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Brothers International Food Holdings LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CLEAN PRODUCT ADVOCATES, LLC,

Plaintiff,

vs.

**BROTHERS INTERNATIONAL FOOD
CORPORATION; BROTHERS
INTERNATIONAL FOOD, NEW YORK.;
and DOES 1-100,**

Defendants.

Case No.: 25NNCV01420

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

Health & Safety Code § 25249.5 *et seq.* Action

Filed: March 4, 2025

Trial Date: None set

I. INTRODUCTION

1.1 On March 4, 2025, Plaintiff Clean Product Advocates, LLC (“CPA”), as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”) pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.* (“Proposition 65”), against Brothers International Food Holdings LLC, formerly known as Brothers International Food Corporation, and incorrectly named and sued as Brothers International Food, New York, (“Brothers”) and Does 1-100. In this action, CPA alleges that a certain product manufactured, distributed, or sold by Brothers contains lead, a chemical listed under Proposition 65 as a carcinogen and/or reproductive toxin, and exposes consumers at a level requiring a Proposition 65 warning. This product (referred to hereinafter as a “Covered Product”) is Freeze Dried Strawberry Fruit Crisps, distributed by Brothers, including but not limited to UPC # 078742260044.

1.2 CPA and Brothers are hereinafter referred to individually as a “Party” or collectively as the “Parties.”

1.3 For purposes of this Stipulated Consent Judgment (“Consent Judgment”), the Parties agree that Brothers is a business entity that has employed ten or more persons at all times relevant to this action and qualifies as a “person in the course of doing business” within the meaning of Proposition 65. Brothers manufactures, distributes, and/or sells the Covered Product.

1.4 The Complaint is based on allegations contained in CPA’s Notice of Violation dated December 28, 2023, served on Brothers and Notice of Violation dated August 11, 2023, served on Walmart Inc. and Wal-Mart.com USA, LLC, and both served on the California Attorney General, other public enforcers (“Notices”). More than 60 days have passed since the Notices were served on the Attorney General, public enforcers, and Brothers and no designated governmental entity has filed a Complaint against Brothers with regard to the Covered Product or the alleged violation.

1.5 CPA’s Notice and Complaint allege that use of the Covered Product by California consumers exposes them to lead without first receiving a clear and reasonable warning from Brothers, in violation of California Health and Safety Code section 25249.6. Brothers denies all material allegations contained in the Notice and Complaint.

1.6 The Parties have entered into this Consent Judgment in order to settle, compromise, and

1 resolve disputed claims and avoid prolonged and costly litigation. Brothers denies the material, factual,
 2 and legal allegations in the Notices and Complaint and maintains that all of the products, including the
 3 Covered Product, that it manufactured, sold and/or distributed for sale in California have been and are
 4 in compliance with all laws. Nothing in this Consent Judgment nor compliance with this Consent
 5 Judgment shall constitute or be construed as an admission by any of the Parties or by any of their
 6 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
 7 franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, issue of
 8 law, or violation of law.

9 **1.7** Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice,
 10 waive, or impair any right, remedy, argument, or defense the Parties may have in any current or future
 11 legal proceeding unrelated to these proceedings.

12 **1.8** The Effective Date of this Consent Judgment is the date that Notice is served that the
 13 Consent Judgment is entered as a Judgment by this Court.

14 **2. JURISDICTION AND VENUE**

15 For purposes of this Consent Judgment and any further court action that may become necessary to
 16 enforce this Consent Judgment, the Parties stipulate that this Court has subject matter jurisdiction over the
 17 allegations of violations contained in the Complaint and personal jurisdiction over Brothers as to the acts
 18 alleged in the Complaint, that venue is proper in Los Angeles County, and that this Court has jurisdiction to
 19 enter this Consent Judgment as a full and final resolution of all claims up through and including the
 20 Effective Date that were or could have been asserted in this action based on the facts alleged in the Notices
 21 and Complaint.

22 **3. INJUNCTIVE RELIEF, REFORMULATION, AND WARNINGS**

23 **3.1** Beginning no later than ninety (90) days after the Effective Date (the “Compliance
 24 Date”), Brothers shall be permanently enjoined from manufacturing for sale in the State of California,
 25 “Distributing into the State of California,” or selling in the State of California, any Covered Product
 26 that exposes a person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day
 27 unless it meets the warning requirements under Section 3.2.

28 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State of California”

1 shall mean to directly ship a Covered Product into California for sale in California or to sell a Covered
2 Product to a distributor that Brothers knows will sell the Covered Product in California.

