

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 Control Correctives Skincare, Inc.				
CASE INFO	COURT DOCKET NUMBER JCCP004765		COURT NAME Alameda County Superior Court		
	SHORT CASE NAME Proposition 65 Cocamide DEA Cases				
REPORT INFO	INJUNCTIVE RELIEF Reformulation				
	PAYMENT: CIVIL PENALTY \$2,000.00		PAYMENT: ATTORNEYS FEES \$7,950.00		PAYMENT: OTHER 0
	DATE SUBMITTED TO COURT 6 / 1 / 2016		IS JUDGMENT PURSUANT TO SETTLEMENT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, DATE SETTLEMENT WAS REPORTED TO ATTORNEY GENERAL 6 / 1 / 2016
	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.

~~COPY~~



14148684

record JUN 01 2016 CORINNA GARDEN

LAW OFFICE OF DANIEL N. GREENBAUM
Daniel N. Greenbaum, Esq. (SBN 268104)
The Hathaway Building
7120 Hayvenhurst Avenue
Suite 320
Van Nuys, CA 91406
Telephone: (818) 809-2199
Facsimile: (424) 243-7689
Email: dgreenbaum@greenbaumlawfirm.com

FILED
ALAMEDA COUNTY

JUN 07 2016

CLERK OF THE SUPERIOR COURT
By C. M. M. M. Deputy

Attorney for Plaintiff SHEFA LMV, LLC

TUCKER ELLIS LLP
Ronie Schmelz, Esq.
515 S. Flower Street
42nd Floor
Los Angeles CA 90071
Telephone: (213) 430-3375
Facsimile: (213) 430-3409
Email: Ronie.Schmelz@tuckerellis.com

Attorneys for Defendant CONTROL CORRECTIVE SKINCARE, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

Coordination Proceeding
Special Title (Rule 3.350)

PROPOSITION 65 COCAMIDE DEA
CASES

) JUDICIAL COUNCIL COORDINATION
) PROCEEDING NO: 4765
)
)
) [Shefa LMV, LLC v. Farouk Systems, Inc., et
) al., Los Angeles County Superior Court No.
) BC579191]
)
) [PROPOSED] CONSENT JUDGMENT AS
) TO CONTROL CORRECTIVE
) SKINCARE, INC.
)
) Judge: Hon. George C. Hernandez, Jr.
)
) Action filed: April 17, 2015
)
)
)

Page 1

[PROPOSED] CONSENT JUDGMENT
AS TO CONTROL CORRECTIVE SKINCARE, INC. - JCCP No. 4765

BY FAX

1

2

5

8

15

7

2

and compromise and is accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in this action.

2. DEFINITIONS

2.1 “Covered Products” means the types of products identified on the Exhibit A for each Settling Defendant.

2.2 "Effective Date" means the date on which this Consent Judgment is entered by the Court.

3. INJUNCTIVE RELIEF

3.1 Reformulation of Covered Products. As of the Effective Date, Settling Defendant shall not manufacture, distribute, sell, or offer for sale any Covered Product that contains DEA and that will be sold or offered for sale to California consumers. For purposes of this Consent Judgment, a product “contains DEA” if DEA is an intentionally added ingredient in the product and/or intentionally added part of the product formulation.

3.2 **Specification to Suppliers.** No more than thirty (30) days after the Effective Date, Settling Defendant shall issue specifications to its supplier(s) of Covered Products requiring that Covered Products not contain any DEA, and shall instruct each supplier to use reasonable efforts to eliminate Covered Products containing DEA on a nationwide basis.

3.3 Action Regarding Specific Products.

3.3.1 On or before the Effective Date, Settling Defendant shall cease selling the specific products (if any) identified as Section 3.3 Products on the Exhibit A for such Settling Defendant ("Section 3.3 Products") in California unless such products have been reformulated such that they do not contain DEA. On or before the Effective Date, Settling Defendant shall also: (i) cease shipping the Section 3.3 Products to any of its stores and/or customers that resell the Section 3.3 Products in California; and (ii) send instructions to its stores and/or customers that resell the Section 3.3 Products in California instructing them either to: (a) return all the Section 3.3 Products to Settling Defendant for destruction, or (b) directly destroy the Section 3.3

1 Products. The requirements of this Section apply only to those Section 3.3 Products that contain
2 DEA.

3 3.3.2 Any destruction of Section 3.3 Products shall be in compliance with all
4 applicable laws.

