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SHEFA LMV, LLC

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ALESSANDRA COLLECTION S.A.S.

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

16 Coordination Proceeding ) JUDICIAL COUNCIL COORDINATION  
Special Title (Rule 3.350) ) PROCEEDING NO: 4765  
17 )  
18 PROPOSITION 65 COCAMIDE DEA ) [*Shefa LMV, LLC v. Ross Stores, et al.*,  
CASES ) Los Angeles County Superior Court  
19 ) No. BC521400  
20 )  
21 ) **[PROPOSED] CONSENT JUDGMENT**  
22 ) **AS TO ALLESANDRA COLLECTION**  
23 ) **S.A.S.**  
24 ) Judge: Hon. George C. Hernandez, Jr.  
25 )  
26 ) Action filed: October 11, 2013  
27 )  
28 )

1     **1. INTRODUCTION**

2             **1.1. SHEFA LMV, LLC and ALESSANDRA COLLECTION SAS.**

3             This Consent Judgment is entered into by and between plaintiff Shefa LMV, LLC (“Shefa  
4     LMV”) and ALESSANDRA COLLECTION S.A.S. (“ALESSANDRA”), with Shefa LMV and  
5     ALESSANDRA collectively referred to as the “parties,” and individually as a “party.” Shefa LMV  
6     is an entity organized in the State of California, which has asserted that it seeks to promote  
7     awareness of exposure to toxic chemicals and to improve human health by reducing or eliminating  
8     hazardous substances contained in consumer and commercial products. Shefa LMV alleges that  
9     ALESSANDRA employs ten or more persons and is a person in the course of doing business for  
10    purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health &  
11    Safety Code § 25249.6, *et seq.* (“Proposition 65”).

12            **1.2. General Allegations**

13            Shefa LMV alleges that ALESSANDRA has manufactured, imported, distributed and/or  
14    sold shampoo and shower gel products that contain cocamide diethanolamine (“cocamide DEA”)   
15    without the requisite Proposition 65 warnings. Cocamide DEA is on the Proposition 65 list as  
16    known to cause birth defects and other reproductive harm.

17            **1.3. Product Description**

18            As used in this Consent Judgment, “Products” shall mean products containing cocamide  
19    DEA including, but not limited to, Joc Care Rehydrating Shampoo, that are manufactured,  
20    imported, distributed and/or sold by ALESSANDRA in the State of California.

21            **1.4. Notice of Violation**

22            On July 1, 2013, Shefa LMV served ALESSANDRA and various public enforcement  
23    agencies with a document entitled “60-Day Notice of Violation” (the “Notice”) that provided  
24    recipients with notice alleging that ALESSANDRA was in violation of Proposition 65 for failing  
25    to warn consumers and customers that the Products exposed users in California to cocamide DEA.  
26    No public enforcer has diligently prosecuted the allegations set forth in the Notice.

27            **1.5. No Admission**

              ALESSANDRA denies the material, factual and legal allegations contained in Shefa

1 LMV's Notice and maintains that it has at all times been in compliance with all laws and all  
2 products that it has sold, manufactured, imported and/or distributed in California, including the  
3 Products. Nothing in this Consent Judgment shall be construed as an admission by  
4 ALESSANDRA of any fact, finding, issue of law or violation of law, nor shall compliance with  
5 this Consent Judgment constitute or be construed as an admission by ALESSANDRA of any fact,  
6 finding, conclusion, issue of law or violation of law. However, this Section shall not diminish or  
7 otherwise affect ALESSANDRA's obligations, responsibilities and duties under this Consent  
8 Judgment.

9 **1.6. Consent to Jurisdiction**

10 For purposes of this Consent Judgment only, the parties stipulate that this Court has  
11 jurisdiction over ALESSANDRA as to the allegations contained in the Notice, that venue is proper  
12 in the County of Los Angeles, and that this Court has jurisdiction to enter and enforce the  
13 provisions of this Consent Judgment.

14 **1.7. Execution Date**

15 For purposes of this Consent Judgment, the term "Execution Date" shall mean the date this  
16 Consent Judgment is signed by both parties.

17 **1.8. Effective Date**

18 For purposes of this Consent Judgment, the term "Effective Date" shall mean the date the  
19 Court enters Judgment pursuant to the terms of this Consent Judgment.

