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7  
8 Attorneys for Plaintiff

Environmental Health Advocates, Inc.

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **IN AND FOR THE COUNTY OF ALAMEDA**

12 ENVIRONMENTAL HEALTH  
ADVOCATES, INC.,

13 Plaintiff,

14 v.

15 SINCERE ORIENT COMMERCIAL  
16 CORPORATION DBA SAKURA NOODLE,  
a California corporation; H MART, INC., a  
17 Delaware corporation; and DOES 1 through  
100, inclusive,

18 Defendants.

Case No. 24CV070881

**[PROPOSED] CONSENT JUDGMENT**

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

1     **1. INTRODUCTION**

2             **1.1 Parties**

3             This Consent Judgment is entered into by and between Environmental Health Advocates, Inc.,  
4     (“EHA” or “Plaintiff”) and Sincere Orient Commercial Corporation dba Sakura Noodle (“Defendant”  
5     or “Sincere”) with EHA and Sincere each individually referred to as a “Party” and collectively referred  
6     to as the “Parties.”

7             **1.2 Plaintiff**

8             EHA is a corporation organized in the state of California, acting in the interest of the general  
9     public. It seeks to promote awareness of exposures to toxic chemicals and to improve human health by  
10    reducing or eliminating hazardous substances contained in consumer products.

11            **1.3 Defendant**

12            Sincere employs ten or more individuals and for purposes of this Consent Judgment only, is a  
13    “person in the course of doing business” for purposes of the Safe Drinking Water and Toxic  
14    Enforcement Act of 1986, Health and Safety Code section 25249.6 et seq. (“Proposition 65”).

15            **1.4 General Allegations**

16            EHA alleges that Sincere manufactures, imports, sells, and distributes for sale “Udon –  
17    Mushroom Flavor” that contains cadmium. EHA further alleges that Sincere does so without providing  
18    a sufficient health hazard warning as required by Proposition 65 and related Regulations. Sincere denies  
19    these allegations and asserts that its products are safe and in compliance with all applicable laws, rules  
20    and regulations.

21            **1.5 Notice of Violation**

22            On or around October 20, 2023, EHA served Defendant Sincere, H Mart, Inc., the California  
23    Attorney General, and all other required public enforcement agencies with a 60-Day Notice of  
24    Violation of Proposition 65 (“Notice”). The Notice alleged that Sincere had violated Proposition 65 by  
25    failing to sufficiently warn consumers in California of the health hazards associated with exposures to  
26    Cadmium contained in noodles products, including but not limited to Udon Mushroom Flavor  
27    manufactured or processed by Sincere that allegedly contain Cadmium and are imported, sold, shipped,  
28    delivered, or distributed for sale to consumers in California by Releasees (as defined in section 4.1).

1 No public enforcer has commenced or is otherwise prosecuting an action to enforce the  
2 violations alleged in the Notice.

3 **1.6 Product Description**

4 The products covered by this Consent Judgment are noodle products, including but not limited  
5 to Udon – Mushroom Flavor manufactured or processed by Sincere that allegedly contain cadmium  
6 and are imported, sold, shipped, delivered, or distributed for sale to consumers in California by  
7 Releasees (as defined in section 4.1) (“Covered Products”).

8 **1.7 State of the Pleadings**

9 On or around April 8, 2024, EHA filed a Complaint against Sincere for the alleged violations  
10 of Proposition 65 that are the subject of the Notice (“Complaint”).

11 **1.8 No Admission**

12 Sincere denies the material factual and legal allegations of the Notice and Complaint and  
13 maintains that all of the products it has manufactured, imported, sold, and/or distributed for sale in  
14 California, including Covered Products, have been, and are, in compliance with all applicable laws,  
15 rules and regulations. Nothing in this Consent Judgment shall be construed as an admission of any fact,  
16 finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this Consent  
17 Judgment be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation  
18 of law. This Section shall not, however, diminish or otherwise affect Sincere's obligations,  
19 responsibilities, and duties under this Consent Judgment.