3 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure Level” shall be
4 measured in micrograms, and shall be calculated using the following formula: micrograms of lead per
5 gram of product, multiplied by grams of product per serving of the product (using the largest serving
6 size appearing on the product label), multiplied by servings of the product per day (using the largest
7 number of recommended daily servings appearing on the label), which equals micrograms of lead
8 exposure per day. If no recommended number of servings is shown on the label, the daily serving shall be
9 one.

10 **3.1.3** So long as Brothers can provide documentation regarding the product date, if requested
11 in writing by CPA, Covered Products manufactured, shipped, sold, or Distributed into the State of
12 California by Brothers prior to the Compliance Date are not bound by the injunctive terms set forth in
13 this Section 3, including but not limited to, the Daily Lead Exposure Level, and warning and testing
14 requirements, and are instead permitted to be sold as is to California consumers and are expressly
15 released by Section 8 of this Consent Judgment.

16 **3.2 Clear and Reasonable Warnings**

17 If Brothers is required to provide a warning pursuant to Section 3.1, the warning must consist one
18 of the following (“Warning”):

19 (A)

20 **WARNING:** Consuming this product can expose you to chemicals including lead which is known
21 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.

22 Defendant may, at its option, use the words “**CA WARNING:**” or “**CALIFORNIA**
23 **WARNING:**” instead of the word “**WARNING:**”.

24 (B) For warnings affixed to the packaging or label, Defendant may use the following

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

27 or
28

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

Defendant may, at its option, use the words “**CA WARNING:**” or “**CALIFORNIA WARNING:**” instead of the word “**WARNING:**”.

For Covered Product manufactured and packaged prior to January 1, 2028, Defendant may, at its option use the following statement for warnings affixed to the packaging or label:

WARNING: Cancer and Reproductive Harm - www.P65Warnings.ca.gov/food.

Brothers shall use the phrase “cancer and” in the Warning if Brothers has reason to believe that the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined pursuant to the quality control methodology set forth in Section 3.1.2 or if Brothers has reason to believe that another Proposition 65 chemical is present which may require a cancer warning.

The Warning shall be securely affixed or printed upon the label of each Covered Product and must be set off from other surrounding information and enclosed in a box. In addition, for any Covered Product sold over the internet through ecommerce channels controlled by Brothers, the Warning on the checkout page shall be in full text or through a clearly marked hyperlink using the word “**WARNING**” and in all capital and bold letters when a California delivery address is indicated for any purchase of any Covered Product. If a hyperlink is used, the hyperlink must go directly to a page prominently displaying the Warning without content that detracts from the Warning. An asterisk or other identifying method must be utilized to identify which products on the checkout page are subject to the Warning.

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.

Brothers 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

1 product.

2 For purposes of this agreement, the term “label” means a display of written, printed or graphic
3 material that is printed on or affixed to a Covered Product or its immediate container or wrapper.

4 For purposes of this agreement, when Brothers is required to provide a warning for a Covered
5 Product pursuant to Section 3, Brothers may satisfy the warning requirement by providing the required
6 information in compliance with 27 C.C.R. Section 25600.2 (2024) to any business that is subject to
7 Proposition 65 to which it is selling or transferring the Covered Product.

8 **3.3 Compliance with Proposition 65.** The Parties agree that Brothers shall be deemed to be
9 in compliance with this Agreement by either adhering to Section 3 of this Agreement or by complying
10 with warning regulations adopted by the State of California’s OEHHA applicable to the Product and the
11 exposures at issue.

12 **3.4 Warning for Internet Sales by Third Parties.** If a Covered Product is being sold by an
13 online third-party seller or downstream reseller customer (collectively referred to as “Third-Party
14 Seller(s)”), who are subject to Proposition 65 and known to, and authorized by, Brothers to sell such
15 Covered Product in California, and Brothers cannot itself post the warning on the authorized Third-Party
16 Seller’s website because Brothers lacks control over such authorized Third-Party Seller’s website, then
17 Brothers must notify the authorized Third-Party Seller and/or its authorized agent of the authorized
18 Third-Party Seller’s duty to provide an internet warning as part of the condition of sale of the Covered
19 Product.

20 **3.5 Foreign Language Warning Requirement:** Where any product label, packaging, or
21 accompanying written materials include information in a language other than English, Brothers agrees to
22 provide the Proposition 65 warning in the same language(s) in addition to English. The foreign language
23 warning must contain the same content as the English warning and must be prominently displayed.

24 **3.6 Conforming Covered Products**

25 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure Level”
26 is no greater than 0.5 micrograms of lead per day and is not known by Brothers to contain other chemicals
27 that violate Proposition 65’s safe harbor thresholds. Conformance with the “Daily Lead Exposure Level”
28 shall be based upon testing of a composite sample from a combined entire package of the Covered Product.

