

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 Farouk Systems, Inc.			
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 \$10,000.00	PAYMENT: ATTORNEYS FEES \$26,000.00	PAYMENT: OTHER \$0.00	
	DATE SUBMITTED TO COURT 11 / 25 / 2015	IS JUDGMENT PURSUANT TO SETTLEMENT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, DATE SETTLEMENT WAS REPORTED TO ATTORNEY GENERAL 11 / 25 / 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 ZIP CA 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



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

FILED
ALAMEDA COUNTY
JAN 27 2016

CLERK OF THE SUPERIOR COURT
 By *Restanda* Deputy

6 Attorney for Plaintiff SHEFA LMV, LLC

7 ROGERS JOSEPH O'DONNELL
 Renee D. Wasserman, Esq.
 8 311 California Street, 10th Fl.
 San Francisco, CA 94104 □
 9 Telephone: (415) 956-2828
 10 Fax: (415) 956- 6457
 Email: rwasserman@rjo.com

11 Attorneys for Defendant FAROUK SYSTEM, INC.

12
 13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 FOR THE COUNTY OF ALAMEDA

16 Coordination Proceeding
 17 Special Title (Rule 3.350)
 18
 19 PROPOSITION 65 COCAMIDE DEA
 20 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 FAROUK SYSTEMS, INC.
)
) Judge: Hon. George C. Hernandez, Jr.
)
) Action filed: April 17, 2015

21
 22
 23
 24
 25
 26 **BY FAX**

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

1. INTRODUCTION

1.1 The parties to this Consent Judgment (“Parties”) are Shefa LMV, LLC (“Shefa”) and Farouk Systems, Inc. (“Settling Defendant”). Shefa and Settling Defendant are referred to collectively as the “Parties.”

1.2 The Settling Defendant manufactures, distributes, and/or sells types of products identified on Exhibit A that contain Diethanolamine (“DEA”) in the State of California or has done so in the past.

1.3 On the date identified on Exhibit A, Shefa served a 60-Day Notice of Violation under Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.5, et seq.) (“Notices”) to Settling Defendant, the California Attorney General, the District Attorneys of every County in the State of California, and the City Attorneys for every City in the State of California with a population greater than 750,000.

1.4 The Notices allege violations of Proposition 65 with respect to the presence of DEA in the types of products identified in Exhibit A.

1.5 On the date(s) identified on Exhibit A, Shefa filed the Complaint applicable to the Settling Defendant (“Complaint”) for the Proposition 65 Action identified in Exhibit A.

1.6 For purposes of this Consent Judgment only, the Parties stipulate that: (i) this Court has jurisdiction over the allegations of violations contained in the operative Complaint applicable to Settling Defendant and personal jurisdiction over Settling Defendant as to the acts alleged in the Complaint; (ii) venue is proper in the County of Alameda; and (iii) this Court has jurisdiction to enter this Consent Judgment.

1.7 Nothing in this Consent Judgment is or shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law.

1.8 Nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any other legal proceeding.

1 1.9 This Consent Judgment is the product of negotiation and compromise and is
2 accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in
3 this action.

4 2. DEFINITIONS

5 2.1 “Covered Products” means the types of products identified on the Exhibit A for
6 each Settling Defendant.

7 2.2 “Effective Date” means the date on which this Consent Judgment is entered by
8 the Court.

9 3. INJUNCTIVE RELIEF

10 3.1 **Reformulation of Covered Products.** As of the Effective Date, Settling
11 Defendant shall not manufacture, distribute, sell, or offer for sale any Covered Product that
12 contains DEA and that will be sold or offered for sale to California consumers. For purposes of
13 this Consent Judgment, a product “contains DEA” if DEA is an intentionally added ingredient in
14 the product and/or intentionally added part of the product formulation.

15 3.2 **Specification to Suppliers.** No more than thirty (30) days after the Effective
16 Date, Settling Defendant shall issue specifications to its supplier(s) of Covered Products
17 requiring that Covered Products not contain any DEA, and shall instruct each supplier to use
18 reasonable efforts to eliminate Covered Products containing DEA on a nationwide basis.