20 **1.9 Jurisdiction**

21 For purposes of this Consent Judgment and the Complaint only, the Parties stipulate that this  
22 Court has jurisdiction over Sincere as to the allegations in the Complaint, that venue is proper in the  
23 County of Alameda, and that the Court has jurisdiction to enter and enforce the provisions of this  
24 Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

25 **1.10 Effective Date**

26 For purposes of this Consent Judgment, the term “Effective Date” means the date on which this  
27 Consent Judgment is approved by the Court, as discussed in Section 5.

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1           **1.11 Compliance Date**

2           For purposes of this Consent Judgment, the term “Compliance Date” means 30 days from the  
3 date on which this Consent Judgment is approved and entered as a judgment of the Court, as discussed  
4 in Section 5.

5           **2. INJUNCTIVE RELIEF**

6           **2.1 Reformulation of the Covered Products**

7           Beginning on or before the Compliance Date, Sincere shall be permanently enjoined from  
8 manufacturing, distributing, or directly selling in the State of California, any Covered Product that  
9 exposes a person to a “Daily Cadmium Exposure Level” of more than 4.1 micrograms of Cadmium  
10 based on a single serving per day unless such Covered Products comply with the warning requirements  
11 of Section 2.2. The “Daily Cadmium Exposure Level” shall be calculated by multiplying the  
12 recommended serving size in Covered Product by the concentration of cadmium in Covered Products.  
13 As used in this Section 2, “distributed for sale in CA” means to directly ship Covered Products into  
14 California or to sell Covered Products to a distributor Sincere knows will sell Covered Products in  
15 California.

16           **2.2 Clear and Reasonable Warnings**

17           For Covered Products that contain cadmium in a concentration exceeding the Reformulation  
18 Standard set forth in section 2.1 above, and which are distributed or directly sold by Sincere in the State  
19 of California on or after the Compliance Date, Sincere shall provide one of the following warning  
20 statements.

21           **Option 1:**

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

25           **Option 2:**

26                   WARNING: Reproductive Harm – [www.P65Warnings.ca.gov](http://www.P65Warnings.ca.gov).

27           This warning statement shall be enclosed in a box and prominently displayed on the Covered  
28 Products, on the packing of the Covered Products, or on a placard, shelf tag, or sign provided that the

1 statement is displayed with such conspicuousness, as compared with other words, statements, or designs  
2 as to render it likely to be read and understood by an ordinary individual prior to sale. If the warning  
3 statement is displayed on the Covered Products' packaging, it must be in a type size no smaller than the  
4 largest type size used for other consumer information on the product. In no case shall a warning  
5 statement displayed on the Covered Products' packaging appear in a type size smaller than 6-point type.  
6 If the Covered Products' packaging contains consumer information in a foreign language, a warning  
7 statement in that language is required.

8 As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are sold  
9 online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603(a)  
10 must be provided by including either the warning or a clearly marked hyperlink using the word  
11 "WARNING" on the product display page, or by otherwise prominently displaying the warning to the  
12 purchaser prior to completing the purchase. If an on-product warning is provided pursuant to Cal. Code  
13 Regs. Tit. 27, § 25603(a), the warning provided on the website may use the same content as the on-  
14 product warning. For purposes of this section, a warning is not prominently displayed if the purchaser  
15 must search for it in the general content of the website. These requirements extend to any websites under  
16 the exclusive control of Sincere where Covered Products are sold into California. In addition, Sincere  
17 shall instruct any third-party website to which it directly sells its Covered Products to include the same  
18 online warning, as set forth above, as a condition of selling the Covered Products in California.

### 19 **2.3 Sell-Through Period**

20 Notwithstanding anything else in this Consent Judgment, Covered Products that are  
21 manufactured, packaged, or put into commerce on or before the date this Agreement is executed shall  
22 be subject to the release of liability pursuant to this Consent Judgment, without regard to when such  
23 Covered Products were, or are in the future, distributed or sold to customers. As a result, the obligations  
24 of Sincere, or any Releasees (if applicable), stated in this Section 2 do not apply to Covered Products  
25 manufactured, packaged, or put into commerce between the date this Agreement is executed and the  
26 Effective Date.

