

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

PARTIES TO THE ACTION	PLAINTIFF(S) Shefa LMV Inc.			
	DEFENDANT(S) INVOLVED IN SETTLEMENT Spacebund, Inc.			
CASE INFO	COURT DOCKET NUMBER 21STCV43278		COURT NAME SUPERIOR COURT OF CA, Los Angeles Co	
	SHORT CASE NAME Shefa LMV, Inc. v. Spacebund, Inc., et al.			
REPORT INFO	INJUNCTIVE RELIEF COMPLIANT PRODUCTS AND WARNINGS			
	PAYMENT: CIVIL PENALTY \$2,500.00	PAYMENT: ATTORNEYS FEES \$13,500.00	PAYMENT: OTHER \$0.00	For Internal Use Only
	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 02 / 02 / 2022	
	COPY OF SETTLEMENT MUST BE ATTACHED			
FILER INFO	NAME OF CONTACT Daniel N. Greenbaum			
	ORGANIZATION Law Office of Daniel Greenbaum		TELEPHONE NUMBER (818) 809-2199	
	ADDRESS 7120 Hayvenhurst Ave., Suite 320		FAX NUMBER (424) 243-7698	
	CITY Van Nuys	STATE CA	ZIP 91406	E-MAIL ADDRESS dgreenbaum@greenbaumlawfirm.com

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 GREENBAUM LAW FIRM
2 Daniel N. Greenbaum, Esq. (SBN 268104)
3 The Hathaway Building
4 7120 Hayvenhurst Avenue, Suite 320
5 Van Nuys, CA 91406
6 Telephone: (818) 809-2199
7 Facsimile: (424) 243-7689
8 Email: dgreenbaum@greenbaumlawfirm.com

9 Attorney for Plaintiff SHEFA LMV, INC.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

12 SHEFA LMV, INC.,) Case No. 21STCV43278
13)
14 Plaintiff,) *Dept. 14*
15) *Hon. Terry Green*
16 vs.)
17)
18 SPACEBOUND, INC.; and DOES 1 through)
19 100, Inclusive,) **[PROPOSED] CONSENT JUDGMENT**
20) **AS TO SPACEBOUND, INC.**
21 Defendants.)
22)
23)
24)
25)
26)
27)
28) Action Filed: November 24, 2021

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment (“**Consent Judgment**”) is entered into by and between plaintiff
4 Shefa LMV, Inc. (“**Shefa**” or “**Plaintiff**”) and SpaceBound, Inc. (“**Defendant**,” with Shefa and
5 **Defendant** individually referred to as a “**Party**” and collectively as the “**Parties**”).

6 **1.2 Plaintiff**

7 Shefa is a public benefit, non-profit corporation that seeks to promote awareness of
8 exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous
9 substances contained in consumer products.

10 **1.3 Settling Defendant**

11 Defendant employs ten (10) or more persons and is a person in the course of doing business
12 for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety
13 Code §25249.6 *et seq.* (“**Proposition 65**”).

14 **1.4 Products Covered**

15 The products covered by this Consent Judgment are (collectively, the “**Covered Products**”)
16 for sale within the State of California, without first giving clear and reasonable warning in violation
17 of Proposition 65.

18 **1.5 General Allegations**

19 Shefa alleges that Defendant manufactures, imports, sells, and/or distributes, for sale in the
20 state of California, the Covered Products without first providing a clear and reasonable warning
21 required by Proposition 65. DEHP (CAS # 68515-48-0) is a chemical listed under Proposition 65 as
22 a chemical known to the state to cause cancer or reproductive toxicity.

23 **1.6 Notices of Violation**

24 On November 25, 2020, Shefa served Defendant and the requisite public enforcement
25 agencies with Sixty Day Notices of Violation (the “**Notices**”) alleging that Defendant violated
26 Proposition 65 when it failed to warn its customers and consumers in California that the Covered
27 Products contained DEHP. To the best of the Parties’ knowledge, no public enforcer has
28

1 commenced and is diligently prosecuting the allegations set forth in the Notices.

2 **1.7 Complaint**

3 On November 24, 2021, Shefa filed a Complaint in the Superior Court in and for the County
4 of Los Angeles against Settling Defendant, alleging violations of California Health & Safety Code
5 § 25249.6, based on exposures to DEHP in the Covered Products sold in the State of California (the
6 “Complaint”).

