

1 Lucas Novak (SBN 257484)
2 LAW OFFICES OF LUCAS T. NOVAK
3 8335 W Sunset Blvd., Suite 217
4 Los Angeles, CA 90069
5 Telephone: (323) 337-9015
6 Email: lucas.nvk@gmail.com

7 Attorney for Plaintiff, APS&EE, LLC

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 APS&EE, LLC, a limited liability company,)
11 Plaintiff,)
12 v.)
13 KIALA NUTRITION, LLC, a limited liability)
14 company, THE TJX COMPANIES, INC., a)
15 corporation, and DOES 1 through 100,)
16 inclusive,)
17 Defendants.)

CASE NO. 25STCV29084

[PROPOSED] CONSENT JUDGMENT

Judge: Hon. Thomas D. Long

Dept.: 48

Compl. Filed: October 6, 2025

Unlimited Jurisdiction

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1 **1. RECITALS**

2 **1.1 The Parties**

3 **1.1.1** This Consent Judgment (“Consent Judgment”) is entered into by and
4 between APS&EE, LLC (“Plaintiff”) and Kiala Nutrition, LLC (“Defendant”). Plaintiff and
5 Defendant shall hereinafter collectively be referred to as the “Parties”.

6 **1.1.2** APS&EE is an organization based in California with an interest in
7 protecting the environment, improving human health and the health of ecosystems, and
8 supporting environmentally sound practices, which includes promoting awareness of exposure to
9 toxic chemicals and reducing exposure to hazardous substances found in consumer products.

10 **1.1.3** Plaintiff alleges that Defendant is a person in the course of doing business
11 as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition
12 65”).

13 **1.2 Allegations**

14 **1.2.1** Plaintiff alleges that Defendant manufactured, distributed, sold, or offered
15 for sale Kiala Super Greens dietary supplement, including but not limited to “Watermelon Slush”
16 flavor 1-97644-39370-1 (the “Products”) in the State of California causing users in California to
17 be exposed to levels of Lead without providing “clear and reasonable warnings”, in violation of
18 Proposition 65. Lead is potentially subject to Proposition 65 warning requirements because it is
19 listed as known to cause cancer and birth defects or other reproductive harm.

20 **1.2.2** On July 23, 2025, Plaintiff sent a Sixty-Day Notice of Violation (the
21 “Notice”) to Defendant as well as to The TJX Companies, Inc. and the various public
22 enforcement agencies regarding the alleged violation of Proposition 65 with respect to the
23 Products. On October 6, 2025, Plaintiff, acting in the public interest, filed the instant action (the
24 “Complaint”) in the Superior Court for the County of Los Angeles, alleging violations of
25 Proposition 65.

26 **1.3 No Admissions**

27 Defendant denies all allegations in Plaintiff’s Notice and Complaint and maintains that
28 the Products have been, and are, in compliance with all laws, and that Defendant has not violated

1 Proposition 65. This Consent Judgment shall not be construed as an admission of liability by
2 Defendant but to the contrary as a compromise of claims that are expressly contested and denied.
3 However, nothing in this section shall affect the Parties' obligations, duties, and responsibilities
4 under this Consent Judgment.

5 **1.4 Compromise**

6 The Parties enter into this Consent Judgment in order to resolve the controversy
7 described above in a manner consistent with prior Proposition 65 settlements and consent
8 judgments that were entered in the public interest and to avoid prolonged and costly litigation
9 between them.

10 **1.5 Jurisdiction and Venue**

11 For purposes of this Consent Judgment only, the Parties stipulate that the above-entitled
12 Court has jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper
13 in Los Angeles County, and that this Court has jurisdiction to enter and enforce the provisions of
14 this Consent Judgment pursuant to California Code of Civil Procedure Section 664.6 and
15 Proposition 65.

16 **1.6 Effective Date**

17 The "Effective Date" shall be the date five (5) days after this Consent Judgment is
18 approved and entered by the Court.

19 **2. INJUNCTIVE RELIEF**

20 **2.1 Reformulation Standard**

21 As of the Effective Date, Defendant shall not sell, distribute, or cause the Products to be
22 offered for sale in California unless: (a) the Products expose a person to less than 0.5 micrograms
23 of lead per day based on the recommended Daily Serving as calculated below in Section 2.2, or
24 (b) the Products are distributed, sold, or offered for sale with a clear and reasonable warning as
25 described below in Section 2.3.

26 **2.2 Exposure Calculation**

27 **2.2.1** A "Daily Serving" (for purposes of determining Proposition 65
28 compliance for chemicals present in the Products) shall be defined by the serving size set forth

1 on the label of the Products under "Nutrition Facts", "Supplement Facts", or equivalent. If the
2 label, package, or Product display page on the internet¹ do not recommend a number of daily
3 servings, then the number of daily servings shall be one.

4 **2.2.2** The daily exposure shall be calculated by using the following formula:
5 micrograms of lead per gram, multiplied by grams of Product per serving, multiplied by servings
6 of the Product per day.

