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Environmental Health Advocates, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ENVIRONMENTAL HEALTH
ADVOCATES, INC.,

Plaintiff,

v.

NEW CLASSIC COOKING, LLC, a New
Jersey limited liability company; and DOES 1
through 100, inclusive,

Defendants.

Case No. 24CV087994

[PROPOSED] CONSENT JUDGMENT

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

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 Entry of this Consent Judgment is agreed to by and between Environmental Health Advocates,
4 Inc., (“EHA” or “Plaintiff”) and New Classic Cooking, LLC (“Defendant” or “New Classic”) with
5 EHA and New Classic each individually referred to as a “Party” and collectively referred to as the
6 “Parties.”

7 **1.2 Plaintiff**

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

11 **1.3 Defendant**

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

15 **1.4 General Allegations**

16 EHA alleges that New Classic manufactures, imports, sells, and distributes for sale Veggies
17 Made Great Cinnamon Roll Muffins that contains Cadmium. EHA further alleges that New Classic
18 does so without providing a sufficient health hazard warning as required by Proposition 65 and related
19 Regulations. New Classic denies these allegations and asserts that its products are safe and in
20 compliance with all applicable laws, rules and regulations.

21 **1.5 Notice of Violation**

22 On or around March 22, 2024, EHA served Defendant New Classic, Target Corporation, the
23 California Attorney General, and all other required public enforcement agencies with a 60-Day Notice
24 of Violation of Proposition 65 (“Notice”). This Notice was subsequently amended on August 16, 2024
25 to serve the CEO for Target Corporation. The Notice alleged that New Classic had violated Proposition
26 65 by failing to sufficiently warn consumers in California of the health hazards associated with
27 exposures to Cadmium contained in muffins products, including but not limited to Veggies Made Great
28 Cinnamon Roll Muffins manufactured or processed by New Classic that allegedly contain Cadmium

and are imported, sold, shipped, delivered, or distributed for sale to consumers in California by Releasees (as defined in section 4.1).

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

1.6 Product Description

The products covered by this Consent Judgment are muffins, including but not limited to Veggies Made Great Cinnamon Roll Muffins, manufactured or processed by New Classic that allegedly contain Cadmium and are imported, sold, shipped, delivered, or distributed for sale to consumers in California by Releasees (as defined in section 4.1) (“Covered Products”).

1.7 State of the Pleadings

On or around August 20, 2024, EHA filed a Complaint against New Classic for the alleged violations of Proposition 65 that are the subject of the Notice (“Complaint”).

1.8 Resolution and Settlement

On or about February 14, 2025, the Parties agreed to resolve and settle this matter (“Settlement”) by entry of, and pursuant to the terms of, this Consent Judgment.

1.9 No Admission

New Classic denies the material factual and legal allegations of the Notice and Complaint and maintains that all of the products it has manufactured, imported, sold, and/or distributed for sale in California, including Covered Products, have been, and are, in compliance with all applicable laws, rules and regulations. Nothing in this Consent Judgment 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 Consent Judgment 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 New Classic's obligations, responsibilities, and duties under this Consent Judgment.

1.10 Jurisdiction

For purposes of this Consent Judgment and the Complaint only, the Parties stipulate that this Court has jurisdiction over New Classic as to the allegations in the Complaint, that venue is proper in

the County of Alameda, and that the Court has jurisdiction to enter and enforce the provisions of this Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

1.10 Effective Date

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

1.11 Compliance Date

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

2. INJUNCTIVE RELIEF

2.1 Reformulation of the Covered Products

Beginning on or before the Compliance Date, Defendant shall be permanently enjoined from manufacturing, distributing, or directly selling in the State of California, any Covered Product that exposes a person to a “Daily Cadmium Exposure Level” of more than 4.1 micrograms of Cadmium based on a single serving per day unless such Covered Products comply with the warning requirements of Section 2.2. The “Daily Cadmium Exposure Level” shall be calculated by multiplying the “serving size” as shown on the package of the Covered Product by the concentration of Cadmium in Covered Products. As used in this Section 2, “distributed for sale in California” means to directly ship Covered Products into California or to sell Covered Products to a distributor Defendant has actual knowledge will sell Covered Products in California.