7 **1.8 No Admission**

8 Defendant denies the material, factual, and legal allegations contained in the Notices and
9 Complaint and maintains that all the products it has manufactured, sold, and/or distributed for sale
10 in California, including the Covered Products, have been, and are, in compliance with all laws.
11 Nothing in this Consent Judgment shall be construed as an admission by Defendant of any fact,
12 finding, conclusion of law, issue of law, or violation of law; nor shall compliance with this Consent
13 Judgment constitute or be construed as an admission by Defendant of any fact, finding, conclusion
14 of law, issue of law, or violation of law, the same being specifically denied by Defendant. This
15 section shall not, however, diminish or otherwise affect Defendant’s obligations, responsibilities,
16 and duties under this Consent Judgment.

17 **1.9 Consent to Jurisdiction**

18 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
19 jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper in the
20 County of Los Angeles, the Defendant agrees that it employs or has employed ten or more persons
21 during time periods relevant to the Complaint and that this Court has jurisdiction over the Parties to
22 enter and enforce the provisions of this Consent Judgment pursuant to Proposition 65.

23 **1.10 Effective Date and Compliance Date**

24 For purposes of this Consent Judgment, the term “**Effective Date**” shall mean the date the
25 Consent Judgment is approved and entered by the Court. The term “**Compliance Date**” is the date
26 that is sixty (60) days from the Effective Date.
27
28

1 **2. INJUNCTIVE RELIEF: COMPLIANT PRODUCTS AND WARNINGS**

2 **2.1 Reformulation Standards**

3 Except as otherwise provided for herein, after the Compliance Date, Defendant shall not
4 manufacture for sale, sell and/or distribute for sale in California any Covered Products unless the
5 Covered Products contain DEHP in concentrations less than or equal to 1000 parts per million
6 (“ppm”) when analyzed pursuant to U.S. Environmental Protection Agency testing methodologies
7 3580A and 8270C or any other scientifically reliable methodology for determining the
8 concentration of DEHP in the Covered Products.

9 **2.2 Warning Standards**

10 Defendant agrees, promises, and represents that, as of the Compliance Date, to the extent
11 Defendant ships or sells Covered Products that do not meet the reformulation standards set forth
12 above in Section 2.1, Defendant will provide warnings on such Covered Products that comply with
13 Proposition 65. The warnings shall be provided in a conspicuous and prominent manner such that
14 they will be likely to be read or seen by the consumer prior to or at the time of the sale or purchase.

15 The Parties agree that the warning set forth below shall constitute compliance with
16 Proposition 65 with respect to any Covered Products that are not reformulated:

17 For Covered Products,

18 a) the text, “**WARNING:** This product can expose you to Di(2-
19 ethylhexyl)phthalate (DEHP), which is known to the State of California to cause cancer and
20 birth defects or other reproductive harm. For more information go to
21 www.P65Warnings.ca.gov.” accompanied by and placed to the right of a symbol consisting
22 of a black exclamation point in a yellow equilateral triangle with a bold black outline sized
23 to be no smaller than the word, “**WARNING**” as provided by regulations adopted on or
24 about August 30, 2016; or

25 (b) the text, “**WARNING:** Cancer and Reproductive Harm -
26 www.P65Warnings.ca.gov.” accompanied by and placed to the right of a symbol consisting
27 of a black exclamation point in a yellow equilateral triangle with a bold black outline sized
28 to be no smaller than the word, “**WARNING**” as provided by regulations adopted on or

1 of a black exclamation point in a yellow equilateral triangle with a bold black outline sized
2 to be no smaller than the word, "WARNING" as provided by regulations adopted on or
3 about August 30, 2016.

4 For Crossbody Bags,

5 The triangular warning symbol specified in Section 2.2 shall be in yellow with a black
6 exclamation mark; *provided however*, the symbol may be printed in black and white if the Covered
7 Product label is not printed using the color yellow.
8

9 **2.3 Compliance with Warning Regulations.**

10 Defendant shall be deemed to be in compliance with this Consent Judgment by either
11 adhering to Section 2.2 of this Consent Judgment or by complying with warning requirements
12 adopted by the State of California's Office of Environmental Health Hazard Assessment after the
13 Effective Date.

14 **2.4 Covered Products in the Stream of Commerce.**

15 Any Covered Products that have been produced, distributed, shipped, and/or sold by
16 Defendant prior to the Compliance Date, shall not be subject to the requirements of Section 2.1 or
17 2.2.

18 **3. MONETARY SETTLEMENT TERMS**

19 **3.1 Payment from Defendant.** Within ten (10) business days of the Effective Date,
20 Defendant shall make a payment of **\$16,000.00** (the "**Total Settlement Payment**") in settlement
21 and total satisfaction of all the claims referred to in the Notice, the Complaint, and in the Consent
22 Judgment. Defendant's obligation to pay the Total Settlement Payment is contingent on the court's
23 approval of the Consent Judgment.

