

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1502
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

REPORT OF ENTRY OF JUDGMENT

Please print or type required information

☒ Original Filing ☐ Supplemental Filing ☐ Corrected Filing

PARTIES TO THE ACTION	PLAINTIFF(S) Shefa LMV LLC				
	DEFENDANT(S) INVOLVED IN JUDGMENT Hoyu America Co.				
CASE INFO	COURT DOCKET NUMBER JCCP004765		COURT NAME Alameda Superior Court		
	SHORT CASE NAME Proposition 65 Cocamise DEA Cases				
REPORT INFO	INJUNCTIVE RELIEF Reformultion				
	PAYMENT: CIVIL PENALTY \$2,000.00		PAYMENT: ATTORNEYS FEES \$8,000.00		PAYMENT: OTHER 0
	DATE SUBMITTED TO COURT 9 / 30 / 2015		IS JUDGMENT PURSUANT TO SETTLEMENT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, DATE SETTLEMENT WAS REPORTED TO ATTORNEY GENERAL 9 / 30 / 2015
	COPY OF JUDGMENT MUST BE ATTACHED				
FILER INFO	NAME OF CONTACT Daniel N. Greenbaum, Esq.				
	ORGANIZATION Law Office of Daniel Greenbaum			TELEPHONE NUMBER (818) 809-2199	
	ADDRESS 7120 Hayvenhurst Ave., Suite 320			FAX NUMBER (424) 243-7689	
	CITY Van Nuys		STATE CA	ZIP 91406	E-MAIL ADDRESS dgreenbaum@greenbaumlawfirm.com

FILING INSTRUCTIONS: This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the judgment to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

**ENDORSED
FILED
ALAMEDA COUNTY**

OCT 28 2015

CLERK OF THE SUPERIOR COURT
By I. GUERRERO
Deputy

LAW OFFICE OF DANIEL N. GREENBAUM
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Attorneys for Defendant HOYU AMERICA CO.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

Coordination Proceeding
Special Title (Rule 3.350)

PROPOSITION 65 DEA CASES

) JUDICIAL COUNCIL COORDINATION
) PROCEEDING NO: 4765
)
)
) [Shefa LMV, LLC v. Big Lots, Inc., et al., Los
) Angeles County Superior Court No.
) BC566941]
)
) [PROPOSED] CONSENT JUDGMENT AS
) TO HOYU AMERICA CO.
)
) Judge: Hon. George C. Hernandez, Jr.
)
) Action filed: April 17, 2015
)
)
)

1 **I. INTRODUCTION**

2 **1.1. Shefa LMV, LLC and Hoyu America Co.**

3 This Stipulated Consent Judgment ("Consent Judgment") is entered into by and between
4 plaintiff Shefa LMV, LLC ("Shefa LMV") and Hoyu America Co. ("Hoyu"), with Shefa LMV and
5 Hoyu sometimes collectively referred to herein as the "parties," and individually as a "party." Shefa
6 LMV is an entity organized in the State of California, and alleges that it seeks to promote awareness of
7 exposure to toxic chemicals and to improve human health by reducing or eliminating hazardous
8 substances contained in consumer and commercial products. Shefa LMV alleges that Hoyu employs
9 ten (10) or more persons and is a person in the course of doing business for purposes of the Safe
10 Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code section
11 25249.6, *et seq.* ("Proposition 65").
12

13
14 **1.2. General Allegations**

15 Shefa LMV's Notice of Violation alleges that Hoyu has manufactured, imported, distributed
16 and/or sold skin care, shampoo, pain relief, sunscreen, hair care and/or hair spray products that cause
17 exposure to diethanolamine ("DEA"), including but not limited to Samy Fat Hair 0 Calorie Hair Spray,
18 without the requisite Proposition 65 warnings. DEA is listed pursuant to Proposition 65 as a chemical
19 known to the State of California to cause cancer.
20

21 **1.3. Covered Product Description**

22 The products covered by this Consent Judgment are shampoo, hair care and/or hair spray/hair
23 styling products manufactured and/or distributed by Hoyu that contain or are alleged to contain DEA,
24 whether as an intentionally added ingredient or impurity, and which is distributed, marketed, sold, or
25 offered for sale in California by Hoyu or any supplier, distributor, retailer, wholesaler, reseller,
26 professional, salon or customer, including but not limited to Samy Fat Hair 0 Calorie Hair Spray. All
27 such products are referred to herein collectively as the "Covered Products," or individually as a
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1 "Covered Product."