In the event the State of California determines that the No Observable Effect Level, as that term is defined by Proposition 65 and its regulations, for exposure to Cadmium is greater than 4.1 micrograms per day, the “Daily Cadmium Exposure Level,” as defined above, shall be increased to equal the No Observable Effect Level established by the State.

2.2 Clear and Reasonable Warnings

For Covered Products that contain Cadmium in a concentration exceeding the Reformulation Standard set forth in section 2.1 above, and which are distributed or directly sold by New Classic in the State of California on or after the Compliance Date, New Classic provide a “clear and reasonable”

Proposition 65 warning, within the meaning of Section 2549.6 of the Act, subject to Section 2.3 of this Agreement. New Classic agrees that each warning shall be prominently placed with such conspicuousness, as compared with words, statements, designs, or devices as to render it likely to be seen, read, and understood by an ordinary individual under customary conditions before purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which specific Covered Products the warning applies, and which listed chemical(s) is/are implicated, so as to minimize the risk of consumer confusion.

For purposes of this Settlement and Consent Judgment, a clear and reasonable warning for the Covered Products shall consist of a product-specific warning via one or more of the following methods: (1) A warning directly affixed to the product's label or tag; or (2) A short-form warning on the label that complies with the content requirements set forth in §§ 25603(b) and 25603(a). Specifically, pursuant to § 25603(a) – (d), one of the following statements must be utilized:

“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:” Consuming this product can expose you to cadmium which is known to the State of California to cause birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.

OR

**SHORT
FORM**

“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”
Risk of cancer and reproductive harm from exposure to cadmium. See www.P65Warnings.ca.gov/food.

OR

**SHORT
FORM**

“WARNING:” [or] “CA WARNING:” [or] “CALIFORNIA WARNING:”
Can expose you to cadmium, a carcinogen and reproductive toxicant. See www.P65Warnings.ca.gov/food.

OR

1
2 **SHORT FORM ON**
3 **A PRODUCT**
4 **MANUFACTURED**
5 **/LABELED PRIOR**
6 **TO 1/1/28,**
7 **REGARDLESS OF**
8 **DATE OF SALE**

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

9 Pursuant to Section 25607.1, where the warning is provided on the food product label, it must
10 be set off from other surrounding information and enclosed in a box. Where a specific food product
11 label is used to provide a warning, it must be displayed with such conspicuousness, as compared with
12 other words, statements, or designs as to render it likely to be read and understood by an ordinary
13 individual prior to sale. In no case shall a warning statement appear in a type size smaller than 6-point
14 type. Where labeling, or a label as defined in Section 25600.1 is used to provide a warning that includes
15 consumer information about a product in a language other than English, the warning must also be
16 provided in that language in addition to English.

17 As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are sold
18 online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603 must
19 be provided via of the following methods: (1) A warning on the product display page; (2) A clearly
20 marked hyperlink using the word “**WARNING**” or the words “**CA WARNING**” or “**CALIFORNIA**
21 **WARNING**” on the product display page that links to the warning; or (3) An otherwise prominently
22 displayed warning provided to the purchaser prior to completing the purchase. If a warning is provided
23 using the short-form label content pursuant to Section 25602(a)(4), the warning provided on the website
24 may use the same content. For purposes of this section, a warning is not prominently displayed if the
25 purchaser must search for it in the general content of the website. For internet purchases made prior to
26 1/1/28, a retail seller is not responsible under Section 25600.2(e)(4) for conspicuously posting or
27 displaying the new warning online until 60 calendar days after the retailer receives a warning or a written
28 notice under Section 25600.2(b) and (c) which updates a short-form warning compliant with Section
29 25603(c) with content compliant with Section 25603(b). These requirements extend to any websites
30 under the exclusive control of New Classic where Covered Products are sold into California. In addition,
31 New Classic shall instruct any third-party website to which it directly sells its Covered Products to

1 include the same online warning, as set forth above, as a condition of selling the Covered Products in
2 California.