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1 **3. MONETARY SETTLEMENT TERMS**

2 **3.1 Settlement Amount**

3 Sincere shall pay sixty-five thousand dollars (\$65,000.00) in settlement and total satisfaction of  
4 all the claims referred to in the Notice(s), the Complaint, and this Consent Judgment. This includes  
5 civil penalties in the amount of seven thousand dollars (\$6,500.00) pursuant to Health and Safety Code  
6 section 25249.7(b) and attorneys' fees and costs in the amount of fifty-eight thousand dollars  
7 (\$58,500.00) pursuant to Code of Civil Procedure section 1021.5.

8 **3.2 Civil Penalty**

9 The portion of the settlement attributable to civil penalties shall be allocated according to Health  
10 and Safety Code section 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid  
11 to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining  
12 twenty-five percent (25%) of the penalty paid to EHA individually. The six thousand five hundred  
13 dollars (\$6,500.00) in civil penalties shall be paid as follows:

- 14 • One payment of \$4,875.00 to OEHHA, due fourteen (14) days after the Effective Date.
- 15 • One payment of \$1,625.00 to EHA, due fourteen (14) days after the Effective date.

16 All payments owed to EHA shall be delivered to the following address:

17  
18 Isaac Fayman  
19 Environmental Health Advocates  
20 225 Broadway, Suite 2100  
21 San Diego, CA 92101

22 All payments owed to OEHHA (EIN: 68-0284486) shall be delivered directly to OEHHA  
23 (Memo Line "Prop 65 Penalties") at the following addresses:

24 For United States Postal Service Delivery:

25 Mike Gyurics  
26 Fiscal Operations Branch Chief  
27 Office of Environmental Health Hazard Assessment  
28 P.O. Box 4010  
Sacramento, CA 95812-4010

For Federal Express 2-Day Delivery:

Mike Gyurics  
Fiscal Operations Branch Chief

Office of Environmental Health Hazard Assessment  
1001 I Street  
Sacramento, CA 95814

Sincere agrees to provide EHA's counsel with a copy of the check payable to OEHHA, simultaneous with its penalty payment to EHA.

Plaintiff and its counsel will provide completed IRS 1099, W-9, or other tax forms as required. Relevant information is set out below:

- "Environmental Health Advocates, Inc." (EIN: 84-2322975) at the address provided above.
- "Office of Environmental Health Hazard Assessment" 1001 I Street, Sacramento, CA 95814.

All payments referenced in this section shall be paid within fourteen (14) days of the date the Court approves EHA's motion to approve this Consent Judgment.

**3.3 Attorney's Fees and Costs**

The portion of the settlement attributable to attorneys' fees and costs shall be paid to EHA's counsel, who are entitled to attorneys' fees and costs incurred by it in this action, including but not limited to investigating potential violations, bringing this matter to Sincere's attention, as well as litigating and negotiating a settlement in the public interest.

Sincere shall provide its payment for civil penalty and for attorneys' fees and costs to EHA's counsel by physical check or by electronic means, including wire transfers, at Sincere's discretion, in the sum of fifty-eight thousand and five hundred dollars (\$58,500.00). The fifty-eight thousand and five hundred dollars (\$58,500.00) in Attorney's Fees and Costs shall be payable to Entorno Law, LLP as six-monthly installments of \$9,750.00. The initial installment shall be due thirty (30) days after the Effective Date. The remaining five monthly installments shall be sent to Entorno Law, LLP on or before the tenth calendar day of each month.

