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Attorneys for Plaintiff
The Chemical Toxin Working Group Inc.
doing business as Healthy Living Foundation Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
STANLEY MOSK COURTHOUSE

THE CHEMICAL TOXIN WORKING
GROUP INC., a California non-profit
corporation, doing business as HEALTHY
LIVING FOUNDATION INC.

Plaintiff,

v.

RAPPAHANNOCK RIVER OYSTERS,
LLC a Virginia limited liability company;
and DOES 1-80,

Defendants.

Case No. 23STCV19296

[PROPOSED] CONSENT JUDGMENT

Reservation No.: 516612140188

Date : April 15, 2025

Time : 9:30 a.m.

Dept. : 12

Judge: Hon. Barbara A. Meiers

Trial Date: November 1, 2024

1 **CONSENT JUDGMENT AND STIPULATION**

2
3 **INTRODUCTION**

4 The Parties to this Consent Judgment are The Chemical Toxin Working Group Inc.
5 Doing business as Healthy Living Foundation Inc. (“Plaintiff”), Defendant Rappahannock
6 River Oysters, LLC (“RRO”), and prospective defendant Rapp Bar DTLA LLC (“Rapp Bar”).
7 (RRO and Rapp Bar are collectively referred to herein as “Defendants.”) Plaintiff and
8 Defendants (collectively, the “Parties” and individually, a “Party”) enter into this Consent
9 Judgment (“Consent Judgment”) to settle claims asserted by Plaintiff against Defendants as set
10 forth in the Complaint.
11

12 1.1. Defendant RRO allegedly manufactured, distributed, and/or sold the RRO
13 Covered Products. Defendant Rapp Barr allegedly sold the Rapp Bar Products.
14

15 1.2. On November 18, 2022, Plaintiff served a 60-day notice of violation of
16 Proposition 65 on the California Attorney General, the District Attorneys of every
17 county in California, the City Attorneys of every California city with a population
18 greater than 750,000, and to RRO, alleging that RRO violated Proposition 65 by
19 exposing persons in California to “Cadmium, Lead and lead compounds” in (1)
20 Rappahannock River Oysters® (sweet), SKU: rappahannock-river-oysters, (2)
21 Rochambeau Oysters™ – mild, SKU: stingray-oysters, (3) Olde Salt Oysters™ –
22 briny, SKU: olde-salt-oysters, and (4) Olde Salt Clams™, SKU: olde-salt-clams,
23 without first providing a clear and reasonable Proposition 65 warning (the “First
24 Notice”). The First Notice is designated with Attorney General number **2022-02792**.
25
26 No public prosecutor has filed a complaint against Defendants with regard to th]]]]ese
27
28

1 products (the “First Notice Products”), or the alleged violations. RRO received the
2 First Notice on November 28, 2022.

3 1.3 On February 26, 2024, Plaintiff served a 60-day notice of violation of
4 Proposition 65 on the California Attorney General, the District Attorneys of every
5 county in California, the City Attorneys of every California city with a population
6 greater than 750,000, and to Defendants, alleging that Defendants violated Proposition
7 65 by exposing persons in California to “Lead and lead compounds and cadmium” in (1)
8 Rappahannock River Oysters and (2) Olde Salt Oysters, without first providing a clear
9 and reasonable Proposition 65 warning (the “Second Notice”). The Second Notice is
10 designated with Attorney General number 2024-00781. No public prosecutor has filed a
11 complaint against Defendants with regard to these products (the “Second Notice
12 Products”). RRO and Rapp Bar received the Second Notice on March 14, 2024.
13

14 1.4 On March 4, 2024, Plaintiff served a 60-day notice of violation of Proposition
15 65 on the California Attorney General, the District Attorneys of every county in
16 California, the City Attorneys of every California city with a population greater than
17 750,000, and to Defendants, alleging that Defendants violated Proposition 65 by
18 exposing persons in California to the Cadmium and Lead in (1) Unshucked Baja Oysters
19 and (2) Bay Scallop without first providing a clear and reasonable Proposition 65
20 warning (the “Third Notice”). The Third Notice is designated with Attorney General
21 number 2024-00885. No public prosecutor has filed a complaint against Defendants
22 with regard to Unshucked Baja Oysters and Bay Scallop. RRO and Rapp Bar received
23 the Third Notice on March 14, 2024.
24

25 1.5 The “Notices” mean the First, Second and Third Notices.
26
27

1.6 For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over the allegations of violations contained in the Notices and Complaint and personal jurisdiction over Defendants as to the acts alleged in the Notices and Complaint, that venue is proper in the County of Los Angeles, and that this Court has jurisdiction to enter and enforce this Consent Judgment as a full and final resolution of all claims which were or could have been asserted in the Complaint based on the facts alleged therein and in the Notices with respect to Covered Products manufactured, distributed, and/or sold by or on behalf of Defendants. Additionally, for purposes of this Consent Judgment, Defendants are deemed persons in the course of doing business in California and subject to the provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.5 et seq. (“Proposition 65”).

1.7 Defendants deny the allegations in the Notices and Complaint. Nothing in this Consent Judgment is or shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law. 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.

