EcoFish shall provide a warning on the product label or labeling or
12 provide written notice to the authorized agent for the business to which they are selling or
13 transferring the Product, in accordance with Title 27, California Code of Regulations, Section
14 25600.2. Third-party internet sellers of the Product that have been provided with written notice in
15 accordance with Title 27, California Code of Regulations, Section 25600.2 are not released in
16 Section 5 of this Agreement if they fail to meet the warning requirements of this Section.

17 **3.5 Compliance with Warning Regulations.** The Parties agree that EcoFish shall be
18 deemed to be in compliance with this Settlement Agreement by either adhering to § 3 of this
19 Settlement Agreement or by complying with warning regulations adopted by the State of
20 California’s OEHHA applicable to the Product and the exposure at issue.

21 **4. MONETARY TERMS**

22 **4.1 Civil Penalty.** EcoFish shall pay \$2,000.00 as a Civil Penalty pursuant to Health
23 and Safety Code section 25249.7(b), to be apportioned in accordance with California Health &
24 Safety Code § 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the
25 Civil Penalty remitted to Bell, as provided by California Health & Safety Code § 25249.12(d).

26 **4.1.1** Within ten (10) days of the Effective Date, EcoFish shall issue two separate
27 checks for the Civil Penalty payment to (a) “OEHHA” in the amount of \$1,500.00; and to (b)
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1 “Ema Bell” in the amount of \$500.00. Payment owed to Bell pursuant to this Section shall be
2 delivered to the following payment address:

3 Evan J. Smith, Esquire
4 Brodsky Smith
5 Two Bala Plaza, Suite 805
6 Bala Cynwyd, PA 19004

7 Payment owed to OEHHA (EIN: 68-0284486) pursuant to this Section shall be delivered directly
8 to OEHHA (Memo Line “Prop 65 Penalties”) at one of the following address(es):

9 For United States Postal Service Delivery:

10 Mike Gyurics
11 Fiscal Operations Branch Chief
12 Office of Environmental Health Hazard Assessment
13 P.O. Box 4010
14 Sacramento, CA 95812-4010

15 For Non-United States Postal Service Delivery:

16 Mike Gyurics
17 Fiscal Operations Branch Chief
18 Office of Environmental Health Hazard Assessment
19 1001 I Street
20 Sacramento, CA 95814

21 A copy of the check payable to OEHHA shall be mailed to Brodsky Smith at the address set forth
22 above as proof of payment to OEHHA.

23 4.2 **Attorneys’ Fees.** EcoFish shall pay \$28,000.00 to Brodsky Smith as complete
24 reimbursement for Bell’s attorneys’ fees and costs incurred as a result of investigating, bringing
25 this matter to the attention of EcoFish, litigating and negotiating and obtaining judicial approval of
26 a settlement in the public interest, pursuant to Code of Civil Procedure § 1021.5, in accordance
27 with the following schedule:

- 28 (1) \$8,000 to be paid within 30 days following the Effective Date;
- (2) \$10,000 to be paid within 60 days following the Effective Date; and
- (3) \$10,000 to be paid within 90 days following the Effective Date.

The above checks will be delivered post-dated for deposit. Other than the payment required hereunder, each side is to bear its own attorneys’ fees and costs.

1 **5. RELEASE OF ALL CLAIMS**

2 5.1 Bell, acting on her own behalf and in the public interest, releases EcoFish, and its
3 parents, shareholders, members, directors, officers, managers, employees, representatives, agents,
4 attorneys, divisions, subdivisions, subsidiaries, partners, sister companies, and affiliates, and their
5 predecessors, successors and assigns (“Defendant Releasees”), and all entities to whom they
6 directly or indirectly distribute or sell Covered Products, including but not limited to manufacturers,
7 suppliers, distributors, wholesalers, customers, licensors, licensees, retailers, including but not
8 limited to Erewhon, and their parents, subsidiaries, and affiliates, franchisees, and cooperative
9 members (“Downstream Releasees”), from all claims for violations of Proposition 65 based on
10 exposure to lead from use of the Covered Products manufactured by EcoFish prior to the
11 Compliance Date, as set forth in the Notice. Compliance with the terms of this Consent Judgment
12 constitutes compliance with Proposition 65 by EcoFish with respect to exposures to lead from use
13 of the Covered Products as set forth in the Notice. The Parties agree that while no Downstream
14 Releasee is bound by this Consent Judgment and its terms do not provide the only manner of
15 compliance with Proposition 65 as to any Downstream Releasee, compliance by a Downstream
16 Releasee with this Consent Judgment constitutes compliance with Proposition 65 by that
17 Downstream Releasee with respect to exposure to lead from use of the Covered Products.

