

SETTLEMENT AND RELEASE AGREEMENT

1. **INTRODUCTION**

1.1. **Parties**

This Settlement Agreement is entered into by and between Keep America Safe and Beautiful (“KASB”), represented by its attorneys KJT Law Group, LLP, on the one hand, and Smashtech, LLC (“Smashtech”) and Skinny Fit, LLC (“Skinny Fit”) (collectively, Smashtech and Skinny Fit are referred to herein as “Skinny”), represented by their attorneys Dentons US LLP, on the other hand, with KASB and Skinny collectively referred to as the "Parties."

1.2. **General Allegations**

KASB alleges that Skinny Fit manufactured, distributed, and offered for sale in the State of California products, containing lead and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6 *et seq.* ("Proposition 65"). California has identified and listed lead under Proposition 65 as a chemical known to the State of California to cause cancer, birth defects or other reproductive harm.

1.3. **Product Description**

The product covered by this Settlement Agreement is defined as “Skinny Fit – Skinny Greens – Green Juice Superfood Powder – Green Apple Flavor – UPC #: 8 58142 00731 5” that Skinny has sold, offered for sale, manufactured, or distributed in California. All such items shall be referred to herein as the "Covered Product."

1.4. **Notice of Violation**

On November 29, 2023, KASB served Smashtech, Skinny Fit, Amazon.com Services (“Amazon”), LLC, and the requisite public enforcement agencies eligible to initiate Proposition

65 actions on behalf of the People of the State of California with documents entitled "Sixty-Day Notice of Intent to Sue for Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986" ("Notice") that provided Skinny, Amazon, and such public enforcers with notice that Skinny Fit was allegedly in violation of California Health & Safety Code section 25249.6 for allegedly failing to warn consumers and customers that the Covered Product exposed users in California to lead. To the best of the Parties' knowledge, no public enforcer has commenced or is prosecuting the allegations set forth in the Notice.

1.5. **No Admission**

The Parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning Skinny Fit's compliance with Proposition 65. Specifically, Skinny denies the allegations contained in KASB's Notice and maintains that all products that it has placed for sale and distribution in California, including the Covered Product, have been and are in compliance with Proposition 65 and any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission or concession by Skinny of any fact, finding, conclusion, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Skinny of any fact, finding, conclusion, issue of law, or violation of law, all of which are specifically denied by Skinny. For the avoidance of doubt, none of the provisions of this Settlement Agreement shall be regarded as an admission of liability, wrongdoing, fault, or responsibility by Skinny.

However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Skinny under this Settlement Agreement.

1.6. **Effective Date**

For purposes of this Settlement Agreement, the term "Effective Date" shall mean the date this Settlement Agreement is fully executed.

2. **INJUNCTIVE RELIEF**

2.1 Beginning within thirty (30) calendar days of the Effective Date, Skinny shall be permanently enjoined from distributing for sale in the State of California, "Distributing into the State of California," or directly selling in the State of California, any Covered Product that expose a person to a "Daily Lead Exposure Level" of more than 0.5 micrograms of lead per day, unless it meets the warning requirements under Section 2.2.

As used in this Settlement Agreement, the term "Distributing into the State of California" shall mean to directly ship a Covered Product into California for sale in California or to sell a Covered Product to a distributor that Skinny knows or has reason to know will sell the Covered Product in California. The injunctive relief in Section 2 does not apply to any Covered Product that has left the possession, and is no longer under the control of Skinny prior to the Effective Date, and all claims as to such Covered Products are released in this Settlement Agreement.

For purposes of this Settlement Agreement, the "Daily Lead Exposure Level" shall be measured in micrograms, and shall be calculated using the following formula: micrograms of lead per gram of product, multiplied by grams of product per serving 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 recommended daily servings appearing on the label), which equals

micrograms of lead exposure per day. If the label contains no recommended daily servings, then the number of recommended daily servings shall be one.

2.2 Clear and Reasonable Warnings

If Skinny is required to provide a warning pursuant to Section 2.1, one of the following warnings must be utilized ("Warning").

