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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

CENTER FOR ENVIRONMENTAL HEALTH,)	Case No. CGC-24-615171
)	
Plaintiff,)	
)	
v.)	[PROPOSED] CONSENT JUDGMENT
)	RE: YAMAHA CORPORATION OF
YAMAHA CORPORATION OF AMERICA,)	AMERICA
<i>et al.</i> ,)	
)	
Defendants.)	
)	
)	
)	

1. INTRODUCTION

1.1 The Parties to this Consent Judgment are the Center for Environmental Health, a California non-profit corporation (“CEH”), and Yamaha Corporation of America (“Settling Defendant”). CEH and Settling Defendant (the “Parties”) enter into this Consent Judgment to settle certain claims asserted by CEH against Settling Defendant as set forth in the operative complaint (“Complaint”) in the above-captioned matter.

1.2 On or about February 22, 2024, CEH provided a 60-day Notice of Violation of

1 Proposition 65 to the California Attorney General, the District Attorneys of every county in
2 California, the City Attorneys of every California city with a population greater than 750,000,
3 and to Settling Defendant, alleging that Settling Defendant violated Proposition 65 by exposing
4 persons to lead contained in brass mouthpieces used with musical instruments without first
5 providing a clear and reasonable Proposition 65 warning.

6 1.3 Settling Defendant is a corporation or other business entity that manufactures,
7 distributes, sells, or offers for sale Covered Products that are sold in the State of California or has
8 done so in the past.

9 1.4 On May 31, 2024, CEH filed the original Complaint in the above-captioned matter
10 naming Settling Defendant as a defendant.

11 1.5 For purposes of this Consent Judgment only, the Parties stipulate that this Court
12 has jurisdiction over the allegations of violations contained in the Complaint and personal
13 jurisdiction over Settling Defendant as to the acts alleged in the Complaint, that venue is proper
14 in the County of San Francisco, and that this Court has jurisdiction to enter and enforce this
15 Consent Judgment as a full and final resolution of all claims which were or could have been
16 raised in the Complaint based on the facts alleged therein with respect to Covered Products
17 manufactured, distributed, and/or sold by Settling Defendant.

18 1.6 Settling Defendant expressly denies the material allegations contained in the
19 Complaint and Notices and maintains that it has not violated Proposition 65 or any other law or
20 legal duty. Defendant expressly denies any liability for any of the claims asserted and the facts
21 alleged in the Complaint and Notices.

22 1.7 Nothing in this Consent Judgment is or shall be construed as an admission by the
23 Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with
24 the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
25 conclusion of law, issue of law, or violation of law; nor shall compliance with this Consent
26 Judgment constitute or be construed as an admission by Settling Defendant of any fact, finding,
27 conclusion, issue of law, or violation of law, such being specifically denied by Settling
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Defendant. Nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument, or defense the Parties may have in any other pending or future legal proceedings. This Consent Judgment is the product of negotiation and compromise and is accepted by the Parties solely for purposes of settling, compromising, and resolving issues disputed in this action.

2. DEFINITIONS

2.1 The “Complaint” means the operative complaint in the above-captioned matter.

2.2 “Compliance Date” means six months after the Effective Date.

2.3 “Covered Products” means brass mouthpieces used with musical instruments.

2.4 “Effective Date” means the date on which notice of entry of this Consent Judgment by the Court is served upon Settling Defendant.

2.5 “Reformulation Level” means 100 parts per million (“ppm”) lead, which shall be determined by total content testing.

3. INJUNCTIVE RELIEF

3.1 Clear and Reasonable Warnings.

3.1.1 **Warnings.** As of the Compliance Date, any Covered Product that is not a Reformulated Covered Product and is sold or offered for sale in California by Settling Defendant shall contain a Clear and Reasonable Warning that complies with the provisions of this Section 3.1 in the form of either:

(a) Warning



WARNING: This product can expose you to lead, which is known to the State of California to cause cancer, birth defects, and other reproductive harm. For more information go to www.P65Warnings.ca.gov.

Or (b) Alternative Warning



WARNING: Cancer and Reproductive Harm. See www.P65Warnings.ca.gov.