20 **2. INJUNCTIVE RELIEF: WARNING OR REFORMULATION**

21 **2.1. Warning Obligation For Cocamide DEA-Containing Products**

22 Commencing on December 31, 2013, ALESSANDRA shall not sell, distribute or otherwise  
23 deliver, or cause to be sold, distributed or otherwise delivered into California, Products, unless  
24 such Products are sold or shipped with one of the clear and reasonable warnings set forth in  
25 Section 2.2 or the Products contain no cocamide DEA or levels of cocamide DEA that pose no  
26 significant risk.

27 **2.2. Mandatory Warning Procedures**

28 Each warning required by Section 2.1 shall be prominently placed upon a product's label or

1 other labeling or displayed at the retail outlet with such conspicuousness, as compared with other  
2 words, statements, designs, or devices in the label, labeling or display as to render it likely to be  
3 read and understood by an ordinary individual under customary conditions of purchase or use.  
4 Each warning shall be provided in a manner such that the consumer or user understands to which  
5 specific Product the warning applies, so as to minimize the risk of consumer confusion.

### 6 **3. MONETARY PAYMENTS**

#### 7 **3.1. Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b)**

8 ALESSANDRA shall pay a total civil penalty payment of \$520. The civil penalty shall be  
9 apportioned in accordance with California Health & Safety Code § 25249.12 (c) and (d), with  
10 75% of these funds remitted to the State of California's Office of Environmental Health Hazard  
11 Assessment ("OEHHA") and the remaining 25% of the penalty remitted to Shefa LMV, both  
12 pursuant to the procedures set forth in Section 3.3.

#### 13 **3.2. Reimbursement of Shefa LMV's Fees and Costs**

14 The parties acknowledge that Shefa LMV and its counsel offered to resolve this dispute  
15 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving  
16 this fee issue to be resolved after the material terms of the agreement had been settled.

17 ALESSANDRA expressed a desire to resolve the fee and cost issue after the other settlement  
18 terms had been agreed. The Parties then attempted to (and did) reach an accord on the  
19 compensation due to Shefa LMV and its counsel under general contract principles and the private  
20 attorney general doctrine codified at California Code of Civil Procedure § 1021.5, for all legal  
21 work ever performed in this matter. Under these legal principles, ALESSANDRA shall pay the  
22 amount of \$6,000 for all fees and costs, including fees and costs incurred and to be incurred  
23 investigating, litigating and enforcing this matter, and in negotiating, drafting, and obtaining the  
24 Court's approval of this Consent Judgment in the public interest.

#### 25 **3.3. Payment Procedures**

26 All payments required by Sections 3.1 and 3.2 shall be made within ten (10) days of the  
27 later of (1) the expiration of the time for filing a notice of appeal of this Consent Judgment; and  
28 (2) if this Consent Judgment is appealed, the date that a remittitur is issued affirming this Consent

1 Judgment. Payment shall be made in three checks made payable as follows:

- 2 (a) one check to "OEHHA" in the amount of \$390;
- 3 (b) one check to "Law Office of Daniel N. Greenbaum in Trust for Shefa LMV, LLC" in
- 4 the amount of \$130;
- 5 (c) one check to "Law Office of Daniel N. Greenbaum" in the amount of \$6,000.

6 **3.4. Issuance of 1099 Forms**

7 After the settlement funds have been transmitted to Shefa LMV's counsel, and within the

8 time frame required by law, ALESSANDRA or its attorneys shall issue separate 1099 forms, as

9 follows:

- 10 (a) one 1099 form to the "Office of Environmental Health Hazard Assessment" (EIN:
- 11 68-0284486) in the amount of \$390;
- 12 (b) a second 1099 form to "Shefa LMV, LLC" in the amount of \$130, whose address
- 13 and tax identification number shall be furnished upon request;
- 14 (c) a third 1099 to "Law Office of Daniel N. Greenbaum" (EIN: 46-4580172) in the
- 15 amount of \$6,000;

16 **3.5. Issuance of Payments.**

17 **3.5.1.** All payments owed to Shefa LMV, pursuant to Section 3.1, shall be

18 delivered to the following payment address:

19 Daniel N. Greenbaum, Esq.  
20 Law Office of Daniel N. Greenbaum  
21 14752 Otsego Street  
22 Sherman Oaks, CA 91403

23 **3.5.2.** All payments owed to OEHHA (EIN: 68-0284486), pursuant to Section 3.1,  
24 shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at the following addresses:

25 Mike Gyrics  
26 Fiscal Operations Branch Chief  
27 Office of Environmental Health Hazard Assessment  
28 P.O. Box 4010  
Sacramento, CA 95812-4010

With a copy of the checks payable to OEHHA mailed to the Law Office of Daniel N. Greenbaum  
at the address set forth above in 3.5.1, as proof of payment to OEHHA.

