

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

Original Filing Supplemental Filing Corrected Filing

Please print or type required information

PARTIES TO THE ACTION	PLAINTIFF(S)				
	DEFENDANT(S) INVOLVED IN JUDGMENT				
CASE INFO	COURT DOCKET NUMBER		COURT NAME		
	SHORT CASE NAME				
REPORT INFO	INJUNCTIVE RELIEF				
	PAYMENT: CIVIL PENALTY	PAYMENT: ATTORNEYS FEES		PAYMENT: OTHER	
	DATE SUBMITTED TO COURT / /	IS JUDGMENT PURSUANT TO SETTLEMENT? <input type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, DATE SETTLEMENT WAS REPORTED TO ATTORNEY GENERAL / /		For Internal Use Only
	COPY OF JUDGMENT MUST BE ATTACHED				
FILER INFO	NAME OF CONTACT				
	ORGANIZATION			TELEPHONE NUMBER ()	
	ADDRESS			FAX NUMBER ()	
	CITY	STATE	ZIP	E-MAIL ADDRESS	

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LAW OFFICE OF DANIEL N. GREENBAUM
Daniel N. Greenbaum, Esq. (SBN 268104)
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Attorney for Plaintiff SHEFA LMV, INC.

LOCKE LORD LLP
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Los Angeles, California 90071
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Attorneys for Defendant LOVEHONEY GROUP LTD

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SHEFA LMV, INC.,) Case No. BC668434
)
Plaintiff,)
) ~~PROPOSED~~ CONSENT JUDGMENT
vs.) AS TO LOVEHONEY GROUP LTD
)
LOVEHONEY GROUP LTD; and DOES 1)
through 100, Inclusive,)
) Action Filed: July 13, 2017
Defendants.)
)
)
)
)

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUN 12 2018

Sherri R. Carter, Executive Officer/Clerk
By Sherrie Worku, Deputy

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This consent judgment (“**Consent Judgment**”) is entered into by and between plaintiff
4 Shefa LMV, Inc. (“**Shefa**” or “**Plaintiff**”) and Lovehoney Group LTD (“**LOVEHONEY**” or
5 “**Defendant**,” with Shefa and LOVEHONEY individually referred to as a “**Party**” and collectively
6 as the “**Parties.**”)

7 **1.2 Plaintiff**

8 Shefa is a public benefit non-profit corporation that seeks to promote awareness of
9 exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous
10 substances contained in consumer products.

11 **1.3 Settling Defendant**

12 LOVEHONEY employs ten or more persons and is a person in the course of doing business
13 for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety
14 Code §25249.6 *et seq.* (“**Proposition 65**”).

15 **1.4 Products Covered**

16 The products covered by this Consent Judgment are adult novelty bondage tape products,
17 including but not limited to Fifty Shades Of Gray Still, Baby, Still Bondage Tape Triple Pack, with
18 a product identifier of UPC: 5060057879078, Tease Me Bondage Tape, with a product identifier of
19 UPC: 5060108819992 and Tracey Cox Supersex Bondage Tape that are manufactured, sold, or
20 distributed for sale in California by LOVEHONEY that contain Di-[2-Ethylhexyl]Phthalate)
21 (“**DEHP**”) (collectively, the “**Covered Products**”) without first providing a clear and reasonable
22 warning as required by Proposition 65.

23 **1.5 General Allegations**

24 Shefa alleges that LOVEHONEY manufactures, imports, sells, or distributes, for sale in the
25 state of California, adult novelty bondage tape products that contain DEHP without first providing a
26 clear and reasonable warning required by Proposition 65. DEHP (CAS # 68515-48-0) is a chemical
27 listed under Proposition 65 as a chemical known to the state to cause cancer or reproductive toxicity
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1 as Proposition 65 defines that term. 27 CCR §25000. LOVEHONEY denies these allegations.

2 **1.6 Notice of Violation**

3 On November 14, 2016, Shefa served Defendant and the requisite public enforcement
4 agencies with a 60-Day Notice of Violation alleging that Defendant violated Proposition 65 when it
5 failed to warn its customers and consumers in California that the Covered Products expose users to
6 DEHP. To the best of the Parties' knowledge, no public enforcer has commenced and is diligently
7 prosecuting the allegations set forth in the Notice.