DEFINITIONS

2.1 The “Complaint” means the operative complaint filed on July 10, 2024, in the above-

captioned matter.

2.2 The “Covered Product(s)” means the First Notice Products, Second Notice Products, and Third Notice Products allegedly sold or supplied by the Defendants

2.3 The “Listed Chemical(s)” means lead, lead compounds, and cadmium.

2.4 The term ‘Daily Exposure Level’ shall have the meaning set forth in the applicable regulations and case law.

2.5 The Maximum Allowable Dose Level (“MADL”) for Cadmium is the ingestion of more than 4.1 µg of cadmium per day, based on the Daily Exposure Level defined in Section 2.4 above.

2.6 The MADL for Lead is the ingestion of more than 0.5 µg of lead per day, based on the Daily Exposure Level defined in Section 2.4 above.

2.7 The “Effective Date” means the date on which Defendants receive Notice of Entry of this Consent Judgment as a Judgment of the Court.

2.8 “Compliance Date” refers to the date that is thirty (30) days after the effective date.

2.9 “Distributor” is any entity or individual that sells Covered Products into the State of California.

2.10 The term “Reasonably Foreseeable” means that a reasonable inquiry would have revealed to Defendants that a Distributor is likely to sell Covered Products to California. Some, but not all examples of such circumstances, include: where the Distributor is known to sell products online/over the internet, telephone, telephone applications (apps), or mail-order; maintains or intends to maintain storage, warehouse(s), brick-and-mortar retail establishment(s) located in California or near California.

2.11 The term "Distributing into the State of California" or “Distributes 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 is reasonably foreseeable to the Defendants to sell the Covered Product into California. This does not apply to any Covered Product that has left the possession of the Defendants.

INJUNCTIVE RELIEF

3.1 Any Covered Products that a Defendant distributes into the State of California after the Compliance Date, shall either (1) comply with the warning requirements of Section 3.2 or (2) meet the reformation requirements under Section 3.3.

3.2 Warnings for Covered Products that require a Proposition 65 warning under this Consent Judgment, the warning must follow these requirements:

3.2.1. Warning Statement – The warning statement must comply with either Option 1, 2, or 3 below.

A) Option 1, Long-Form Warning:

WARNING: Consuming this product can expose you to chemicals including lead and cadmium, which are 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.

B) Option 2, Short-Form Warning that can be used until January 1, 2028:

The font size of this short-form warning must be a minimum of 6 points, and cannot be smaller than the largest size font used for other consumer information (as defined in 27 Cal. Code Regs. § 25600.1(c)) included on the label:

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

The Option 2 Short-Form Warning can be used before January 1, 2028

C) Option 3, Short -Form Warning compliant after January 1, 2025:

WARNING: Risk of cancer and reproductive harm from exposure to lead and cadmium.

See www.P65Warnings.ca.gov/food.

The Option 3 Short-Form Warning can be used before and/or after January 1, 2028.

3.2.3 Warning Method of Transmission

3.2.3.1 The term “WARNING” shall be in bold and capitalized.

3.2.3.2 The warning statement shall be prominently displayed for the Covered Products (1) on the label of the Covered Product, or (2) on a placard, shelf tag, or sign, provided that the statement is displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual prior to sale.

3.2.3.3 The warning statement on the Covered Product’s label must be set off from other surrounding information and enclosed in a text box.

3.2.3.4 If the warning statement is displayed on a placard, shelf tag, or sign where the Covered Product is offered for sale in a physical store, the warning placard or sign must enable an ordinary individual to determine which Covered Products the warning applies to.

3.2.3.5 Where the Covered Products’ sign, label, or shelf tag used to provide a warning includes consumer information about a product in a language other than English, the warning must also be provided in that language in addition to English.

3.2.3.6 The Parties agree that the Label Warning pictured in Exhibit A satisfies the requirements of Sections 3.2.2 and 3.2.3 above and all California statutory and regulatory requirements.

3.2.4 For any Covered Product sold by a Defendant over the internet, the warning shall also, in addition to the warning required in Sections 3.2.2 and 3.2.3 above, be

1 prominently displayed as follows: (a) on the primary display page for the Covered
2 Product, immediately following the Covered Product display or description; (b) as a
3 clearly marked hyperlink using the word “WARNING” in all capital and bold letters on
4 the Covered Product’s primary display page; (c) on the checkout page or any other page
5 in the checkout process when a California delivery address is indicated for any purchase
6 of any Covered Product and with the warning clearly associated with the Covered
7 Product to indicate that the product is subject to the warning; or (d) by otherwise
8 prominently displaying the warning to the purchaser prior to completing the purchase. If
9 the warning is provided using the short form warning label content pursuant to Section
10 3.4.2(B) above, the warning provided on the website may use the same content. For a
11 Defendant’s internet/online sales, in addition to the online warning described above, the
12 Defendant must also ensure a warning meeting the requirements of Section 3.2.2 appears
13 on the label or packaging of the Covered Product.
14

15
16 3.2.4.1 The Parties agree that the Internet Warning pictured in Exhibit B satisfies the
17 requirements of Section 3.2.4 and all California statutory and regulatory requirements.
18

