

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 Cosmetics Trujillo S.A de C.V.			
CASE INFO	COURT DOCKET NUMBER 21STCV33571		COURT NAME SUPERIOR COURT OF CA, Los Angeles Co	
	SHORT CASE NAME Shefa LMV, Inc. v. Cosmetics Trujillo SA de CV			
REPORT INFO	INJUNCTIVE RELIEF COMPLIANT PRODUCTS AND WARNINGS			
	PAYMENT: CIVIL PENALTY \$2,000.00		PAYMENT: ATTORNEYS FEES \$14,500.00	PAYMENT: OTHER \$0.00
	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 9 / 27 / 2021
	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 Products”), that contain Cocamide diethanolamine (“Cocamide DEA”) in the State of California
2 or has done so in the past.

3 1.3 On May 10, 2021, Shefa served a 60-Day Notice of Violation under Proposition 65
4 (The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code
5 §§ 25249.5, et seq.) (“Notice”) to Settling Defendant, the California Attorney General, the District
6 Attorneys of every County in the State of California, and the City Attorneys for every City in the
7 State of California with a population greater than 750,000.

8 1.4 The Notice alleges violations of Proposition 65 with respect to the presence of
9 Cocamide DEA in the Covered Products.

10 1.5 On September 10, 2021, Shefa filed the Complaint applicable to the Settling
11 Defendant (“Complaint”) for the Proposition 65 instant action.

12 1.6 For purposes of this Consent Judgment only, the Parties stipulate that: (i) this Court
13 has jurisdiction over the allegations of violations contained in the operative Complaint applicable
14 to Settling Defendant and personal jurisdiction over Settling Defendant as to the acts alleged in
15 the Complaint; (ii) venue is proper in the County of Los Angeles; and (iii) this Court has
16 jurisdiction to enter this Consent Judgment.

17 1.7 Nothing in this Consent Judgment is or shall be construed as an admission by the
18 Parties of any fact, conclusion of law, issue of law, or violation of law, nor shall compliance with
19 the Consent Judgment constitute or be construed as an admission by the Parties of any fact,
20 conclusion of law, issue of law, or violation of law.

21 1.8 Nothing in this Consent Judgment shall prejudice, waive, or impair any right,
22 remedy, argument, or defense the Parties may have in any other legal proceeding.

23 1.9 This Consent Judgment is the product of negotiation and compromise and is
24 accepted by the Parties for purposes of settling, compromising, and resolving issues disputed in
25 this action.

26 **2. DEFINITIONS**

1 2.1 “Effective Date” means the date on which this Consent Judgment is entered by
2 the Court.

3 **3. INJUNCTIVE RELIEF**

4 3.1 **Reformulation of Covered Products.** As of the Effective Date, Settling
5 Defendant shall not manufacture, distribute, sell, or offer for sale any Covered Product that
6 contains Cocamide DEA and that will be sold or offered for sale to California consumers. For
7 purposes of this Consent Judgment, a product “contains Cocamide DEA” if Cocamide DEA is an
8 intentionally added ingredient in the product and/or intentionally added part of the product
9 formulation.

10 3.2 **Action Regarding Specific Products.** Within three (3) months, Settling
11 Defendant shall cease selling the Covered Products (if any) in California unless such products
12 have been reformulated such that they do not contain Cocamide DEA.

13 3.3 On or before the Effective Date, Settling Defendant shall also: (i) cease shipping
14 the Covered Products to any of its California stores and/or California customers that resell the
15 Covered Products in California; and (ii) send instructions to its California stores and/or
16 California customers that resell the Covered Products in California instructing them either to: (a)
17 return all the Covered Products to Settling Defendant for destruction, or (b) directly destroy the
18 Covered Products.

19 3.4 The requirements of this Section apply only to those Covered Products that
20 contain Cocamide DEA.

21 3.5 Any destruction of the Covered Products shall be in compliance with all
22 applicable laws.

23 **4. ENFORCEMENT**

24 4.1 Shefa may, by motion or application for an order to show cause before the
25 Superior Court of Los Angeles County, enforce the terms and conditions contained in this
26 Consent Judgment.

