

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Parties

This Settlement Agreement is entered into by and between Environmental Health Advocates, Inc. (“EHA”), on the one hand, and Pelopac Mediterranean Food Specialties (“Pelopac”), on the other hand, with EHA and Pelopac each individually referred to as a “Party” and collectively as the “Parties.” EHA alleges that it is a corporation in the State of California serving in the interest of the general public by seeking to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances used in consumer products. EHA alleges that Pelopac is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code § 25249.6 *et seq.* (“Proposition 65”).

1.2 Product Description

The products covered by this Settlement Agreement are defined as World Market Almond Stuffed Olives and World Market Roasted Red Pepper and Feta Spread sold or distributed for sale in California by Releasees (as defined in Section 4.1) (“Covered Products”).

1.3 Notices of Violation

On or around October 23, 2023, EHA served World Market Management Services, LLC and World Market, LLC (collectively, “World Market”), the California Attorney General, and certain other public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“10/23/23 Notice”). The 10/23/23 Notice alleged that World Market had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to lead contained in World Market Almond Stuffed Olives. On or around July 25, 2024, EHA served World Market, Pelopac, the California Attorney General, and certain other public enforcement agencies with an amended 60-Day Notice of Violation of Proposition 65, naming Pelopac as the manufacturer (“7/25/24 Amended Notice”).

On or around December 19, 2023, EHA served World Market, the California Attorney General, and certain other public enforcement agencies with a 60-Day Notice of Violation of

Proposition 65 (“12/19/23 Notice”). The 12/19/23 Notice alleged that World Market had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to lead contained in World Market Roasted Red Pepper and Feta Spread. On or around August 16, 2024, EHA served World Market, Pelopac, the California Attorney General, and certain other public enforcement agencies with an amended 60-Day Notice of Violation of Proposition 65, naming Pelopac as the manufacturer (“8/16/24 Amended Notice”). Hereinafter, the foregoing notices and amended notices are collectively referred to as the “Notices.”

1.4 No Admission

Pelopac denies the material factual and legal allegations of the Notices and maintains that all of the products it has manufactured, sold, and/or distributed for sale in California, including Covered Products, have been, and are, in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this Settlement Agreement be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation of law. This Section shall not, however, diminish or otherwise affect Pelopac’s obligations, responsibilities, and duties under this Settlement Agreement.

1.5 Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Settlement Agreement is executed by the Parties.

1.6 Compliance Date

For purposes of this Settlement Agreement, the term “Compliance Date” shall mean the date 90 days after this Settlement Agreement is executed by the Parties.

2. INJUNCTIVE RELIEF

2.1 Reformulation Standard

Beginning after the Compliance Date, Pelopac shall be permanently enjoined from manufacturing, distributing, or directly selling in the State of California, any Covered Products that exposes a person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of Lead unless such Covered Products comply with the warning requirements of Section 2.2. The “Daily Lead

Exposure Level” shall be calculated by multiplying the recommended serving size in Covered Products by the concentration of Lead in Covered Products. As used in this Section 2, “distributing for sale in the State of California” means to directly ship Covered Products into California or to sell Covered Products to a distributor Pelopac knows will sell Covered Products in California.

2.2 Clear and Reasonable Warnings

For Covered Products that contain Lead in a concentration exceeding the Reformulation Standard set forth in section 2.1 above, and which are distributed or directly sold by Pelopac in the State of California on or after the Compliance Date, Pelopac shall provide one of the following warning statements:

WARNING: Consuming this product can expose you to chemicals including lead, 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

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

The warning statement shall be enclosed in a box and prominently displayed on the Covered Products, on the packing of the Covered Products, or 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. If the warning statement is displayed on the Covered Products’ packaging, it must be in a type size no smaller than the largest type size used for other consumer information on the product. In no case shall a warning statement displayed on the Covered Products’ packaging appear in a type size smaller than 6-point type. If the Covered Products’ packaging contains consumer information in a foreign language, a warning statement in that language is required.

