

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 1501  
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

**REPORT OF SETTLEMENT**

Please print or type required information

Original Filing     Supplemental Filing     Corrected Filing

<b>PARTIES TO THE ACTION</b>	PLAINTIFF(S) <b>Shefa LMV LLC</b>			
	DEFENDANT(S) INVOLVED IN SETTLEMENT <b>Biozone Laboratories, Inc.</b>			
<b>CASE INFO</b>	COURT DOCKET NUMBER <b>JCCP004765</b>		COURT NAME <b>Alameda County Superior Court</b>	
	SHORT CASE NAME <b>Proposition 65 Cocamide DEA Cases</b>			
<b>REPORT INFO</b>	INJUNCTIVE RELIEF <b>Reformulation</b>			
	PAYMENT: CIVIL PENALTY <b>\$500</b>	PAYMENT: ATTORNEYS FEES <b>\$7,000</b>	PAYMENT: OTHER <b>0.00</b>	
	WILL SETTLEMENT BE SUBMITTED TO COURT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, AFTER ENTRY OF JUDGMENT BY COURT, REPORT OF ENTRY OF JUDGMENT MUST BE SUBMITTED TO ATTORNEY GENERAL	DATE SETTLEMENT SIGNED <b>3 / 20 / 2017</b>	
	<b>COPY OF SETTLEMENT MUST BE ATTACHED</b>			
<b>FILER INFO</b>	NAME OF CONTACT <b>Daniel N. Greenbaum</b>			
	ORGANIZATION <b>Law Office of Daniel Greenbaum</b>		TELEPHONE NUMBER ( <b>818</b> ) <b>809-2199</b>	
	ADDRESS <b>7120 Hayvenhurst Ave., Suite 320</b>		FAX NUMBER ( <b>424</b> ) <b>243-7698</b>	
	CITY <b>Van Nuys</b>	STATE    ZIP <b>CA 91406</b>	E-MAIL ADDRESS <b>dgreenbaum@greenbaumlawfirm.com</b>	

**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 settlement 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  
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2 The Hathaway Building  
7120 Hayvenhurst Avenue, Suite 320  
3 Van Nuys, CA 91406  
Telephone: (818) 809-2199  
4 Facsimile: (424) 243-7689  
5 Email: dgreenbaum@greenbaumlawfirm.com

6 Attorney for Plaintiff SHEFA LMV, LLC

7 STUBBS ALDERTON & MARKILES, LLP  
Michael A. Sherman, Esq.  
8 15260 Ventura Blvd., 20<sup>th</sup> Floor  
Telephone: (818) 444-4528  
9 Facsimile: (818) 444-6328  
10 Email: masherman@stubbsalderton.com

11 Attorneys for Doe Defendant No. 9  
12 BIOZONE LABORATORIES, INC.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF ALAMEDA

16 Coordination Proceeding  
17 Special Title (Rule 3.350)

18  
19 PROPOSITION 65 COCAMIDE DEA  
20 CASES

) JUDICIAL COUNCIL COORDINATION  
) PROCEEDING NO: 4765  
)  
)  
) [*Shefa LMV, LLC v. Walgreens Co., Inc., et al.*,  
) Los Angeles County Superior Court No.  
) BC520416]  
)  
) **[PROPOSED] CONSENT JUDGMENT AS**  
) **TO BIOZONE LABORATORIES, INC.**  
)  
) Judge: Hon. George C. Hernandez, Jr.  
)  
) Action filed: September 4, 2013  
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**1. INTRODUCTION**

1.1 The parties to this Consent Judgment (“Parties”) are Shefa LMV, LLC (“Shefa”) and Biozone Laboratories, Inc. (“Settling Defendant”). Shefa and Settling Defendant are referred to collectively as the “Parties.”

1.2 Plaintiff alleges that Settling Defendant manufactures, distributes, and/or sells types of products identified on Exhibit A that contain Cocamide diethanolamine (“Cocamide DEA”) in the State of California or has done so in the past.

1.3 On the date identified on Exhibit A, Shefa served a 60-Day Notice of Violation under Proposition 65 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.5, et seq.) (“Notice”) to Settling Defendant, the California Attorney General, the District Attorneys of every County in the State of California, and the City Attorneys for every City in the State of California with a population greater than 750,000.

1.4 The Notice alleges violations of Proposition 65 with respect to the presence of Cocamide DEA in the types of products identified in Exhibit A.

1.5 On the date(s) identified on Exhibit A, Shefa filed the Complaint applicable to the Settling Defendant (“Complaint”) for the Proposition 65 Action identified in Exhibit A.

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

1.7 Nothing in this Consent Judgment is or shall be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by the Parties of any fact, conclusion of law, issue of law, or violation of law.

