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5 Attorneys for Plaintiff
SHEFA LMV, LLC
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7 Attorneys for Defendant (non-appointed)
HOUSE OF PAWS, LTD.
8 A.P.K. Bates (Non-Legal)
Director for The House of Paws Ltd
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CENTRAL DISTRICT

SHEFA LMV, LLC,
Plaintiff,

v.

ROSS STORES, INC., et al.,
Defendant.

) Case No.: BC521400
) Unlimited Jurisdiction
) *Honorable Suzanne G. Bruguera*
) *Department 71*
) **[PROPOSED]**
) **CONSENT JUDGMENT**

1 **1. INTRODUCTION**

2 **1.1. Shefa LMV, LLC and HOUSE OF PAWS, LTD..**

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

11 **1.2. General Allegations**

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

16 **1.3. Product Description**

17 As used in this Consent Judgment, “Products” shall mean products containing cocamide
18 DEA including, but not limited to, [names of shampoos and soaps], that are manufactured,
19 imported, distributed and/or sold by DEFENDANT for sale in the State of California.

20 **1.4. Notice of Violation**

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

26 **1.5. No Admission**

27 DEFENDANT denies the material, factual and legal allegations contained in Plaintiff’s
28 Notice and maintains that it has at all times been in compliance with all laws and all products that

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

7 **1.6. Consent to Jurisdiction**

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

12 **1.7. Execution Date**

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

15 **1.8. Effective Date**

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

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

20 **2.1. Warning Obligation For Cocamide DEA-Containing Products**

21 Commencing on December 1, 2013, DEFENDANT shall not sell, distribute or otherwise
22 deliver, or cause to be sold, distributed or otherwise delivered into California, only Products
23 reformulated to contain no cocamide DEA, unless such Products are sold or shipped with one of
24 the clear and reasonable warnings set forth in Section 2.2.

25 **2.2. Mandatory Warning Procedures**

26 Each warning required by Section 2.1 shall be prominently placed upon a product's label or
27 other labeling or displayed at the retail outlet with such conspicuousness, as compared with other
28 words, statements, designs, or devices in the label, labeling or display as to render it likely to be

1 read and understood by an ordinary individual under customary conditions of purchase or use.
2 Each warning shall be provided in a manner such that the consumer or user understands to which
3 specific Product the warning applies, so as to minimize the risk of consumer confusion.

4 **3. MONETARY PAYMENTS**

5 **3.1. Civil Penalty Payment Pursuant to Health & Safety Code § 25249.7(b)**

6 DEFENDANT shall pay a total civil penalty payment of \$3000.00 within ten (10) days of
7 the Execution Date, as follows: the civil penalty shall be apportioned in accordance with
8 California Health & Safety Code § 25249.12 (c) and (d), with 75% of these funds remitted to the
9 State of California's Office of Environmental Health Hazard Assessment ("OEHHA") and the
10 remaining 25% of the penalty remitted to Plaintiff, both pursuant to the procedures set forth in
11 Section 3.3.

12 **3.2. Reimbursement of Plaintiff's Fees and Costs**

13 The parties acknowledge that Plaintiff and its counsel offered to resolve this dispute
14 without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving
15 this fee issue to be resolved after the material terms of the agreement had been settled.
16 DEFENDANT expressed a desire to resolve the fee and cost issue after the other settlement terms
17 had been agreed. The Parties then attempted to (and did) reach an accord on the compensation
18 due to Plaintiff and its counsel under general contract principles and the private attorney general
19 doctrine codified at California Code of Civil Procedure § 1021.5, for all work performed in this
20 matter, except fees that may be incurred on appeal. Under these legal principles, DEFENDANT
21 shall pay the amount of \$5000.00 for fees and costs incurred investigating, litigating and
22 enforcing this matter, including the fees and costs incurred (and yet to be incurred) negotiating,
23 drafting, and obtaining the Court's approval of this Consent Judgment in the public interest.

24 **3.3. Payment Procedures**

25 All payments required by Sections 3.1 and 3.2 shall be within ten (10) days of the
26 Execution Date, in three checks made payable as follows:

- 27 (a) one check to "OEHHA" in the amount of \$ 2250.00;
- 28 (b) one check to "Law Office of Daniel N. Greenbaum in Trust for Plaintiff, LLC" in the

1 amount of \$750.00;

2 (c) one check to "Law Office of Daniel N. Greenbaum" in the amount of \$5000.00.

3 **3.4. Issuance of 1099 Forms**

4 After the settlement funds have been transmitted to Plaintiff's counsel, DEFENDANT shall
5 issue separate 1099 forms, as follows:

6 (a) one 1099 form to the "Office of Environmental Health Hazard Assessment" (EIN:
7 68-0284486) in the amount of \$2250.00;

8 (b) a second 1099 form to "Shefa LMV, LLC" in the amount of \$750.00, whose
9 address and tax identification number shall be furnished upon request;

10 (c) a third 1099 to "Law Office of Daniel N. Greenbaum" (EIN: 45-3084082) in the
11 amount of \$5000.00;

12 **3.5. Issuance of Payments.**

13 **3.5.1.** All payments owed to Plaintiff, pursuant to Section 3.1, shall be delivered to
14 the following payment address:

15 Daniel N. Greenbaum, Esq.
16 Law Office of Daniel N. Greenbaum
17 1467 South Holt Avenue #2
18 Los Angeles, CA 90035

19 **3.5.2.** All payments owed to OEHHA (EIN: 68-0284486), pursuant to Section 3.1,
20 shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at the following addresses:

21 Mike Gyrics
22 Fiscal Operations Branch Chief
23 Office of Environmental Health Hazard Assessment
24 P.O. Box 4010
25 Sacramento, CA 95812-4010

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

28 **4. CLAIMS COVERED AND RELEASED**

4.1. Plaintiff's Release of DEFENDANT

Plaintiff, acting on its own behalf and in the public interest, releases DEFENDANT, its
parents, subsidiaries, affiliated entities that are under common ownership, directors, officers,

1 employees, attorneys, and each entity to whom DEFENDANT directly or indirectly distributes or
2 sells Products, including, but not limited to, downstream distributors, wholesalers, customers,
3 retailers, including specifically, The TJX Companies, Inc.; franchisees, cooperative members,
4 licensors, and licensees (“Releasees”), from all claims for violations of Proposition 65 up through
5 the date on which this Consent Judgment is signed by both parties based on exposure to cocamide
6 DEA from the Products as set forth in the Notice. Compliance with the terms of this Consent
7 Judgment constitutes compliance with Proposition 65 with respect to exposures to cocamide DEA
8 from the Products as set forth in the Notice.

9 Plaintiff, also, in its individual capacity only and *not* in its representative capacity, provides
10 a release herein which shall be effective as a full and final accord and satisfaction, as a bar to all
11 actions, causes of action, obligations, costs, expenses, attorneys’ fees, damages, losses, claims,
12 liabilities and demands of Plaintiff of any nature, character or kind, whether known or unknown,
13 suspected or unsuspected, limited to and arising out of alleged or actual exposures to the cocamide
14 DEA in the Products manufactured, distributed or sold by DEFENDANT.

15 **4.2. DEFENDANT’s Release of Plaintiff**

16 DEFENDANT on behalf of itself, its past and current agents, representatives, attorneys,
17 successors, and/or assignees, hereby waives any and all claims against Plaintiff, its attorneys and
18 other representatives, for any and all actions taken or statements made (or those that could have
19 been taken or made) by Plaintiff and its attorneys and other representatives, whether in the course
20 of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter with
21 respect to the Products.

22 23 **5. COURT APPROVAL**

24 This Consent Judgment is not effective until it is approved and entered by the Court and
25 shall be null and void if, for any reason, it is not approved and entered by the Court within one year
26 after it has been fully executed by all parties. In the event the Court does not approve this Consent
27 Judgment within one year, the funds paid pursuant to Section 3 of this Consent Judgment shall be
28 returned to DEFENDANT within ten (10) days after the expiration of one year.

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6. SEVERABILITY

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

7. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the State of California and the obligations of DEFENDANT hereunder as to the Products apply only within the State of California. In the event that Proposition 65 is repealed, preempted or is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this Consent Judgment are rendered inapplicable or no longer required as a result of any such repeal or preemption or rendered inapplicable by reason of law generally as to the Products, including, without limitation, the removal of cocamide DEA from OEHHA’s list of Proposition 65 chemicals, then DEFENDANT shall notify Plaintiff and its counsel and may have no further obligations pursuant to this Consent Judgment with respect to, and to the extent that, the Products are so affected.

8. NOTICES

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

To DEFENDANT:

To Plaintiff:

A.P.K.Bates
Director, The House of Paws Ltd
Dinghills Farm, Somerby
Melton Mowbray. Leics.
LE14 2QF. UK

Daniel N. Greenbaum, Esq.
Law Office of Daniel N. Greenbaum
1467 South Holt Avenue #2
Los Angeles, CA 90035

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

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

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

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

6 Plaintiff and its attorneys agree to comply with the reporting form requirements referenced
7 in California Health & Safety Code § 25249.7(f).

8 **11. ADDITIONAL POST EXECUTION ACTIVITIES**

9 Plaintiff and DEFENDANT agree to mutually employ their, and their counsel's, best efforts
10 to support the entry of this agreement as a Consent Judgment and obtain approval of the Consent
11 Judgment by the Court in a timely manner. The parties acknowledge that, pursuant to California
12 Health & Safety Code § 25249.7, a noticed motion is required to obtain judicial approval of this
13 Consent Judgment, which Plaintiff shall draft and file, and DEFENDANT shall not oppose. If any
14 third party objection to the noticed motion is filed, Plaintiff and DEFENDANT shall work together
15 to file a joint reply or separate replies if the parties so desire and appear at any hearing before the
16 Court. This provision is a material component of the Consent Judgment and shall be treated as
17 such in the event of a breach. If the Court does not grant the motion to approve this Consent
18 Judgment, and if the parties choose not to pursue a modified Consent Judgment within 30 days
19 after the Court's denial of the motion to approve, then, upon remittitur, any and all payments made
20 pursuant to Section 3 of this Consent Judgment will be returned to DEFENDANT.

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.
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AGREED TO:

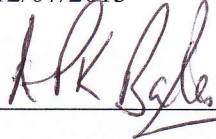
Date: 12/10/19

By: 
Plaintiff, Shefa LMV, LLC

Print: Alisa Fried
Its: Managing Member

AGREED TO:

Date: 12/07/2013

By: 

A.P.K. Bates
Director
Defendant, HOUSE OF PAWS, LTD.