1     **4. CLAIMS COVERED AND RELEASED**

2     **4.1. Release of ALESSANDRA**

3             Plaintiff, acting on its own behalf and in the public interest, releases ALESSANDRA, its  
4     parents, subsidiaries, affiliated entities that are under common ownership, directors, officers,  
5     employees, attorneys, and each entity to whom ALESSANDRA directly or indirectly distributes or  
6     sells Products, including, but not limited to, downstream distributors, wholesalers, customers,  
7     retailers, including specifically, but not limited to Ross Stores, Inc., franchisees, cooperative  
8     members, licensors, and licensees (“Releasees”), from all claims for violations of Proposition 65  
9     up through the date on which this Consent Judgment is signed by both parties based on exposure to  
10    cocamide DEA from the Products as set forth in the Notice. Compliance with the terms of this  
11    Consent Judgment constitutes compliance with Proposition 65 with respect to exposures to  
12    cocamide DEA from the Products as set forth in the Notice.

13    **4.2.**    Shefa LMV and its owners and managers and any entity under common ownership of  
14    Plaintiff, in their individual capacities only and *not* in its representative capacities, hereby release  
15    ALESSANDRA, its parents, subsidiaries, affiliated entities that are under common ownership,  
16    directors, officers, employees, attorneys, and each entity to whom ALESSANDRA directly or  
17    indirectly distributes or sells Products, including, but not limited to, downstream distributors,  
18    wholesalers, customers, retailers, including specifically, but not limited to Ross Stores, Inc.,  
19    franchisees, cooperative members, licensors, and licensees (“Releasees”), from all claims for  
20    violations of Proposition 65 up through the date on which this Consent Judgment is signed by both  
21    parties, including, without limitation, any claims based on exposure to cocamide DEA from the  
22    Products as set forth in the Notice.

23    **4.3.    ALESSANDRA’s Release of Shefa LMV**

24             ALESSANDRA on behalf of itself, its past and current agents, representatives, attorneys,  
25    successors, and/or assignees, hereby waives any and all claims against Shefa LMV, its attorneys  
26    and other representatives, for any and all actions taken or statements made (or those that could  
27    have been taken or made) by Shefa LMV and its attorneys and other representatives, whether in the  
28

1 course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this  
2 matter with respect to the Products.

3 **4.3. Section 1542 Waiver.**

4 The forgoing releases include releases of unknown claims. All Parties acknowledge that  
5 they have read, considered, and understand the provisions and significance of Section 1542 of the  
6 California Civil Code, which reads as follows:

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

11 The Parties voluntarily, and with full knowledge of its significance, waive and relinquish  
12 any and all rights that they have under Section 1542, as well as under the provisions of all  
13 comparable, equivalent or similar state and federal statutes and principles of common and  
14 decisional law.

15 **5. COURT APPROVAL**

16 This Consent Judgment is not effective until it is approved and entered by the Court and  
17 shall be null and void if, for any reason, it is not approved and entered by the Court within one year  
18 after it has been fully executed by all parties.

19 **6. SEVERABILITY**

20 If, subsequent to the execution of this Consent Judgment, any of the provisions of this  
21 Consent Judgment are held by a court to be unenforceable, the validity of the enforceable  
22 provisions remaining shall not be adversely affected.

23 **7. GOVERNING LAW**

24 The terms of this Consent Judgment shall be governed by the laws of the State of California  
25 and the obligations of ALESSANDRA hereunder as to the Products apply only within the State of  
26 California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered  
27 inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are  
28 rendered inapplicable or no longer required as a result of any such repeal or preemption or

1 rendered inapplicable by reason of law generally as to the Products, including, without limitation,  
2 the removal of cocamide DEA from OEHHA's list of Proposition 65 chemicals, then  
3 ALESSANDRA shall have no further obligations pursuant to this Consent Judgment with respect  
4 to, and to the extent that, the Products are so affected.

