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8 CENTER FOR ENVIRONMENTAL HEALTH

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF ALAMEDA

12  
13 Coordination Proceeding Special Title: ) Judicial Council Coordination  
14 PROPOSITION 65 COCAMIDE DEA CASES ) Proceeding  
15 ) Case No. 4765  
16 \_\_\_\_\_ )  
17 This Document Relates To: ) **[PROPOSED] CONSENT**  
18 *CEH v. Skinfood USA, Inc., et al.*, A.C.S.C. Case ) **JUDGMENT AS TO RAANI**  
19 No. RG 13-707307 ) **CORPORATION**  
\_\_\_\_\_ )

20  
21 **1. INTRODUCTION**

22 1.1 The parties to this Consent Judgment (“Parties”) are the Center for  
23 Environmental Health (“CEH”) and defendant Raani Corporation (“Settling Defendant”). CEH  
24 and Settling Defendant are referred to collectively as the “Parties.”

25 1.2 Settling Defendant is a corporation that previously employed ten (10) or more  
26 persons and that manufactured, distributed, and/or sold shampoo and liquid soaps that contained  
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1 coconut oil diethanolamine condensate (cocamide diethanolamine) (hereinafter, “cocamide  
2 DEA”) in the State of California.

3 1.3 On September 27, 2013, CEH served a 60-Day Notice of Violation under  
4 Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health  
5 & Safety Code § 25249.5, *et seq.*) (“Notice”) to Settling Defendant, the California Attorney  
6 General, the District Attorneys of every County in the State of California, and the City Attorneys  
7 for every City in the State of California with a population greater than 750,000. The Notice  
8 alleges violations of Proposition 65 with respect to the presence of cocamide DEA in shampoo  
9 and liquid soaps that were manufactured, distributed, and/or sold by Settling Defendant.

10 1.4 On December 18, 2013, CEH filed the action entitled *CEH v. Skinfood USA,*  
11 *Inc., et al.*, Case No. RG 13-707307, in the Superior Court of California for Alameda County,  
12 naming Settling Defendant as a defendant in that action. On April 1, 2014, the Skinfood action  
13 was coordinated with several other related Proposition 65 actions in the Proposition 65 Cocamide  
14 DEA Cases, Case No. JCCP 4765, currently pending before this Court.

15 1.5 For purposes of this Consent Judgment only, the Parties stipulate that: (i) this  
16 Court has jurisdiction over the allegations of violations contained in the operative Complaint  
17 applicable to Settling Defendant (“Complaint”) and personal jurisdiction over Settling Defendant  
18 as to the acts alleged in the Complaint; (ii) venue is proper in the County of Alameda; and (iii)  
19 this Court has jurisdiction to enter this Consent Judgment.

20 1.6 Nothing in this Consent Judgment is or shall be construed as an admission by  
21 the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance  
22 with the Consent Judgment constitute or be construed as an admission by the Parties of any fact,  
23 conclusion of law, issue of law, or violation of law. Nothing in this Consent Judgment shall  
24 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
25 other legal proceeding. This Consent Judgment is the product of negotiation and compromise and  
26 is accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in  
27 this action.  
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**2. DEFINITIONS**

2.1 “Covered Products” means shampoo and liquid soaps.

2.2 “Effective Date” means the date on which this Consent Judgment is entered by the Court.

**3. INJUNCTIVE RELIEF**

3.1 **Reformulation of Covered Products.** As of the Effective Date, Settling Defendant shall not manufacture, distribute, sell, or offer for sale any Covered Product that contains cocamide DEA and that will be sold or offered for sale to California consumers. For purposes of this Consent Judgment, a product “contains cocamide DEA” if cocamide DEA is an intentionally added ingredient in the product and/or part of the product formulation.