1 The word “**WARNING**” shall be displayed in all capital letters and bold print and shall be
2 preceded by the yellow warning triangle symbol depicted above. This warning statement shall be
3 prominently displayed on the outer packaging or tag of the Covered Product and shall be
4 displayed with such conspicuousness, as compared with other words, statements, or designs as to
5 render it likely to be seen, read, and understood by an ordinary individual prior to sale. The
6 warning statement must be set off from other surrounding information and enclosed in a text box.
7 For internet, catalog, or any other online sale where the consumer is not physically present, the
8 warning statement shall be displayed in such a manner that it is likely to be read and understood
9 by an ordinary individual prior to the authorization of or actual payment. The requirements of this
10 Section shall be satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink
11 using the word “**WARNING**,” appears on the Covered Product display page, or by otherwise
12 prominently displaying the warning to the purchaser prior to completing the purchase. Where a sign
13 or label used to provide a warning includes consumer information about a product in a language
14 other than English, the warning shall also be provided in that language in addition to English.

15 **3.2 Optional Reformulation of Covered Products.** After the Compliance Date,
16 Settling Defendant may, ship, sell, or offer for sale Covered Products in California without
17 meeting the warning requirements of Section 3.1 so long as those Covered Products meet the
18 Reformulation Level (“Reformulated Covered Products”). Should Settling Defendant avail itself
19 of this Section 3.2, it shall notify CEH in writing and concurrently with its release of the
20 Reformulated Covered Products of its intent to do so and provide CEH with information to
21 identify the Reformulated Covered Products, such as SKU and product name, as well as a testing
22 result demonstrating that the Reformulated Covered Products meet the Reformulation Level.

23 **3.3 Compliance with Warning Regulations.** Settling Defendant shall be deemed to
24 be in compliance with this Consent Judgment by adhering to Section 3 of this Consent Judgment
25 or by complying with warning requirements adopted or implemented by OEHHA applicable to
26 the Covered Product after the Effective Date.

1 3.4 Notwithstanding anything else in this Consent Judgment, Covered Products that
2 are manufactured, packaged, or put into commerce on or before the Compliance Date shall be
3 subject to the release of liability pursuant to this Consent Judgment, without regard to when such
4 Covered Products were, or are in the future, distributed or sold to customers. As a result, the
5 obligations of Defendant, or any Releasees (if applicable), stated in this Section 3 do not apply to
6 Covered Products that are manufactured, in the process of being manufactured, packaged, in the
7 process of being packaged, or put into commerce prior to the Compliance Date.

8 **4. ENFORCEMENT**

9 4.1 **General Enforcement Provisions.** CEH may, by motion or application for an
10 order to show cause before the Superior Court of California County of San Francisco, enforce the
11 terms and conditions contained in this Consent Judgment. If a dispute arises with respect to
12 either Party's compliance with the terms of this Consent Judgment, the Parties shall meet and
13 confer in writing and endeavor to resolve the dispute in an amicable manner. No action may be
14 filed in the absence of such good faith attempt to resolve the dispute beforehand. Should an
15 exceedance of the reformulation standard(s) in Section 3.2 be alleged, Settling Defendant must be
16 provided with written notice and data supporting such an allegation and thirty (30) days to
17 address the allegations before an enforcement motion may be filed. No violation of this Consent
18 Judgment shall be deemed to occur if Settling Defendant demonstrates that its own testing of the
19 Covered Product at issue is performed pursuant to valid scientific protocol and in accordance
20 with Section 3.2. Only CEH may enforce the terms of this Consent Judgment.

21 4.2 The inability of Settling Defendant to comply with any deadline set forth in this
22 Consent Judgment due to an act of terrorism, fire, earthquake, civil disorders, war, or act of God
23 that is beyond the reasonable control of Settling Defendant shall be grounds to move for
24 modification of the deadlines set forth in this Consent Judgment.

25 4.3 CEH and its attorneys shall be entitled to collect their reasonable fees and costs
26 should they resolve an alleged violation during the meet and confer process described in Section
27 4.1, except that Settling Defendant's failure to comply with the notification requirements of
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1 Section 3.2 shall not provide a basis for CEH or its attorneys to recover their reasonable fees and
2 costs under this Section 4.3. Both CEH and its attorneys will, upon request by Settling
3 Defendant, provide their itemized time records substantiating their requested reasonable fees and
4 costs.