5 3.3.3 Within sixty (60) days of the Effective Date, Settling Defendant shall
6 provide Shefa with written certification from Settling Defendant confirming compliance with the
7 requirements of this Section 3.3.

8 3.4 Current Inventory. To the extent it has not already suspended the sale of
9 Covered Products in California, on or before the Effective Date Settling Defendant shall not sell
10 or otherwise distribute any Section 3.3 Product in California or to a California consumer.

11 3.5 Preservation of Competitiveness. The intent of this Section is to protect
12 the competitive interests of Settling Defendant arising from the Shefa's claims and to ensure that
13 by settling the allegations in the Notice of Violation and the Complaint, Settling Defendant is not
14 disadvantaged with respect to its competitors. Specifically, the parties agree that should any
15 agreement or consent judgment be entered into by Shefa, The California Office of
16 Environmental Health Hazard Assessment, or the California Attorney General's Office
17 concerning personal care products similar to the Covered Product that contains provisions that
18 would materially impact the terms of this Agreement, such benefits shall be deemed to accrue to
19 Settling Defendant and this Agreement shall be amended by a stipulation and a new [proposed]
20 order that shall be submitted the Court for approval, a copy of which shall be provided to the
21 Attorney General's office five (5) business days prior to submission to the Court, to provide
22 Settling Defendant the benefit thereof. Further, should there be a court decision involving any
23 other person or entity that received a Proposition 65 60-Day Notice of Violation alleging that
24 DEA in personal care products similar to the Covered Products and such decision is in whole or
25 in part favorable to the Settling Defendant(s) in such action, then that decision shall be
26 incorporated into this Agreement by a stipulation and a new [proposed] order that shall be
27

1 submitted to the Court for approval, a copy of which shall be provided to the Attorney General's
2 Office five (5) business days prior to submission to the Court.

3 **4. ENFORCEMENT**

4 4.1 Shefa may, by motion or application for an order to show cause before the
5 Superior Court of Alameda County, enforce the terms and conditions contained in this Consent
6 Judgment. Prior to bringing any motion or application to enforce the requirements of Section 3
7 above, Shefa shall provide Settling Defendant with a Notice of Violation and proof of purchase
8 and a copy of any test results which purportedly support the Notice of Violation. The Parties
9 shall then meet and confer regarding the basis for the anticipated motion or application in an
10 attempt to resolve it informally, including providing Settling Defendant(s) with a reasonable
11 opportunity of at least thirty (30) days to cure any alleged violation. Should such attempts at
12 informal resolution fail, Shefa may file an enforcement motion or application. This Consent
13 Judgment may only be enforced by the Parties.

14 **5. PAYMENTS**

15 5.1 Payments by Settling Defendant. Within ten (10) business days of the
16 Effective Date, Settling Defendant shall initiate the settlement payment (per the terms in §5.2)
17 identified on Exhibit A. The total settlement amount for Settling Defendant shall be paid
18 pursuant to the instructions outlined in Exhibit A (hereinafter "Total Settlement"). The funds
19 paid by Settling Defendant shall be allocated, as identified in Exhibit A, between the following
20 categories:

21 5.1.1 A civil penalty pursuant to Health & Safety Code § 25249.7(b), with such
22 money to be apportioned by Shefa as identified on the Exhibit A for the Settling Defendant in
23 accordance with Health & Safety Code § 25249.12 (25% to Shefa and 75% to the State of
24 California's Office of Environmental Health Hazard Assessment).

25 5.1.2 A reimbursement of a portion of Shefa's reasonable attorneys' fees and
26 costs.