19 3.3 **Action Regarding Specific Products.** On or before the Effective Date, Settling
20 Defendant shall cease selling the specific products (if any) identified as Section 3.3 Products on
21 the Exhibit A for such Settling Defendant (“Section 3.3 Products”) in California unless such
22 products have been reformulated such that they do not contain DEA.

23 3.4 On or before the Effective Date, Settling Defendant shall also: (i) cease shipping
24 the Section 3.3 Products to any of its California stores and/or California customers that resell the
25 Section 3.3 Products in California; and (ii) send instructions to its California stores and/or
26 California customers that resell the Section 3.3 Products in California instructing them either to:
27 (a) return all the Section 3.3 Products to Settling Defendant for destruction, or (b) directly
28 destroy the Section 3.3 Products.

1 3.5 The requirements of this Section apply only to those Section 3.3 Products that
2 contain DEA.

3 3.6 Any destruction of Section 3.3 Products shall be in compliance with all applicable
4 laws.

5 4. **ENFORCEMENT**

6 4.1 Shefa may, by motion or application for an order to show cause before the
7 Superior Court of Alameda County, enforce the terms and conditions contained in this Consent
8 Judgment.

9 4.2 Prior to bringing any motion or application to enforce the requirements of Section
10 3 above, Shefa shall provide Settling Defendant with a Notice of Violation and proof of purchase
11 and a copy of any test results which purportedly support the Notice of Violation.

12 4.3 The Parties shall then meet and confer regarding the basis for the anticipated
13 motion or application in an attempt to resolve it informally, including providing Settling
14 Defendant(s) with a reasonable opportunity of at least thirty (30) days to cure any alleged
15 violation.

16 4.4 Should such attempts at informal resolution fail, Shefa may file an enforcement
17 motion or application.

18 4.5 This Consent Judgment may only be enforced by the Parties.

19 5. **PAYMENTS**

20 5.1 Within ten (10) business days of the Effective Date, Settling Defendant shall pay
21 the settlement payment identified for it on Exhibit A.

22 5.2 The total settlement amount for Settling Defendant shall be paid pursuant to the
23 instructions outlined in Exhibit A.

24 5.3 The funds paid by Settling Defendant shall be allocated, as identified in
25 Exhibit A, between the following categories:

26 5.4 **Civil Penalty.** A civil penalty pursuant to Health & Safety Code § 25249.7(b),
27 with such money to be apportioned by Shefa as identified on the Exhibit A for the Settling
28 Defendant in accordance with Health & Safety Code § 25249.12 (25% to Shefa and 75% to the
State of California's Office of Environmental Health Hazard Assessment).

1 5.5 **Attorney's Fees and Costs.** A reimbursement of a portion of Shefa's reasonable
2 attorney's fees and costs.

3 **6. MODIFICATION**

4 6.1 **Written Consent.** This Consent Judgment may be modified from time to time by
5 express written agreement of the Parties with the approval of the Court, or by an order of this
6 Court upon motion and in accordance with law.

7 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall
8 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to
9 modify the Consent Judgment.

10 **7. CLAIMS COVERED AND RELEASED**

11 7.1 This Consent Judgment is a full, final, and binding resolution between (i) Shefa
12 on behalf of itself and the public interest; and (ii) Settling Defendant and its affiliates, its former
13 affiliates ("affiliate" means a person or entity who directly or indirectly owns or controls, is
14 owned or controlled by, or is under common ownership or control with, Settling Defendant), and
15 their current and past directors, officers, employees and attorneys ("Defendant Releasees"), and
16 each entity to whom any of them directly or indirectly distribute or sell Covered Products,
17 including but not limited to distributors, wholesalers, contractors, customers, retailers,
18 franchisees, cooperative members, licensors, and licensees ("Downstream Defendant
19 Releasees"); of any violation of Proposition 65 that was or could have been asserted in the
20 Complaint against Settling Defendant, Defendant Releasees, and Downstream Defendant
21 Releasees, based on failure to warn about alleged exposure to DEA contained in Covered
22 Products that were sold by Settling Defendant prior to the Effective Date.