8 **1.7 Complaint**

9 On July 13, 2017, Shefa filed the instant complaint in the Superior Court in and for the
10 County of Los Angeles against LOVEHONEY and DOES 1-100, alleging violations of California
11 Health & Safety Code § 25249.6, based on exposures to DEHP contained in the Covered Products
12 sold in the State of California (the "Complaint").

13 **1.8 No Admission**

14 LOVEHONEY denies the material, factual, and legal allegations contained in the Notice and
15 Complaint and maintains that all the products it has manufactured, sold, or distributed for sale in
16 California, including the Covered Products, have been, and are, in compliance with all laws.
17 Nothing in this Consent Judgment shall be construed as an admission by LOVEHONEY of any fact,
18 finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this Consent
19 Judgment constitute or be construed as an admission by LOVEHONEY of any fact, finding,
20 conclusion of law, issue of law, or violation of law, the same being specifically denied by
21 LOVEHONEY. This section shall not, however, diminish or otherwise affect LOVEHONEY's
22 obligations, responsibilities, and duties under this Consent Judgment.

23 **1.9 Consent to Jurisdiction**

24 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
25 jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper in the
26 County of Los Angeles, the Defendant agrees that it employs or has employed ten or more persons
27 during time periods relevant to the Complaint and that this Court has jurisdiction over the Parties to
28

1 enter and enforce the provisions of this Consent Judgment pursuant to Proposition 65.

2 **1.10 Effective Date**

3 For purposes of this Consent Judgment, the term "Effective Date" shall mean the date the
4 Consent Judgment is approved and entered by the Court.

5 **2. INJUNCTIVE RELIEF: COMPLIANT PRODUCTS AND WARNINGS**

6 **2.1 Reformulation Standards. As of the Effective Date, Defendant shall**
7 **manufacture, distribute, or sell Compliant Products in California. "Compliant Products" are**
8 **defined as those Products containing the Listed Chemical in concentrations less than or equal**
9 **to 1000 parts per million ("ppm") (0.1%) when analyzed pursuant to a scientifically reliable**
10 **application of U.S. Environmental Protection Agency testing methodologies 3580A and 8270C**
11 **or any other scientifically reliable methodology for determining the Listed Chemical content**
12 **in a substance of the form of the Covered Products herein.**

13 **2.2 Warning Standards. Defendant agrees, promises, and represents that, as of**
14 **the Effective Date, to the extent it ships or sells products that are not Compliant Products,**
15 **Defendant will provide warnings on such Covered Products that comply with Proposition 65.**
16 **The warnings shall be provided in such a conspicuously and prominent manner that will**
17 **assure the message is made available and likely to be read, seen, or heard by the consumer**
18 **prior to or at the time of the sale or purchase. The Parties agree that product labeling stating one**
19 **of the following shall constitute compliance with Proposition 65 with respect to any Covered**
20 **Products not reformulated:**

21 "WARNING: This product contains a chemical known to the State of California to
22 cause cancer, birth defects or other reproductive harm."

23 Or

24 "⚠️ WARNING: This product can expose you to chemicals including Di-[2-
25 Ethylhexyl] Phthalate (DEHP) which are known to the State of California to cause
26 cancer, birth defects or reproductive harm. For more information go to
27 www.P65Warnings.ca.gov."

1 **3. MONETARY SETTLEMENT TERMS**

2 **3.1 Payment from Defendant.** Within twenty (20) business days of the Effective
3 Date, Defendant shall make the Total Settlement Payment of **\$18,000.00**.

4 **3.2 Allocation of Payments.** The Total Settlement Payment shall be paid in three (3)
5 separate checks made payable and allocated as follows:

6 **3.2.1 Civil Penalty.** Defendant shall pay \$2,000.00 as a civil penalty
7 pursuant to Health & Safety Code § 25249.7(b). The civil penalty shall be apportioned in
8 accordance with Health & Safety Code § 25249.12 (25% to Shefa and 75% to the State of
9 California's Office of Environmental Health Hazard Assessment ("OEHHA")). Accordingly, the
10 OEHHA portion of the civil penalty payment in the amount of \$1,500.00 shall be made payable to
11 OEHHA and associated with taxpayer identification number 68-0284486. This payment shall be
12 delivered as follows:

13 For United States Postal Service Delivery:

14 Attn: Mike Gyurics
15 Fiscal Operations Branch Chief
16 Office of Environmental Health Hazard Assessment
17 P.O. Box 4010, MS #19B
18 Sacramento, CA 95812-4010