19 3.2.5 For any Covered Product that a Defendant is selling directly to the public for
20 consumption in a restaurant in California, the warnings specified above shall not apply.
21 Instead, the following warning shall be prominently displayed on the restaurant menu:
22 “WARNING Certain foods and beverages sold or served here can expose you to
23 chemicals including acrylamide in many fried or baked foods, mercury in fish, and
24 cadmium and lead in shellfish, which are known to the State of California to cause
25 cancer and birth defects or other reproductive harm. For more information go to
26 www.p65warnings.ca.gov/restaurant.”
27

1 3.2.5.1 The Parties agree that the Menu Warning pictured in Exhibit C satisfies the
2 requirements of Section 3.2.5 and all California statutory and regulatory requirements.

3 3.2.6 For any Covered Product that a Defendant is not Distributing into the State of
4 California, but that the Defendant sells to any entity for the known purpose of resale into
5 the State of California, the Defendant shall provide the written notice attached hereto as
6 Exhibit D. Confirmation of receipt of the notice must be received electronically or
7 otherwise in writing from the entity or an authorized agent for the entity to which the
8 Defendant sent the notice.
9

10 **3.3 Reformulated Covered Products; Testing**

11 3.3.1 Beginning as of the Effective Date, Defendants shall not Distribute into the State
12 of California Covered Products that do not meet the warning requirements under Section
13 3.2 above, unless such Covered Products have Compliant test results for the cadmium
14 and lead pursuant to this Section 3.3. Compliant test results are concentrations at or
15 below the MADLs set forth in Sections 2.5 and 2.6 above.
16

17 3.3.2 For purposes of determining if a warning is required pursuant to Section 3.2, the
18 average cadmium and lead concentrations of six (6) samples of the Covered Products
19 randomly selected from different lot numbers by Defendants (or from as many lots as are
20 available for testing if there are fewer than six (6)) will be determined. HLF reserves the
21 right to test reformulated products and, if the results are violative of Section 3.3.1, assert
22 any new claims that may arise, subject to the provisions of Section 5, for any Covered
23 Products that are not properly labeled pursuant to Section 3.2 above.
24

25 3.3.3 All testing pursuant to this Consent Judgment shall be performed using a
26 laboratory method that complies with the performance and quality control factors
27

appropriate for the method used, including limit of detection, limit of quantification, accuracy, and precision and meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) achieving a limit of quantification of less than or equal to 0.010 mg/kg, or any other testing method subsequently agreed upon in writing by the Parties.

3.3.4 All testing pursuant to this Consent Judgment shall be performed by an independent third party laboratory accredited to perform lead testing using the methodology in Section 3.3.4. Testing shall be performed prior to a Defendant's first distribution into California or sale in California of any Covered Product produced or purchased by the Defendant after the Compliance Date, and testing shall continue at least once per year for two consecutive years after the Compliance Date.

3.3.5 The requirements of Section 3.3 do not apply to any of the Covered Products for which a Defendant has provided a warning as specified in Section 3.2. For any Covered Products that Defendants have currently in their possession and control as of the Effective Date that do not meet the requirements of Section 3.3.1, Defendants shall not Distribute into the State of California these Covered Products, unless they contain a warning pursuant to Section 3.2.

3.4 Modification of Injunctive Relief – If regulations or legislation are enacted or issued, which affect the injunctive relief provisions of this Consent Judgment at Section 3, Defendants may thereafter seek to modify this Consent Judgment, per Section 9 of the Agreement, as to adopt those injunctive terms and comply with them instead of those presently set forth in Section 3. If Defendants seeks to adopt different injunctive terms, it shall provide notice to Plaintiff consistent with Section 9 of this Consent Judgment, and

1 Plaintiff agrees to meet and confer in accordance with that provision.

2 **SETTLEMENT PAYMENT**

- 3
- 4 4. Total Settlement Amount: Within ten (10) calendar days of the Effective Date,
- 5 Defendants shall make a total payment of \$190,000.00 (“Total Settlement Amount”) in
- 6 full satisfaction of all potential civil penalties, additional settlement payments, attorney’s
- 7 fees and costs (including, but not limited to, fees and costs incurred by attorneys, experts,
- 8 and investigators), pursuant to Section 4.3 as indicated below.

9 4.1 Allocation: The Total Settlement Amount shall be apportioned and paid by

10 Defendants as follows:

11

12 4.1.1. Civil Penalty. \$40,700 shall be considered a civil penalty pursuant to

13 California Health and Safety Code section 25249.7(b)(1), of which Plaintiff shall remit

14 seventy-five percent (75%) to the “Safe Drinking Water and Toxic Enforcement Fund”

15 managed by the State of California’s Office of Environmental Health Hazard

16 Assessment. Plaintiff shall retain twenty-five percent (25%), of the civil penalty pursuant

17 to California Health and Safety Code section 25249.12(d).