3.2 **Action Regarding Specific Products.**

3.2.1 On or before the Effective Date, Settling Defendant shall cease selling the AtOne with Nature Plant Extracts & Moroccan Argan Oil Dry, Itchy Scalp Shampoo (the “Section 3.3 Product”). On or before the Effective Date, Settling Defendant shall also cease shipping the Section 3.3 Product to any of its stores and/or customers that resell the Section 3.3 Product in California.

**4. ENFORCEMENT**

4.1 CEH may, by motion or application for an order to show cause before the Superior Court of Alameda County, enforce the terms and conditions contained in this Consent Judgment. Prior to bringing any motion or application to enforce the requirements of Section 3 above, CEH shall provide Settling Defendant with a Notice of Violation and a copy of any test results that purportedly support CEH’s Notice of Violation. The Parties shall then meet and confer regarding the basis for CEH’s anticipated motion or application in an attempt to resolve it informally, including providing Settling Defendant a reasonable opportunity of at least thirty (30) days to cure any alleged violation. Should such attempts at informal resolution fail, CEH may file its enforcement motion or application. This Consent Judgment may only be enforced by the Parties.

1     **5.     PAYMENTS**

2             **5.1     Payments by Settling Defendant.** Settling Defendant shall pay the total sum of  
3     \$17,500 as a settlement payment in the amounts and installments set forth on Exhibit A. Each  
4     settlement payment from Settling Defendant shall be paid in separate checks delivered to counsel  
5     for CEH at the address set forth in Section 8.1 below. Any failure by Settling Defendant to  
6     comply with the payment terms herein shall be subject to a stipulated late fee in the amount of  
7     \$50 for each day after the required delivery date the payment is received. The late fees required  
8     under this Section shall be recoverable, together with reasonable attorneys' fees, in an  
9     enforcement proceeding brought pursuant to Section 4 of this Consent Judgment. The funds paid  
10    by Settling Defendant shall be allocated between the following categories:

11                 5.1.1    A civil penalty pursuant to Health & Safety Code § 25249.7(b), such  
12    money to be apportioned by CEH in accordance with Health & Safety Code § 25249.12 (25% to  
13    CEH and 75% to the State of California's Office of Environmental Health Hazard Assessment).  
14    The checks for this civil penalty shall be made payable to the Center for Environmental Health as  
15    set forth on Exhibit A.

16                 5.1.2    A payment in lieu of civil penalty to CEH pursuant to Health & Safety  
17    Code § 25249.7(b), and California Code of Regulations, Title 11, § 3203(b). CEH will use such  
18    funds to continue its work educating and protecting people from exposures to toxic chemicals.  
19    CEH may also use a portion of such funds to monitor compliance with this Consent Judgment and  
20    to purchase and test Settling Defendant's products to confirm compliance. In addition, as part of  
21    its Community Environmental Action and Justice Fund, CEH will use four percent (4%) of such  
22    funds to award grants to grassroots environmental justice groups working to educate and protect  
23    people from exposures to toxic chemicals. The method of selection of such groups can be found  
24    at the CEH web site at [www.ceh.org/justicefund](http://www.ceh.org/justicefund). The checks for this payment in lieu of civil  
25    penalty shall be made payable to the Center for Environmental Health as set forth on Exhibit A.

26                 5.1.3    A reimbursement of a portion of CEH's reasonable attorneys' fees and  
27    costs. The checks for this reimbursement of a portion of CEH's reasonable attorneys' fees and  
28    costs shall be made payable to the Center for Environmental Health and the Lexington Law

1 Group as set forth on Exhibit A.

2 **6. MODIFICATION**

3 6.1 **Written Consent.** This Consent Judgment may be modified from time to  
4 time by express written agreement of the Parties with the approval of the Court, or by an order of  
5 this Court upon motion and in accordance with law.

6 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall  
7 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to  
8 modify the Consent Judgment.