19 For Non-United States Postal Service Delivery:

20 Attn: Mike Gyurics
21 Fiscal Operations Branch Chief
22 Office of Environmental Health Hazard Assessment
23 1001 I Street, MS #19B
24 Sacramento, CA 95814

25 The Shefa portion of the civil penalty payment in the amount of \$500.00 shall be made
26 payable to Shefa LMV, Inc. and associated with taxpayer identification number 81-0907002.
27 This payment shall be delivered to the Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst
28 Ave, Suite 320, Van Nuys, CA 91406.

3.2.2 Attorney's Fees and Costs. A reimbursement of Shefa's attorney's
fees and costs in the amount of \$16,000.00 payable to the "Law Office of Daniel N. Greenbaum,"

1 and associated with taxpayer identification number 46-4580172. This payment shall be delivered to
2 the Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst Ave, Suite 320, Van Nuys, CA 91406.

3 **4. CLAIMS COVERED AND RELEASED**

4 **4.1 Shefa's Public Release of LOVEHONEY and its Downstream Releasees**

5 This Consent Judgment is a full, final, and binding resolution between Shefa and
6 LOVEHONEY of any violation of Proposition 65 that was or could have been asserted by Shefa,
7 acting on behalf of itself and in a representative capacity in the public interest under Health &
8 Safety Code § 25249.7, against LOVEHONEY, its parents, subsidiaries, affiliated entities under
9 common ownership, manufacturers, suppliers, directors, officers, employees, attorneys, and the
10 predecessors, successors, or assigns of each of them, and each entity to whom LOVEHONEY
11 directly or indirectly exports, distributes or sells the Covered Products, including, without
12 limitation, downstream distributors, wholesalers, customers, retailers, franchisees, cooperative
13 members, and licensees, including but not limited to PHE, Inc. d/b/a Adam & Eve (adameve.com)
14 ("Releasees"), based on failure to warn of alleged exposures to DEHP from Covered Products
15 manufactured, sold, exported or distributed for sale in California by LOVEHONEY prior to the
16 Effective Date. The release in this Section 4.1 applies to all Covered Products that LOVEHONEY
17 manufactured, exported, distributed, or sold prior to the Effective Date, regardless of the date any
18 other Releasee distributes or sells the Covered Products.

19 Upon entry of this Consent Judgment by the Court, going forward, LOVEHONEY's
20 compliance with the terms of this Consent Judgment shall be deemed to constitute compliance with
21 Proposition 65 by LOVEHONEY or any other Releasee with respect to DEHP in Covered Products
22 manufactured, sold, or distributed for sale in California by LOVEHONEY on and after the Effective
23 Date.

24 **4.2 Shefa's Individual Release of Claims**

25 In further consideration of the promises and agreements herein contained, Shefa, on its own
26 behalf and on behalf of its past and current agents, representatives, attorneys, successors, and/or
27 assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of
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1 legal action, and releases all claims that it may have against LOVEHONEY and Releasees,
2 including, without limitation, all actions and causes of action, suits, liabilities, demands, obligations,
3 damages, costs, fines, penalties, losses, or expenses, including, without limitation, investigation
4 fees, expert fees, and attorneys' fees arising under Proposition 65 for unwarned exposures to DEHP
5 from Covered Products manufactured, sold, or distributed for sale in California by LOVEHONEY
6 prior to the Effective Date. The releases in Section 4.2 are provided in Shefa's individual capacity
7 and are not releases on behalf of the public.

8 **4.3 LOVEHONEY's Release of Shefa**

9 LOVEHONEY, on its own behalf and on behalf of its past and current agents,
10 representatives, attorneys, successors, and assignees, hereby waives any and all claims that it may
11 have against Shefa and its attorneys and other representatives, for any and all actions taken or
12 statements made by Shefa and its attorneys and other representatives, whether in the course of
13 investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter, or with
14 respect to the Covered Products.