2 **1.4. Notice of Violation**

3 On or about October 16, 2014, Shefa LMV served Hoyu and its parent company Hoyu Co., Ltd
4 and various public enforcement agencies with a document entitled "60-Day Notice of Violation" (the
5 "Notice") that provided recipients with notice alleging that Hoyu was allegedly in violation of
6 Proposition 65 for failing to warn consumers and customers that the Covered Product exposed users in
7 California to DEA. More than 60 days have passed and no designated public enforcer has prosecuted
8 the allegations set forth in the Notice.
9

10 **1.5. Complaint**

11 On or about April 17, 2015, Shefa LMV filed a complaint in the Los Angeles County Superior
12 Court against Big Lots Stores, Inc. alleging, *inter alia*, violations of Proposition 65, based on the
13 alleged exposure to DEA contained in certain products sold in California without first providing clear
14 and reasonable warnings in violation of California Health and Safety Code section 25249.6. The
15 action is titled, *Shefa LMV, LLC v. Big Lots Stores, Inc., et al.*, Case No. BC566941. The action was
16 subsequently transferred to the Alameda County Superior Court and added to the coordination
17 proceeding styled, Proposition 65 Cocamide DEA Cases, JCCP 4765. On or about May 29, 2015,
18 Shefa LMV added Hoyu to *Shefa LMV LLC v. Big Lots Stores, Inc., et al.*, thereby adding it to the
19 Proposition 65 Cocamide DEA Cases.
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21

22 **1.6. No Admission**

23 Hoyu denies each of the material, factual and legal allegations contained in Shefa LMV's
24 Notice and Complaint and specifically denies that the Covered Products required a Proposition 65
25 warning or otherwise caused harm to any person. Hoyu maintains that the Covered Products were sold
26 in California in compliance with all laws. Nevertheless, the parties have entered into this Consent
27 Judgment in order to settle, compromise and resolve disputed claims and thus avoid prolonged and
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1 costly litigation. Nothing in this Consent Judgment shall be construed as an admission by Hoyu or by
2 any of its respective officers, directors, managers, partners, shareholders, employees, agents, parent
3 companies, subsidiaries, divisions, affiliates, franchises, licensees, customers, suppliers,
4 manufacturers, distributors, wholesalers, or retailers, of any fact, finding, conclusion, issue or violation
5 of law, fault, wrongdoing, or liability, including without limitation, any admission concerning any
6 alleged violation of Proposition 65, nor shall compliance with this Consent Judgment constitute or be
7 construed as an admission by Hoyu of any fact, finding, conclusion, issue or violation of law, fault,
8 wrongdoing, or liability, the same being specifically denied by Hoyu. This Consent Judgment shall not
9 be offered or admitted as evidence in any administrative or judicial proceeding or litigation in any
10 court, agency or forum, except with respect to an action seeking to enforce the terms of this Consent
11 Judgment. Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice,
12 waive, or impair any right, remedy, argument, or defense the parties may have in any other or future
13 legal proceeding unrelated to these proceedings. However, this Section shall not diminish or otherwise
14 affect Hoyu's obligations, responsibilities and duties under this Consent Judgment.
15

16 **1.7. Consent to Jurisdiction**

17 For purposes of this Consent Judgment only, the parties stipulate that this Court has jurisdiction
18 over Hoyu as to the allegations contained in the Complaint, that venue is proper in Alameda County
19 Superior Court, and that this Court has jurisdiction to enter and enforce the provisions of this Consent
20 Judgment as a full and final resolution of all claims which were or could have been asserted in this
21 action based on the facts alleged in the Notice and the Complaint.
22

23 **1.8. Effective Date**

24 For purposes of this Consent Judgment, the term "Effective Date" shall mean the date the Court
25 enters Judgment pursuant to the terms of this Consent Judgment.
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1 **2. INJUNCTIVE RELIEF – REFORMULATION; WARNING**

2 **2.1.** As of the Effective Date, Hoyu shall not manufacture, distribute, sell or offer for sale any
3 Covered Product sold or offered for sale to California consumers that contains DEA. On or before the
4 Effective Date, Hoyu shall cease distributing for sale into California any Covered Product that contains
5 DEA, unless such products have been reformulated such that they do not contain DEA or are
6 accompanied by a Clear and Reasonable Warning that complies with Section 2.3.
7