9 **7. CLAIMS COVERED AND RELEASED**

10 7.1 This Consent Judgment is a full, final, and binding resolution between CEH on  
11 behalf of itself and the public interest and Settling Defendant, and its parents, subsidiaries,  
12 affiliated entities that are under common ownership, directors, officers, employees, and attorneys  
13 (“Defendant Releasees”), and each entity to whom they directly or indirectly distribute or sell  
14 Covered Products, including but not limited to distributors, wholesalers, customers, retailers,  
15 franchisees, cooperative members, licensors, and licensees (“Downstream Defendant Releasees”) of  
16 any violation of Proposition 65 that was or could have been asserted in the Complaint against  
17 Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees, based on failure  
18 to warn about alleged exposure to cocamide DEA contained in Covered Products that were sold  
19 by Settling Defendant prior to the Effective Date.

20 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant  
21 and Defendant Releasees shall constitute compliance with Proposition 65 by Settling Defendant,  
22 Defendant Releasees, and Downstream Defendant Releasees with respect to any alleged failure to  
23 warn about cocamide DEA in Covered Products manufactured, distributed, or sold by Settling  
24 Defendant after the Effective Date.

25 7.3 Nothing in this Section 7 affects CEH’s right to commence or prosecute an  
26 action under Proposition 65 against any person other than Settling Defendant, Defendant  
27 Releasees, or Downstream Defendant Releasees.

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1     **8.     NOTICE**

2             8.1           When CEH is entitled to receive any notice under this Consent Judgment, the  
3 notice shall be sent by first class and electronic mail to:

4                             Mark Todzo  
5                             Lexington Law Group  
6                             503 Divisadero Street  
7                             San Francisco, CA 94117  
8                             mtodzo@lexlawgroup.com

9             8.2           When Settling Defendant is entitled to receive any notice under this Consent  
10 Judgment, the notice shall be sent by first class and electronic mail to:

11                             Barbara R. Adams  
12                             Adams Nye Becht LLP  
13                             222 Kearny St., 7th Floor  
14                             San Francisco, CA 94108  
15                             badams@adamsnye.com

16             8.3           Any Party may modify the person and address to whom the notice is to be sent  
17 by sending the other Party notice by first class and electronic mail.

18     **9.     COURT APPROVAL**

19             9.1           This Consent Judgment shall become effective upon entry by the Court. CEH  
20 shall prepare and file a Motion for Approval of this Consent Judgment and Settling Defendant  
21 shall support entry of this Consent Judgment.

22             9.2           If this Consent Judgment is not entered by the Court, it shall be of no force or  
23 effect and shall never be introduced into evidence or otherwise used in any proceeding for any  
24 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

25     **10.    ATTORNEYS' FEES**

26             10.1          Should CEH prevail on any motion, application for an order to show cause, or  
27 other proceeding to enforce a violation of this Consent Judgment, CEH shall be entitled to its  
28 reasonable attorneys' fees and costs incurred as a result of such motion or application. Should  
Settling Defendant prevail on any motion application for an order to show cause or other  
proceeding, Settling Defendant may be awarded its reasonable attorneys' fees and costs as a result  
of such motion or application upon a finding by the Court that CEH's prosecution of the motion

1 or application lacked substantial justification. For purposes of this Consent Judgment, the term  
2 substantial justification shall carry the same meaning as used in the Civil Discovery Act of 1986,  
3 Code of Civil Procedure §§ 2016, *et seq.*

4 10.2 Except as otherwise provided in this Consent Judgment, each Party shall bear  
5 its own attorneys' fees and costs.

6 10.3 Nothing in this Section 10 shall preclude a Party from seeking an award of  
7 sanctions pursuant to law.

8 **11. OTHER TERMS**

9 11.1 The terms of this Consent Judgment shall be governed by the laws of the State  
10 of California.

11 11.2 This Consent Judgment shall apply to and be binding upon CEH and Settling  
12 Defendant, and its respective divisions, subdivisions, and subsidiaries, and the successors or  
13 assigns of any of them.

