

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 KAB Enterprise Co. Ltd				
CASE INFO	COURT DOCKET NUMBER BC658763		COURT NAME Los Angeles Superior Court		
	SHORT CASE NAME Shefa v. KAB Enterprise Co Ltd, et al.				
REPORT INFO	INJUNCTIVE RELIEF Reformulation or warning labels				
	PAYMENT: CIVIL PENALTY \$4,000.00		PAYMENT: ATTORNEYS FEES \$20,000.00		For Internal Use Only
	DATE SUBMITTED TO COURT 05 / 10 / 2017		IF YES, DATE SETTLEMENT WAS REPORTED TO ATTORNEY GENERAL 05 / 10 / 2017		
	IS JUDGMENT PURSUANT TO SETTLEMENT? ☒ Yes ☐ No				
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.

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

9 Attorney for Plaintiff SHEFA LMV, INC.

10 ROGERS JOSEPH O'DONNELL
11 Renee D. Wasserman, Esq.
12 Alecia E. Cotton, Esq.
13 311 California Street, 10th Floor
14 San Francisco, CA 94104
15 Telephone: (415) 956-2828
16 Facsimile: (415) 956-6457
17 Email: rwasserman@rjo.com
18 acotton@rjo.com

19 Attorneys for Defendant KAB ENTERPRISE CO., LTD

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 COUNTY OF LOS ANGELES

22 SHEFA LMV, INC.,
23 Plaintiff,

24 vs.

25 KAB ENTERPRISE CO., LTD.; and DOES 1
26 through 100, inclusive,
27 Defendants.

) Case No. BC658763

) ~~PROPOSED~~ [PROPOSED] CONSENT JUDGMENT
) AS TO KAB ENTERPRISE CO., LTD.

) Action Filed: April 24, 2017

28 BY FAX

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 KAB Enterprise Co., Inc. ("**KAB**" or "**Defendant,**"
5 with Shefa and KAB individually referred to as a "**Party**" and collectively as the "**Parties.**")

6 **1.2 Plaintiff**

7 Shefa is a limited liability company in California that seeks to promote awareness of
8 exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous
9 substances contained in consumer products.

10 **1.3 Settling Defendant**

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

14 **1.4 Products Covered**

15 The products covered by this Consent Judgment are flexible power cord/extension cord
16 products that contain Diisononyl Phthalate ("**DINP**") without first providing a clear and reasonable
17 warning as required by Proposition 65 that are manufactured, sold, or distributed for sale in
18 California by KAB including, but not limited to Total Home Extension Cord 9' (UPC:
19 050428251775) sold to consumers by CVS Pharmacy, Inc. ("**CVS**") or others in KAB's chain of
20 distribution (collectively, the "**Covered Products**").

21 **1.5 General Allegations**

22 Shefa alleges that KAB manufactures, imports, sells, or distributes, for sale in the state of
23 California, flexible power cord/extension cord products that contain DINP without first providing a
24 clear and reasonable warning required by Proposition 65. DINP (CAS # 68515-48-0) is a chemical
25 listed under Proposition 65 as a chemical "known to the state to cause cancer" as Proposition 65
26 defines that term. 27 CCR §25000. KAB denies these allegations.

1 **1.6 Notice of Violation**

2 On December 2, 2016, Shefa served CVS and the requisite public enforcement agencies
3 with a 60-Day Notice of Violation alleging that CVS violated Proposition 65 when it failed to warn
4 its customers and consumers in California that the Covered Products expose users to DINP. On
5 February 10, 2017, Shefa served KAB, others, and the requisite public enforcement agencies with a
6 60-Day Notice of Violation (the “**Notice**”) alleging that KAB violated Proposition 65 when it failed
7 to warn its customers and consumers in California that the Covered Products expose users to DINP.
8 To the best of the Parties’ knowledge, no public enforcer has commenced and is diligently
9 prosecuting the allegations set forth in the Notice.

10 **1.7 Complaint**

11 On April 24, 2017, Shefa filed the instant complaint in the Superior Court in and for the
12 County of Los Angeles against KAB and DOES 1-100, alleging violations of California Health &
13 Safety Code § 25249.6, based on exposures to DINP contained in the covered products sold in the
14 State of California (the “**Complaint**”).

15 **1.8 No Admission**

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

25 **1.9 Consent to Jurisdiction**

26 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
27 jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper in the
28

County of Los Angeles, the Defendant agrees that it employs or has employed ten or more persons during time periods relevant to the Complaint and that this Court has jurisdiction over the Parties to enter and enforce the provisions of this Consent Judgment pursuant to Proposition 65.

1.10 Effective Date

For purposes of this Consent Judgment, the term “**Effective Date**” shall mean the date the Consent Judgment is approved and entered by the Court.