24 **3.2 Allocation of Payments.** The Total Settlement Payment shall be paid in three (3)
25 separate checks made payable and allocated as follows:

26 **3.2.1 Civil Penalty.** Defendant shall pay \$2,500.00 as a civil penalty
27 pursuant to Health & Safety Code § 25249.7(b). The civil penalty shall be apportioned in
28

1 accordance with Health & Safety Code § 25249.12 (25% to Shefa and 75% to the State of
2 California’s Office of Environmental Health Hazard Assessment (“OEHHA”). Accordingly, the
3 OEHHA portion of the civil penalty payment in the amount of \$1,875.00 shall be made payable to
4 OEHHA and associated with taxpayer identification number 68-0284486. This payment shall be
5 delivered as follows:

6 For United States Postal Service Delivery:

7 Attn: Mike Gyurics
8 Fiscal Operations Branch Chief
9 Office of Environmental Health Hazard Assessment
10 P.O. Box 4010, MS #19B
11 Sacramento, CA 95812-4010

12 For Non-United States Postal Service Delivery:

13 Attn: Mike Gyurics
14 Fiscal Operations Branch Chief
15 Office of Environmental Health Hazard Assessment
16 1001 I Street, MS #19B
17 Sacramento, CA 95814

18 The Shefa portion of the civil penalty payment in the amount of \$625.00 shall be made
19 payable to Shefa LMV, Inc. and associated with taxpayer identification number 81-0907002. This
20 payment shall be delivered to the Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst Ave,
21 Suite 320, Van Nuys, CA 91406.

22 Shefa and its counsel will provide completed W-9s, or other required tax documents, to
23 Defendant as a condition of Defendant making any payment, including payment of the penalty to
24 EHA and OEHHA.

25 **3.2.2 Attorney’s Fees and Costs.** The portion of the Total Settlement
26 Amount attributable to Shefa's attorney’s fees and costs, \$13,500.00, shall be paid to the “Law
27 Office of Daniel N. Greenbaum,” and associated with taxpayer identification number 46-4580172.
28 This payment shall be delivered to the Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst
Ave, Suite 320, Van Nuys, CA 91406.

1 **4. CLAIMS COVERED AND RELEASED**

2 **4.1 Public Release**

3 This Consent Judgment is a full, final, and binding resolution between Shefa, on the one
4 hand, and Defendant and any affiliated entities that do business as “XSDepo.com,” on the other
5 hand, of any violation of Proposition 65 that was or could have been asserted by Shefa, acting on
6 behalf of itself and in a representative capacity in the public interest under Health & Safety Code
7 § 25249.7, against Defendant, its owners, parents, subsidiaries, affiliated entities under common
8 ownership, manufacturers, suppliers, directors, officers, employees, attorneys, and the predecessors,
9 successors, or assigns of each of them, and each entity to whom Defendant directly or indirectly
10 exports, distributes, and/or sells the Covered Products, including, without limitation, distributors,
11 wholesalers, customers, retailers, franchisees, cooperative members, and other SpaceBound
12 licensees (“**Releasees**”), based on failure to warn of alleged exposures to DEHP from the Covered
13 Products manufactured, sold, and/or distributed for sale in California by Defendant prior to the
14 Compliance Date. The release in this Section 4.1 applies to all Covered Products that Defendant
15 manufactured, distributed, and/or sold prior to the Compliance Date, regardless of the date any other
16 Releasee distributes or sells the Covered Products.

17 Compliance with the terms of this Consent Judgment shall constitute compliance with
18 Proposition 65 by Defendant and the Releasees with respect to DEHP in Covered Products
19 manufactured, sold, or distributed on and after the Compliance Date.

20 **4.2 Shefa’s Individual Release of Claims**

21 In further consideration of the promises and agreements herein contained, Shefa, on its own
22 behalf and on behalf of its past and current agents, representatives, attorneys, successors, and/or
23 assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of
24 legal action, and releases all claims that it may have against Defendant and Releasees, including,
25 without limitation, all actions and causes of action, suits, liabilities, demands, obligations, damages,
26 costs, fines, penalties, losses, or expenses, including, without limitation, investigation fees, expert
27 fees, and attorneys’ fees arising under Proposition 65 for unwarned exposures to DEHP in Covered
28

1 Products manufactured, sold, and/or distributed for sale by Defendant prior to the Compliance Date.
2 The releases in Section 4.2 are provided in Shefa's individual capacity and are not releases on
3 behalf of the public.