5 **5. PAYMENTS**

6 **5.1 Payments by Settling Defendant.** Within thirty (30) calendar days of the
7 Effective Date, Settling Defendant shall pay the total sum of \$72,500 as a settlement payment as
8 further set forth in this Section.

9 **5.2 Allocation of Payments.** The total settlement amount for Settling Defendant shall
10 be paid in five separate checks in the amounts specified below and delivered as set forth below.
11 Any failure by Settling Defendant to comply with the payment terms herein shall be subject to a
12 stipulated late fee to be paid by Settling Defendant in the amount of \$100 for each day the full
13 payment is not received after the applicable payment due date set forth in Section 5.1. The late
14 fees required under this Section shall be recoverable, together with reasonable attorneys' fees and
15 costs, in the event of a successful enforcement proceeding brought pursuant to Section 4 of this
16 Consent Judgment. The funds paid by Settling Defendant shall be allocated as set forth below
17 between the following categories and made payable as follows:

18 **5.2.1** \$9,669 as a civil penalty pursuant to Health & Safety Code § 25249.7(b).
19 The civil penalty payment shall be apportioned in accordance with Health & Safety Code §
20 25249.12 (25% to CEH and 75% to the State of California's Office of Environmental Health
21 Hazard Assessment ("OEHHA")). Accordingly, the OEHHA portion of the civil penalty
22 payment for \$7,251.75 shall be made payable to OEHHA and associated with taxpayer
23 identification number 68-0284486. This payment shall be delivered as follows:

24 For United States Postal Service Delivery:

25 Attn: Mike Gyurics
26 Deputy Director for Administrative Services
27 Office of Environmental Health Hazard Assessment
28 P.O. Box 4010, MS #19B
Sacramento, CA 95812-4010

1 For Non-United States Postal Service Delivery:

2 Attn: Mike Gyurics
3 Deputy Director for Administrative Services
4 Office of Environmental Health Hazard Assessment
5 1001 I Street, MS #19B
6 Sacramento, CA 95814

7 The CEH portion of the civil penalty payment for \$2,417.25 shall be made payable to the Center
8 for Environmental Health and associated with taxpayer identification number 94-3251981. This
9 payment shall be delivered to Lexington Law Group, LLP, 503 Divisadero Street, San Francisco,
10 CA 94117.

11 5.2.2 \$7,100 as an ASP to CEH pursuant to Health & Safety Code §
12 25249.7(b), and California Code of Regulations, Title 11, § 3204. CEH intends to place these
13 funds in CEH's Toxics and Youth Fund and use them to: (1) support CEH programs and
14 activities that seek to educate the public about lead and other toxic chemicals in consumer
15 products that are marketed to youth; (2) expand its use of social media to communicate with
16 Californians about the risks of exposures to lead in the products they and their children use and
17 about ways to reduce those exposures; and (3) work with industries that market products to youth
18 to reduce exposures to lead and other toxic chemicals, and thereby reduce the public health
19 impacts and risks of exposures to lead and other toxic chemicals in consumer products that are
20 marketed to youth in California. CEH shall obtain and maintain adequate records to document
21 that ASPs are spent on these activities and CEH agrees to provide such documentation to the
22 Attorney General within thirty days of any request from the Attorney General. The payment
23 pursuant to this Section shall be made payable to the Center for Environmental Health and
24 associated with taxpayer identification number 94-3251981. This payment shall be delivered to
25 Lexington Law Group, LLP, 503 Divisadero Street, San Francisco, CA 94117.

26 5.2.3 \$55,731 as a reimbursement of a portion of CEH's reasonable attorneys'
27 fees and costs (including but not limited to expert and investigative costs). The attorneys' fees
28 and cost reimbursement shall be made in two separate checks as follows: (a) \$46,900 payable to

the Lexington Law Group, LLP and associated with taxpayer identification number 88-4399775; and (b) \$8,831 payable to the Center for Environmental Health and associated with taxpayer identification number 94-3251981. Both of these payments shall be delivered to Lexington Law Group, LLP, 503 Divisadero Street, San Francisco, CA 94117.