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1 4.2 Prior to bringing any motion or application to enforce the requirements of Section
2 3 above, Shefa shall provide Settling Defendant with a Notice of Violation and proof of purchase
3 and a copy of any test results which purportedly support the Notice of Violation.

4 4.3 The Parties shall then meet and confer regarding the basis for the anticipated
5 motion or application in an attempt to resolve it informally, including providing Settling
6 Defendant(s) with a reasonable opportunity of at least thirty (30) days to cure any alleged
7 violation.

8 4.4 Should such attempts at informal resolution fail, Shefa may file an enforcement
9 motion or application.

10 4.5 This Consent Judgment may only be enforced by the Parties.

11 **5. PAYMENT FROM DEFENDANT.**

12 **5.1** Starting on the Effective Date, Defendant shall make Payment as specified in 5.2.4
13 and 5.2.5 in the aggregate amount of \$16,500.00.

14 **5.2** Allocation of Payments. The Total Settlement Payment of \$16,500.00 shall be paid in
15 five (5) installments via wire transfer and Shefa LMV, Inc. will disperse the funds as
16 specified below. The total Settlement Payments of \$16,500.00 shall be sent to the
17 following account:

- 18 • Bank Name: JP Morgan Chase Bank NA
- 19 • Account #: 103058357
- 20 • Routing #: 021000021
- 21 • Swift Code: CHASUS33

22 **5.2.1** Civil Penalty. Defendant shall pay \$2,000.00 as a civil penalty pursuant
23 to Health & Safety Code § 25249.7(b). The civil penalty shall be
24 apportioned in accordance with Health & Safety Code § 25249.12 (25% to
25 Shefa and 75% to the State of California’s Office of Environmental Health
26 Hazard Assessment (“OEHHA”). Accordingly, the OEHHA portion of
27 the civil penalty payment in the amount of \$1,500.00 shall be made
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payable to OEHHA and associated with taxpayer identification number
68-0284486. This payment shall be delivered as follows:
Attn: Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS #19B
Sacramento, CA 95812-4010

The Shefa portion of the civil penalty payment in the amount of \$500.00 shall be made payable to Shefa LMV, Inc. and associated with taxpayer identification number 81-0907002. This payment shall be delivered to the Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst Ave, Suite 320, Van Nuys, CA 91406.

5.2.2 Attorney’s Fees and Costs. A reimbursement of Shefa's attorney’s fees and costs in the amount of \$14,500.00 payable to the “Law Office of Daniel N. Greenbaum,” and associated with taxpayer identification number 46-4580172. This payment shall be delivered to the Law Office of Daniel N. Greenbaum, 7120 Hayvenhurst Ave, Suite 320, Van Nuys, CA 91406.

5.2.3 Installment Payments. Defendant shall pay the Total Settlement Payment in installments, with the civil penalties to be paid first, as specified below. The Payments will be made in accordance with Paragraph 5.2 of this agreement and as follows:

5.2.4 Payment to OEHHA and Shefa LMV Inc: Within ten (10) days of the Effective Date, Defendant shall pay \$1,500.00 of the civil penalty payment to OEHHA and \$500.00 of the civil Penalty to Shefa LMV, Inc. Payment shall be considered made if by United States Postal Service Delivery, the payment is postmarked within such 10 days or, if made by non-United States Postal Service Delivery, the payment is delivered with such 10 days.

1 6.2 **Meet and Confer.** Any Party seeking to modify this Consent Judgment shall
2 attempt in good faith to meet and confer with all affected Parties prior to filing a motion to
3 modify the Consent Judgment.