1.8 Nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any other legal proceeding.

1           1.9     This Consent Judgment is the product of negotiation and compromise and is  
2 accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in  
3 this action.

## 4                           **2.     DEFINITIONS**

5           2.1     “Covered Products” means the types of products identified on the Exhibit A for  
6 each Settling Defendant.

7           2.2     “Effective Date” means the date on which this Consent Judgment is entered by  
8 the Court.

## 9                           **3.     INJUNCTIVE RELIEF**

10          3.1     **Reformulation of Covered Products.** As of the Effective Date, Settling  
11 Defendant shall not manufacture, distribute, sell, or offer for sale any Covered Product that  
12 contains Cocamide DEA and that will be sold or offered for sale to California consumers. For  
13 purposes of this Consent Judgment, a product “contains Cocamide DEA” if Cocamide DEA is an  
14 intentionally added ingredient in the product and/or intentionally added part of the product  
15 formulation.

## 16                           **4.     ENFORCEMENT**

17          4.1     Shefa may, by motion or application for an order to show cause before the  
18 Superior Court of Alameda County, enforce the terms and conditions contained in this Consent  
19 Judgment.

20          4.2     Prior to bringing any motion or application to enforce the requirements of Section  
21 3 above, Shefa shall provide Settling Defendant with a Notice of Violation and proof of purchase  
22 and a copy of any test results which purportedly support the Notice of Violation.

23          4.3     The Parties shall then meet and confer regarding the basis for the anticipated  
24 motion or application in an attempt to resolve it informally, including providing Settling  
25 Defendant(s) with a reasonable opportunity of at least thirty (30) days to cure any alleged  
26 violation.

27          4.4     Should such attempts at informal resolution fail, Shefa may file an enforcement  
28 motion or application.

          4.5     This Consent Judgment may only be enforced by the Parties.

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**5. PAYMENTS**

5.1 Within ten (10) business days of the Effective Date, Settling Defendant shall pay the settlement payment identified for it on Exhibit A.

5.2 The total settlement amount for Settling Defendant shall be paid pursuant to the instructions outlined in Exhibit A.

5.3 The funds paid by Settling Defendant shall be allocated, as identified in Exhibit A, between the following categories:

5.4 **Civil Penalty.** A civil penalty pursuant to Health & Safety Code § 25249.7(b), with such money to be apportioned by Shefa as identified on the Exhibit A for the Settling Defendant in accordance with Health & Safety Code § 25249.12 (25% to Shefa and 75% to the State of California’s Office of Environmental Health Hazard Assessment).

5.5 **Attorney’s Fees and Costs.** A reimbursement of a portion of Shefa’s reasonable attorney’s fees and costs.

**6. MODIFICATION**

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

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

**7. CLAIMS COVERED AND RELEASED**

7.1 This Consent Judgment is a full, final, and binding resolution between (i) Shefa on behalf of itself and the public interest; and (ii) Settling Defendant and its affiliates, its former affiliates (“affiliate” means a person or entity who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, Settling Defendant), and their current and past directors, officers, employees and attorneys (“Defendant Releasees”), and each entity to whom any of them directly or indirectly distribute or sell Covered Products, including but not limited to distributors, wholesalers, contractors, customers, retailers, franchisees, cooperative members, licensors, and licensees (“Downstream Defendant

1 Releasees”); of any violation of Proposition 65 that was or could have been asserted in the  
2 Complaint against Settling Defendant, Defendant Releasees, and Downstream Defendant  
3 Releasees, based on failure to warn about alleged exposure to Cocamide DEA contained in  
4 Covered Products that were sold by Settling Defendant prior to the Effective Date.

5 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant and  
6 Defendant Releasees shall constitute compliance with Proposition 65 by Settling Defendant,  
7 Defendant Releasees, and Downstream Defendant Releasees with respect to any alleged failure  
8 to warn about Cocamide DEA in Covered Products manufactured, distributed, or sold by Settling  
9 Defendants after the Effective Date.

10 7.3 Shefa, acting on its behalf and in the public interest, releases and discharges  
11 Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees from any and  
12 all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs  
13 and expenses asserted, or that could have been asserted, as to any alleged violation of  
14 Proposition 65 arising from the alleged failure to warn about alleged exposure to Cocamide DEA  
15 in the Covered Products.

