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CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

MAY 14 2015

Sherri R. Carter, Executive Officer/Clerk
By: Moses Soto, Deputy

6 Attorney for Shefa LMV, LLC

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES - CENTRAL DISTRICT

10
11 SHEFA LMV, LLC; a California limited
liability company)
12 Plaintiff,)

Unlimited Jurisdiction

13 vs.)

CASE NO. BC 581946

14 ED YOUNG'S TRUE VALUE; KISSLER &
CO., INC.; and DOES 1 through 100,
15 Inclusive,)

COMPLAINT FOR CIVIL PENALTY AND
INJUNCTIVE RELIEF

16 Defendants.)

(Health and Safety Code § 25249.5
et seq.

17 TOXIC TORT/ENVIRONMENTAL
18)
19)

20 Plaintiff, Shefa LMV, LLC, hereby alleges:
21

By Fax

22 I. PRELIMINARY STATEMENT

23 1. This complaint seeks to remedy the failure of Defendants to warn persons of exposure
24 to Lead (hereinafter "Pb"), which is a chemical known to the State of California to cause cancer, birth
25 defects, or other reproductive harm.

26 2. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and
27 Safety Code section 25249.6, also known as "Proposition 65," businesses must provide persons with
28

1 a “clear and reasonable warning” before exposing individuals to chemicals known to the state to
2 cause cancer, birth defects or other reproductive harm.

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4 **II. PARTIES**

5 3. Plaintiff is a limited liability company formed pursuant to the laws of the State of
6 California, made up of California citizens, represented by and through its counsel of record, the Law
7 Office of Daniel N. Greenbaum.

8 4. Health and Safety Code section 25249.7(d) provides that actions to enforce
9 Proposition 65 may be brought by “any person in the public interest.”

10 5. Defendant ED YOUNG’S TRUE VALUE (hereinafter “ED YOUNG’S”) is a
11 business entity with ten or more employees that sells, or has, at times relevant to this complaint,
12 authorized the manufacture, distribution, or sale of plumbing hardware Diverter Stem product(s) that
13 contain Pb, for sale within the State of California, without first giving clear and reasonable warning.

14 6. Defendant KISSLER & CO., INC. (hereinafter “KISSLER”) is a business entity with
15 ten or more employees that sells, or has, at times relevant to this complaint, authorized the
16 manufacture, distribution, or sale of plumbing hardware Diverter Stem product(s) that contain Pb, for
17 sale within the State of California, without first giving clear and reasonable warning.

18 7. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however,
19 Plaintiff suspects that they are business entities with at least ten or more employees that have sold,
20 authorized the distribution, or sale of plumbing hardware Diverter Stem product(s) that contain Pb,
21 for sale within the State of California, without first giving clear and reasonable warning.

22 8. Defendants (hereinafter and collectively known as the “Defendants”) named in
23 paragraphs 5 – 7 have at all time relevant hereto authorized the manufacture, distribution, or sale of
24 Diverter Stem Plumbing Products, including but not limited to, those with an identifying designation
25 of SKU 165896K (hereinafter “PRODUCTS), which contain Pb, for sale within the State of
26 California.

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III. JURISDICTION AND VENUE

9. This Court has jurisdiction pursuant to California Constitution Article VI, section 10, because this case is a cause not given by statute to other trial courts.

10. This Court has jurisdiction over Defendants, because they are business entities that do sufficient business, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market, through the sale, marketing, and use of its products in California, to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

11. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles County because Defendant’s products are sold and consumed in this county.

IV. STATUTORY BACKGROUND

A. Proposition 65

12. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute passed as “Proposition 65” by a vote of the people in November of 1986.

13. The warning requirement of Proposition 65 is contained in Health and Safety Code section 25249.6, which provides:

No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual, except as provided in Section 25249.10.

14. An exposure to a chemical in a consumer product is one “which results from a person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” (Cal. Code Regs., tit. 22, § 12601, subd. (b).)

1 harm to the female reproductive system, and “male reproductive toxicity,” which means harm to the
2 male reproductive system. (Cal. Code Regs., tit. 22, § 12000, subd. (c).)

3 26. “Lead and Lead compounds” were placed in the Governor's list of chemicals known to
4 the State of California to cause cancer on October 1, 1992. (Cal. Code Regs., tit. 22, § 12000, subd.
5 (b).)

6 27. Defendants are the manufacturer and marketer of the PRODUCTS for use by
7 individuals in the home and in other occupational endeavors.

8 28. The PRODUCTS are sold through various retailers located in California for use by
9 citizens of the State of California.

10 29. Individuals who purchase, handle, or install the PRODUCTS are exposed to Pb chiefly
11 through:

- 12 a. contact between the item and the skin;
- 13 b. transfer of Pb from the skin to the mouth, both by transfer of Pb directly from
14 the hand to mouth and by transfer of Pb from the skin to objects that are put in the mouth,
15 such as food, and
- 16 c. through absorption of Pb through the skin.

17 30. Such individuals are thereby exposed to the Pb that is present on or in the
18 PRODUCTS in the course of the intended and reasonably foreseeable use of the PRODUCTS.

19 31. At all times material to this complaint, Defendants have had knowledge that the
20 PRODUCTS contain Pb and that an individual’s skin may come into contact with Pb through the
21 intended and reasonably foreseeable use of the PRODUCTS.

22 32. At all times material to this complaint, Defendants have had knowledge that
23 individuals within the State of California handle the PRODUCTS, which contain Pb.

24 33. At all times material to this complaint, Defendants knew that the PRODUCTS were
25 sold throughout the State of California in large numbers, and Defendants profited from such sales.

26 34. Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized
27 the sale of the PRODUCTS, thereby exposing consumers to Pb.

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Chemicals caused by the use of their products without providing clear and reasonable warnings, as Plaintiffs shall specify in further application to the court;

3. Enter such orders as “may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of” these unlawful acts, as provided in Business and Professions Code section 17203 and other applicable laws;

4. Award Plaintiffs their costs of suit;

5. Grant such other and further relief as the court deems just and proper.

Respectfully submitted,

DATED: May 14, 2015

LAW OFFICE OF DANIEL N. GREENBAUM



By: DANIEL N. GREENBAUM
Attorneys for Plaintiff
Shefa LMV, LLC