4 **7. CLAIMS COVERED AND RELEASED**

5 7.1 This Consent Judgment is a full, final, and binding resolution between (i) Shefa
6 on behalf of itself and the public interest; and (ii) Settling Defendant and its affiliates, its former
7 affiliates (“affiliate” means a person or entity who directly or indirectly owns or controls, is
8 owned or controlled by, or is under common ownership or control with, Settling Defendant), and
9 their current and past directors, officers, employees and attorneys (“Defendant Releasees”), and
10 each entity to whom any of them directly or indirectly distribute or sell Covered Products,
11 including but not limited to distributors, wholesalers, contractors, customers, retailers,
12 franchisees, cooperative members, licensors, and licensees (“Downstream Defendant
13 Releasees”); of any violation of Proposition 65 that was or could have been asserted in the
14 Complaint against Settling Defendant, Defendant Releasees, and Downstream Defendant
15 Releasees, based on failure to warn about alleged exposure to Cocamide DEA contained in
16 Covered Products that were sold by Settling Defendant prior to the Effective Date.

17 7.2 Compliance with the terms of this Consent Judgment by Settling Defendant and
18 Defendant Releasees shall constitute compliance with Proposition 65 by Settling Defendant,
19 Defendant Releasees, and Downstream Defendant Releasees with respect to any alleged failure
20 to warn about Cocamide DEA in Covered Products manufactured, distributed, or sold by Settling
21 Defendants after the Effective Date.

22 7.3 Shefa, acting on its behalf and in the public interest, releases and discharges
23 Settling Defendant, Defendant Releasees, and Downstream Defendant Releasees from any and
24 all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs
25 and expenses asserted, or that could have been asserted, as to any alleged violation of
26 Proposition 65 arising from the alleged failure to warn about alleged exposure to Cocamide DEA
27 in the Covered Products.

1 7.4 Shefa, acting on its behalf only, releases and discharges Settling Defendant,
2 Defendant Releasees, and Downstream Defendant Releasees from any and all known and
3 unknown claims for alleged violations of Proposition 65 or for any other statutory or common
4 law claims, arising from or relating to alleged exposures to Cocamide DEA in the Covered
5 Products. It is possible that other claims not known to the parties arising out of the facts alleged
6 in the Notice or the Complaint and relating to the Covered Products will develop or be
7 discovered. Shefa, on behalf of itself only, acknowledges that this Consent Judgment is
8 expressly intended to cover and include all such claims including all rights of action thereof.
9 Shefa has full knowledge of the contents of California Civil Code section 1542. Shefa, on behalf
10 itself only, acknowledges that the claims released above may include unknown claims, and
11 nevertheless waives California Civil Code section 1542 as to any such unknown claims.
12 California Civil Code section 1542 reads as follows:

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

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

21 7.5 Nothing in this Section 7 affects Shefa’s right to commence or prosecute an
22 action under Proposition 65 against any person other than Settling Defendant, Defendant
23 Releasees, or Downstream Defendant Releasees.

24 **8. NOTICE**

25 8.1 When Shefa is entitled to receive any notice under this Consent Judgment, the
26 notice shall be sent by first class and electronic mail to:

27 Daniel N. Greenbaum
28 Law Office of Daniel N. Greenbaum
 7120 Hayvenhurst Ave., Suite 320

1 Van Nuys CA 91406
2 dgreenbaum@greenbaumlawfirm.com

3 8.2 When Settling Defendant is entitled to receive any notice under this Consent
4 Judgment, the notice shall be sent by electronic or first class mail to the person identified on the
5 Exhibit A for Settling Defendant.

6 8.3 Any Party may modify the person and address to whom the notice is to be sent by
7 sending the other Party notice by first class and electronic mail.

8 **9. COURT APPROVAL**

9 9.1 This Consent Judgment shall become effective upon entry by the Court.

10 9.2 Shefa shall prepare and file a Motion for Approval of this Consent Judgment and
11 Settling Defendant shall support entry of this Consent Judgment.

12 9.3 If this Consent Judgment is not entered by the Court, it shall be of no force or
13 effect and shall never be introduced into evidence or otherwise used in any proceeding for any
14 purpose other than to allow the Court to determine if there was a material breach of Section 9.1.

15 **10. ATTORNEYS' FEES**

16 10.1 Should Shefa prevail on any motion, application for an order to show cause, or
17 other proceeding to enforce a violation of this Consent Judgment, Shefa shall be entitled to its
18 reasonable attorneys' fees and costs incurred as a result of such motion or application.