The attorney fee payments shall be made payable to Entorno Law, LLP. The address for this entity is:

Noam Glick  
Entorno Law, LLP  
225 Broadway, Suite 1900  
San Diego, CA 92101

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1     **4.     CLAIMS COVERED AND RELEASE**

2             **4.1     EHA’s Public Release of Proposition 65 Claims**

3             Plaintiff, acting on its own behalf and in the public interest, releases Sincere, and its parents,  
4     subsidiaries, affiliated entities under common ownership or control, its directors, officers, principals,  
5     agents, employees, attorneys, insurers, accountants, predecessors, successors, and assigns (“Defendant  
6     Entities”), each entity to whom Defendant directly or indirectly distributes, ships, or sells the Covered  
7     Products, including but not limited to downstream distributors, wholesalers, customers, retailers  
8     (including but not limited to Sincere Orient Commercial Corporation; H Mart, Inc.), and marketplaces  
9     franchisees, franchisors, cooperative members, suppliers, licensees, and licensors, and all of the  
10    foregoing entities’ owners, directors, officers, agents, principals, employees, attorneys, insurers,  
11    accountants, representatives, predecessors, successors, and assigns (collectively referred to as the  
12    “Releasees”) from all claims for violations of Proposition 65 up through the Effective Date based on  
13    exposure to Cadmium from Covered Products as set forth in the Notice(s). Compliance with the terms  
14    of this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to  
15    Cadmium from Covered Products as set forth in the Notice(s). This Consent Judgment is a full, final,  
16    and binding resolution of all claims under Proposition 65 that were or could have been asserted against  
17    Sincere and/or Releasees for failure to comply with Proposition 65 for alleged exposure to Cadmium  
18    from Covered Products. This release does not extend to any third-party retailers selling the product on  
19    a website who, after receiving instruction from Sincere to include a warning as set forth above in section  
20    2.2, do not include such a warning.

21             **4.2     EHA’s Individual Release of Claims**

22             EHA, in its individual capacity, also provides a release to Sincere and/or Releasees, which shall  
23    be a full and final accord and satisfaction of, as well as a bar to, all actions, causes of action, obligations,  
24    costs, expenses, attorneys’ fees, damages, losses, claims, liabilities, and demands of every nature,  
25    character, and kind, whether known or unknown, suspected or unsuspected, arising out of alleged or  
26    actual exposures to Cadmium in Covered Products manufactured, imported, sold, or distributed by  
27    Sincere before the Effective Date.

28     ///



1           **4.3 Sincere's Release of EHA**

2           Sincere on its own behalf, and on behalf of Releasees as well as its past and current agents,  
3 representatives, attorneys, successors, and assignees, hereby waives any and all claims against EHA  
4 and its attorneys and other representatives, for any and all actions taken or statements made by EHA  
5 and its attorneys and other representatives, whether in the course of investigating claims, otherwise  
6 seeking to enforce Proposition 65 against them, in this matter or with respect to the Covered Products.

7           **4.4 No Other Known Claims or Violations**

8           EHA and EHA's counsel affirm that they are not presently aware of any actual or alleged  
9 violations of Proposition 65 by Sincere or for which Sincere bears legal responsibility other than  
10 those that are fully resolved by this Consent Judgment.

11       **5. COURT APPROVAL**

12           This Consent Judgment is not effective until it is approved by the Court and shall be null and  
13 void if it is not approved by the Court within one year after it has been fully executed by the Parties, or  
14 by such additional time as the Parties may agree to in writing.

15       **6. SEVERABILITY**

16           Subsequent to the Court's approval and entry of this Consent Judgment, if any provision is held  
17 by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

18       **7. GOVERNING LAW**

19           The terms of this Consent Judgment shall be governed by the laws of the state of California as  
20 applied within the state of California. In the event that Proposition 65 is repealed, or is otherwise  
21 rendered inapplicable for reasons, including but not limited to changes in the law; or in the event the  
22 California Office of Health Hazard Assessment adopts a regulation or safe use determination, or issues  
23 an interpretive guideline that exempts Covered Products from meeting the requirements of Proposition  
24 65; or if Cadmium cases are permanently enjoined by a court of competent jurisdiction; or if  
25 Proposition 65 is determined to be preempted by federal law or a burden on First Amendment rights  
26 with respect to Cadmium in Covered Products or Covered Products substantially similar to Covered  
27 Products, then Sincere may seek relief from the injunctive obligations imposed by this Consent  
28

1 Judgment to the extent any Covered Products are so affected by modifying the agreement via the  
2 mechanisms set forth in Section 12.

