

# SETTLEMENT AGREEMENT

BETWEEN

CONSUMER ADVOCACY GROUP, INC.

AND

L'ORÉAL USA S/D, INC.

Consumer Advocacy Group, Inc. ("CAG"), on behalf of itself and suing in the public interest pursuant to California Health and Safety Code section 25249.7, subdivision (d) and L'Oréal USA S/D, Inc. ("L'Oréal") enter into this agreement ("Settlement Agreement") to resolve all claims related to the Notice of Violation filed by CAG on October 26, 2009 (the "Notice"), as follows:

## **1.0 Introduction**

1.1 CAG and L'Oréal ("Parties") enter into this Settlement Agreement to settle disputed claims between the Parties as set forth hereafter.

1.2 The Notice alleges violations of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code sections 25249.5-25249.13 ("Proposition 65"). L'Oréal denies the material allegations of the Notice, and denies liability for any claim that was or could have been raised in the Notice.

1.3 The Parties do not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law regarding any violation of Proposition 65, or any other statutory, regulatory, common law, or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, including, but not limited to, any admission concerning the meaning of the terms "knowingly and intentionally expose" or "clear and reasonable warning" as used in California Health and Safety Code section 25249.6, or any admission as to the meaning of the term "Diaminotoluene (mixed)." Nothing in this Settlement Agreement, nor compliance with its terms, shall constitute or be construed, considered, offered or admitted as evidence of an admission or evidence of fault, wrongdoing, or liability by L'Oréal, its officers, directors, employees, or parent, subsidiary or affiliated corporations, in any administrative or judicial proceeding or litigation in any court, agency, or forum. Except for the cause of action and allegations settled and compromised, nothing in this Settlement Agreement shall prejudice, waive, or impair any right, remedy, argument, or defense that CAG and L'Oréal may have against one another in any other pending legal proceeding.

## **2.0 Release**

2.1 Upon court approval of the settlement between the Parties, execution of the obligations under this Settlement Agreement, and the expiration of time to appeal the same, CAG fully releases and forever discharges L'Oréal and its parents, subsidiaries, and affiliates; their customers, predecessors, successors, and assigns; and all officers, directors, and employees of any of the released entities; (collectively, "Released Parties") from all known and unknown rights, claims, causes of action, damages, suits, penalties, liabilities, injunctive relief, declaratory relief, and attorney fees, costs, and expenses related to or arising out of the facts and claims alleged in the Notice. Without limiting the foregoing, the Parties intend the scope of this release to cover all Claims Covered (as defined in Section 3 below) as to the Released Parties that were or could have been put in controversy by the Notice.

2.2 CAG has full knowledge of the contents of the California Civil Code section 1542 ("Section 1542"). CAG acknowledges that the claims released in section 2.1 above may include unknown claims and waives Section 1542 as to any such unknown claims. Section 1542 reads as follows:

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

CAG acknowledges and understands the significance and consequences of this specific waiver of California Civil Code section 1542.

## **3.0 Claims Covered**

This Settlement Agreement is a final and binding resolution between the CAG and the Released Parties of the following claims and causes of action:

All Proposition 65 claims that were or could have been asserted in the Notice arising from allegations that the Released Parties exposed, knowingly and intentionally, users of L'Oréal products and others in proximity to such use to Diaminotoluene (mixed).

## **4.0 Defendant's Duties**

L'Oréal agrees, promises, and represents that upon execution of this Settlement Agreement it, L'Oréal shall not engage in any California sale of any hair product (including but not limited to L'Oréal® Paris Natural Match™ No-Ammonia

Color-Calibrated Crème and any other product named in the Notice) containing Diaminotoluene (mixed) without providing the following warning language:

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

This warning shall: (a) be displayed on the product's packaging, shelving or display; (b) be set out in a text box on a separate line or in a separate paragraph; and (c) be displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood by an ordinary individual.

#### **5.0 Payments**

L'Oréal shall pay \$70,000 for full settlement of this matter by sending a check in that amount and payable to "Yeroushalmi & Associates." CAG represents and warrants that CAG has authorized the payment of attorney fees and costs, and that the payment and any application or distribution of such payment will not violate any agreement between CAG and its attorneys. CAG releases and agrees to hold harmless the Released Parties with regard to any issue concerning the allocation or distribution of the amount paid under this section. Yeroushalmi & Associates shall provide its address and federal tax identification number to L'Oréal prior to such payment. Except as provided in this agreement, each party shall bear its own attorney fees.

#### **6.0 Authority to Enter Into Settlement Agreement**

CAG represents that its signatory to this Settlement Agreement has full authority to enter into this Settlement Agreement on behalf of CAG and to bind legally CAG. L'Oréal represents that its signatory to this Settlement Agreement has full authority to enter into this Settlement Agreement on behalf of L'Oréal.

#### **7.0 Attorney General Review**

Consistent with section 3003(a) of title 11 of the California Code of Regulations, CAG shall submit this Settlement Agreement to the Attorney General's Office for review within five days of the Parties' execution of this Settlement Agreement.

#### **8.0 Execution in Counterparts and Facsimile**

8.1 This Settlement Agreement may be executed in counterparts, which taken together shall be deemed to constitute the same document. A facsimile signature shall be as valid as the original.

**9.0 Entire Agreement**

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments, and understandings. No other agreements, oral or otherwise, exist to bind any of the Parties.

**10.0 Modification of Settlement Agreement**

Any modification to this Settlement Agreement shall be in writing by the Parties.

**11.0 Application of Settlement Agreement**

This Settlement Agreement shall apply to, be binding upon, and inure to the benefit of, the CAG and the Released Parties identified in Section 2.1 above.

**12.0 Notification Requirements**

Any notice required or permitted hereunder shall be effective only if in writing and delivered in person or sent by telecopy, certified or registered mail return receipt requested, or trackable overnight delivery service, to the following designees:

For CAG:

Reuben Yeroushalmi  
Yeroushalmi & Associates  
3700 Wilshire Blvd., Suite 480  
Los Angeles, CA 90010  
Fax: 213.382.3430

For L'Oréal:

Chris Corbett  
111 L'Oreal Way  
Clark, New Jersey 07066  
CCorbett@us.LOreal.com

With a copy to:

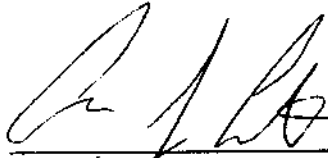
Lisa L. Halko  
Greenberg Traurig LLP  
1201 K Street, Suite 1100  
Sacramento, CA 95814  
HalkoL@GTLaw.com

Any party may change its designee(s) for purposes of notification by providing notice of such change pursuant to this section.

Dated: 05-21-2010

By:   
CONSUMER ADVOCACY GROUP, INC.

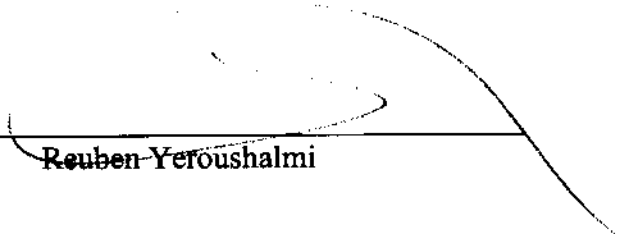
Dated: 7/19/10

By:   
L'ORÉAL USA S/D, INC.

As to form only:

YERUSHALMI & ASSOCIATES

Dated: 05-21-2010

By:   
Reuben Yerushalmi

GREENBERG TRAURIG LLP

Dated: 7-28-2010

By:   
Lisa L. Halko