18

19 4.1.2. Additional Settlement Payment. \$30,500 shall be distributed to Plaintiff

20 as an Additional Settlement Payment (“ASP”), pursuant to California Code of

21 Regulations, title 11, sections 3203, subdivision (d) and 3204. Plaintiff will use this

22 payment as follows: Eighty percent (80%) for fees of investigation, purchasing and

23 testing for Proposition 65 listed chemicals in various products, and for expert fees for

24 evaluating exposures through various mediums, including but not limited to consumer

25 product, occupational, and environmental exposures to Proposition 65 listed chemicals,

26 and the cost of hiring consulting and retaining experts who assist with the extensive

27

1 scientific analysis necessary for those files in litigation and to offset the costs of future
2 litigation enforcing Proposition 65 but excluding attorney fees; for publishing periodicals
3 and other medias regarding public awareness about the issue of environmental pollution
4 and presence of Proposition 65 chemicals in the environment and consumer products;
5 donations and supplies, including but not limited to, water filters and air filters for public
6 schools and communities, to regions impoverished by industrial pollution. And twenty
7 percent (20%) for administrative costs incurred during investigation and litigation to
8 reduce the public's exposure to Proposition 65 listed chemicals by notifying those
9 persons and/or entities believed to be responsible for such exposures and attempting to
10 persuade those persons and/or entities to reformulate their products or the source of
11 exposure to completely eliminate or lower the level of Proposition 65 listed chemicals
12 including but not limited to costs of documentation and tracking of products
13 investigated, storage of products, website enhancement and maintenance, computer and
14 software maintenance, investigative equipment, Plaintiff's member's time for work done
15 on investigations, office supplies, mailing supplies, service, and postage. Within 30 days
16 of a request from the Attorney General, Plaintiff shall provide to the Attorney General
17 copies of documentation demonstrating how the above funds have been spent. Plaintiff
18 shall be solely responsible for ensuring the proper expenditure of such additional
19 settlement payment.

20
21
22
23 4.1.3. Attorneys' Fees. Defendants shall pay \$118,800 to Poulsen Law P.C. (herein
24 "Poulsen Law") as reimbursement of Plaintiff's attorney's fees and costs, including but
25 not limited to expert and investigative costs, incurred in bringing this action.

26 4.2 Delivery of Payment

4.2.1 Defendants shall pay the Total Settlement Amount by wire transfer to Plaintiff counsel's escrow account, for which Plaintiff's counsel will give Defendants the necessary account information.

4.2.2. Plaintiff shall be solely responsible for allocating the Total Settlement Amount pursuant to Section 4. Upon request, Plaintiff or its legal counsel shall supply Defendants with a completed W-9 form.

4.2.3. In the event that Defendants fail to remit the Total Settlement Amount owed under Section 4 of this Consent Judgment on or before the due date in Section 4.1, Defendants shall be deemed to be in material breach of its obligations under this Consent Judgment. Plaintiff shall provide written notice of the delinquency to Defendants via electronic mail. If Defendants fails to deliver the Total Settlement Amount within seven (7) days from the written notice, the Total Settlement Amount shall accrue interest at the statutory judgment interest rate provided in the California Code of Civil Procedure section 685.010. Additionally, Defendants agrees to pay Plaintiff's reasonable attorney's fees and costs for any efforts to collect the payment due under this Consent Judgment.

ENFORCEMENT

5.1 The Parties agree that any legal action to enforce this Consent Judgment shall be brought in Los Angeles County Superior Court. The Parties agree that Los Angeles County Superior Court has subject matter jurisdiction over the enforcement of this Consent Judgment and personal jurisdiction over Plaintiff and Defendants, and that venue is proper in Los Angeles County. Plaintiff and Defendants have the exclusive right to enforce the

1 terms of the Consent Judgment. They may enforce any of the terms and conditions of this
2 Consent Judgment only after that Party first provides thirty (30) days' notice to the other
3 Party identifying a material noncompliance with the terms and conditions of this Consent
4 Judgment (a "Notice of Violation of the Terms of the Consent Judgment") and attempts to
5 resolve such Party's failure to comply in a good faith manner, subject to the specific
6 provisions outlined below. Notwithstanding the immediately preceding sentence, Plaintiff
7 may bring a motion or an action to enforce any breach of the settlement payment terms in
8 Section 4 upon five (5) business days written notice by Plaintiff to the Defendants after
9 Plaintiff follows the notice procedures.
10

11
12 5.2 Prior to bringing any motion, order to show cause, or other proceeding to
13 enforce the terms of this Consent Judgment other than for failure to make payment, Plaintiff
14 or Defendants shall serve the Notice of Violation of the Terms of the Consent Judgment
15 ("NOV") via electronic mail to the Parties identified in Section 10. If the subject of the
16 NOV concerns Covered Products, the NOV shall include for the Covered Product(s): the
17 date(s) the alleged violation(s) was observed and the location at which the Covered
18 Products were offered for sale and shall be accompanied by all test data and pictures of the
19 Covered Products obtained by Plaintiff, and any other evidence or support for the
20 allegations in the NOV.
21

22 5.3 For a NOV concerning Covered Products, Defendants shall, within thirty
23 (30) days following service of such NOV, provide Plaintiff with documentation that
24 meets the following conditions:
25

26 5.3.1 The Covered Products were shipped by Defendants for sale in California
27 before the Effective Date or are otherwise exempt, and
28

1 5.3.2 Since receiving the NOV, Defendants has taken corrective action by
2 either (i) requesting, in writing, with receipt confirmation, that its customers or stores in
3 California, as applicable, remove the Covered Products identified in the NOV from sale
4 in California and destroy or return the identified Covered Products to Defendants or
5 vendor, as applicable, or (ii) providing a clear and reasonable warning for the Covered
6 Products identified in the NOV pursuant to Section 3 above.