2. INJUNCTIVE RELIEF: COMPLIANT PRODUCTS AND WARNINGS

2.1 Reformulation Standards

Compliant Products are defined as those Products containing the Listed Chemical in concentrations less than or equal to 1000 parts per million (“ppm”) (0.1%) when analyzed pursuant to a scientifically reliable application of U.S. Environmental Protection Agency testing methodologies 3580A and 8270C or any other scientifically reliable methodology for determining the Listed Chemical content in a substance of the form of the Covered Products herein.

Defendant agrees, promises, and represents that, as of the Effective Date, to the extent it ships or sells any Covered Products that have not been reformulated, Defendant will provide warnings on such Covered Products that comply with Proposition 65.

The warnings shall be provided in such a conspicuously and prominent manner that will assure the message is made available and likely to be read, seen, or heard by the consumer prior to or at the time of the sale or purchase.

The Parties agree that product labeling stating one of the following shall constitute compliance with Proposition 65 with respect to any Covered Products not reformulated:

“WARNING: This product contains chemicals known to the State of California to cause cancer.”

Or

“ WARNING: This product can expose you to chemicals including Diisononyl phthalate (DINP) which are known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov.”

1 **2.2 Reformulation**

2 Commencing on the Effective Date, and continuing thereafter, KAB shall not manufacture
3 or cause to be manufactured for sale in California, cause to be exported or distributed for sale in
4 California, Covered Products unless they are compliant with Section 2.1 above.

5 **3. MONETARY SETTLEMENT TERMS**

6 **3.1 Payment from Defendant.** Within ten (10) business days of the Effective Date,
7 Defendant shall make the Total Settlement Payment of **\$24,000.**

8 **3.2 Allocation of Payments.** The Total Settlement Payment shall be paid in three (3)
9 separate checks made payable and allocated as follows:

10 **3.2.1 Civil Penalty.** Defendant shall pay \$4,000.00 as a civil penalty
11 pursuant to Health & Safety Code § 25249.7(b). The civil penalty shall be apportioned in
12 accordance with Health & Safety Code § 25249.12 (25% to Shefa and 75% to the State of
13 California's Office of Environmental Health Hazard Assessment ("OEHHA")). Accordingly, the
14 OEHHA portion of the civil penalty payment in the amount of \$3,000 shall be made payable to
15 OEHHA and associated with taxpayer identification number 68-0284486. This payment shall be
16 delivered as follows:

17 For United States Postal Service Delivery:

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

23 For Non-United States Postal Service Delivery:

24 Attn: Mike Gyurics
25 Fiscal Operations Branch Chief
26 Office of Environmental Health Hazard Assessment
27 1001 I Street, MS #19B
28 Sacramento, CA 95814

 The Shefa portion of the civil penalty payment in the amount of \$1,000.00 shall be made
payable to Shefa LMV, Inc. and associated with taxpayer identification number 81-0907002.

1 This payment shall be delivered to the Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst
2 Ave, Suite 320, Van Nuys, CA 91406.

3 **3.2.2 Attorney's Fees and Costs.** A reimbursement of Shefa's attorney's
4 fees and costs in the amount of \$20,000 payable to the "Law Office of Daniel N. Greenbaum," and
5 associated with taxpayer identification number 46-4580172. This payment shall be delivered to the
6 Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst Ave, Suite 320, Van Nuys, CA 91406.

7 **4. CLAIMS COVERED AND RELEASED**

8 **4.1 Shefa's Public Release of KAB and its Downstream Releasees**

9 This Consent Judgment is a full, final, and binding resolution between Shefa and KAB of
10 any violation of Proposition 65 that was or could have been asserted by Shefa, acting on behalf of
11 itself and in a representative capacity in the public interest under Health & Safety Code § 25249.7,
12 against KAB, its parents, subsidiaries, affiliated entities under common ownership, manufacturers,
13 suppliers, directors, officers, employees, attorneys, and the predecessors, successors, or assigns of
14 each of them, and each entity to whom KAB directly or indirectly exports, distributes or sells the
15 Covered Products, including, without limitation, downstream distributors, wholesalers, customers,
16 retailers (including, without limitation, CVS Pharmacy, Inc. and its affiliates), franchisees,
17 cooperative members, and licensees ("**Releasees**"), based on failure to warn of alleged exposures to
18 DINP from Covered Products manufactured, sold, exported or distributed for sale in California by
19 KAB prior to the Effective Date. The release in this Section 4.1 applies to all Covered Products that
20 KAB manufactured, exported, distributed, or sold prior to the Effective Date, regardless of the date
21 any other Releasee distributes or sells the Covered Products.