5.2 Settling Defendant' payment schedule. Settling Defendant shall break the \$9,950.00 Total Settlement into four (4) installments. Per §5.1 above, the first payment is due within ten (10 days) of the Effective Date. Settling Defendant shall make the final payment, constituting full payment of the Total Settlement, on or before four (4) months after the Effective Date.

6. MODIFICATION

6.1 **Written Consent.** This Consent Judgment may be modified from time to time by express written agreement of the Parties with the approval of the Court, or by an order of this Court upon motion and in accordance with law.

6.2 Meet and Confer. Any Party seeking to modify this Consent Judgment shall attempt in good faith to meet and confer with all affected Parties prior to filing a motion to modify the Consent Judgment.

7. CLAIMS COVERED AND RELEASED

7.1 This Consent Judgment is a full, final, and binding resolution between (i) Shefa on behalf of itself and the public interest; and (ii) Settling Defendant and its affiliates, its former affiliates (“affiliate” means a person or entity who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, Settling Defendant), and their current and past directors, officers, employees and attorneys (“Defendant Releasees”), and each entity to whom any of them directly or indirectly distribute or sell Covered Products, including but not limited to distributors, wholesalers, customers, retailers, franchisees, cooperative members, licensors, and licensees (“Downstream Defendant Releasees”); of any violation of Proposition 65 that was or could have been asserted in the Complaint against Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees, based on failure to warn about alleged exposure to DEA contained in Covered Products that were sold by Settling Defendant prior to the Effective Date.

7.2 Compliance with the terms of this Consent Judgment by Settling Defendant and Defendant Releasees shall constitute compliance with Proposition 65 by Settling

1 Defendant, Defendant Releasees, and Downstream Defendant Releasees with respect to any
2 alleged failure to warn about DEA in Covered Products manufactured, distributed, or sold by
3 Settling Defendants after the Effective Date.

4 7.3 Nothing in this Section 7 affects Shefa's right to commence or prosecute
5 an action under Proposition 65 against any person other than Settling Defendant, Defendant
6 Releasees, or Downstream Defendant Releasees.

7 **8. NOTICE**

8 8.1 When Shefa is entitled to receive any notice under this Consent Judgment,
9 the notice shall be sent by first class and electronic mail to:

10 Daniel N. Greenbaum
11 Law Office of Daniel N. Greenbaum
12 7120 Hayvenhurst Ave., Suite 320
13 Van Nuys CA 91406
dgreenbaum@greenbaumlawfirm.com

14 8.3 When Settling Defendant is entitled to receive any notice under this
15 Consent Judgment, the notice shall be sent by first class and electronic mail to the person
16 identified on the Exhibit A for Settling Defendant.

17 8.4 Any Party may modify the person and address to whom the notice is to be
18 sent by sending the other Party notice by first class and electronic mail.

19 **9. COURT APPROVAL**

20 9.1 This Consent Judgment shall become effective upon entry by the Court.
21 Shefa shall prepare and file a Motion for Approval of this Consent Judgment and Settling
22 Defendant shall support entry of this Consent Judgment.

23 9.2 If this Consent Judgment is not entered by the Court, it shall be of no
24 force or effect and shall never be introduced into evidence or otherwise used in any proceeding
25 for any purpose other than to allow the Court to determine if there was a material breach of
26 Section 9.1.

27 **10. ATTORNEYS' FEES**

10.1 Should Shefa prevail on any motion, application for an order to show cause, or other proceeding to enforce a violation of this Consent Judgment, Shefa shall be entitled to its reasonable attorneys' fees and costs incurred as a result of such motion or application. Should Settling Defendant prevail on any motion application for an order to show cause or other proceeding, that Settling Defendant may be awarded its reasonable attorneys' fees and costs against Shefa as a result of such motion or application upon a finding by the Court that Shefa's prosecution of the motion or application lacked substantial justification. For purposes of this Consent Judgment, the term substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure §§ 2016, et seq.

10.2 Except as otherwise provided in this Consent Judgment, each Party shall bear its own attorneys' fees and costs.

10.3 Nothing in this Section 10 shall preclude a Party from seeking an award of sanctions pursuant to law.

11. OTHER TERMS

11.1 The terms of this Consent Judgment shall be governed by the laws of the State of California.

11.2 This Consent Judgment shall apply to and be binding upon Shefa, Settling Defendant, its affiliates, and successors or assigns of any of them.