23 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant and
24 Defendant Releasees shall constitute compliance with Proposition 65 by Settling Defendant,
25 Defendant Releasees, and Downstream Defendant Releasees with respect to any alleged failure
26 to warn about DEA in Covered Products manufactured, distributed, or sold by Settling
27 Defendants after the Effective Date.

28 7.3 Shefa, acting on its behalf only, releases and discharges Settling Defendant,
Defendant Releasees, and Downstream Defendant Releasees from any and all known and

1 unknown claims for alleged violations of Proposition 65 or for any other statutory or common
2 law claims, arising from or relating to alleged exposures to DEA in the Covered Products. It is
3 possible that other claims not known to the parties arising out of the facts alleged in the Notices
4 or the Complaint and relating to the Covered Products will develop or be discovered. Shefa, on
5 behalf of itself only, acknowledges that this Consent Judgment is expressly intended to cover
6 and include all such claims including all rights of action thereof. Shefa has full knowledge of
7 the contents of California Civil Code section 1542. Shefa, on behalf itself only, acknowledges
8 that the claims released above may include unknown claims, and nevertheless waives California
9 Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542
10 reads as follows:

11 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
12 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT
13 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
14 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM
OR HER MUST HAVE MATERIALLY AFFECTED HIS OR
HER SETTLEMENT WITH THE DEBTOR.

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

17 7.4 Nothing in this Section 7 affects Shefa's right to commence or prosecute an
18 action under Proposition 65 against any person other than Settling Defendant, Defendant
19 Releasees, or Downstream Defendant Releasees.

20 8. NOTICE

21 8.1 When Shefa is entitled to receive any notice under this Consent Judgment, the
22 notice shall be sent by first class and electronic mail to:

23 Daniel N. Greenbaum
24 Law Office of Daniel N. Greenbaum
7120 Hayvenhurst Ave., Suite 320
25 Van Nuys CA 91406
dgreenbaum@greenbaumlawfirm.com

26 8.2 When Settling Defendant is entitled to receive any notice under this Consent
27 Judgment, the notice shall be sent by first class and electronic mail to the person identified on
28 the Exhibit A for Settling Defendant.

1 8.3 Any Party may modify the person and address to whom the notice is to be sent by
2 sending the other Party notice by first class and electronic mail.

3 **9. COURT APPROVAL**

4 9.1 This Consent Judgment shall become effective upon entry by the Court.

5 9.2 Shefa shall prepare and file a Motion for Approval of this Consent Judgment and
6 Settling Defendant shall support entry of this Consent Judgment.

7 9.3 If this Consent Judgment is not entered by the Court, it shall be of no force or
8 effect and shall never be introduced into evidence or otherwise used in any proceeding for any
9 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

10 **10. ATTORNEYS' FEES**

11 10.1 Should Shefa prevail on any motion, application for an order to show cause, or
12 other proceeding to enforce a violation of this Consent Judgment, Shefa shall be entitled to its
13 reasonable attorneys' fees and costs incurred as a result of such motion or application.

14 10.2 Should Settling Defendant prevail on any motion application for an order to show
15 cause or other proceeding, that Settling Defendant may be awarded its reasonable attorneys' fees
16 and costs against Shefa as a result of such motion or application upon a finding by the Court that
17 Shefa's prosecution of the motion or application lacked substantial justification.

18 10.3 For purposes of this Consent Judgment, the term substantial justification shall
19 carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure §§
20 2016, et seq.

21 10.4 Except as otherwise provided in this Consent Judgment, each Party shall bear its
22 own attorneys' fees and costs.

23 10.5 Nothing in this Section 10 shall preclude a Party from seeking an award of
24 sanctions pursuant to law.

25 **11. OTHER TERMS**

26 11.1 The terms of this Consent Judgment shall be governed by the laws of the State of
27 California.

28 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.

1 11.3 This Consent Judgment contains the sole and entire agreement and understanding
2 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
3 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein
4 and therein.

5 11.4 There are no warranties, representations, or other agreements between the Parties
6 except as expressly set forth herein.