16 7.4 Shefa, acting on its behalf only, releases and discharges Settling Defendant,  
17 Defendant Releasees, and Downstream Defendant Releasees from any and all known and  
18 unknown claims for alleged violations of Proposition 65 or for any other statutory or common  
19 law claims, arising from or relating to alleged exposures to Cocamide DEA in the Covered  
20 Products. It is possible that other claims not known to the parties arising out of the facts alleged  
21 in the Notice or the Complaint and relating to the Covered Products will develop or be  
22 discovered. Shefa, on behalf of itself only, acknowledges that this Consent Judgment is  
23 expressly intended to cover and include all such claims including all rights of action thereof.  
24 Shefa has full knowledge of the contents of California Civil Code section 1542. Shefa, on behalf  
25 itself only, acknowledges that the claims released above may include unknown claims, and  
26 nevertheless waives California Civil Code section 1542 as to any such unknown claims.  
27 California Civil Code section 1542 reads as follows:

28 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 IS KNOWN BY HIM OR

1 HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH  
2 THE DEBTOR.

3 Shefa, on behalf of itself only, acknowledges and understands the significance and consequences  
4 of this specific waiver of California Civil Code section 1542.

5 7.5 Nothing in this Section 7 affects Shefa's right to commence or prosecute an  
6 action under Proposition 65 against any person other than Settling Defendant, Defendant  
7 Releasees, or Downstream Defendant Releasees.

8 **8. NOTICE**

9 8.1 When Shefa is entitled to receive any notice under this Consent Judgment, the  
10 notice shall be sent by first class and electronic mail to:

11 Daniel N. Greenbaum  
12 Law Office of Daniel N. Greenbaum  
13 7120 Hayvenhurst Ave., Suite 320  
14 Van Nuys CA 91406  
15 dgreenbaum@greenbaumlawfirm.com

16 8.2 When Settling Defendant is entitled to receive any notice under this Consent  
17 Judgment, the notice shall be sent by first class and electronic mail to the person identified on  
18 the Exhibit A for Settling Defendant.

19 8.3 Any Party may modify the person and address to whom the notice is to be sent by  
20 sending the other Party notice by first class and electronic mail.

21 **9. COURT APPROVAL**

22 9.1 This Consent Judgment shall become effective upon entry by the Court.

23 9.2 Shefa shall prepare and file a Motion for Approval of this Consent Judgment and  
24 Settling Defendant shall support entry of this Consent Judgment.

25 9.3 If this Consent Judgment is not entered by the Court, it shall be of no force or  
26 effect and shall never be introduced into evidence or otherwise used in any proceeding for any  
27 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

28 **10. ATTORNEYS' FEES**

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

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**11. OTHER TERMS**

11.1 This Consent Judgment shall apply to and be binding upon Shefa and Settling Defendant.

11.2 This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, or understandings related thereto, if any, are hereby merged herein and therein.

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

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

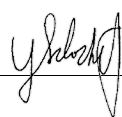


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AGREED TO:

Dated: 3/20/2017

SHEFA LMV, LLC

By:  \_\_\_\_\_

Dated: March 14, 2017

BIOZONE LABORATORIES, INC.

By:  \_\_\_\_\_

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**ORDER AND JUDGMENT**

Based upon the stipulated Consent Judgment between Shefa LMV, LLC and Biozone Laboratories, Inc., the settlement is approved and the clerk is directed to enter judgment in accordance with the terms herein.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Superior Court

**EXHIBIT A**

1. Name of Settling Defendant: Biozone Laboratories, Inc.
2. Name of Plaintiff: Shefa LMV, LLC
3. Person(s) to Receive Notices (Pursuant to Section 8.2):  
  
STUBBS ALDERTON & MARKILES, LLP  
Michael A. Sherman, Esq.  
15260 Ventura Blvd., 20<sup>th</sup> Floor  
Email: masherman@stubbsalderton.com
4. Date of 60-Day Notice of Violation (Pursuant to Section 1.3): July 11, 2014
5. Complaint Naming Settling Defendant (Pursuant to Section 1.4): *Shefa LMV, LLC v. Walgreens Co., Inc., et al.*, Los Angeles County Superior Court No. BC520416
  - a. Date Complaint Filed: October 17, 2014 (Doe Amendment)
6. Covered Products Applicable to Defendant (Pursuant to Sections 1.2, 1.3, 2.1, 3.1, 3.2, 7.1, 7.2, 7.3 and 7.4):  
  
 **Shampoos**  
 **Soaps**
7. Defendant's Section 3.3 Product(s):  
  
Glyderm gentle face Cleaner; UPC: 855841003006
8. Defendant's Settlement Payment and Allocation (Pursuant to Section 5.1):  
  
Total Settlement Payment: \$7,500.00  
Civil Penalty (payable to Shefa LMV, LLC): \$500.00  
Payment in Lieu of Civil Penalty (PILP): \$ N/A  
Shefa Fees and Costs (payable to the Law Office of Daniel N. Greenbaum): \$7,000.00  
  
Checks payable to "Shefa LMV, LLC" or the "Law Office of Daniel N. Greenbaum" shall be delivered to counsel for Shefa as set forth in Section 8.1.