18 5.2 In addition to the foregoing, Bell, on behalf of herself, her past and current agents,
19 representatives, attorneys, and successors and assignees, and *not* in her representative capacity,
20 hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action
21 and releases EcoFish, Defendant Releasees, and Downstream Releasees from any and all manner
22 of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements,
23 promises, liabilities, damages, charges, losses, costs, expenses, and attorneys’ fees, of any nature
24 whatsoever, known or unknown, in law or equity, fixed or contingent, now or in the future, with
25 respect to any alleged violations of Proposition 65 related to or arising from Covered Products
26 manufactured, distributed, or sold by EcoFish, Defendant Releasees or Downstream Releasees.
27 With respect to the foregoing waivers and releases in this paragraph, Bell hereby specifically
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1 waives any and all rights and benefits which she now has, or in the future may have, conferred by
2 virtue of the provisions of § 1542 of the California Civil Code, which provides as follows:

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

9 5.3 EcoFish waives any and all claims against Bell, her attorneys and other
10 representatives, for any and all actions taken, or statements made (or those that could have been
11 taken or made) by Bell and her attorneys and other representatives, whether in the course of
12 investigating claims or otherwise seeking enforcement of Proposition 65 against it in this matter,
13 and with respect to Covered Products.

14 **6. INTEGRATION**

15 6.1 This Consent Judgment contains the sole and entire agreement of the Parties and
16 any and all prior negotiations and understandings related hereto shall be deemed to have been
17 merged within it. No representations or terms of agreement other than those contained herein exist
18 or have been made by any Party with respect to the other Party or the subject matter hereof.

19 **7. GOVERNING LAW**

20 7.1 The terms of this Consent Judgment shall be governed by the laws of the State of
21 California and apply within the State of California.

22 **8. NOTICES**

23 8.1 Unless specified herein, all correspondence and notices required to be provided
24 pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-
25 class, (registered or certified mail) return receipt requested; (ii) electronic mail (e-mail); or (iii)
26 overnight courier on any party by the other party at the following addresses:

27 For Defendant:

28 Matthew L. Abbot
matthew.abbot@procopio.com
Procopio
525 B St., Ste. 2200
San Diego, CA 92101

1 And

2 For Bell:

3 Evan Smith
4 Brodsky Smith
5 9465 Wilshire Blvd., Ste. 300
6 Beverly Hills, CA 90212

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

9 **9. COUNTERPARTS; FACSIMILE SIGNATURES**

10 9.1 This Consent Judgment may be executed in counterparts and by facsimile, each of
11 which shall be deemed an original, and all of which, when taken together, shall constitute one and
12 the same document.

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

14 10.1 Bell agrees to comply with the requirements set forth in California Health & Safety
15 Code § 25249.7(f) and to promptly bring a Motion for Approval of this Consent Judgment in
16 accordance with the terms of this Consent Judgment. Defendant agrees it shall support approval of
17 such Motion.

18 10.2 This Consent Judgment shall not be effective until it is approved and entered by the
19 Court and shall be null and void if, for any reason, it is not approved by the Court. In such case, the
20 Parties agree to meet and confer on how to proceed and if such agreement is not reached within 30
21 days, the case shall proceed on its normal course.

22 10.3 If the Court approves this Consent Judgment and is reversed or vacated by an
23 appellate court, the Parties shall meet and confer as to whether to modify the terms of this Consent
24 Judgment. If the Parties do not jointly agree on a course of action to take, the case shall proceed on
25 its normal course on the trial court's calendar.

26 **11. MODIFICATION**

27 11.1 This Consent Judgment may be modified only by further stipulation of the Parties
28 and the approval of the Court or upon the granting of a motion brought to the Court by either Party.

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12. ATTORNEY'S FEES

12.1 A Party who unsuccessfully brings or contests an action arising out of this Consent Judgment shall be required to pay the prevailing party's reasonable attorney's fees and costs.

12.2 Nothing in this Section shall preclude a Party from seeking an award of sanctions pursuant to law.

13. RETENTION OF JURISDICTION

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

14. AUTHORIZATION

14.1 The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this document and certify that he or she is fully authorized by the Party he or she represents to execute the Consent Judgment on behalf of the Party represented and legally bind that Party. Except as explicitly provided herein each Party is to bear its own fees and costs.

AGREED TO:

AGREED TO:

Date: _____
By: _____
EMA BELL

Date: 3.24.2025
By: 
ECOFISH, INC

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: _____

Judge of Superior Court

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AGREED TO:

AGREED TO:

Date: 4/10/26
By: [Signature]
EMA BELL

Date: _____
By: _____
ECOFISH, INC.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: _____

Judge of Superior Court