3 **8. ENFORCEMENT**

4 In any action to enforce the terms of this Consent Judgment, the prevailing party shall be entitled  
5 to its reasonable attorneys' fees and costs.

6 **9. NOTICE**

7 Unless otherwise specified herein, all correspondence and notice required by this Consent  
8 Judgment shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered, or certified  
9 mail, return receipt requested; or (iii) a recognized overnight courier; and (iv) with a copy by email; to  
10 the following addresses:

11 If to Sincere:

12 Gregory Patterson  
13 MusickPeeler  
14 2801 Townsgate Road, Suite 200  
Westlake Village, CA 91361  
g.patterson@musickpeeler.com

11 If to EHA:

Noam Glick  
Entorno Law, LLP  
225 Broadway, Suite 2100  
San Diego, CA 92101  
noam@entornolaw.com

15 Any Party may, from time to time, specify in writing to the other, a change of address to which  
16 notices and other communications shall be sent.

17 **10. COUNTERPARTS; DIGITAL SIGNATURES**

18 This Consent Judgment may be executed in counterparts and by facsimile signature, each of  
19 which shall be deemed an original, and all of which, when taken together, shall constitute one and the  
20 same document.

21 **11. POST EXECUTION ACTIVITIES**

22 EHA agrees to comply with the reporting form requirements referenced in Health and Safety  
23 Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety Code  
24 section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement, which  
25 motion EHA shall draft and file. In furtherance of obtaining such approval, the Parties agree to mutually  
26 employ their reasonable best efforts, including those of their counsel, to support the entry of this  
27 agreement as judgment, and to obtain judicial approval of their settlement in a timely manner. For  
28 purposes of this Section, "best efforts" shall include, at a minimum, supporting the motion for approval,

1 responding to any objection that any third-party may make, and appearing at the hearing before the  
2 Court if so requested.

3 **12. MODIFICATION**

4 This Consent Judgment may be modified by: (i) a written agreement of the Parties and entry of  
5 a modified consent judgment thereon by the Court; or (ii) a successful motion or application of any  
6 Party, and the entry of a modified consent judgment thereon by the Court.

7 **13. AUTHORIZATION**

8 The undersigned are authorized to execute this Consent Judgment and acknowledge that they  
9 have read, understand, and agree to all of the terms and conditions contained herein.

10 **14. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

11 If a dispute arises with respect to either Party's compliance with the terms of this Consent  
12 Judgment entered by the Court, the Parties shall meet and confer in person, or by telephone, and/or in  
13 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed  
14 in the absence of such a good faith attempt to resolve the dispute beforehand.

15 **15. ENTIRE AGREEMENT**

16 This Consent Judgment contains the sole and entire agreement and understanding of the Parties  
17 with respect to the entire subject matter herein, and any and all prior discussions, negotiations,  
18 commitments, and understandings related hereto. No representations, oral or otherwise, express or  
19 implied, other than those contained herein have been made by any Party. No other agreements, oral or  
20 otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

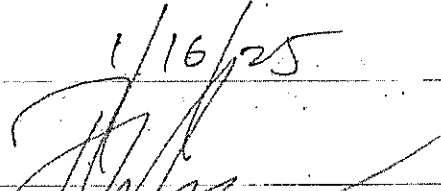
21 **AGREED TO:**

**AGREED TO:**

22 Date: January 17, 2025

22 Date: 1/16/25

23  
24 By:   
25 ENVIRONMENTAL HEALTH  
26 ADVOCATES, INC.

23  
24 By:   
25 SINCERE ORIENT COMMERCIAL  
26 CORPORATION DBA SAKURA  
27 NOODLE

IT IS SO ORDERED.

Date: \_\_\_\_\_

JUDGE OF THE SUPERIOR COURT

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