4. SETTLEMENT PAYMENT

4.1 In full satisfaction of all potential civil penalties, additional settlement payments, attorney's fees, and costs, Brothers shall make a total payment of \$18,000.00 ("Total Settlement Amount") to CPA within fifteen (15) days of the Effective Date. Brothers shall make this payment by wire transfer to CPA's account, for which CPA will give Brothers the necessary account information. The Total Settlement Amount shall be apportioned as follows:

4.2 \$1,000.00 shall be considered a civil penalty pursuant to California Health and Safety Code section 25249.7(b)(1). CPA shall remit 75% (\$750.00) of the civil penalty to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety Code section 25249.12(c). CPA will retain the remaining 25% (\$250.00) of the civil penalty.

4.4 \$17,000.00 shall be distributed to CPA as reimbursement of CPA's attorney fees and costs. Except as explicitly provided herein, each Party shall bear its own fees and costs.

5. MODIFICATION OF CONSENT JUDGMENT

This Consent Judgment may be modified only as to injunctive terms (i) by written stipulation of the Parties and upon entry by the Court of a modified consent judgment or (ii) by motion of either Party and upon entry by the Court of a modified consent judgment. In the event that Proposition 65, either as a whole or as specifically applicable to the Covered Products or listed chemicals at issue in the case, is repealed or federally preempted, or if new or different safe harbor levels are established as applicable to the Covered Product, or if Proposition 65 is otherwise rendered inapplicable to the Covered Product or the listed chemicals at issue in this case, by any final California regulation or statute, or by a decision of the California Supreme Court or the United States Supreme Court or by the California legislature or the United States Congress, or if any provision of this Consent Judgment is specifically rendered inapplicable or no longer required as to the Covered Product as a result of any such regulatory or statutory change, repeal or preemption or decision of the California Supreme Court or the United States Supreme Court, or due to binding federal laws or regulations, then Brothers may provide written notice to CPA of any asserted change in the law and seek modification of this Consent Judgment pursuant to this Section.

6. JURISDICTION AND ENFORCEMENT OF CONSENT JUDGMENT

6.1 This Court shall retain jurisdiction of this matter to enforce, modify, or terminate this Consent Judgment.

7. APPLICATION OF CONSENT JUDGMENT

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 (excluding private labelers), distributors, wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no application to any Covered Product that is distributed or sold exclusively outside the State of California and that is not used by California consumers.

8. BINDING EFFECT, CLAIMS COVERED AND RELEASED

8.1 This Consent Judgment is a full, final, and binding resolution between CPA, on behalf of itself and in the public interest, and Brothers and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers, franchisees, licensees, licensors, customers, distributors, wholesalers, retailers, and all other upstream and downstream entities in the distribution chain, including but not limited to Walmart Inc., of any Covered Product, and the predecessors, successors, and assigns of any of them (collectively, "Released Parties").

8.2 CPA, acting in the public interest, releases the Released Parties from any and all claims for violations of Proposition 65 up through the Effective Date based on exposure to lead from the Covered Product as set forth in the Notices of Violation. CPA, on behalf of itself only, hereby fully releases and discharges the Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses asserted, or that could have been asserted from the handling, use, or consumption of the Covered Product, as to any alleged violation of Proposition 65 or its implementing regulations arising from the failure to provide Proposition 65 warnings for the Covered Product regarding lead, up to and including the Effective Date. However, Third-Party Sellers that do not provide the Warning after being instructed or notified by Brothers to do so, as outlined in Section 3.2, are not released from liability for violations of Proposition 65.

8.3 CPA on its own behalf and on behalf of its agents, successors and assigns, and Brothers on its own behalf only, further waive and release any and all claims they may have against each other

1 for all actions or statements made or undertaken in the course of seeking or opposing enforcement of
2 Proposition 65 in connection with the Notices and Complaint up through and including the Effective
3 Date, provided, however, that nothing in Section 8 shall affect or limit any Party's right to seek to enforce
4 the terms of this Consent Judgment. However, Third-Party Sellers that do not provide the Warning after
5 being instructed or notified by Brothers to do so, as outlined in Section 3.2, are not released from liability
6 for violations of Proposition 65.

7 **8.4** It is possible that other claims not known to the Parties, arising out of the facts alleged in
8 the Notices and Complaint, and relating to the Covered Product, will develop or be discovered. CPA on
9 behalf of itself only, and Brothers on behalf of itself only, acknowledge that this Consent Judgment is
10 expressly intended to cover and include all such claims up through and including the Effective Date,
11 including all rights of action therefore.