As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are sold online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603(a) must be provided by including either the warning or a clearly marked hyperlink using the word “WARNING” on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. If an on-product warning is provided pursuant to Cal. Code Regs. Tit. 27, § 25603(a), the warning provided on the website may use the same content as the on-

product warning. For purposes of this section, a warning is not prominently displayed if the purchaser must search for it in the general content of the website. These requirements extend to any websites under the exclusive control of Pelopac where Covered Products are sold into California. In addition, Pelopac shall instruct any third-party website to which it directly sells its Covered Products to include the same online warning, as set forth above, as a condition of selling the Covered Products in California.

There shall be no obligation for Pelopac to provide a warning for Covered Products that entered the stream of commerce prior to the Effective Date, and the Section 4 release applies to all such Covered Products.

(i) Changes in Warning Regulations or Statutes

In the event that the Office of Environmental Health Hazard Assessment promulgates one or more regulations requiring or permitting Proposition 65 warning text and/or methods of transmission applicable to the Covered Products and the chemical at issue that are different than those set forth above, Pelopac shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement. If regulations or legislation are enacted providing that Proposition 65 warnings as to lead in the Covered Products are no longer required, a lack of warning by Pelopac will not thereafter be a breach of this Agreement.

2.3 Sell-Through Period

Notwithstanding anything else in this Settlement Agreement, the Covered Products that are manufactured on or prior to the Compliance Date shall be subject to release of liability pursuant to this Consent Judgment, without regard to when such Covered Products were, or are in the future, distributed or sold to customers. As a result, the obligation of Pelopac, or any Releasees (if applicable), do not apply to these Covered Products manufactured on or prior to the Compliance Date.

3. MONETARY SETTLEMENT TERMS

3.1 Settlement Amount

Pelopac shall pay twenty-five thousand dollars (\$25,000.00) in settlement and total satisfaction of all the claims referred to in the Notice, and this Settlement Agreement. This includes civil penalties in the amount of three thousand dollars (\$3,000.00) pursuant to Health and Safety Code section 25249.7(b) and attorneys' fees and costs in the amount of twenty-two thousand dollars (\$22,000.00) pursuant to Code of Civil Procedure section 1021.5.

3.2 Civil Penalty

Pursuant to Health and Safety Code § 25249.7(b)(2), and in settlement of all claims alleged in the Notice or referred to in this Settlement Agreement, Pelopac agrees to pay three thousand (\$3,000.00) in civil penalties. The penalty payment will be allocated in accordance with California Health and Safety Code §§ 25249.12(c)(1) & (d), with 75% of the penalty amount paid to the California Office of Environmental Health Hazard Assessment ("OEHHA") and the remaining 25% of the penalty amount retained by EHA. Pelopac shall issue two separate checks or wire payments for the initial civil penalty payment to (a) "OEHHA" and (b) Environmental Health Advocates, Inc. as follows:

- One payment of \$2,250.00 to OEHHA, due thirty (30) days after the Effective Date.
- One payment of \$750.00 to EHA, due thirty (30) days after the Effective Date.

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

For United States Postal Service Delivery:

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

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment

1001 I Street
Sacramento, CA 95814

All penalty payments owed to EHA shall be sent via check or wire using the following details:

Isaac Fayman
Environmental Health Advocates
225 Broadway, Suite 1900
San Diego, CA 92101

3.3 Attorney Fees and Costs

The Parties reached an accord on the compensation due to EHA and its counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Pelopac agrees to pay twenty-two thousand dollars (\$22,000.00) to EHA and its counsel for all fees and costs incurred in investigating, bringing this matter the attention of Pelopac, and negotiating a settlement. This payment shall be paid on or before fourteen (14) days after the Effective Date.

All payments required under this Section shall be delivered via check or wire using the following details:

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

3.4 Tax Documentation

EHA agrees to provide IRS W-9 forms for each of the payees under this Settlement Agreement, and the payees will be solely responsible for tax implications of the settlement payments. The Parties acknowledge that Pelopac cannot issue any settlement payments pursuant to Section 3.1 and 3.2 above until after Pelopac receives the requisite W-9 forms from EHA's counsel.