7 **2.3 Proposition 65 Warnings**

8 Whenever a warning is required under Section 2.1, Defendant shall use one of the
9 following options:

10 Option 1

11 **WARNING [or CA WARNING or CALIFORNIA WARNING]:**

12 Consuming this product can expose you to Lead, which is known to the
13 State of California to cause [cancer and] birth defects or other reproductive harm.
14 For more information go to www.P65Warnings.ca.gov/food.

15 Option 2

16 **WARNING [or CA WARNING or CALIFORNIA WARNING]:** Risk of
17 [cancer and] reproductive harm from exposure to lead. See
18 www.P65Warnings.ca.gov/food.

19 *or*

20 **WARNING [or CA WARNING or CALIFORNIA WARNING]:** Can expose
21 you to lead, a [carcinogen and] reproductive toxicant. See
22 www.P65Warnings.ca.gov/food.

23 Option 3 (for Product manufactured and labeled before January 1, 2028)

24 **WARNING:** [Cancer and] Reproductive Harm -www.P65Warnings.ca.gov/food.

27 ¹ The "Product display page on the internet" applies to Products purchased therefrom, not to
28 Products purchased elsewhere, such as a brick-and-mortar retail store.

1 If the daily exposure for the Product exceeds 15 micrograms of lead, where daily
2 exposure is determined pursuant to Section 2.2, Defendant shall include the phrase “cancer and”
3 or “carcinogen and” in the warning.

4 Nothing in this Consent Judgment shall prevent Defendant from modifying any warning
5 contained in Option 1 or 2 to disclose the presence of additional chemicals if Defendant
6 determines that such disclosure is appropriate or required.

7 Under Option 3, the warning shall be accompanied by a symbol consisting of a black
8 exclamation point in a yellow equilateral triangle with a bold black outline. Where the label for
9 the product is not printed using the color yellow, the symbol may be printed in black and white.
10 The symbol shall be placed to the left of the text of the warning, in a size no smaller than the
11 height of the word “WARNING”.

12 Each warning shall be provided on the Product label, set off from other surrounding
13 information, enclosed in a box. Additionally, if the Product contains consumer information in a
14 foreign language, the warning must be provided in the foreign language. The Products shall carry
15 said warning on each label with such conspicuousness as compared with other words, statements
16 or designs as to render it likely to be read and understood by an ordinary consumer prior to sale.
17 A Product that is sold by Defendant on the internet to persons located in California shall also
18 provide the warning message to Californians by a clearly marked hyperlink on the product
19 display page, or otherwise prominently displayed to the California purchaser before the
20 purchaser completes his or her purchase of the Product. For Products that Defendant provides for
21 a downstream entity to sell on the internet to persons located in California, Defendant shall
22 comply with 27 CCR sections 25600.2(b) and (c) and include an instruction that the entity
23 comply with the warning requirements of this section.

24 The Parties agree that Defendant shall be deemed to be in compliance with the warning
25 requirements of Proposition 65 and this Consent Judgment by adhering to § 2.3 of this Consent
26 Judgment or by complying with the warning regulations adopted by the State of California’s
27 OEHHA applicable to the Products and the exposure at issue.

1 There shall be no obligation for Defendant to provide a warning for Products that entered
2 the stream of commerce downstream from Defendant prior to the Effective Date, and the Section
3 4 release applies to all such Products.

4 **3. PAYMENTS**

5 **3.1 Civil Penalty Pursuant To Proposition 65**

6 In settlement of all claims referred to in this Consent Judgment, Defendant shall pay a
7 total civil penalty of one thousand five hundred dollars (\$1,500.00) to be apportioned in
8 accordance with *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$1,125.00)
9 for State of California Office of Environmental Health Hazard Assessment (“OEHHA”), and the
10 remaining 25% (\$375.00) for Plaintiff.

11 Defendant shall issue these payments collectively as part of the total payment described
12 below in Section 3.2 via wire transfer to Law Offices of Lucas T. Novak. After receipt of the
13 final wire transfer installment, Law Offices of Lucas T. Novak shall be responsible for
14 forwarding the respective payments to OEHHA and APS&EE.

15 **3.2 Reimbursement Of Plaintiff’s Fees And Costs**

16 Defendant shall reimburse Plaintiff’s reasonable experts’ and attorney’s fees and costs
17 incurred in prosecuting the instant action for all work performed through execution and approval
18 of this Consent Judgment, in the amount of sixteen thousand dollars (\$16,000.00). Accordingly,
19 Defendant shall remit total payment via wire transfer to Law Offices of Lucas T. Novak in the
20 amount of seventeen thousand five hundred dollars (\$17,500.00), which includes the civil
21 penalty described in Section 3.1 (the “Settlement Payment”). Defendant shall remit the
22 Settlement Payment in three installments as follows:

23 First installment of \$10,000.00 paid within five (5) business days of the Effective Date;

24 Second installment of \$5,000.00 paid within thirty (30) calendar days of the Effective
25 Date; and

26 Third installment of \$2,500.00 paid within sixty (60) calendar days of the Effective Date.

27 Wire instructions have been exchanged between the Parties.
28

1 **4. RELEASES**

2 **4.1 Plaintiff's Release Of Defendant**

3 Plaintiff, in consideration of the promises and monetary payments contained herein,
4 hereby releases Defendant, its parents, subsidiaries, affiliated companies under common
5 ownership or control, shareholders, directors, members, managers, officers, partners, agents,
6 employees, representatives, attorneys, successors and assignees, and its downstream distributors,
7 wholesalers, retailers (including but not limited to, The TJX Companies, Inc.), and franchisees
8 (collectively, "Released Parties"), from any alleged Proposition 65 violation claims asserted in
9 the Notice or Complaint regarding failure to warn about lead exposure from the Products sold or
10 distributed by Defendant for sale or potential sale in California before the Effective Date. Within
11 five (5) business days after receipt of the final Settlement Payment installment from Defendant
12 as described in Section 3 above, Plaintiff shall file a request for dismissal without prejudice of
13 The TJX Companies, Inc.

14 **4.2 Defendant's Release Of Plaintiff**

15 Defendant, by this Consent Judgment, waives all rights to institute any form of legal
16 action against APS&EE, its shareholders, directors, members, officers, employees, attorneys,
17 experts, successors and assignees for actions or statements made or undertaken, whether in the
18 course of investigating claims or seeking enforcement of Proposition 65 against Defendant in
19 this matter. If any Released Parties should institute any such action, then APS&EE's release of
20 said Released Party in this Agreement shall be rendered void and unenforceable.

21 **4.3 Waiver Of Unknown Claims**

22 Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil
23 Code which provides as follows:

24 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
25 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
26 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
27 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
28 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

Each of the Parties waives and relinquishes any right or benefit it has or may have

1 under Section 1542 of California Civil Code or any similar provision under the statutory or
2 non-statutory law of any other jurisdiction to the full extent that it may lawfully waive all such
3 rights and benefits. The Parties acknowledge that each may subsequently discover facts in
4 addition to, or different from, those that it believes to be true with respect to the claims
5 released herein. The Parties agree that this Consent Judgment and the releases contained herein
6 shall be and remain effective in all respects notwithstanding the discovery of such additional or
7 different facts. Compliance with the terms of this Consent Judgment shall be deemed to
8 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged
9 exposures to lead in the Products, as set forth in the Notices and Complaint. However,
10 Released Parties that do not comply with the warning requirements of Section 2.3 after being
11 instructed to do so are not released from future liability with respect to the failure to warn
12 about exposure to Lead from the Products.

13 **5. COURT APPROVAL**

14 Upon execution of this Consent Judgment by all Parties, Plaintiff shall file a noticed
15 Motion for Approval and Entry of Consent Judgment in the above-entitled Court. This Consent
16 Judgment is not effective until it is approved and entered by the Court. It is the intention of the
17 Parties that the Court approve this Consent Judgment, and in furtherance of obtaining such
18 approval, the Parties and their respective counsel agree to mutually employ their best efforts to
19 support the entry of this agreement in a timely manner, including cooperating on drafting and
20 filing any papers in support of the required motion for judicial approval. If this Consent
21 Judgment is not approved by the Court, it shall be void and have no force or effect.

22 **6. SEVERABILITY**

23 Should any part or provision of this Consent Judgment for any reason be declared by a
24 Court to be invalid, void or unenforceable, the remaining portions and provisions shall continue
25 in full force and effect.

26 **7. GOVERNING LAW**

27 The terms of this Consent Judgment shall be governed by the laws of the State of
28 California. This Consent Judgment is entered into in the State of California and may only be

1 enforced in the State of California.

2 **8. NOTICES**

3 All correspondence and notice required to be provided under this Consent Judgment shall
4 be in writing and delivered personally or sent by first class or certified mail addressed as follows:

<p>6 TO DEFENDANT:</p> <p>7 Matthew R. Orr, Esq. 8 Amin Wasserman Gurnani, LLP 9 515 S Flower Street, 18th Floor Los Angeles, CA 90071</p>	<p>TO PLAINTIFF:</p> <p>Lucas T. Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069</p>
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11 **9. COUNTERPARTS**


12 This Consent Judgment may be executed in counterparts, each of which shall be deemed
13 an original, and all of which, when taken together, shall constitute the same document. Execution
14 and delivery of this Consent Judgment by e-mail, facsimile, or other electronic means shall
15 constitute legal and binding execution and delivery. Any photocopy of the executed Consent
16 Judgment shall have the same force and effect as the originals.

17 **10. AUTHORIZATION**

18 The undersigned are authorized to execute this Consent Judgment on behalf of their
19 respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions
20 of this Consent Judgment. Each Party warrants to the other that it is free to enter into this
21 Consent Judgment and is not subject to any conflicting obligation that will or might prevent or
22 interfere with the execution or performance of this Consent Judgment by said Party.

23
24 **AGREED TO:**

25 Date: 3/20/26

26 By:  _____

27 Authorized Representative of APS&EE, LLC

1 **AGREED TO:**

2 Date: 03/19/26

3 By: 
4 Authorized Representative of KIALA NUTRITION, LLC

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6 **IT IS SO ORDERED.**

7 Dated: _____

JUDGE OF THE SUPERIOR COURT

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