11.3 This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein. There are no warranties, representations, or other agreements between the Parties except as expressly set forth herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Consent Judgment have been made by any Party hereto. No other agreements not specifically contained or referenced herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation, modification, waiver, or termination of this Consent Judgment shall be binding

1 unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions
2 of this Consent Judgment shall be deemed or shall constitute a waiver of any of the other
3 provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

4 11.4 Nothing in this Consent Judgment shall release, or in any way affect any
5 rights Settling Defendant might have against any other party, whether or not that party is a
6 Settling Defendant.

7 11.5 This Court shall retain jurisdiction of this matter to implement or modify
8 the Consent Judgment.

9 11.6 The stipulations to this Consent Judgment may be executed in
10 counterparts and by means of facsimile or portable document format (pdf), which taken together
11 shall be deemed to constitute one document.

12 11.7 Each signatory to this Consent Judgment certifies that he or she is fully
13 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter
14 into and execute the Consent Judgment on behalf of the Party represented and legally to bind
15 that Party.

16 11.8 The Parties, including their counsel, have participated in the preparation
17 of this Consent Judgment and this Consent Judgment is the result of the joint efforts of the
18 Parties. This Consent Judgment was subject to revision and modification by the Parties and has
19 been accepted and approved as to its final form by all Parties and their counsel. Accordingly,
20 any uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against
21 any Party as a result of the manner of the preparation of this Consent Judgment. Each Party to
22 this Consent Judgment agrees that any statute or rule of construction providing that ambiguities
23 are to be resolved against the drafting Party should not be employed in the interpretation of this
24 Consent Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

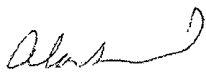
25 AGREED TO:
26
27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: 5/31/16

SHEFA LMV, LLC

By: 

Dated: 5/31/16

CONTROL CORRECTIVES SKINCARE, INC.

By: 

1 **ORDER AND JUDGMENT**

2 Based upon the stipulated Consent Judgment between Shefa LMV, LLC and Control
3 Corrective Skincare, Inc. the settlement is approved and the clerk is directed to enter judgment in
4 accordance with the terms herein.

5
6 Dated: 6/7/2016

7 
8
9 Judge of the Superior Court

EXHIBIT A

1. Name of Settling Defendant: Control Corrective Skincare, Inc.
2. Name of Plaintiff: Shefa LMV, LLC
3. Person(s) to Receive Notices (Pursuant to Section 8.3):

TUCKER ELLIS LLP
Ronie Schmelz, Esq.
515 S. Flower Street
42nd Floor
Los Angeles CA 90071
Telephone: (213) 430-3375
Facsimile: (213) 430-3409
Email: Ronie.Schmelz@tuckerellis.com
4. Complaint Naming Settling Defendant (Pursuant to Section 1.4): *Shefa LMV, LLC v. Farouk Systems, Inc., et al.*, Los Angeles County Superior Court No. BC579191
5. Covered Products Applicable to Defendant (Pursuant to Sections 1.2, 1.3, 2.1, 3.1, 3.2, 7.1, and 7.2):

☐ Shampoos
☒ Soaps
6. Defendant's Section 3.3 Product(s) (Pursuant to Sections 3.3.1, 3.3.2, and 3.3.3):

Control Corrective Aroma Matte
7. Defendant's Settlement Payment and Allocation (Pursuant to Section 5.1):

Total Settlement Payment: \$9,950.00
Civil Penalty (payable to Shefa LMV, LLC): \$2,000.00
Payment in Lieu of Civil Penalty (payable to Shefa): \$ N/A
Shefa Fees and Costs (payable to the Law Office of Daniel N. Greenbaum): \$7,950.00

Checks payable to "Shefa LMV, LLC" or the "Law Office of Daniel N. Greenbaum" shall be delivered to counsel for Shefa as set forth in Section 8.1.