Option 1:

WARNING: Consuming this product can expose you to 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

Option 2:

WARNING: [Cancer and] Reproductive Harm – www.P65Warnings.ca.gov/food

Skinny shall use the phrase "cancer and" in the Warning if the exposure level is greater than 15 micrograms of lead per day.

The Warning shall be securely affixed to or printed upon the label of each Covered Product and shall be disclosed clearly and conspicuously. For purposes of this Settlement Agreement, 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. If consumer information on the package is in a foreign language, the warning must also be provided in the foreign language. In addition, for any Covered Product sold over the internet, the Warning shall comply with and satisfy the requirements of Cal. Code Regs. tit. 27, sections 25602 and 25603. The Warning shall comply with the relevant safe harbor provisions under California law, applicable to the Covered Product and chemical at issue, as those regulations may be amended from time to time.

3. CONSIDERATION

In full and final settlement and satisfaction of all the claims referred to in this Settlement Agreement, the Parties reached an accord on the compensation due, under the private attorney general doctrine and principles of contract law. Skinny shall pay \$28,000.00 as a full and final settlement all the claims referred to in this Settlement Agreement.

4. PENALTIES PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.7(b)

In full and final settlement of all the claims referred to in this Settlement Agreement, \$3,000.00 shall be considered a “civil penalty.” The penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds (\$2,250.00) remitted to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty (\$750.00) shall be remitted to KASB. Skinny shall make these payments on or before March 29, 2024, at which time such payments shall be made as follows:

All payments owed to KASB shall be delivered by the way of wire transfer to the following payment address:

Beneficiary: Keep America Safe and Beautiful
Wells Fargo Bank Routing Number: 121000248
Wells Fargo Bank Account Number: 6767279471
Beneficiary Address: 10512 Sycamore Avenue, Stanton, CA 90680-2629

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

For United States Postal Delivery:

Mike Gyurics
Senior Accounting Officer -- 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

Skinny shall not be liable in any way for, and makes no representations regarding, the tax treatment of any payments made hereunder. KASB agrees to provide Skinny with the relevant IRS W-9 Forms to complete the payments contemplated herein before any payments are due.

5. REIMBURSEMENT OF FEES AND COSTS

In full and final settlement of all claims referred to in this Settlement Agreement, \$25,000.00 shall be considered reimbursement of KASB's attorneys' fees, expert and investigation fees, and related costs associated with this matter and the Notice. The Parties reached an accord on the compensation due to KASB and its counsel under the private attorney general doctrine and principles of contract law. Skinny shall mail a check payable to "KJT Law Group," via certified mail to the address below in three installments as follows:

- \$5,000.00 due on or before March 22, 2024;
- \$10,000.00 due on or before April 22, 2024; and
- \$10,000.00 due on or before May 22, 2024.

All payments owed to KASB's counsel shall be delivered to:

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

6. RELEASE OF ALL CLAIMS

6.1. Release of Skinny, Downstream Customers and Upstream Vendors

In consideration of the promises and agreements herein contained, including the payments to be made pursuant to Sections 3 through 5 above, KASB, on behalf of itself, and on behalf of its attorneys, agents, executors, trustees, predecessors, successors, officers, directors, employees, principals, consultants, guardians, servants, insurers, partners, creditors, members, customers, managers, beneficiaries, fiduciaries, receivers, lenders, guarantors, bankruptcy trustees, bankruptcy estate, affiliates, trusts, representatives, administrators, assigns, and any other persons or entities acting or purporting to act on KASB's behalf (collectively, with KASB, the "Releasing Parties") hereby releases, satisfies, acquits, and discharges Smashtech, Skinny Fit, and all of their past, present, and future officers, directors, owners, consultants, partners, manufacturers, servants, agents, attorneys, employees, heirs, executors, principals, members, guardians, servants, administrators, trustees, bankruptcy trustees, bankruptcy estate, receivers, investors, shareholders, creditors, representatives, licensees, assigns, customers, managers, beneficiaries, fiduciaries, lenders, guarantors, insurers, reinsurers, predecessors, trusts, successors, parent entities, subsidiaries, affiliates, wholesalers, retailers, distributors, licensors, licensees, auctioneers, dealers, divisions, joint venturers, and/or related persons or entities of any nature or kind, including, but not limited to, Amazon (collectively, with Smashtech and Skinny Fit, the "Skinny Releasees") from any and all claims, relating to the Notice and/or any alleged exposure to lead in relation to the Covered Product, up through the Effective Date.

