

1 **ENTORNO LAW, LLP**

Craig M. Nicholas (SBN 178444)

2 Noam Glick (SBN 251582)

Jake W. Schulte (SBN 293777)

3 Janani Natarajan (SBN 346770)

225 Broadway, Suite 1900

4 San Diego, California 92101

Tel: (619) 629-0527

5 Email: craig@entornolaw.com

Email: noam@entornolaw.com

6 Email: jake@entornolaw.com

Email: janani@entornolaw.com

7
8 Attorneys for Plaintiff

Environmental Health Advocates, Inc.

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

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

12 ENVIRONMENTAL HEALTH
13 ADVOCATES, INC.,

14 Plaintiff,

15 v.

16 I WON NUTRITION, CO., a Delaware
17 corporation; SPROUTS FARMERS
18 MARKET, INC., a Delaware corporation;
19 PURE NATURE FOODS, LLC, a California
20 limited liability company; and DOES 2
through 100, inclusive,

21 Defendants.

Case No. 24CV066854

[PROPOSED] CONSENT JUDGMENT

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

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between Environmental Health Advocates, Inc.,
4 (“EHA” or “Plaintiff”) and Pure Nature Foods, LLC (“Defendant” or “Pure Nature”) with EHA and
5 Pure Nature each individually referred to as a “Party” and collectively referred to as the “Parties.”

6 **1.2 Plaintiff**

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

10 **1.3 Defendant**

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

14 **1.4 General Allegations**

15 EHA alleges that Pure Nature manufactures, imports, sells, and distributes for sale I Won
16 Organics Mesquite BBQ Protein Stix that contains Mercury. EHA further alleges that Pure Nature does
17 so without providing a sufficient health hazard warning as required by Proposition 65 and related
18 Regulations. Pure Nature denies these allegations and asserts that its products are safe and in
19 compliance with all applicable laws, rules and regulations.

20 **1.5 Notice of Violation**

21 On or around October 20, 2023, EHA served I Won Nutrition, Co., Sprouts Farmers Market,
22 Inc., the California Attorney General, and all other required public enforcement agencies with a 60-
23 Day Notice of Violation of Proposition 65 (“Notice”). The Notice was subsequently amended on April
24 12, 2024, to identify Defendant Pure Nature Foods, LLC as the manufacturer. The Amended Notice
25 alleged that Pure Nature had violated Proposition 65 by failing to sufficiently warn consumers in
26 California of the health hazards associated with exposures to mercury contained in snack products,
27 including but not limited to I Won Organics Mesquite BBQ Protein Stix manufactured or processed by
28 Pure Nature that allegedly contain mercury and are imported, sold, shipped, delivered, or distributed

1 for sale to consumers in California by Releasees (as defined in section 4.1).

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

4 **1.6 Product Description**

5 The products covered by this Consent Judgment are snack products, including but not limited
6 to I Won Organics Mesquite BBQ Protein Stix manufactured or processed by Pure Nature that allegedly
7 contain mercury and are imported, sold, shipped, delivered, or distributed for sale to consumers in
8 California by Releasees (as defined in section 4.1) (“Covered Products”).

9 **1.7 State of the Pleadings**

10 On or around March 7, 2024, EHA filed a Complaint against Pure Nature for the alleged
11 violations of Proposition 65 that are the subject of the Notices (“Complaint”).

12 **1.8 No Admission**

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

21 **1.9 Jurisdiction**

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

26 **1.10 Effective Date**

27 For purposes of this Consent Judgment, the term “Effective Date” means 14 days following the date
28 on which this Consent Judgment is approved by the Court, as discussed in Section 5.

1 **1.11 Compliance Date**

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

5 **2. INJUNCTIVE RELIEF**

6 **2.1 Reformulation of the Covered Products**

7 Beginning on or before the Compliance Date, Pure Nature shall be permanently enjoined from
8 manufacturing, distributing, or directly selling in the State of California, any Covered Product that
9 exposes a person to a “Mercury Reproductive Limit” of more than 0.3 micrograms of mercury based
10 on a single serving per day unless such Covered Products comply with the warning requirements of
11 Section 2.2. The “Mercury Reproductive Limit” shall be calculated by multiplying the recommended
12 serving size in Covered Product by the concentration of mercury in Covered Products. As used in this
13 Section 2, “distributed for sale in CA” means to directly ship Covered Products into California or to
14 sell Covered Products to a distributor Pure Nature knows will sell Covered Products in California.

15 **2.2 Clear and Reasonable Warnings**

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

20 **Option 1:**

21 **WARNING:** Consuming this product can expose you to chemicals
22 including Mercury, which are known to the State of California to cause
23 birth defects or other reproductive harm. For more information, go to
www.P65Warnings.ca.gov/food.