5.2.4 To summarize, Settling Defendant shall deliver checks made out to the payees and in the amounts set forth below:

Payee	Type	Amount	Deliver To
OEHHA	Penalty	\$ 7,251.75	OEHHA per Section 5.2.1
Center for Environmental Health	Penalty	\$ 2,417.25	LLG
Center for Environmental Health	ASP	\$ 7,100.00	LLG
Lexington Law Group, LLP	Fees and Costs	\$ 46,900.00	LLG
Center for Environmental Health	Fees and Costs	\$ 8,831.00	LLG

6. MODIFICATION AND DISPUTE RESOLUTION

6.1 **Modification.** This Consent Judgment may be modified from time to time by express written agreement of the Parties, with the approval of the Court, or by an order of this Court upon motion and in accordance with law.

6.1.1 If a California court enters a judgment in the Action or another Proposition 65 enforcement action over exposure to lead in Covered Products or products substantially similar to Covered Products that imposes a different injunctive relief from what is set forth in this Consent Judgment, Settling Defendant may seek to modify Section 3 of this Consent Judgment to conform with the injunctive relief provided in such judgment. CEH may oppose such modification, if good cause exists for such opposition.

6.2 **Notice; Meet and Confer.** Any Party seeking to modify this Consent Judgment shall attempt in good faith to meet and confer with all affected Parties prior to filing a motion to modify the Consent Judgment.

1 **7. CLAIMS COVERED AND RELEASE**

2 7.1 Provided that Settling Defendant complies in full with its obligations under
3 Section 5 hereof, this Consent Judgment is a full, final, and binding resolution of all claims
4 arising under Proposition 65 relating to alleged exposure to lead from Covered Products as to all
5 claims pursuant to Health and Safety Code § 25249.7(d) that were raised or could have been raised
6 in the Notices or Action, arising from the failure to warn under Proposition 65 regarding the presence
7 of lead in Covered Products, between CEH on behalf of itself and the public interest and Settling
8 Defendant and its parents, owners, members, managers, representatives, divisions, subdivisions,
9 subsidiaries, affiliated entities that are under common ownership, directors, officers, employees,
10 agents, shareholders, successors, assigns, and attorneys (“Defendant Releasees”), and all entities
11 from whom Settling Defendant directly or indirectly purchases or sources Covered Products or to
12 whom Settling Defendant distributes or sells Covered Products, including but not limited to any
13 and all distributors, wholesalers, customers, retailers, franchisees, licensors, and licensees
14 (“Downstream Defendant Releasees”), of any violation of Proposition 65 based on failure to warn
15 about alleged exposure to lead contained in Covered Products that were sold, distributed, or
16 offered for sale by Settling Defendant prior to the Compliance Date.

17 7.2 Provided that Settling Defendant complies in full with its obligations under
18 Section 5 hereof, CEH, for itself, its agents, successors and assigns, releases, waives, and forever
19 discharges any and all claims against Settling Defendant, Defendant Releasees, and Downstream
20 Defendant Releasees arising from any violation of Proposition 65 or any other statutory or
21 common law claims that have been or could have been asserted by CEH regarding the failure to
22 warn about exposure to lead arising in connection with Covered Products manufactured,
23 distributed, or sold by Settling Defendant prior to the Compliance Date.

24 7.3 Provided that Settling Defendant complies in full with its obligations under
25 Section 5 hereof, compliance with the terms of this Consent Judgment by Settling Defendant
26 shall constitute compliance with Proposition 65 by Settling Defendant, Defendant Releasees, and
27 Downstream Defendant Releasees with respect to any alleged failure to warn about lead in
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Covered Products manufactured, distributed, or sold by Settling Defendant after the Compliance Date except as to any retailer who fails to provide warning Defendant provided to such retailer pursuant to this Consent Judgment in a manner consistent with the requirements of this Consent Judgment.

8. PROVISION OF NOTICE

8.1 When CEH is entitled to receive any notice under this Consent Judgment, the notice shall be sent by first class and electronic mail to:

Patrick Carey
Lexington Law Group, LLP
503 Divisadero Street
San Francisco, CA 94117
pcarey@lexlawgroup.com

8.2 When Settling Defendant is entitled to receive any notice under this Consent Judgment, the notice shall be sent by first class and electronic mail to:

Yamaha Corporation of America
Attn: Legal Services
6600 Orangethorpe Avenue
Buena Park, CA 90620
legalservices@yamaha.com

Any Party may modify the person and/or address to whom the notice is to be sent by sending the other Party notice by first class and electronic mail.