7
8 5.4 Plaintiff shall take no further action to enforce the alleged violation(s) of this
9 Consent Judgment if the documentation called for in this section satisfies the requirements
10 of Sections 5.3.1 or 5.3.2 above.

11 5.5 After thirty (30) days pass from the date Plaintiff serves an NOV, if a dispute
12 remains as to compliance with the terms and conditions of this Consent Judgment, the
13 Parties shall meet and confer pursuant to Section 13.1 below to resolve the matter for a
14 period of no less than an additional thirty (30) days during which time Defendants may
15 cure any purported deficiency. Should the purported deficiency not be cured, then after
16 the additional thirty (30) days, Plaintiff may take any further legal action to enforce this
17 Consent Judgment.
18

19 **BINDING EFFECT: CLAIMS COVERED AND RELEASED**
20

21 6.1 This Consent Judgment is a full, final, and binding resolution between Plaintiff,
22 on behalf of itself and in the public interest, and its respective principals, officers, directors,
23 employees, parents, subsidiaries, executors, administrators, successors, and assigns, on the
24 one hand, and Defendants, on behalf of themselves, and their respective owners, principals,
25 shareholders, officers, directors, employees, parent companies, subsidiaries, heirs, executors,
26 divisions, administrators, predecessors, successors and assigns, on the other, of any alleged
27

1 violation of Proposition 65 or its implementing regulations for failure to provide Proposition
2 65 warnings up through the Effective Date for exposure to the Listed Chemical from the
3 import, manufacturing, marketing, distribution, sale or offering for sale, handling, use or
4 consumption of the Covered Products, and fully resolves all claims that have been asserted
5 or could have been asserted based on the Notices or in the Complaint, for failure to provide
6 Proposition 65 warnings. Plaintiff hereby releases, waives all claims against, and discharges
7 Defendants, their respective owners, principals, shareholders, officers, directors, employees,
8 parent companies, subsidiaries, suppliers, franchisees, licensees, customers, distributors,
9 wholesalers, retailers and any of Defendants' suppliers (only for ingredients or components
10 used by Defendants to make the Covered Products), and downstream entities in the
11 distribution chain for the Covered Products, and the predecessors, successors and assigns of
12 any of them (collectively, "Released Parties"), for and from any and all claims, actions,
13 causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses
14 related to any alleged violation of Proposition 65 or its implementing regulations arising
15 from any failure to provide Proposition 65 warnings for exposure to the Listed Chemicals in
16 the Covered Products up through the Effective Date.

19 6.2 Plaintiff, on its own behalf only, on the one hand, and Defendants, on their own
20 behalf only, on the other hand, further waive and release any and all claims they may have
21 against each other for all actions or statements made or undertaken in the course of seeking
22 or opposing enforcement of Proposition 65 in connection with the Notices and Complaint.

24 6.3 It is possible that other claims not known to the Parties, arising out of the facts
25 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or
26 be discovered. Plaintiff on behalf of itself only, and Defendants on behalf of themselves

only, acknowledge that this Consent Judgment is expressly intended to cover and include all such claims up through and including the Effective Date, including all rights of action therefor. Plaintiff and Defendants acknowledge that the claims released in Sections 6.1 and 6.2 above may include unknown claims, and nevertheless waive California Civil Code section 1542 and any federal or state law of similar effect as to any such unknown claims. California Civil Code section 1542 reads as follows:

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.

6.4 Plaintiff on behalf of itself only, and Defendants on behalf of themselves only, acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

6.5 The Parties agree that compliance with the terms of this Consent Judgment shall constitute compliance by any Released Party with Proposition 65 regarding alleged exposures to the Listed Chemicals in the Covered Products manufactured, purchased, distributed, or sold by Defendants after the Effective Date. This release shall not apply to any entity who received a written notice pursuant to paragraph 3.2.6 and fails to provide a warning as indicated in Exhibit D.

6.6 Public Benefit. It is the Parties' understanding that the commitments Defendants have agreed to herein, and actions to be taken by Defendants under this Consent Judgment, would confer a significant benefit to the general public, as set forth in Code of Civil

1 Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of the
2 Parties that to the extent any other private party initiates an action alleging a violation of
3 Proposition 65 with respect to Defendants' or Releasees' failure to provide a warning
4 concerning exposure to the Listed Chemicals prior to use of the Products Defendants have
5 manufactured, distributed, sold, or offered for sale in California, or will manufacture,
6 distribute, sell, or offer for sale in California, such private party action would not confer a
7 significant benefit on the general public as to those Products addressed in this Consent
8 Judgment, provided that Defendants are in material compliance with this Consent Judgment
9

10 **SEVERABILITY OF UNENFORCEABLE PROVISIONS**

11
12 7.1 In the event that any of the provisions of this Consent Judgment are held by a
13 court to be unenforceable, the validity of the remaining enforceable provisions shall not
14 be adversely affected.