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice or relating to the Covered Product will develop or be discovered. This Settlement Agreement is expressly intended to cover and include all such claims up through the Effective

Date. KASB expressly waives and relinquishes any and all rights and benefits which it may have under, or which may be conferred on it by the provisions of California Civil Code section 1542 as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that it may lawfully waive such rights or benefits pertaining to the released matters, and does so understanding and acknowledging the significance and consequence of the specific waiver of such a provision, which reads as follows:

Section 1542. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 and its related regulations are repealed or are otherwise rendered inapplicable by reason of law generally, or as to the Covered Product, then Skinny shall have no further obligations pursuant to this Settlement Agreement.

8. 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 courier on any party by the other party at the following addresses:

For Skinny:	Bety Javidzad, Esq. Norman M. Aspis, Esq. Dentons US LLP 601 S. Figueroa Street, Suite 2500 Los Angeles, CA 90017
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For KASB:

Tro Krikorian, Esq.
KJT Law Group, LLP
230 N. Maryland Ave., Suite 306
Glendale, CA 91206

Any 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.

9. COUNTERPARTS; FACSIMILE/E-SIGNATURES

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

10. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and supersedes all prior discussions, negotiations, commitments, agreements, and understandings. No other agreements, oral or otherwise, exist to bind either of the Parties.

11. MODIFICATION

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

12. VOLUNTARY AGREEMENT

This Settlement Agreement has been carefully read by the undersigned and the contents are known and understood by the undersigned. The undersigned have each had the opportunity to receive independent legal advice from the attorneys of their choice with respect to the preparation, review, and advisability of executing this Settlement Agreement, including, but not limited to, specifically with respect to the meaning and effect of waiving California Civil Code section 1542.

13. SUCCESSORS AND ASSIGNS

This Settlement Agreement shall be binding on and inure to the benefit of any successors-in-interest, beneficiaries, heirs, or assigns of the Parties.

14. AUTHORITY

A person's execution of this Settlement Agreement on behalf of any Party shall constitute the person's representation that he or she has authority to act on behalf of and bind the Party.

15. DRAFTING

No inference, assumption or presumption shall be drawn, and no provision of this Settlement Agreement shall be construed against any of the Parties, based upon the fact that one of the Parties and/or one of the Parties' attorneys prepared and/or drafted all or any portion of this Settlement Agreement. It is conclusively presumed that the Parties participated equally in the preparation and drafting of this Agreement.

16. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have agreed, accepted, and executed this Agreement on the date written.

Executed on March 18, 2024.

Keep America Safe and Beautiful



By: Lance Nguyen

Executed on March 15, 2024.

Smashtech, LLC



By: Elizabeth Cole
Its: General Counsel

Skinny Fit, LLC



By: Elizabeth Cole
Its: Counsel

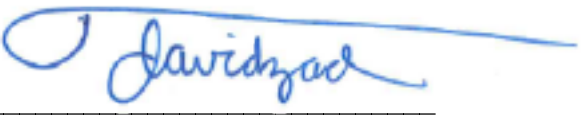
APPROVED AS TO FORM

Dated: March 18, 2024

By:  _____

Tro Krikorian, Esq.
KJT Law Group, LLP
Counsel for Keep America Safe and Beautiful

Dated: March 18, 2024

By:  _____

Bety Javidzad, Esq.
Dentons US LLP
Counsel for Smashtech, LLC and Skinny Fit, LLC