24 **Option 2:**

25 **WARNING:** Reproductive Harm – www.P65Warnings.ca.gov.

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

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

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

19 **2.3 Sell-Through Period**

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

1 **3. MONETARY SETTLEMENT TERMS**

2 **3.1 Settlement Amount**

3 Pure Nature shall pay fifty thousand dollars (\$50,000.00) in settlement and total satisfaction of
4 all the claims referred to in the Notice(s), the Complaint, and this Consent Judgment. This includes
5 civil penalties in the amount of five thousand dollars (\$5,000.00) pursuant to Health and Safety Code
6 section 25249.7(b) and attorneys' fees and costs in the amount of forty-five thousand dollars
7 (\$45,000.00) pursuant to Code of Civil Procedure section 1021.5.

8 **3.2 Civil Penalty**

9 The portion of the settlement attributable to civil penalties shall be allocated according to Health
10 and Safety Code section 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid
11 to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining
12 twenty-five percent (25%) of the penalty paid to EHA individually. The five thousand dollars
13 (\$5,000.00) in civil penalties shall be paid as follows:

- 14
- 15 • One payment of \$3,750.00 to OEHHA, due fourteen (14) days after the Effective Date.
 - 16 • One payment of \$1,250.00 to EHA, due fourteen (14) days after the Effective date.

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

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

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

24 For United States Postal Service Delivery:

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

For Federal Express 2-Day Delivery:

Mike Gyurics
Fiscal Operations Branch Chief

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

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

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

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

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

3.3 Attorney's Fees and Costs

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

Pure Nature shall provide its payment for civil penalty and for attorneys' fees and costs to EHA's counsel by physical check or by electronic means, including wire transfers, as nine monthly installments of \$5,000.00 each, totaling \$45,000.00. Each monthly installment shall be sent to Entorno Law, LLP on or before the fifteenth (15th) calendar day of each month. The first attorney's fees payment shall be made on or before the fifteenth (15th) day of the month following the month the \$5,000.00 civil penalty payment is made.

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

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

1 **4. CLAIMS COVERED AND RELEASE**

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

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

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

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

1 **4.3 Pure Nature’s Release of EHA**

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

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

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

11 **5. COURT APPROVAL**

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

15 **6. SEVERABILITY**

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

18 **7. GOVERNING LAW**

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

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

3 **8. ENFORCEMENT**

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

6 **9. NOTICE**

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

11 If to Pure Nature:

12 Miguel Reyna
13 Pure Nature Foods, LLC
14 420 N. Pioneer Avenue
15 Woodland, CA 95776
16 mreyna@westernfoodsco.com

11 If to EHA:

12 Noam Glick
13 Entorno Law, LLP
14 225 Broadway, Suite 2100
15 San Diego, CA 92101
16 noam@entornolaw.com

15 With a copy to:

16 James R. Coelho
17 Phillips Law Partners, LLP
18 707 Wilshire Blvd., Suite 3800
19 Los Angeles, CA 90017
20 JCoelho@PhillipsLawPartners.com

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

23 **10. COUNTERPARTS; DIGITAL SIGNATURES**

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

27 **11. POST EXECUTION ACTIVITIES**

28 EHA agrees to comply with the reporting form requirements referenced in Health and Safety
Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety Code
section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement, which

1 motion EHA shall draft and file. In furtherance of obtaining such approval, the Parties agree to mutually
2 employ their reasonable best efforts, including those of their counsel, to support the entry of this
3 agreement as judgment, and to obtain judicial approval of their settlement in a timely manner. For
4 purposes of this Section, “best efforts” shall include, at a minimum, supporting the motion for approval,
5 responding to any objection that any third-party may make, and appearing at the hearing before the
6 Court if so requested.

7 **12. MODIFICATION**

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

11 **13. AUTHORIZATION**

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

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

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

19 **15. ENTIRE AGREEMENT**

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

AGREED TO:

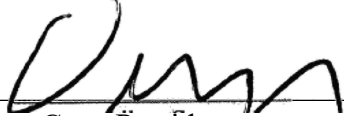
AGREED TO:

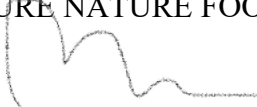
Date: 12/04/2024

Date: 12/11/2024

ENVIRONMENTAL HEALTH ADVOCATES,
INC.

PURE NATURE FOODS, LLC

By: 
Allan Cate, President

By: 
Miguel Reyna, President and Chief
Executive Officer

IT IS SO ORDERED.

Date: _____

JUDGE OF THE SUPERIOR COURT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28