15 **4.4 Release of Unknown Claims**

16 It is possible that other claims not known to the Parties arising out of the facts contained in
17 the 60-Day Notice, or alleged in the Complaint, relating to the Covered Products, will hereafter be
18 discovered or developed. Shefa, on behalf of itself only, on the one hand, and LOVEHONEY, on
19 the other hand, acknowledge that this Consent Judgment is expressly intended to cover and include
20 all such claims through and including the Effective Date, including all rights of action therefor.
21 Shefa and LOVEHONEY acknowledge that the claims released in Section 4 may include unknown
22 claims, and nevertheless intend to release such claims, and in doing so waive California Civil Code
23 § 1542, which reads as follows:

24 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
25 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR**
26 **AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM**
27 **OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
28 **WITH THE DEBTOR.**

Shefa understands and acknowledges that the significance and consequence of this waiver of

1 California Civil Code § 1542 is that, even if Shefa suffers future damages arising out of or resulting
2 from, or related directly or indirectly to, in whole or in part, the Covered Products, including but not
3 limited to any exposure to, or failure to warn with respect to exposure to, the Covered Products,
4 Shefa will not be able to make any claim for those damages against any of the Releasees.

5 **5. COURT APPROVAL**

6 This Consent Judgment is not effective until it is approved and entered by the Court and
7 shall be null and void if, for any reason, it is not approved and entered by the Court within ninety
8 (90) days after it has been fully executed by the Parties, or by such additional time as the Parties
9 may agree in writing.

10 **6. SEVERABILITY**

11 If, subsequent to the execution of this Consent Judgment, any provision of this Consent
12 Judgment is held by a court to be void or unenforceable, or the Parties agree to modify any terms
13 due to comments from the Office of the Attorney General or after a hearing before the Court in
14 connection with Shefa's Motion to Approve, or for other good cause, each Party to be bound by any
15 such modified terms must re-execute the modified Consent Judgment and such modified Consent
16 Judgment then shall be presented by Shefa to the Court for approval; provided, however, that if a
17 provision of this Consent Judgment declared void or unenforceable is material to the Party for
18 whom such term provided a benefit or protection, that Party can seek other remedies, including,
19 without limitation, rescission or reformation, based on the provision being declared void or
20 unenforceable.

21 **7. GOVERNING LAW**

22 The terms of this Consent Judgment shall be governed by the laws of the State of California
23 and apply within the State of California. DEHP is listed pursuant to Proposition 65 as a chemical
24 that is known to the State of California to cause cancer and/or reproductive toxicity. In the event
25 that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or
26 as to the Covered Products, including without limitation the delisting of DEHP, then LOVEHONEY
27 may provide written notice to Shefa of any asserted change in the law, and with the exception of
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1 Sections 3.1 and 3.2 above, have no further obligations pursuant to this Consent Judgment, with
2 respect to, and to the extent that, the Covered Products are so affected. None of the terms of this
3 Consent Judgment shall have any application to Covered Products sold outside of the State of
4 California.

5 **8. NOTICE**

6 Unless specified herein, all correspondence and notices required to be provided pursuant to
7 this Consent Judgment shall be in writing and sent by: (i) personal delivery; (ii) first-class,
8 registered or certified mail, return receipt requested; or (iii) a recognized overnight courier on any
9 Party by the other at the following addresses:

10 To LOVEHONEY:

11 LOCKE LORD LLP
12 Daniel A. Solitro, Esq.
13 300 South Grand Avenue, Suite 2600
Los Angeles, California 90071

To Shefa:

Daniel N. Greenbaum
Law Office of Daniel N. Greenbaum
7120 Hayvenhurst Ave., Suite 320
Van Nuys, CA 91406

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

16 **9. COUNTERPARTS; FACSIMILE AND PDF SIGNATURES**

17 This Consent Judgment may be executed in counterparts, and by facsimile or portable
18 document format (PDF) signature, each of which shall be deemed an original, and all of which,
19 when taken together, shall constitute one and the same document.

20 **10. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)**

21 Plaintiff agrees to comply with the reporting form requirements referenced in California
22 Health & Safety Code § 25249.7(f).

23 **11. POST EXECUTION ACTIVITIES**

24 **11.1** The Parties acknowledge that, pursuant to California Health & Safety Code
25 § 25249.7(f), Shefa is obligated to file a noticed motion to obtain judicial approval of this Consent
26 Judgment. Upon the Parties' execution of this Consent Judgment, Shefa promptly shall proceed to
27 submit this Consent Judgment to the Court with a motion seeking Court approval.