12 CPA and Brothers acknowledge that the claims released in Sections 8.2 and 8.3 above may
13 include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
14 unknown claims. California Civil Code section 1542 reads as follows:

15 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR
16 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
17 FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY
18 HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
19 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

20 CPA on behalf of itself only, and Brothers on behalf of itself only, acknowledge and understand the
21 significance and consequences of this specific waiver of California Civil Code section 1542.

22 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to constitute
23 compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to lead in
24 the Covered Product, as set forth in the Notices and Complaint.

25 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
26 environmental exposures arising under Proposition 65, nor shall it apply to any of Brothers' products
27 other than the Covered Product.
28

9. SEVERABILITY OF UNENFORCEABLE PROVISIONS

In the event that any of the provisions of this Consent Judgment are held by a court to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

10. GOVERNING LAW

The terms and conditions of this Consent Judgment shall be governed by and construed in accordance with the laws of the State of California.

11. PROVISION OF NOTICE

All notices required to be given to either Party to this Consent Judgment by the other shall be in writing and sent to the following agents listed below via first-class mail or via electronic mail where required. Courtesy copies via email may also be sent.

FOR CPA:

CLIFFWOOD LAW FIRM
Elham Shabatian, Bar No. 221953
12100 Wilshire Boulevard, Suite 800
Los Angeles, California 90025
Tel: (310) 200-3227
ellie@cliffwoodlaw.com

FOR BROTHERS:

NIXON PEABODY LLP
Lauren Michals
One Embarcadero Center, Floor 32
San Francisco California 94111-3602
Tel: (415) 984-8261
Fax: (866) 904-8316
lmichals@nixonpeabody.com

12. COURT APPROVAL

12.1 Upon execution of this Consent Judgment by the Parties, CPA shall notice a Motion for Court Approval.

12.2 If the California Attorney General objects to any term in this Consent Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and, if possible, prior to

1 the hearing on the motion.

2 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be void and have
3 no force or effect.

4 **13. EXECUTION AND COUNTERPARTS**

5 This Consent Judgment may be executed in counterparts, which taken together shall be deemed to
6 constitute one document. A facsimile or .pdf signature shall be construed to be as valid as the original
7 signature.

8 **14. DRAFTING**

9 The terms of this Consent Judgment have been reviewed by the respective counsel for each Party
10 prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with
11 legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent
12 Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Consent
13 Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the
14 Parties' legal counsel prepared and/or drafted all or any portion of the Consent Judgment. It is conclusively
15 presumed that all of the Parties participated equally in the preparation and drafting of this Consent
16 Judgment.

17 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

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

22 **16. ENFORCEMENT**

23 The Parties may, by motion or order to show cause before the Superior Court of Los Angeles
24 County, enforce the terms and conditions contained in this Consent Judgment. In any action brought to
25 enforce this Consent Judgment, the prevailing Party may seek whatever fines, costs, penalties, or
26 remedies as are provided by law for failure to comply with the Consent Judgment.

27 **17. ENTIRE AGREEMENT, AUTHORIZATION**

28 **17.1** This Consent Judgment contains the sole and entire agreement and understanding of the

1 Parties with respect to the entire subject matter herein, including any and all prior discussions,
2 negotiations, commitments, and understandings related thereto. No representations, oral or otherwise,
3 express or implied, other than those contained herein have been made by any Party. No other agreements,
4 oral or otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

5 17.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the
6 Party he or she represents to stipulate to this Consent Judgment.

7 18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF
8 CONSENT JUDGMENT

9 This Consent Judgment has come before the Court upon the request of the Parties. The
10 Parties request the Court to fully review this Consent Judgment and, being fully informed regarding the
11 matters which are the subject of this action, to:

12 (1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable
13 settlement of all matters raised by the allegations of the Complaint that the matter has been diligently
14 prosecuted, and that the public interest is served by such settlement;

15 (2) Make the findings pursuant to California Health and Safety Code section 25249.7(f)(4),
16 approve the Settlement, and approve this Consent Judgment; and

17 (3) Retain jurisdiction, pursuant to Section 664.6 of the Code of Civil Procedure, after the
18 Consent Judgment is entered in order to enforce, modify, or terminate this Consent Judgment.

19
20
21 IT IS SO STIPULATED:

22 Dated: _____, 2025

CLEAN PRODUCT ADVOCATES, LLC

23
24 11/19/2025

By: 

Dekee Yangzom

DEKEE YANGZOM, DIRECTOR

Dated: 11/18/2025

BROTHERS INTERNATIONAL FOOD
HOLDINGS LLC

Signed by:

John Siwicki

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By: John Siwicki
Its: Chief Financial Officer

ORDER APPROVING AGREEMENT

Based upon the Parties' stipulation and good cause appearing, this agreement is approved and is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2025

JUDGE OF THE SUPERIOR COURT