15 **GOVERNING LAW**

16
17 8.1. The terms and conditions of this Consent Judgment shall be governed by and
18 construed in accordance with the laws of the State of California.

19 **9. MODIFICATION**

20
21 9.1 This Consent Judgment after its entry by the Court may be modified by
22 stipulation of the Parties with the approval of the Court or by an order of this Court on
23 noticed motion by a Party in accordance with law. Any Party seeking to modify this
24 Consent Judgment must notify the other Party in writing, and the Parties shall thereafter
25 attempt in good faith to meet and confer with the other Party prior to filing a motion to
26 modify the Consent Judgment. If the Parties are unable to resolve their dispute
27

1 informally within sixty (60) days after the date of the written notification, the Party that
2 issued the written notification to seek the modification may bring a motion or proceeding
3 to seek judicial relief as to the requested modification.

4
5 9.2 In any stipulated modification to the Consent Judgment, the Party requesting the
6 modification shall prepare the draft motion or application to modify the Consent
7 Judgment.

8 **PROVISION OF NOTICE**

9
10 10.1 All notices required to be given to either Party to this Consent Judgment by the
11 other shall be in writing and sent to the following agents listed below via both email and
12 first-class mail.

13 For Plaintiff:
14 Aida Poulsen
15 Poulsen Law P.C.
16 15303 Ventura Blvd., 9th Floor
17 Sherman Oaks, CA 91403
18 Tel: + 1(650) 296 1014 Direct
19 contact@poulsenlaw.org

20 For Defendants:
21 Jonathan Welner
22 Crowell & Moring, LLC
23 3 Embarcadero Center, 26th Floor
24 San Francisco, CA 94111
25 Telephone: 415-986-2800
26 jwelner@crowell.com

27 **EXECUTION AND COUNTERPARTS**

28 11.1 This Consent Judgment may be executed in counterparts, which taken together
shall be deemed to constitute one document. A facsimile or .pdf signature shall be
construed to be as valid as the original signature.

1 **DRAFTING**

2
3 12.1 The terms of this Consent Judgment have been reviewed by the respective
4 counsel for each Party prior to its signing, and each Party has had an opportunity to fully
5 discuss the terms and conditions with legal counsel. The Parties agree that, in any
6 subsequent interpretation and construction of this Consent Judgment, no inference,
7 assumption, or presumption shall be drawn, and no provision of this Consent Judgment
8 shall be construed against any Party, based on the fact that one of the Parties and/or one
9 of the Parties' legal counsel prepared and/or drafted all or any portion of the Consent
10 Judgment. It is conclusively presumed that all of the Parties participated equally in the
11 preparation and drafting of this Consent Judgment.
12

13 **GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

14
15 13.1 If a dispute arises with respect to either Party's compliance with the terms of this
16 Consent Judgment, the Parties shall meet and confer in person, by telephone, and/or in
17 writing, and endeavor to resolve the dispute in an amicable manner. No action or motion
18 may be filed in the absence of such a good faith attempt to resolve the dispute
19 beforehand.
20

21 **ENTIRE AGREEMENT, AUTHORIZATION**

22 14.1 This Consent Judgment contains the sole and entire agreement and
23 understanding of the Parties with respect to the entire subject matter herein, and any and all
24 prior discussions, negotiations, commitments, and understandings related hereto. No
25 representations, oral or otherwise, express or implied, other than those contained herein have
26 been made by any Party. No other agreements, oral or otherwise, unless specifically referred
27
28

1 to herein, shall be deemed to exist or to bind any Party.

2 14.2 Each signatory to this Consent Judgment certifies that he or she is fully
3 authorized by the Party he or she represents to stipulate to this Consent Judgment.
4

5 **COURT APPROVAL**

6
7 15.1 Plaintiff shall file a motion seeking approval of this Consent Judgment pursuant
8 to California Health & Safety Code § 25249.7(f). Upon entry of the Consent Judgment,
9 Plaintiff and Defendants waive their respective rights to a hearing or trial on the allegations
10 of the Complaint.

11 15.2 The Parties shall make all reasonable efforts possible to have the Consent
12 Judgment approved by the Court. For purposes of this Section, “reasonable efforts” shall
13 include, at minimum, cooperating with the drafting and filing of the necessary moving
14 papers, and supporting the motion for judicial approval.
15

16 15.3 If this Consent Judgment is not approved in full by the Court, (a) this Consent
17 Judgment and any and all prior agreements between the Parties merged herein shall
18 terminate and become null and void, and the actions shall revert to the status that existed
19 prior to the execution date of this Consent Judgment; (b) no term of this Consent
20 Judgment or any draft thereof, or of the negotiation, documentation, or other part or
21 aspect of the Parties’ settlement discussions, shall have any effect, nor shall any such
22 matter be admissible in evidence for any purpose in this Action, or in any other
23 proceeding; and (c) the Parties agree to meet and confer to determine whether to modify
24 the terms of the Consent Judgment and to resubmit it for approval.
25
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17. Except as specifically provided in section 4.1.3, each party shall bear its own costs and attorney fees in connection with this action.