5 **8. NOTICES**

6 Unless specified herein, all correspondence and notices required to be provided pursuant to  
7 this Consent Judgment shall be in writing and (i) personally delivered, (ii) sent by first-class,  
8 (registered or certified mail) return receipt requested, or (iii) sent by overnight courier to one party  
9 from the other party at the following addresses:

10  
11 To ALESSANDRA:

12 Alessandra Baiesi  
13 Alessandra Collection S.r.l.  
14 Via Grazia, 11  
40069 Zola Predosa (BO)  
Italy

To Shefa LMV:

Daniel N. Greenbaum, Esq.  
Law Office of Daniel N. Greenbaum  
14752 Otsego Street  
Sherman Oaks, CA 91403

15 With a copy to:

16 Aaron C. Gundzik  
17 Gartenberg Gelfand Hayton & Selden LLP,  
18 801 S. Figueroa St., Ste. 2170  
Los Angeles, CA 90017

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

21 **9. COUNTERPARTS; FACSIMILE/PDF SIGNATURES**

22 This Consent Judgment may be executed in counterparts and by facsimile or pdf signature,  
23 each of which shall be deemed an original, and all of which, when taken together, shall constitute  
24 one and the same document. A facsimile or pdf signature shall be as valid as the original.

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

26 Shefa LMV and its attorneys agree to comply with the reporting form requirements  
27 referenced in California Health & Safety Code § 25249.7(f).

28 **11. ADDITIONAL POST EXECUTION ACTIVITIES**

1 By this Consent Judgment and upon its approval, the Parties waive their right to trial  
2 on the merits, and waive their rights to seek appellate review of this Consent Judgment and any and  
3 all interim rulings, including any pleading, procedural, and discovery orders, only, however, as  
4 they relate to ALESSANDRA. Shefa LMV and ALESSANDRA agree to mutually employ their,  
5 and their counsel's, best efforts to support the entry of this agreement as a Consent Judgment and  
6 obtain approval of the Consent Judgment by the Court in a timely manner. The parties  
7 acknowledge that, pursuant to California Health & Safety Code § 25249.7, a noticed motion is  
8 required to obtain judicial approval of this Consent Judgment, which Shefa LMV shall draft and  
9 file, and ALESSANDRA shall not oppose. ALESSANDRA may, however, file a statement in  
10 response to Shefa LMV's motion. If any third party objection to the noticed motion is filed, Shefa  
11 LMV and ALESSANDRA shall work together to file a joint reply or separate replies if the parties  
12 so desire and appear at any hearing before the Court. This provision is a material component of the  
13 Consent Judgment and shall be treated as such in the event of a breach. If this Consent Judgment  
14 is not approved by the Court, (a) this Consent Judgment shall terminate and become null and void,  
15 and the action shall revert to the status that existed prior to the execution date of this Consent  
16 Judgment; (b) no term of this Consent Judgment or any draft thereof, or of the negotiation,  
17 documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect,  
18 nor shall any such matter be admissible in evidence for any purpose in this action, or in any other  
19 proceeding; and (c) the parties agree to meet and confer to determine whether to modify the terms  
20 of the Consent Judgment and to resubmit it for approval.

21 **12. MODIFICATION**

22 This Consent Judgment may be modified only: (1) by written agreement of the parties and  
23 upon entry of a modified Consent Judgment by the Court thereon; or (2) upon a successful motion  
24 of any party and entry of a modified Consent Judgment by the Court.

25 **13. AUTHORIZATION**

26 The undersigned are authorized to execute this Consent Judgment and have read,  
27 understood, and agree to all of the terms and conditions of this Consent Judgment.

28 **14. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**

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**CONSENT JUDGMENT**

This Consent Judgment came before this Court upon the request of the Parties. The Parties request the Court to review this Consent Judgment and to make the following findings pursuant to Cal. Health & Safety Code § 25249.7(f)(4):

1. The injunctive relief required by the Consent Judgment complies with Cal. Health & Safety Code § 25249.7;
2. The reimbursement of fees and costs to be paid pursuant to the Consent Judgment is reasonable under California law; and
3. The civil penalty amount to be paid pursuant to Consent Judgment is reasonable.

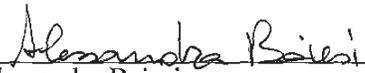
AGREED TO:

AGREED TO:

Date: 3/5/14

Date: 14-02-03

By:   
 Plaintiff, Shefa LMV, LLC  
 Print: Alisa Fried  
 Its: Managing Member

By:   
 Alessandra Baiesi  
 Defendant, ALESSANDRA  
 COLLECTION S.r.l.