9. COURT APPROVAL

9.1 This Consent Judgment shall become effective upon the date signed by CEH and Settling Defendant, whichever is later, provided however, that CEH shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant shall support entry of this Consent Judgment by the Court.

9.2 If this Consent Judgment is not entered by the Court, it shall be of no force or effect and shall not be introduced into evidence or otherwise used in any proceeding for any purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

1 **10. GOVERNING LAW AND CONSTRUCTION**

2 10.1 The terms of this Consent Judgment shall be governed by the laws of the State of
3 California.

4 **11. ATTORNEYS' FEES**

5 11.1 Except as provided in Section 11.2, should CEH prevail on any motion,
6 application for an order to show cause, or other proceeding pursuant to this Consent Judgment,
7 CEH shall be entitled to its reasonable attorneys' fees and costs incurred as a result of such
8 motion or application.

9 11.2 Should CEH prevail on any motion or application for enforcement of the
10 injunctive provisions pursuant to Section 3, and Settling Defendant had provided to CEH, before
11 it filed such motion or application, a test report either (i) from a sample of the Covered Product
12 taken prior to the issuance of the Notice of Violation, or (ii) from the sample of the Covered
13 Product that forms the basis of the Notice of Violation that was provided to the Settling
14 Defendant by CEH, then CEH may be awarded its reasonable attorneys' fees and costs only upon
15 a finding by the Court that the Settling Defendant's opposition to the motion or application
16 lacked substantial justification. For purposes of this Consent Judgment, the term substantial
17 justification shall carry the same meaning as used in the Civil Discovery Act of 1986, Code of
18 Civil Procedure §§ 2016, *et seq.*

19 11.3 Should Settling Defendant prevail on any motion, application for an order to show
20 cause, or other proceeding, Settling Defendant may be awarded its reasonable attorneys' fees and
21 costs against CEH as a result of such motion or application upon a finding by the Court that
22 CEH's prosecution of the motion or application lacked substantial justification.

23 11.4 Except as otherwise provided in this Consent Judgment, each party shall bear its
24 own attorneys' fees and costs.

25 11.5 Nothing in this Section 11 shall preclude a Party from seeking an award of
26 sanctions pursuant to law.

1 **12. ENTIRE AGREEMENT**

2 12.1 This Consent Judgment contains the sole and entire agreement and understanding
3 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
4 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein
5 and therein. There are no warranties, representations, or other agreements between the Parties
6 except as expressly set forth herein. No representations, oral or otherwise, express or implied,
7 other than those specifically referred to in this Consent Judgment have been made by any Party
8 hereto. No other agreements not specifically contained or referenced herein, oral or otherwise,
9 shall be deemed to exist or to bind any of the Parties hereto. Any agreements specifically
10 contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the
11 Parties hereto only to the extent that they are expressly incorporated herein. No supplementation,
12 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in
13 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent
14 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof
15 whether or not similar, nor shall such waiver constitute a continuing waiver.

16 **13. RETENTION OF JURISDICTION**

17 13.1 This Court shall retain jurisdiction over this matter to implement or modify the
18 Consent Judgment.

19 **14. AUTHORITY TO STIPULATE TO CONSENT JUDGMENT**

20 14.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
21 by the Party he or she represents to stipulate to this Consent Judgment and to enter into and
22 execute the Consent Judgment on behalf of the Party represented and legally to bind that Party.

23 **15. SUCCESSORS AND ASSIGNS**

24 15.1 This Consent Judgment shall apply to and be binding upon CEH and Settling
25 Defendant, and their respective divisions, subdivisions, and subsidiaries, and the successors or
26 assigns of any of them.

16.1 Nothing in this Consent Judgment shall preclude CEH from resolving any claim against an entity that is not Settling Defendant on terms that are different from those contained in this Consent Judgment.

17.1 The stipulations to this Consent Judgment may be executed in counterparts and by means of facsimile or portable document format (pdf), which taken together shall be deemed to constitute one document.

Dated: _____

Judge of the Superior Court

Dated: May 8, 2025 **CENTER FOR ENVIRONMENTAL HEALTH**

Signature _____

Kizzy Charles-Guzman
Printed Name

CEO
Title

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Dated: May 6, 2025

YAMAHA CORPORATION OF AMERICA

DocuSigned by:

2FAC053172884EE...
Signature

Thomas L. Sumner
Printed Name

President
Title