8 **2.2.** For purposes of this Consent Judgment, a Covered Product “contains DEA” if the raw material
9 DEA (CAS No. 111-42-2) is an intentionally added ingredient in the Covered Product and is listed on
10 the ingredient panel. For purposes of this Consent Judgment, the term “distributes for sale into
11 California” shall mean to directly ship a Covered Product into California for sale in California or to
12 sell a Covered Product to a distributor that Hoyu knows will sell the Covered Product in California.
13

14 **2.3. Proposition 65 Warnings.** A Clear and Reasonable Warning under this Agreement shall state:

15 WARNING: This product contains a chemical known to the State of California to cause
16 cancer.

17 A Clear and Reasonable Warning shall not be preceded by, surrounded by, or include any additional
18 words or phrases that contradict, obfuscate, or otherwise undermine the warning. The warning
19 statement shall be prominently displayed on the Covered Product or the packaging of the Covered
20 Product with such conspicuousness, as compared with other words, statements, or designs, as to render
21 it likely to be read and understood by an ordinary individual prior to sale. For internet, catalog, or any
22 other sale where the consumer is not physically present and cannot see a warning displayed on the
23 Covered Product or the packaging of the Covered Product prior to purchase or payment, the warning
24 statement shall be displayed in such a manner that it is likely to be read and understood prior to the
25 authorization of or actual payment.
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28 **2.4. Sell through period.**

1 Covered Products that were manufactured or distributed for sale prior to the Effective Date
2 shall be subject to the release of liability pursuant to Section 5 of this Consent Judgment, without
3 regard to when such Covered Products were, or are in the future, sold to consumers. As a result, the
4 obligations of Hoyu as set forth in this Consent Judgment, including but not limited Section 2.1, do not
5 apply to these products.
6

7 **3. RETENTION OF JURISDICTION, GOOD FAITH ATTEMPT TO RESOLVE DISPUTES;**
8 **ENFORCEMENT OF CONSENT JUDGMENT**

9 **3.1.** This Court shall retain jurisdiction of this matter to enforce, modify or terminate this
10 Consent Judgment.

11 **3.2.** Only after it complies with Sections 3.3, either party may, by motion or application for
12 an order to show cause before the Alameda County Superior Court, enforce the terms and conditions
13 contained in this Consent Judgment.

14 **3.3.** Prior to bringing any motion to enforce the requirements of Section 2 above, Shefa
15 LMV shall provide Hoyu with a notice of violation and a copy of all test results which purportedly
16 support Shefa LMV's notice of violation. The parties shall then meet and confer regarding the basis
17 for the anticipated motion in an attempt to resolve it informally, including providing Hoyu a reasonable
18 opportunity of at least thirty (30) days to respond or cure any alleged violation. Should Hoyu fail to
19 cure the alleged violation, Shefa LMV may file its motion or application. The prevailing party on any
20 motion hereunder shall be entitled to its reasonable attorneys' fees and costs incurred as a result of
21 such motion. As used in the preceding sentence, the term "prevailing party" means a party who is
22 successful in obtaining relief more favorable to it than the relief that the other party was amenable to
23 providing in writing and with specificity during the parties' good faith attempt to resolve the dispute
24 that is the subject of such enforcement action.
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27 **4. SETTLEMENT PAYMENT**
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1 Hoyu shall make the following payments in full satisfaction of all potential civil penalties,
2 payment in lieu of civil penalties, attorneys' fees and costs:

3 **4.1. Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b)**

4 Hoyu shall pay a total civil penalty payment of \$2,000.00 within ten (10) days of receiving the
5 Notice of Entry of Judgment, as follows: the civil penalty shall be apportioned in accordance with
6 California Health & Safety Code sections 25249.12 (c) and (d), with 75% of the funds remitted to the
7 State of California's Office of Environmental Health Hazard Assessment ("OEHHA") and the
8 remaining 25% of the funds remitted to Shefa LMV, both pursuant to the procedures set forth in
9 Section 4.3.

10 **4.2. Reimbursement of Shefa LMV's Fees and Costs**

11 The parties acknowledge that Shefa LMV and its counsel offered to resolve this dispute
12 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this
13 fee issue to be resolved after the material terms of the agreement had been settled. Hoyu expressed a
14 desire to resolve the fee and cost issue after the other settlement terms had been agreed. The parties
15 then attempted to (and did) reach an accord on the compensation due to Shefa LMV and its counsel
16 under general contract principles and the private attorney general doctrine codified at California Code
17 of Civil Procedure section 1021.5, for all work performed in this matter. Under these legal principles,
18 Hoyu shall pay the amount of \$8,000.00 within ten (10) days of receiving the Notice of Entry of
19 Judgment for fees and costs incurred by Shefa LMV for investigating, litigating and enforcing this
20 matter, including the fees and costs incurred (and yet to be incurred) in negotiating, drafting, and
21 obtaining the Court's approval of this Consent Judgment.