RETENTION OF JURISDICTION

IT IS SO STIPULATED:

RAPPAHANNOCK RIVER OYSTERS,
LLC.

Signature

Printed Name

Title

1 Dated: March 7, 2025

RAPP BAR DTLA LLC

2 

3 _____
4 Signature

5 Michael Ryan Croxton

6 Printed Name

7 Member/Manager

8 Title

9 Dated: March 7, 2025

10 THE CHEMICAL TOXIN WORKING
11 GROUP INC., doing business as HEALTHY
12 LIVING FOUNDATION INC

13 

14 _____
15 Signature

16 David Steinman

17 Printed Name

18 Chief Officer

19 Title

20 **ORDER AND JUDGMENT**

21 Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is
22 approved, and Judgment is hereby entered according to its terms.

23 IT IS SO ORDERED, ADJUDGED, AND DECREED.

24 Dated: _____

25 _____
26 Judge of the Superior Court

EXHIBIT A

Label Warning

1 OF 1

PERISHABLE; KEEP REFRIGERATED.

TRAVIS
804-21
RAPPAH
784 LO
TOPPIN

DEALER DEALER DEALER DEALER DEALER DEALER

SHIP **Rappahannock Oyster Company**

PO Box 88, Topping, VA, 23169, USA
(P) (804) 204-1709
RROYSTERS.com

BRAND
Olde Salts

TRACEABILITY LOT CODE
RAP2024156MH3G

CERTIFICATION NUMBER
VA 1616 SS

ORIGINAL SHIPPER (IF OTHER THAN ABOVE)
VA 1608 SS

HARVEST DATE | START TIME
4 Jun 2024 | 6:35 am

HARVEST LOCATION
Watts Bay VA

TYPE
Oysters: Farm Raised in the USA

QUANTITY
25 Count

SIZE/CULI
Regular

CUSTOMER
Internet order

SHIP DATE
4 Jun 2024

THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE IN CHRONOLOGICAL ORDER, FOR 90 DAYS. RETAILERS DATE WHEN LAST SHELLFISH FROM THIS CONTAINER IS SOLD OR SERVED (INSERT DATE)

RETAILERS, INFORM YOUR CUSTOMERS. CONSUMING RAW OR UNDERCOOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOOD BORNE ILLNESS, ESPECIALLY IF YOU HAVE CERTAIN MEDICAL CONDITIONS.

WARNING: CONSUMING THIS PRODUCT CAN EXPOSE YOU TO CHEMICALS INCLUDING LEAD AND CADMIUM, WHICH ARE 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

PRINTED BY BLUETRACE. PERISHABLE; KEEP REFRIGERATED.

EXHIBIT B

Website Warning



RAPPAHANNOCK RIVER OYSTERS® (SWEET)

ORIGIN: *Topping, Virginia*

SPECIES: *Crassostrea virginica (native)*

SALT RANGE: *13-17 ppt.*

PACKAGING: *Shipped live, in shell, in an insulated container at a temperature between 35 and 45 degrees.*

Deep cupped and mineral rich, with an understated saltiness that lets the oyster's natural flavor come through, our Rappahannocks offer up a sweet, buttery, full-bodied taste with a refreshingly clean, crisp finish.

Do you have a question about how we ship our oysters and clams? Want to know about shelf life and storage when you receive them?

[See our Frequent Questions.](#)

California Warning (Prop 65)

⚠ WARNING: Consuming this product can expose you to chemicals including lead and cadmium, which are 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 **⚠**





RAPPAHANNOCK RIVER OYSTERS® (SWEET)

SKU: rappahannock-river-oysters

ORIGIN: *Topping, Virginia*

SPECIES: *Crassostrea virginica (native)*

SALT RANGE: *13-17 ppt.*

PACKAGING: *Shipped live, in shell, in an insulated container at a temperature between 35 and 45 degrees.*

Deep cupped and mineral rich, with an understated saltiness that lets the oyster's natural flavor come through, our Rappahannocks offer up a sweet, buttery, full-bodied taste with a refreshingly clean, crisp finish.

Do you have a question about how we ship our oysters and clams? Want to know about shelf life and storage when you receive them?