14 11.3 This Consent Judgment contains the sole and entire agreement and  
15 understanding of the Parties with respect to the entire subject matter hereof, and any and all prior  
16 discussions, negotiations, commitments, or understandings related thereto, if any, are hereby  
17 merged herein and therein. There are no warranties, representations, or other agreements between  
18 the Parties except as expressly set forth herein. No representations, oral or otherwise, express or  
19 implied, other than those specifically referred to in this Consent Judgment have been made by any  
20 Party hereto. No other agreements not specifically contained or referenced herein, oral or  
21 otherwise, shall be deemed to exist or to bind any of the Parties hereto. No supplementation,  
22 modification, waiver, or termination of this Consent Judgment shall be binding unless executed in  
23 writing by the Party to be bound thereby. No waiver of any of the provisions of this Consent  
24 Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof  
25 whether or not similar, nor shall such waiver constitute a continuing waiver.

26 11.4 Nothing in this Consent Judgment shall release, or in any way affect any rights  
27 that Settling Defendant might have against any other party, whether or not that party is a settling  
28 defendant.

1           11.5       This Court shall retain jurisdiction of this matter to implement or modify the  
2 Consent Judgment.

3           11.6       The stipulations to this Consent Judgment may be executed in counterparts  
4 and by means of facsimile or portable document format (pdf), which taken together shall be  
5 deemed to constitute one document.

6           11.7       Each signatory to this Consent Judgment certifies that he or she is fully  
7 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter into  
8 and execute the Consent Judgment on behalf of the Party represented and legally to bind that  
9 Party.

10          11.8       The Parties, including their counsel, have participated in the preparation of  
11 this Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.  
12 This Consent Judgment was subject to revision and modification by the Parties and has been  
13 accepted and approved as to its final form by all Parties and their counsel. Accordingly, any  
14 uncertainty or ambiguity existing in this Consent Judgment shall not be interpreted against any  
15 Party as a result of the manner of the preparation of this Consent Judgment. Each Party to this  
16 Consent Judgment agrees that any statute or rule of construction providing that ambiguities are to  
17 be resolved against the drafting Party should not be employed in the interpretation of this Consent  
18 Judgment and, in this regard, the Parties hereby waive California Civil Code § 1654.

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20 **IT IS SO STIPULATED:**

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22 **CENTER FOR ENVIRONMENTAL HEALTH**

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Charlie Pizarro  
Associate Director

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**RAANI CORPORATION**

Rashid Chaudary  
Signature

RASHID A. CHAUDARY  
Printed Name

President  
Title

**IT IS SO ORDERED:**

Dated: \_\_\_\_\_, 2015

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Judge of the Superior Court

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**EXHIBIT A**  
**Payments and Allocations for Settling Defendant**

Total Settlement Payment: \$17,500

Payment 1 – Total \$5,815 – Due 5 days after the Effective Date

Payment 1 Allocations:

- o Civil Penalty: \$965 (payable to the Center for Environmental Health)
- o Payment in Lieu of Civil Penalty: \$875 (payable to the Center for Environmental Health)
- o Attorneys’ Fees and Costs: \$875 (payable to the Center for Environmental Health)
- o Attorneys’ Fees and Costs: \$3,100 (payable to the Lexington Law Group)

Payment 2 – Total \$5,810 – Due 60 days after the Effective Date

Payment 2 Allocations:

- o Civil Penalty: \$960 (payable to the Center for Environmental Health)
- o Payment in Lieu of Civil Penalty: \$875 (payable to the Center for Environmental Health)
- o Attorneys’ Fees and Costs: \$875 (payable to the Center for Environmental Health)
- o Attorneys’ Fees and Costs: \$3,100 (payable to the Lexington Law Group)

Payment 3 – Total \$5,875 – Due 120 days after the Effective Date

Payment 3 Allocations:

- o Payment in Lieu of Civil Penalty: \$875 (payable to the Center for Environmental Health)
- o Attorneys’ Fees and Costs: \$5,000 (payable to the Lexington Law Group)