4. CLAIMS COVERED AND RELEASED

4.1 EHA's Release of Pelopac

Plaintiff acting on its own behalf and in the public interest releases Pelopac, and its parents, subsidiaries, affiliated entities under common ownership, its directors, officers, principals, agents, employees, attorneys, insurers, accountants, predecessors, successors, and assigns, each entity to whom Defendant directly or indirectly distributes, ships, or sells the Covered Products including but

not limited to downstream distributors, wholesalers, customers, and retailers (including but not limited to World Market), franchisees, franchisors, cooperative members, suppliers, licensees, and licensors, and all of the foregoing entities' owners, directors, officers, agents, principals, employees, attorneys, insurers, accountants, representatives, predecessors, successors, and assigns (collectively referred to as the "Releasees") from all claims for violations of Proposition 65 up through the Compliance Date based on alleged exposures to lead from Covered Products as set forth in the Notices. Compliance with the terms of this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposures to lead and cadmium from Covered Products as set forth in the Notices. This Settlement Agreement is a full, final, and binding resolution of all claims under Proposition 65 that were or could have been asserted against Pelopac and/or Releasees for failure to provide warnings required under Proposition 65 for alleged exposure to lead through reasonably foreseeable use of Covered Products.

In further consideration of the promises and agreements herein contained, EHA on its own behalf and not on behalf of the public, on behalf of its past and current agents, representatives, attorneys, successors and assignees hereby waives any and all rights it may have to institute or participate in, directly or indirectly, any form of legal action and releases all claims against Pelopac and Releasees including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses including, but not exclusively, investigation fees, expert fees and attorney fees arising under Proposition 65 with respect to the alleged or actual failure to warn about exposures to lead required under Proposition 65 in the Covered Products manufactured, distributed, sold or offered for sale by Pelopac, before the Compliance Date.

4.2 Pelopac's Release of EHA

Pelopac, on its own behalf and on behalf of its past and current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against EHA and its attorneys and other representatives, for any and all actions taken or statements made by EHA and its attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with respect to the Covered Products.

4.3 California Civil Code Section 1542

It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Covered Products will develop or be discovered. EHA on behalf of itself only, on one hand, and Pelopac on behalf of itself only, on the other hand, acknowledge that this Settlement Agreement is expressly intended to cover and include all such claims up through the Compliance Date. The Parties acknowledge that the claims released in Sections 4.1 and 4.2 may include unknown claims, and nevertheless waive California Civil Code section 1542 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.

EHA and Pelopac each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

5. PUBLIC BENEFIT

It is EHA and Pelopac's understanding that the commitments agreed to herein, and actions to under this Settlement Agreement confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of EHA and Pelopac that to the extent any other private party serves a notice and/or initiates an action alleging a violation of Proposition 65 with respect to Pelopac's alleged failure to provide a warning concerning actual or alleged exposure to lead prior to use of the Covered Products it has manufactured, distributed, sold, or offered for sale in California, or will manufacture, distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Covered Products addressed in this Settlement Agreement, provided that Pelopac is in material compliance with this Settlement Agreement.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any provision of this Settlement Agreement is held by a court to be unenforceable, the validity of the remaining

provisions shall not be adversely affected.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California.

8. ENFORCEMENT

In any action to enforce the terms of this Settlement Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

9. NOTICE

Unless specified herein, all correspondence and notice required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (a) personal delivery; (b) first-class, registered or certified mail, return receipt requested; or (c) a recognized overnight courier on any Party by the other at the following addresses:

For Pelopac:

Merrit Jones
Bryan Cave Leighton Paisner LLP
Three Embarcadero Center, 7th Floor
San Francisco, CA 94111
merrit.jones@bclplaw.com

For EHA:

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

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

10. COUNTERPARTS; FACSIMILE SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or portable document format (PDF) signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

11. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

EHA and its attorneys agree to comply with the reporting form requirements referenced in

California Health and Safety Code § 25249.7(f).

12. **MODIFICATION**

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

13. **AUTHORIZATION**

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

AGREED TO:

AGREED TO:

Date: 09/04/2024

Date: September 3, 2024

By: 
ENVIRONMENTAL HEALTH
ADVOCATES, INC.

By: 
PELOPAC MEDITERRANEAN FOOD
SPECIALTIES

Constantinos Constantinidis
Managing Director