7 11.5 No representations, oral or otherwise, express or implied, other than those
8 specifically referred to in this Consent Judgment have been made by any Party hereto.

9 11.6 No other agreements not specifically contained or referenced herein, oral or
10 otherwise, shall be deemed to exist or to bind any of the Parties hereto.

11 11.7 No supplementation, modification, waiver, or termination of this Consent
12 Judgment shall be binding unless executed in writing by the Party to be bound thereby.

13 11.8 No waiver of any of the provisions of this Consent Judgment shall be deemed or
14 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall
15 such waiver constitute a continuing waiver.

16 11.9 Nothing in this Consent Judgment shall release, or in any way affect any rights
17 Settling Defendant might have against any other party, whether or not that party is a Settling
18 Defendant.

19 11.10 This Court shall retain jurisdiction of this matter to implement or modify the
20 Consent Judgment.

21 11.11 The stipulations to this Consent Judgment may be executed in counterparts and
22 by means of facsimile or portable document format (pdf), which taken together shall be deemed
23 to constitute one document.

24 11.12 Each signatory to this Consent Judgment certifies that he or she is fully
25 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter
26 into and execute the Consent Judgment on behalf of the Party represented and legally to bind
27 that Party.

28 11.13 The Parties, including their counsel, have participated in the preparation of this
Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.

1 11.14 This Consent Judgment was subject to revision and modification by the Parties
2 and has been accepted and approved as to its final form by all Parties and their counsel.

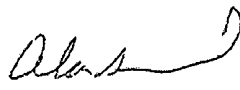
3 11.15 Accordingly, any uncertainty or ambiguity existing in this Consent Judgment
4 shall not be interpreted against any Party as a result of the manner of the preparation of this
5 Consent Judgment.

6 11.16 Each Party to this Consent Judgment agrees that any statute or rule of
7 construction providing that ambiguities are to be resolved against the drafting Party should not
8 be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby
9 waive California Civil Code § 1654.

10
11 AGREED TO:

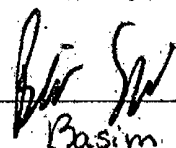
12 Dated: 9/30/2015

SHEFA LMV, LLC

13 By: 

14
15
16
17 Dated: 9-30-2015

FAROUK SYSTEMS, INC.

18 By: 
19 Basim Shami
20 CEO

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

ORDER AND JUDGMENT

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

Dated: 1/27/2016



Judge of the Superior Court

GEORGE C. HERNANDEZ, JR.

EXHIBIT A

1. Name of Settling Defendant: Farouk Systems, Inc.
2. Name of Plaintiff: Shefa LMV, LLC
3. Person(s) to Receive Notices (Pursuant to Section 8.2):

Jason Rumsey, Esq.
FAROUK SYSTEMS, INC.
880 E Richey Road
Houston, TX 77073
Email: jrumsey@farouk.com

With copies to:

ROGERS JOSEPH O'DONNELL
Renee D. Wasserman, Esq.
311 California Street, 10th Fl.
San Francisco, CA 94104
Email: rwasserman@rjo.com

4. Date of 60-Day Notice of Violation (Pursuant to Section 1.3): November 5, 2014
5. 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
 - a. Date Complaint Filed: April 17, 2015
6. Covered Products Applicable to Defendant (Pursuant to Sections 1.2, 1.3, 2.1, 3.1, 3.2, 7.1, 7.2, 7.3 and 7.4):

Farouk Systems, Inc. Shampoos
Farouk Systems, Inc. Soaps
Farouk Systems, Inc. Hair Crème/Hair Care Products
7. Defendant's Section 3.3 Product(s) (Pursuant to Sections 3.1 through 3.6):

CHI Pliable polish; UPC: 633911630655

8. Defendant's Settlement Payment and Allocation (Pursuant to Section 5.1):

Total Settlement Payment: \$15,000.00

Civil Penalty (payable to Shefa LMV, LLC): \$3,000.00

Payment in Lieu of Civil Penalty (PILP): \$ N/A

Shefa Fees and Costs (payable to the Law Office of Daniel N. Greenbaum): \$12,000.00

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.