3 The Parties recognize that the format and methods described above are not the exclusive methods
4 of providing a warning under Proposition 65 and its implementing regulations. At New Classic's option,
5 providing a warning using any warning design or methodology consistent with Proposition 65
6 regulations applicable at the time shall be deemed to comply with this Consent Judgment.

7 **2.3 Sell-Through Period**

8 Notwithstanding anything else in this Consent Judgment, Covered Products that are
9 manufactured, packaged, or put into commerce on or before the Effective Date shall be subject to the
10 release of liability pursuant to this Consent Judgment, without regard to when such Covered Products
11 were, or are in the future, distributed or sold to customers. As a result, the obligations of New Classic,
12 or any Releasees (if applicable), stated in this Section 2 do not apply to Covered Products
13 manufactured, packaged, or put into commerce prior to the Effective Date.

14 **3. MONETARY SETTLEMENT TERMS**

15 **3.1 Settlement Amount**

16 New Classic shall pay fifty thousand dollars (\$50,000.00) in settlement and total satisfaction of
17 all the claims referred to in the Notice(s), the Complaint, and this Consent Judgment, subject to Section
18 3.3, below. This includes civil penalties in the amount of five thousand dollars (\$5,000.00) pursuant to
19 Health and Safety Code section 25249.7(b) and attorneys' fees and costs in the amount of forty-five
20 thousand dollars (\$45,000.00) pursuant to Code of Civil Procedure section 1021.5.

21 **3.2 Civil Penalty**

22 The portion of the settlement attributable to civil penalties shall be allocated according to Health
23 and Safety Code section 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid
24 to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining
25 twenty-five percent (25%) of the penalty paid to EHA individually. The five thousand dollars
26 (\$5,000.00) in civil penalties shall be paid as follows:

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

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

Isaac Fayman
Environmental Health Advocates
225 Broadway, Suite 2100
San Diego, CA 92101

All payments owed to OEHHHA (EIN: 68-0284486) shall be delivered directly to OEHHHA (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 Federal Express 2-Day Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

New Classic agrees to provide EHA's counsel with a copy of the check payable to OEHHHA, 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 New Classic's attention, as well as litigating and negotiating a settlement in the public interest.

New Classic 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, at New Classic's discretion, as forty-five thousand dollars (\$45,000.00) in Attorney's Fees and Costs. The forty-five thousand dollars (\$45,000.00) in Attorney's Fees and Costs shall be payable to Entorno Law LLP as one payment of \$35,000.00 due fourteen (14) days after the Effective Date or after Plaintiff's counsel provides a completed W-9, which ever is later, and one payment of \$10,000.00 due thirty (30) days after the Effective Date or after Plaintiff's counsel provides a completed W-9, which ever is later. If the first payment of \$35,000.00 is timely paid, EHA agrees to waive the last payment of \$10,000.00.

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

4. CLAIMS COVERED AND RELEASE

4.1 EHA's Public Release of Proposition 65 Claims

Plaintiff, acting on its own behalf and in the public interest, releases New Classic, and its parents, subsidiaries, affiliated entities under common ownership or control, its directors, officers, principals, agents, employees, attorneys, insurers, accountants, predecessors, successors, and assigns ("Defendant Entities"), each entity to whom Defendant directly or indirectly distributes, ships, or sells the Covered Products, including but not limited to all upstream producers, manufacturers, vendors, and suppliers, all downstream distributors, wholesalers, customers, retailers (including but not limited to Target Corporation), all marketplaces franchisees, franchisors, cooperative members, suppliers, licensees, and licensors, and all of the foregoing entities' affiliated 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 Effective Date based on exposure to Cadmium from Covered Products as set forth in the Notice(s). Compliance with the terms of this Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to Cadmium from Covered Products as set

1 forth in the Notice(s). This Consent Judgment is a full, final, and binding resolution of all claims under
2 Proposition 65 that were or could have been asserted against New Classic and/or Releasees for failure
3 to comply with Proposition 65 for alleged exposure to Cadmium from Covered Products. This release
4 does not extend to any third-party retailers selling the product on a website who, after receiving
5 instruction from New Classic to include a warning as set forth above in section 2.2, do not include such
6 a warning.