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

26 **4.2 Shefa's Individual Release of Claims**

27 In further consideration of the promises and agreements herein contained, Shefa, on its own
28

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

10 **4.3 KAB's Release of Shefa**

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

17 **4.4 Release of Unknown Claims**

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

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

1 **WITH THE DEBTOR.**

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

7 **5. COURT APPROVAL**

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

12 **6. SEVERABILITY**

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

23 **7. GOVERNING LAW**

24 The terms of this Consent Judgment shall be governed by the laws of the State of California
25 and apply within the State of California. DINP is listed pursuant to Proposition 65 as a chemical
26 that is known to the State of California to cause cancer and/or reproductive toxicity. In the event
27 that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or
28

as to the Covered Products, including without limitation the delisting of DINP, then KAB may provide written notice to Shefa of any asserted change in the law, and with the exception of Sections 3.1 and 3.2 above, have no further obligations pursuant to this Consent Judgment, with respect to, and to the extent that, the Covered Products are so affected. None of the terms of this Consent Judgment shall have any application to Covered Products sold outside of the State of California.

8. NOTICE

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

To KAB:

Renee D. Wasserman
Alecia E. Cotton
ROGERS JOSEPH O'DONNELL
311 California Street, 10th Floor
San Francisco, CA 94104

To Shefa:

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

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

9. COUNTERPARTS; FACSIMILE AND PDF SIGNATURES

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

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

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

11. POST EXECUTION ACTIVITIES

11.1 The Parties acknowledge that, pursuant to California Health & Safety Code § 25249.7(f), Shefa is obligated to file a noticed motion to obtain judicial approval of this Consent

Judgment. Upon the Parties' execution of this Consent Judgment, Shefa promptly shall proceed to submit this Consent Judgment to the Court with a motion seeking Court approval.

12. MODIFICATION

12.1 In the event that any future settlement agreement or court approved consent judgment entered into by Shefa involving another party, or any future court-approved consent judgment entered into by any enforcer of Proposition 65 involving another party, sets out a reformulation or compliance standard that is less stringent than that in Section 2.1 above for DINP in substantially similar flexible power cord/extension cord products, then upon written notice to Shefa, KAB is entitled to a corresponding modification to the corresponding standard set forth in section 2.1 of this Consent Judgment, with regard to the Covered Products.

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

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

13. DISPUTE RESOLUTION

If Shefa determines at a future date that a violation of this Consent Judgment has occurred, Shefa shall provide notice to KAB. Prior to bringing any action to enforce any requirement of this

1 Consent Judgment, the party alleging a violation of this Consent Judgment shall provide the other
2 party with written notice of the grounds for such allegation together with all supporting information
3 as well as a complete demand for the relief sought. The Parties shall then meet and confer
4 regarding the basis for the allegation in an attempt to resolve the matter informally, including
5 providing the party alleged to be in violation with a reasonable opportunity of at least thirty (30)
6 days to cure any alleged violation. Should such attempts at informal resolution fail, the party
7 alleging a violation may file its lawsuit seeking the proposed relief.

8 **14. AUTHORIZATION**

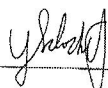
9 The undersigned are authorized to execute this Consent Judgment on behalf of their
10 respective Parties and have read, understood and agree to all of the terms and conditions of this
11 Consent Judgment.

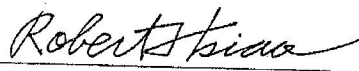
12
13 AGREED TO:

14 AGREED TO:

15 Date: 5/5/2017

16 Date: April 28, 2017

17
18 By: 
19 Shefa LMV, Inc.

20 By: 
21 KAB Enterprise Co., Ltd.

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

JUDGMENT

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please note that on June 28, 2017 at 8:30 a.m., Plaintiff Shefa LMV Inc.'s ("Plaintiff") Motion for Court Approval and Entry of Consent Judgment as to Defendant KAB Enterprise Co., Ltd came for hearing before this Court in Department 36, the Honorable Gregory Alarcon presiding. Counsel for Plaintiff made an appearance; counsel for Defendant did not appear. After full consideration of the points and authorities and related pleadings submitted, the Court GRANTED Plaintiff's Motion pursuant to and in accordance with Health & Safety Code §25249.7(f)(4). ~~The settlement is approved and the clerk is directed to enter judgment in accordance with the terms herein.~~

Dated: **JUL 19 2017**

GREGORY W. ALARCON

Judge of the Superior Court

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

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My electronic address is: nford@greenbaumlawfirm.com. My address is: 7120 Hayvenhurst Avenue, Suite 320, Van Nuys, CA 91406.

On June 29, 2017, I caused to be served the foregoing documents described as:
[PROPOSED] CONSENT JUDGMENT on the interested parties in this action **By E-MAIL**
as addressed below:

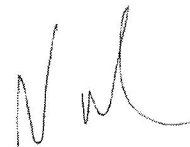
Renee D. Wasserman
ROGERS JOSEPH O'DONNELL
311 California Street, 10th Floor
San Francisco, CA 94104

For Defendant KAB Enterprise Co., Ltd

Email: rwasserman@rjo.com

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 29, 2017, at Van Nuys, California.



Nate Ford