[See our Frequent Questions.](#)

California Residents: Prop 65 Warning

⚠ WARNING: Consuming this product can expose you to chemicals including lead and cadmium, which are 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 **⚠**



EXHIBIT C

Menu Warning

grilled sweet corn, chili lime butter, hot
Cheeto salt, micro cilantro - 12

CRISPY BRUSSELS SPROUTS

lemon, capers, everything spice - 16

CRISPY OYSTERS

remoulade, lemon - 17

LOBSTER MAC & CHEESE

Vermont cheddar, shell pasta - 31

RAPP FRIES

Old Bay seasoning - 8

*Add truffle - 4

KIMCHI LOCO MOCO

kimchi rice, 7oz beef patty, caramelized
onions, sunny-side up egg, loco moco sauce
- 22

MAR Y TIERRA TACOS

ribeye steak, shrimp, Chef's chapa sauce,
monterrey cheese, cabbage, side of pico de
gallo - 28

SEAFOOD PAELLA

mussels, clams, scallops, lobster, lamb
sausage, peas, carrots, saffron broth - 65

brussels, teriyaki glaze, Chef's hot sauce,
sesame seeds - 26

TUNA MELT

poached tuna, comeback sauce, celery,
lettuce, onions, country white bread - 18

FRIED SHRIMP PO' BOY

fried shrimp, cajun ranch, Napa jalapeno slaw,
tofu dressing, telera roll - 22

DESSERTS

BEIGNETS

powdered sugar & caramel dip - 14

BANANA BREAD PUDDING

with cinnamon ice cream & cajete - 14

⚠ WARNING CERTAIN FOODS AND BEVERAGES SOLD OR SERVED HERE CAN EXPOSE YOU TO CHEMICALS INCLUDING ACRYLAMIDE IN MANY FRIED OR BAKED FOODS, MERCURY IN FISH, AND CADMIUM AND LEAD IN SHELLFISH, WHICH ARE 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/RESTAURANT.

*CONSUMING RAW OR UNDERCOOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOODBORNE ILLNESS.

1318 E 7th STREET SUITE 154, LOS ANGELES, CA 90021
(navigate to ROW DTLA at 777 S Alameda Street, enter via Center Street)

Kindly Note a 20% Gratuity Will Be Applied to All Parties of 8 or More



@RAPPBARDTLA

RAPPBARDTLA.COM

EXHIBIT D

Notice to Resellers

This is to notify you that Rappahannock River Oysters (“RRO”) has entered into a settlement with The Chemical Toxin Working Group Inc. dba Healthy Living Foundation Inc. (“HLF”) regarding alleged violations of California Health and Safety Code §§ 25246.5 et seq. (“Proposition 65”) regarding the following products ‘Covered Products:’

- a. Rappahannock River Oysters (sweet) SKU: rappahannock-river-oysters
- b. Rochambeau Oysters (mild) SKU: stingray-oysters
- c. Olde Salt Oysters (briny) SKU: olde-salt-oysters
- d. Olde Salt Clams, SKU: olde-salt-clams
- e. Rappahannock River Oysters
- f. Olde Salt Oysters
- g. Unshucked Baja Oysters
- h. Bay Scallop

Under the terms of this settlement, RRO is providing the following notice to you regarding the Covered Products.

For any Covered Product sold by you or your downstream distributors, customers, retailers (collectively “Buyers”) in or to California, you or the Buyer must provide a warning to the consumer which meets the requirements of California Proposition 65.

The tag attached to the bags containing the Covered Products satisfies the requirements of Proposition 65.

If you sell the Covered Products without the tag, or if you sell the Covered Products via the internet, you must satisfy the following requirements of Proposition 65:

Content Requirements:

The warning shall be in one of the following forms:

A) Option 1, Long-Form Warning:

WARNING: Consuming this product can expose you to chemicals including lead and cadmium, which are 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.

B) Option 2, Short-Form Warning that can be used until January 1, 2028:

The font size of this short-form warning must be a minimum of 6 points and cannot be smaller than the largest size font used for other consumer information (as defined in 27 Cal. Code Regs. § 25600.1(c)) included on the label:

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

The Option 2 Short-Form Warning can be used before January 1, 2028

C) Option 3, Short -Form Warning compliant after January 1, 2025:

WARNING: Risk of cancer and reproductive harm from exposure to lead and cadmium.

See www.P65Warnings.ca.gov/food.

Method of Transmission:

The term “WARNING” shall be in bold and capitalized.

The warning statement shall be prominently displayed for the Covered Products (1) on the label of the Covered Product, or (2) on a placard, shelf tag, or sign, provided that the statement is displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual prior to sale.

The warning statement on the Covered Product’s label must be set off from other surrounding information and enclosed in a text box.

If the warning statement is displayed on a placard, shelf tag, or sign where the Covered Product is offered for sale in a physical store, the warning placard or sign must enable an ordinary individual to determine which Covered Products the warning applies to.

Where the Covered Products’ sign, label, or shelf tag used to provide a warning includes consumer information about a product in a language other than English, the warning must also be provided in that language in addition to English.

For any Covered Product sold by you over the internet, the warning shall be prominently displayed as follows: (a) on the primary display page for the Covered Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital and bold letters on the Covered Product’s primary display page; (c) on the checkout page or any other page in the checkout process when a California delivery address is indicated for any purchase of any Covered Product and with the warning clearly associated with the Covered Product to indicate that the product is subject to the warning; or (d) by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. If the warning is provided using the short-form warning label content pursuant to Section (B) above, the warning provided on the website may use the same content. For your internet/online sales, in addition to the online warning described above, you must also ensure a warning meeting the requirements of Section (A) or (B) above appears on the label or packaging of the Covered Product.

Please confirm receipt of this notice.