22 **4.3. Payment Procedures**

23 All payments required by Sections 4.1 and 4.2 shall be within ten (10) days of being served
24 with the Notice of Entry of Judgment, in three checks made payable as follows:

1 (a) one check to "OEHHHA" in the amount of \$1,500.00;

2 (b) one check to "Law Office of Daniel N. Greenbaum in Trust for Shefa LMV, LLC" in the
3 amount of \$500.00;

4 (c) one check to "Law Office of Daniel N. Greenbaum" in the amount of \$8,000.00.
5

6 **4.4. Issuance of Payments.**

7 **4.4.1.** All payments owed to Shefa LMV, pursuant to Section 4.1, shall be delivered to
8 the following payment address:

9 Daniel N. Greenbaum, Esq.
10 Law Office of Daniel N. Greenbaum
11 The Hathaway Building
12 7120 Hayvenhurst Avenue
Suite 320
Van Nuys, CA 91406

13 **4.4.2.** All payments owed to OEHHHA (EIN: 68-0284486), pursuant to Section 4.1,
14 shall be delivered directly to OEHHHA (Memo line "Prop 65 Penalties") at the following address:

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

19 Hoyu shall also send a copy of the checks payable to OEHHHA to the Law Office of Daniel N.
20 Greenbaum at the address set forth above in 4.4.1.

21 **5. APPLICATION OF CONSENT JUDGMENT; BINDING EFFECT; CLAIMS COVERED**
22 **AND RELEASED**

23 **5.1.** This Consent Judgment may apply to, be binding upon and benefit the Parties, and their
24 respective officers, directors, managers, partners, shareholders, employees, agents, parent companies,
25 subsidiaries, divisions, affiliates, franchisees, licensees, customers, distributors, wholesalers, retailers,
26 predecessors, successors and assigns and Shefa LMV on its own behalf and in the public interest. This
27 Consent Judgment shall have no application to Covered Products that are exclusively distributed
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1 and/or sold outside the State of California. With respect to Covered Products that are distributed
2 and/or sold both inside and outside of California, the requirements contained in this Consent Judgment
3 apply to the Covered Products only to the extent that the distribution and/or sales occur in California.

4 **5.2.** This Consent Judgment is a full, final, and binding resolution between Shefa LMV, on
5 behalf of itself, and in the public interest, and Hoyu, and Hoyu's respective officers, directors,
6 mangers, partners, shareholders, employees, agents, parent companies (including Hoyu Co. Ltd),
7 subsidiaries, divisions, affiliates, franchisees, licensees, customers, distributors, wholesalers, retailers,
8 predecessors, successors and assigns of any alleged violation of Proposition 65 or its implementing
9 regulations for failure to provide Proposition 65 warnings of exposure to DEA, however caused, from
10 the handling, use or consumption of the Covered Products and fully and finally resolves all claims that
11 have been or could have been asserted in this action up to and including the Effective Date for failure
12 to provide Proposition 65 warnings for the Covered Products.
13

14
15 **5.3. Shefa LMV's Public Release of Proposition 65 Claims**

16 Shefa LMV, acting on its behalf and in the public interest, releases and discharges:

17 (a) Hoyu, its parents, directors, officers, mangers, owners, sharcholders, divisions,
18 subdivisions, subsidiaries, partners, sister companies, and affiliates, and their successors and assigns,
19 including but not limited to Hoyu Co., Ltd (collectively, "Defendant Releasees"); and
20

21 (b) finished product or ingredient manufacturers, distributors, and suppliers, and all
22 entities to whom any Defendant Releasee directly or indirectly distributed or sold any Covered
23 Products, including but not limited to distributors, wholesalers, customers, professionals, retailers,
24 salons, resellers, franchisees, cooperative members, and Defendant Releasees' licensors and licensees
25 (collectively, "Additional Releasees"), from any and all claims, actions, causes of action, suits,
26 demands, liabilities, damages, penalties, fees, costs and expenses asserted, or that could have been
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1 asserted, as to any alleged violation of Proposition 65 arising from or related to the failure to provide
2 Proposition 65 warnings on the Covered Products regarding DEA.