4 **4.3 Defendant's Release of Shefa**

5 Defendant, on its own behalf and on behalf of its past and current agents, representatives,
6 attorneys, successors, and assignees, hereby waives any and all claims that it may have against
7 Shefa and its attorneys and other representatives, for any and all actions taken or statements made
8 by Shefa and its attorneys and other representatives in the course of investigating the claims set
9 forth in the Complaint or otherwise seeking to enforce Proposition 65 against it in this matter.

10 **4.4 Release of Unknown Claims**

11 It is possible that other claims not known to the Parties arising out of the facts contained in
12 the Notices, or alleged in the Complaint, relating to the Covered Products, will hereafter be
13 discovered or developed. Shefa, on behalf of itself only, acknowledges that this Consent Judgment
14 is expressly intended to cover and include all such claims through and including the Effective Date,
15 including all rights of action therefor. Shefa acknowledges that the claims released in Sections 4.1
16 and 4.2 may include unknown claims, and nevertheless Shefa intends to release such claims, and in
17 doing so waives California Civil Code § 1542, which reads as follows:

18
19 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
20 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST**
21 **IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND**
22 **THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED**
23 **HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

24 Shefa understands and acknowledges that the significance and consequence of this waiver of
25 California Civil Code § 1542 is that, even if Shefa suffers future damages arising out of or resulting
26 from, or related directly or indirectly to, in whole or in part, the Covered Products, including but not
27 limited to any exposure to, or failure to warn with respect to exposure to, the Covered Products,
28 Shefa will not be able to make any claim for those damages against Defendant or any of the
Releasees.

1 **5. ENFORCEMENT**

2 **5.1** The terms of this Consent Judgment shall be enforced exclusively by the Parties
3 hereto. A Party may enforce any of the terms and conditions of this Consent Judgment only after
4 that Party first provides sixty (60) days’ notice to the Party allegedly failing to comply with the
5 terms and conditions of this Consent Judgment and attempts to resolve such Party’s failure to
6 comply in an open and good faith manner. The provisions of sections 5.2 through 5.3 shall be the
7 exclusive means of enforcing alleged violations of Section 2 of this Consent Judgment.

8 **5.2 Notice of Violation**

9 Prior to bringing any proceeding to enforce the terms of this Consent Judgment, Shefa shall
10 provide a written notice of violation (“NOV”) to Defendant that includes information sufficient for
11 Defendant to be able to understand and correct the violation, including but not limited to: (a) the
12 name of the product, (b) specific dates when the product was sold in California, (c) the store,
13 website, or other place at which the product was available for sale to consumers, and (d) any other
14 evidence or other support for the allegations in the notice, including all test data obtained by Shefa
15 regarding the Covered Product.

16 **5.3 Notice of Election Response**

17 Within 30 days of receiving an NOV, Defendant shall serve a Notice of Election (“NOE”)
18 either contesting or not contesting the NOV.

19 **5.3.1 Non-Contested NOV.** Shefa shall take no further action regarding

20 the alleged violation against a Defendant that serves a NOE that elects not to contest the NOV and
21 meets one of the following conditions:

22 (a) The Covered Product was produced, distributed, shipped, and/or sold by Defendant
23 for sale in California before the Compliance Date, or

24 (b) Since receiving the NOV the Defendant has taken corrective action by either (i)
25 taking all steps necessary to bring the sale of the product into compliance under the terms of this
26 Consent Judgment, or (ii) requesting that its customers in California remove the Covered Products
27 identified in the NOV from sale in California and destroy or return the Covered Products to
28

1 Defendant, or (iii) refute the information provided in Section 5.2.

2 **5.3.2 Contested NOV.** If a Defendant serves a NOE electing to contest the
3 NOV, the provisions of this Section 5.3.2 shall apply.

4 (a) Defendant may request that the sample(s) of Covered Products tested by Shefa be
5 subject to confirmatory testing at an EPA or California-accredited laboratory.

6 (b) If the confirmatory testing establishes that the Covered Products do not contain
7 DEHP, as applicable, in excess of the levels allowed in Section 2.1, above, Shefa shall take no
8 further action regarding the alleged violation. If the testing does not establish compliance with
9 Section 2.1, above, Defendant may withdraw its NOE to contest the violation and may serve a new
10 NOE pursuant to Section 5.3.1.

11 (c) If Defendant does not withdraw an NOE to contest the NOV or take action under
12 Section 5.3.1, above, the Parties shall meet and confer for a period of no less than 30 days before
13 Shefa may take action seeking to enforce the terms of this Consent Judgment.