1 **12. MODIFICATION**

2 **12.1** In the event that any future settlement agreement or court approved consent
3 judgment entered into by Shefa involving another party, or any future court-approved consent
4 judgment entered into by any enforcer of Proposition 65 involving another party, sets out a
5 reformulation or compliance standard that is less stringent than that in Section 2.1 above for DEHP
6 in substantially similar adult novelty bondage tape products, then upon written notice to Shefa,
7 LOVEHONEY is entitled to a corresponding modification to the corresponding standard set forth in
8 section 2.1 of this Consent Judgment, with regard to the Covered Products.

9 **12.2** In the event OEHHA establishes a safe LOVEHONEY No-Significant Risk Level
10 (“NSRL”) for DEHP, which LOVEHONEY asserts would allow for the Covered Products to
11 contain levels of DEHP in amounts greater than those set forth above in Section 2.1, then
12 LOVEHONEY may provide written notice to Shefa of any such assertion and the Parties shall
13 confer within 30 days to attempt to agree upon modification of this Consent Judgment. Should such
14 attempts at informal resolution of a modification fail, and in the event LOVEHONEY still intends
15 to change its reformulation obligations, LOVEHONEY will provide written notice to Shefa of its
16 intent to adopt a modified compliance standard. Upon receipt of LOVEHONEY’s notice, Shefa
17 shall have the right to enforce the terms and conditions contained in the Consent Judgment by
18 motion or any other available remedy at law, with the sole issue to be adjudicated being the
19 technical question of whether the NSRL would allow for a higher DEHP content in the Covered
20 Products than that set forth in Section 2.1.

21 **12.3** This Consent Judgment may only be modified by a written instrument executed by
22 the Party or Parties to be bound thereby, and after approval by the Court upon a noticed motion.
23 Any motion to modify shall be served on all Parties and the Office of the Attorney General.

24 **13. DISPUTE RESOLUTION**

25 If Shefa determines at a future date that a violation of this Consent Judgment has occurred,
26 Shefa shall provide notice to LOVEHONEY. Prior to bringing any action to enforce any
27 requirement of this Consent Judgment, the party alleging a violation of this Consent Judgment shall
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provide the other party with written notice of the grounds for such allegation together with all supporting information as well as a complete demand for the relief sought. The Parties shall then meet and confer regarding the basis for the allegation in an attempt to resolve the matter informally, including providing the party alleged to be in violation with a reasonable opportunity of at least thirty (30) days to cure any alleged violation. Should such attempts at informal resolution fail, the party alleging a violation may file its lawsuit seeking the proposed relief.

14. AUTHORIZATION


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

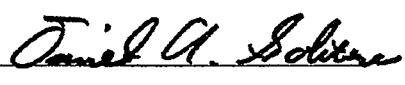
AGREED TO:

AGREED TO:

Date: 01/11/2018

Date: 1-12-2018

By: 
SHEFA LMV, INC.

By: 
Daniel A. Solitro, Esq. on behalf of
LOVEHONEY GROUP LTD

1 **PROPOSED** JUDGMENT

2
3 Please note that on May 10, 2018 at 8:30am, Plaintiff Shefa LMV Inc.'s ("Plaintiff") Motion for
4 Court Approval of Settlement Agreement and Entry of Consent Judgment as to Defendant Lovehoney
5 Group Ltd came for hearing before this Court in Department 37, the Honorable Marc Marmaro
6 presiding. Counsel for Plaintiff did [not] appear; counsel for Defendant did [not] appear.

7 After full consideration of the points and authorities and related pleadings submitted, the Court
8 GRANTED Plaintiff's Motion pursuant to and in accordance with Health & Safety Code
9 §25249.7(f)(4). The Court reviewed the above Settlement Agreement and makes the following
10 findings pursuant to Health & Safety Code § 25249.7(f)(4):

- 11 a. The injunctive relief required by the Settlement Agreement complies with Health &
12 Safety Code § 25249.7;
- 13 b. The reimbursement of fees and costs to be paid pursuant to the Settlement
14 Agreement is reasonable under California law; and
- 15 c. The civil penalty amount to be paid pursuant to Settlement Agreement is reasonable.
16

17 The Settlement Agreement is hereby approved, and the clerk is directed to ENTER
18 JUDGMENT in accordance with the terms of the Settlement Agreement above.

19
20 6-12-18
Date

DAVID S. CUNNINGHAM III

Superior Court Judge