3 **5.4. Shefa LMV's Individual Release of Claims**

4 Shefa LMV, on behalf of itself only, hereby releases and discharges the Defendant Releasees
5 and Additional Releasees from any and all known and unknown claims for alleged violations of
6 Proposition 65, or for any other statutory or common law claims, arising from or relating to alleged
7 exposures to DEA in the Covered Products as set forth in the Notice. It is possible that other claims
8 not known to the parties arising out of the facts alleged in the Notice or the Complaint and relating to
9 the Covered Products will develop or be discovered. Shefa LMV, on behalf of itself only,
10 acknowledges that this Consent Judgment is expressly intended to cover and include all such claims,
11 including all rights of action therefor. Shefa LMV has full knowledge of the contents of California
12 Civil Code section 1542. Shefa LMV, on behalf of itself only, acknowledges that the claims released
13 in Sections 5.2 and 5.3 above and this Section 5.4 may include unknown claims, and nevertheless
14 waives California Civil Code section 1542 as to any such unknown claims. California Civil Code
15 section 1542 reads as follows:
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18 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
19 THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS
20 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,
21 WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY
22 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

23 Shefa LMV, on behalf of itself only, acknowledges and understands the significance and consequences
24 of this specific waiver of California Civil Code section 1542.

25 **5.5. Hoyu and Shefa LMV LLC's Mutual Release**

26 Hoyu, on one hand, and Shefa LMV, on the other hand, their past and current agents,
27 representatives, attorneys, successors, and/or assignees, hereby waives any and all claims they may
28 have against each other, their attorneys or other representatives, for any and all actions taken or

1 statements made or undertaken by them in connection with the Notice or the Complaint involving the
2 Covered Products; provided, however, that nothing in this Section shall affect or limit any party's right
3 to seek to enforce the terms of this Consent Judgment.

4 5.6. Compliance with the terms of this Consent Judgment constitutes compliance with
5 Proposition 65 with respect to exposures to DEA from the Covered Products.
6

7 **6. COURT APPROVAL**

8 This Consent Judgment is not effective until it is approved and entered by the Court and shall
9 be null and void if, for any reason, it is not approved and entered by the Court within one year after it
10 has been fully executed by the parties.

11 **7. SEVERABILITY**

12 If, subsequent to the execution of this Consent Judgment, any of the provisions of this Consent
13 Judgment are held by a court to be unenforceable, the validity of the enforceable provisions remaining
14 shall not be adversely affected.
15

16 **8. GOVERNING LAW**

17 The terms of this Consent Judgment shall be governed by the laws of the State of California
18 and the obligations of Hoyu hereunder as to the Covered Products apply only within the State of
19 California.
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21 **9. NOTICES**

22 Unless specified herein, all correspondence and notices required to be provided pursuant to this
23 Consent Judgment shall be in writing and (i) personally delivered, (ii) sent by first-class, (registered or
24 certified mail) return receipt requested, or (iii) sent by overnight courier to one party from the other
25 party at the following addresses:

26 To Hoyu America Co.
27 H. Kim Sim, Esq.
28 Conkle Kremer & Engel

To Shefa LMV LLC:
Daniel N. Greenbaum, Esq.
Law Office of Daniel N. Greenbaum

1 3130 Wilshire Boulevard
2 Suite 500
3 Santa Monica, CA 90403

The Hathaway Building
7120 Hayvenhurst Avenue
Suite 320
Van Nuys, CA 91406

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

6 **10. COUNTERPARTS; FACSIMILE/PDF SIGNATURES**

7 This Consent Judgment may be executed in counterparts and by facsimile or PDF signature,
8 each of which shall be deemed an original, and all of which, when taken together, shall constitute one
9 and the same document. A facsimile or PDF signature shall be as valid as the original.

10 **11. COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(f)**

11 Shefa LMV and its attorneys agree to comply with the reporting form requirements referenced
12 in California Health & Safety Code section 25249.7(f) and with Title II of the California Code
13 Regulations, Section 3003.

14 **12. ADDITIONAL POST-EXECUTION ACTIVITIES**

15 Shefa LMV and Hoyu for themselves and their attorneys agree to employ their best efforts to
16 support the entry of this agreement as a Consent Judgment and obtain approval of the Consent
17 Judgment by the Court in a timely manner. The parties acknowledge that, pursuant to California
18 Health & Safety Code section 25249.7, a noticed motion is required to obtain judicial approval of this
19 Consent Judgment, which Shefa LMV shall draft and file, and Hoyu shall not oppose. If any third
20 party objection to the noticed motion is filed, Shefa LMV shall work with Hoyu to file a joint reply or
21 separate replies if the parties so desire and appear at any hearing before the Court. This provision is a
22 material component of the Consent Judgment and shall be treated as such in the event of a breach.