14 **6. COURT APPROVAL**

15 This Consent Judgment is not effective until it is approved and entered by the Court.

16 **7. GOVERNING LAW**

17 The terms of this Consent Judgment shall be governed by the laws of the State of California
18 as applied within the State of California. In the event that Proposition 65 is repealed or is otherwise
19 rendered inapplicable for any reason, including, but not limited to, changes in Proposition 65, the
20 implementing regulations, the law, and/or any injunctive relief, and/or wherein warnings for DEHP
21 are determined not to be required under Proposition 65 or where DEHP are subject to a safe harbor
22 level higher than 1000 ppm, Defendant may provide written notice to Shefa of any asserted change
23 in the law, and with the exception of Sections 3.1 and 3.2 above, have no further obligations
24 pursuant to this Consent Judgment, with respect to, and to the extent that, the Covered Products are
25 so affected. None of the terms of this Consent Judgment shall have any application to Covered
26 Products sold outside of the State of California.

1 **8. NOTICE**

2 Unless specified herein, all correspondence and notices required to be provided pursuant to
3 this Consent Judgment shall be in writing and sent by: (i) personal delivery; (ii) first-class,
4 registered or certified mail, return receipt requested; or (iii) a recognized overnight courier on any
5 Party by the other at the following addresses:

6 To Defendant:

7 Scott P. Shaw
8 Merchant & Gould P.C.
9 8383 Wilshire Blvd., Suite 935
Beverly Hills, CA 90211

To Shefa:

Daniel N. Greenbaum
Greenbaum Law Firm
7120 Hayvenhurst Ave., Suite 320
Van Nuys, CA 91406

10
11 Any Party may, from time to time, specify in writing to the other Party a change of address
12 to which all notices and other communications shall be sent.

13 **9. COUNTERPARTS; FACSIMILE AND PDF SIGNATURES**

14 This Consent Judgment may be executed in counterparts, and by facsimile or portable
15 document format (PDF) signature, each of which shall be deemed an original, and all of which,
16 when taken together, shall constitute one and the same document.

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

18 Shefa agrees to comply with the reporting form requirements referenced in California Health
19 & Safety Code § 25249.7(f).

20 **11. POST EXECUTION ACTIVITIES**

21 The Parties acknowledge that, pursuant to California Health & Safety Code § 25249.7(f),
22 Shefa is obligated to file a noticed motion to obtain judicial approval of this Consent Judgment.
23 Upon the Parties' execution of this Consent Judgment, Shefa promptly shall proceed to submit this
24 Consent Judgment to the Court with a motion seeking Court approval.

25 **12. MODIFICATION**

26 This Consent Judgment may only be modified by a written instrument executed by the Party
27 or Parties to be bound thereby, and after approval by the Court upon a noticed motion. Any motion
28

1 to modify shall be served on all Parties and the Office of the Attorney General.

2
3 **13. AUTHORIZATION**


4 The undersigned are authorized to execute this Consent Judgment on behalf of their
5 respective Parties and have read, understood, and agree to all of the terms and conditions of this
6 Consent Judgment.

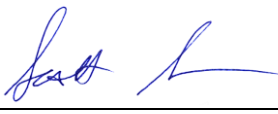
7
8 **AGREED TO:**

AGREED TO:

9
10 Date: 2/2/2022

Date: 2/2/22

11
12
13 By:  _____
14 SHEFA LMV, INC.

12
13 By:  _____
14 SPACEBOUND, INC.

1 **[PROPOSED] JUDGMENT**

2
3 Please note that on _____, 2022 at 8:30am, Plaintiff Shefa LMV Inc.’s
4 (“Plaintiff”) Motion for Court Approval of Settlement Agreement and Entry of Consent Judgment
5 as to Defendant SpaceBound, Inc. came for hearing before this Court in Department 14, the
6 Honorable Terry Green presiding. Counsel for Plaintiff did [not] appear; counsel for Defendant did
7 [not] appear.
8

9 After full consideration of the points and authorities and related pleadings submitted, the
10 Court GRANTED Plaintiff’s Motion pursuant to and in accordance with Health & Safety Code
11 §25249.7(f)(4). The Court reviewed the above Settlement Agreement and makes the following
12 findings pursuant to Health & Safety Code § 25249.7(f)(4):

- 13 a. The injunctive relief required by the Settlement Agreement complies with Health &
14 Safety Code § 25249.7;
15
16 b. The reimbursement of fees and costs to be paid pursuant to the Settlement
17 Agreement is reasonable under California law; and
18
19 c. The civil penalty amount to be paid pursuant to Settlement Agreement is reasonable.

20 The Consent Judgment is approved, and the clerk is directed to ENTER JUDGMENT in accordance
21 with the terms of the Consent Judgment above.
22

23 IT IS SO ORDERED, ADJUDGED AND DECREED:
24
25

26 _____
27 Date

Judge of the Superior Court