7 **4.2 EHA's Individual Release of Claims**

8 EHA, in its individual capacity, also provides a release to New Classic, Target Corporaton, and
9 all Releasees, which shall be a full and final accord and satisfaction of, as well as a bar to, all actions,
10 causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and
11 demands of every nature, character, and kind, whether known or unknown, suspected or unsuspected,
12 arising out of alleged or actual exposures to Cadmium in Covered Products manufactured, imported,
13 sold, or distributed by New Classic before the Effective Date.

14 **4.3 New Classic's Release of EHA**

15 New Classic on its own behalf, and on behalf of its affiliated entities as well as its past and
16 current agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims
17 against EHA and its attorneys and other representatives for any and all actions taken or statements made
18 by EHA and its attorneys and other representatives, whether in the course of investigating claims,
19 otherwise seeking to enforce Proposition 65 against them in this matter or with respect to the Covered
20 Products.

21 **4.4 No Other Known Claims or Violations**

22 EHA and EHA's counsel affirm that they are not presently aware of any actual or alleged
23 violations of Proposition 65 by New Classic or for which New Classic bears legal responsibility other
24 than those that are fully resolved by this Consent Judgment.

25 **5. COURT APPROVAL**

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

1 **6. SEVERABILITY**

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

4 **7. GOVERNING LAW**

5 The terms of this Consent Judgment shall be governed by the laws of the state of California as
6 applied within the state of California. In the event that Proposition 65 is repealed, or is otherwise
7 rendered inapplicable for reasons, including but not limited to changes in the law; or in the event the
8 California Office of Health Hazard Assessment adopts a regulation or safe use determination, or issues
9 an interpretive guideline that exempts Covered Products from meeting the requirements of Proposition
10 65; or if Cadmium cases are permanently enjoined by a court of competent jurisdiction; or if
11 Proposition 65 is determined to be preempted by federal law or a burden on First Amendment rights
12 with respect to Cadmium in Covered Products or Covered Products substantially similar to Covered
13 Products, then New Classic may seek relief from the injunctive obligations imposed by this Consent
14 Judgment to the extent any Covered Products are so affected by modifying the agreement via the
15 mechanisms set forth in Section 12.

16 **8. ENFORCEMENT**

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

19 **9. NOTICE**

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

24 If to New Classic:

25 Clifton Hilario
26 Chief Financial Officer
27 New Classic Cooking, LLC
120 New England Avenue
Piscataway, NJ 08854
clifton@classiccooking.com

If to EHA:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 2100
San Diego, CA 92101
noam@entornolaw.com

With a copy to:

Peter W. McGaw
Buchalter
425 Market Street, Suite 2900
San Francisco, CA 94105
pmcgaw@buchalter.com

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

10. COUNTERPARTS; DIGITAL SIGNATURES

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

11. POST EXECUTION ACTIVITIES

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 motion EHA shall draft and file. In furtherance of obtaining such approval, the Parties agree to mutually employ their reasonable best efforts, including those of their counsel, to support the entry of this agreement as judgment, and to obtain judicial approval of their settlement in a timely manner, for which they will each bear their own attorneys' fees and costs. For purposes of this Section, "best efforts" shall include, at a minimum, supporting the motion for approval, responding to any objection that any third-party may make, and appearing at the hearing before the Court if so requested.

12. MODIFICATION

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

13. AUTHORIZATION

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

///


14. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

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

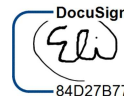
15. ENTIRE AGREEMENT

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

AGREED TO:

Date: 4/9/2025
 By: 
 ENVIRONMENTAL HEALTH
 ADVOCATES, INC.

AGREED TO:

Date: 4/9/2025
 By: 
 NEW CLASSIC COOKING, LLC
 Elliot Huss
 CEO

IT IS SO ORDERED.

Date: _____

 JUDGE OF THE SUPERIOR COURT