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THE HIMALAYA DRUG COMPANY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

ENVIRONMENTAL RESEARCH CENTER, a California non-profit corporation,

Plaintiff,

v.

THE HIMALAYA DRUG COMPANY; and DOES 1-100;

Defendants.

CASE NO. RG10545713

Assigned for All Purposes to Dept. 17

~~[PROPOSED]~~ STIPULATED MODIFIED CONSENT JUDGMENT; ~~[PROPOSED]~~ ORDER

Judge: Hon. George C. Hernandez, Jr.

ACTION FILED: November 9, 2010

STIPULATION

1. BACKGROUND

1.1 On November 9, 2010, Plaintiff Environmental Research Center ("ERC" or "Plaintiff") filed a complaint in this action alleging failure to warn of exposures to lead under Cal. Health & Safety Code §§ 25249.5 *et seq.* with respect to certain dietary supplements. The original

complaint named Ayurvedic Concepts Ltd. ERC voluntarily dismissed Ayurvedic Concepts Ltd. and named Defendant Himalaya Drug Company ("Himalaya") as the defendant in a First Amended Complaint in this action.

1.2 On November 28, 2012, the Court approved and entered a Stipulated Consent Judgment ("Consent Judgment"), which incorporated the terms of a settlement between the parties. A copy of the Consent Judgment is attached hereto as Exhibit 1.

1.3 The Court retains continuing jurisdiction to modify the Consent Judgment under Section 8.1 of the Consent Judgment and under Section 664.6 of the Code of Civil Procedure. Section 5.1 of the Consent Judgment allows the Consent Judgment to be modified upon stipulation of the parties followed by entry of a modified consent judgment.

2. REASONS FOR MODIFICATION

2.1 The Consent Judgment covers a total of 55 dietary supplement products, which are collectively defined in the Consent Judgment as "Products." Consent Judgment ¶ 1.3 and Exh. C thereto. Under Section 3.1 of the Consent Judgment, any "Products manufactured on or after the Compliance Deadline that Himalaya thereafter sells in California, markets or distributes for sale in California, or offers for sale to a third party for retail sale to California must either (1) qualify as a 'Reformulated Product' under Section 3.3 or (2) meet the warning requirements set out in Section 3.2." The Compliance Deadline is defined in the Consent Judgment as the date that is six months after the November 28, 2012 Effective Date of the Consent Judgment. Consent Judgment ¶ 1.10.

2.2 Under the Consent Judgment, a Reformulated Product is defined as a Product for which the maximum recommended daily serving on the label contains no more than 0.5 micrograms of lead per day. Consent Judgment ¶ 3.3.

2.3 Himalaya has been engaged in an effort to reformulate the Products for sale or distribution on a nationwide basis so that the Products will qualify as "Reformulated Products" under the Consent Judgment. Himalaya seeks an extension of the Compliance Deadline for a subset of its Products that require additional time to manufacture for sale or distribution as Reformulated Products, as follows: (1) Himalaya Pure Herbs Amla C Caplets, (2) The Himalaya Drug Company Bitter Melon Caplets, (3) The Himalaya Drug Company Garcinia Caplets, (4) Himalaya Pure Herbs

Ginger Digestive Comfort Caplets, (5) The Himalaya Drug Company Gokshura Caplets, (6) Himalaya Pure Herbs Licorice Caplets, (7) Himalaya Pure Herbs Mucuna Caplets, (8) Himalaya Herbal Healthcare Neem Caplets, (9) The Himalaya Drug Company Triphala Caplets, (10) Himalaya Pure Herbs Turmeric Capsules, (11) The Himalaya Drug Company Arjuna Caplets, (12) Himalaya Pure Herbs Ashwagandha Caplets, (13) The Himalaya Drug Company Bacopa Caplets, (14) Himalaya Pure Herbs Boswellia Capsules, (15) Himalaya Pure Herbs Guduchi Caplets, (16) The Himalaya Drug Company Himalaya Pure Herbs Guggul - Cholesterol Support Vegetarian Capsules, (17) Himalaya Pure Herbs Gymnema Sugar Destroyer Caplets, (18) Himalaya Pure Herbs Holy Basil Stress & Emotional Well Being Capsules, (19) Himalaya Pure Herbs Trikatu Gastric Support Caplets, (20) The Himalaya Drug Company Gotu Kola Caplets, and (21) Himalaya Pure Herbs Shatavari Caplets (collectively referred to herein as the "Extension Products").

2.4 Himalaya represents to ERC that the Extension Products meet organic standards of the United States Department of Agriculture and the Extension Products do not use any synthetic ingredients. In light of the non-synthetic ingredients used in the Extension Products, Himalaya represents that it had to identify and test new sources of certain plant-based ingredients in order to meet the lead standard for Reformulated Products and that Himalaya has completed this effort. Himalaya represents to ERC that it needs an extension of the Compliance Deadline to ensure that the reformulation of the Extension Products will meet other quality control standards once those products are manufactured for distribution or sale, including standards to ensure shelf life stability and to avoid microbiological contamination. Himalaya represents to ERC that it is undertaking testing and analysis to ensure that the reformulated Extension Products will meet those quality control standards and that Himalaya needs to complete this effort before commencing large scale manufacturing of the reformulated Extension Products. Thus, the parties agree that an extension of the Compliance Deadline is necessary and appropriate in light of Himalaya's efforts.

3. PROPOSED MODIFICATION

3.1 Therefore, the Parties stipulate to extend the Compliance Deadline for the Extension Products to be the date that is eighteen months after the November 28, 2012 Effective Date.

IT IS SO STIPULATED:

THE HIMALAYA DRUG COMPANY

Dated: 12/17/13, ~~2012~~

NABEEL MANAL

ENVIRONMENTAL RESEARCH CENTER

Dated: 12/17/2013, ~~2012~~

Chris Heptinstall, Executive Director

APPROVED AS TO FORM:

Dated: 12/17/13, ~~2012~~

Sarah Esmaili
Attorney for The Himalaya Drug Company

LAW OFFICE OF MICHAEL FREUND

Dated: 12/17/13, ~~2012~~

Michael Freund
Attorney for Environmental Research Center

ORDER AND JUDGMENT

Based upon the Parties' stipulation, and good cause appearing therefor, this Stipulated Modified Consent Judgment is approved and judgment is entered pursuant to the modification that is ordered herein.

The Court hereby ORDERS as follows:

1) With respect to the Extension Products only, the term "Compliance Deadline" in Section 1.10 of the Consent Judgment attached hereto as Exhibit 1 shall be modified to mean the date that is eighteen months after the November 28, 2012 Effective Date of the Consent Judgment.

2) With respect to the Extension Products only, all references in the Consent Judgment to the Compliance Deadline shall mean the modified deadline set out in this order and judgment.

3) Except as modified herein, the Consent Judgment shall remain in effect pursuant to its original terms.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: 1/15/2014

JUDGE OF THE SUPERIOR COURT

GEORGE C. HERNANDEZ, JR

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

Case Number: RG 10545713
Case name: Environmental Research Center vs. The Himalaya Drug Company, et al.

STIPULATED MODIFIED CONSENT JUDGMENT; ORDER FILED JANUARY 15, 2014

DECLARATION OF SERVICE BY MAIL

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document, **ORDER (5 pages, without Exhibit 1)** was mailed first class, postage prepaid, in a sealed envelope, addressed as shown at the bottom of this document, and that the mailing of the foregoing and execution of this certificate occurred at 1221 Oak Street, Oakland, California.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 16, 2014.

Dameda K Scott

Executive Officer/Clerk of the Superior Court
By Dameda Scott, Deputy Clerk

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