23 **13. MODIFICATION AND TERMINATION**

24 **13.1.** This Consent Judgment may be modified only: (1) by written agreement of the parties
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1 and upon entry of a modified Consent Judgment by the court thereon; or (2) upon a successful motion
2 of any party and entry of a modified Consent Judgment by the court.

3 **13.2.** If either party seeks to modify this Consent Judgment under Section 13.1, then the party
4 requesting the modification shall provide written notice to the other party of its intent (“Notice of
5 Intent”). If the party receiving the Notice of Intent seeks to meet and confer regarding the proposed
6 modification, then that party shall provide written notice to the other party within thirty (30) days of
7 receiving the Notice of Intent. If such notice is provided in a timely manner, then the parties shall
8 meet and confer in good faith as required in this Section. The parties shall meet in person or on the
9 telephone within thirty (30) days of notification of intent to meet and confer. Within thirty (30) days
10 of such meeting, if the party receiving the Notice of Intent disputes the proposed modification, that
11 party shall provide the other party a written factual basis for its position. The parties shall continue to
12 meet and confer for an additional thirty (30) days in an effort to resolve any remaining disputes. The
13 parties may agree in writing to different deadlines for the meet and confer period.

14 **13.3.** Where the meet and confer process does not lead to a joint motion or application in
15 support of a modification of the Consent Judgment, then either party may seek judicial relief on its
16 own. In such a situation, the prevailing party may seek to recover costs and reasonable attorney’s fees.
17 As used in the preceding sentence, the term “prevailing party” means a party who is successful in
18 obtaining relief more favorable to it than the relief that the other party was amenable to providing in
19 writing and with specificity during the parties’ good faith attempt to resolve the dispute that is the
20 subject of the modification.

21 **13.4.** In the event that Proposition 65 is repealed, preempted or is otherwise rendered
22 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are
23 rendered inapplicable or no longer required as a result of any such repeal or preemption or rendered
24 inapplicable by reason of law generally as to the Covered Products, including, without limitation, the
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1 removal of DEA from OEHHA's list of Proposition 65 chemicals, then Hoyu shall notify Shefa LMV
2 and its counsel and shall have no further obligations pursuant to this Consent Judgment with respect to,
3 and to the extent that, the Covered Products are so affected.

4 **14. ENTIRE AGREEMENT**

5 This Consent Judgment contains the sole and entire agreement and understanding of the parties
6 with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,
7 commitments and understandings related thereto. No representations, oral or otherwise, express or
8 implied, other than those contained herein have been made by any party hereto. No other agreements
9 with respect to the subject matter of this Consent Judgment not specifically referred to herein, oral or
10 otherwise, shall be deemed to exist or to bind any of the parties.
11

12 **15. AUTHORIZATION**

13 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the party
14 he or she represents to stipulate to this Consent Judgment and to enter into and execute the Consent
15 Judgment on behalf of the party represented and legally bind that party. The undersigned have read,
16 understand and agree to all of the terms and conditions of this Consent Judgment. Except as explicitly
17 provided herein, each party is to bear its own fees and costs.
18

19 **16. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF** 20 **CONSENT JUDGMENT**

21 **16.1.** This Consent Judgment came before this Court upon the request of the parties. The parties
22 request the Court to review this Consent Judgment and to make the following findings pursuant to Cal.
23 Health & Safety Code § 25249.7(f)(4):

- 24 1. The injunctive relief required by the Consent Judgment complies with Cal. Health &
25 Safety Code § 25249.7;
- 26 2. The reimbursement of fees and costs to be paid pursuant to the Consent Judgment is
27 reasonable under California law; and
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3. The civil penalty amount to be paid pursuant to Consent Judgment is reasonable.

The undersigned are authorized to execute this Consent Judgment and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

AGREED TO:

AGREED TO:

Date: 10/13/2015

Date: 10/13/2015

By: [Signature]
Plaintiff, Shefa LMV, LLC

By: [Signature]
Defendant, Hoyu America Co.

Print: Alisa Fried

Print: Yoshihiro Sasaki

Its: Managing Member

Its: President

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ORDER AND JUDGMENT

Based upon the stipulated Consent Judgment between Shefa LMV, LLC and Hoya America Co., the settlement is approved and the clerk is directed to enter judgment in accordance with the terms herein.

Dated: OCT 28 2015

GEORGE C. HERNANDEZ, JR.

Judge of the Superior Court