19 10.2 Should Settling Defendant prevail on any motion application for an order to show
20 cause or other proceeding, that Settling Defendant may be awarded its reasonable attorneys' fees
21 and costs against Shefa as a result of such motion or application upon a finding by the Court that
22 Shefa's prosecution of the motion or application lacked substantial justification.

23 10.3 For purposes of this Consent Judgment, the term substantial justification shall
24 carry the same meaning as used in the Civil Discovery Act of 1986, Code of Civil Procedure §§
25 2016, et seq.

26 10.4 Except as otherwise provided in this Consent Judgment, each Party shall bear its
27 own attorneys' fees and costs.

28 **11. OTHER TERMS**

1 11.1 The terms of this Consent Judgment shall be governed by the laws of the State of
2 California.

3 11.2 This Consent Judgment shall apply to and be binding upon Shefa, Settling
4 Defendant, its affiliates, and successors or assigns of any of them.

5 11.3 This Consent Judgment contains the sole and entire agreement and understanding
6 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
7 negotiations, commitments, or understandings related thereto, if any, are hereby merged herein
8 and therein.

9 11.4 There are no warranties, representations, or other agreements between the Parties
10 except as expressly set forth herein.

11 11.5 No representations, oral or otherwise, express or implied, other than those
12 specifically referred to in this Consent Judgment have been made by any Party hereto.

13 11.6 No other agreements not specifically contained or referenced herein, oral or
14 otherwise, shall be deemed to exist or to bind any of the Parties hereto.

15 11.7 No supplementation, modification, waiver, or termination of this Consent
16 Judgment shall be binding unless executed in writing by the Party to be bound thereby.

17 11.8 No waiver of any of the provisions of this Consent Judgment shall be deemed or
18 shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall
19 such waiver constitute a continuing waiver.

20 11.9 Nothing in this Consent Judgment shall release, or in any way affect any rights
21 Settling Defendant might have against any other party, whether or not that party is a Settling
22 Defendant.

23 11.10 This Court shall retain jurisdiction of this matter to implement or modify the
24 Consent Judgment.

25 11.11 The stipulations to this Consent Judgment may be executed in counterparts and by
26 means of facsimile or portable document format (pdf), which taken together shall be deemed to
27 constitute one document.

28

1 11.12 Each signatory to this Consent Judgment certifies that he or she is fully
2 authorized by the Party he or she represents to stipulate to this Consent Judgment and to enter
3 into and execute the Consent Judgment on behalf of the Party represented and legally to bind that
4 Party.


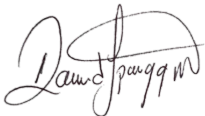
5 11.13 The Parties, including their counsel, have participated in the preparation of this
6 Consent Judgment and this Consent Judgment is the result of the joint efforts of the Parties.

7 11.14 This Consent Judgment was subject to revision and modification by the Parties
8 and has been accepted and approved as to its final form by all Parties and their counsel.

9 11.15 Accordingly, any uncertainty or ambiguity existing in this Consent Judgment
10 shall not be interpreted against any Party as a result of the manner of the preparation of this
11 Consent Judgment.

12 11.16 Each Party to this Consent Judgment agrees that any statute or rule of
13 construction providing that ambiguities are to be resolved against the drafting Party should not
14 be employed in the interpretation of this Consent Judgment and, in this regard, the Parties hereby
15 waive California Civil Code § 1654.

16 AGREED TO:

17 18 Dated: 9/27/2021 19 20	SHEFA LMV, INC. By:  _____
21 22 Dated: 09/27/2021 23 24	COSMETICOS TRUJILLO S.A de C.V. By:  _____ DAVID SPAGGIARI

1 **[PROPOSED] JUDGMENT**

2
3 Please note that on _____, 2021 at 8:30am, Plaintiff Shefa LMV Inc.’s (“Plaintiff”)
4 Motion for Court Approval of Settlement Agreement and Entry of Consent Judgment as to
5 Defendant COSMETICOS TRUJILLO S.A de C.V. came for hearing before this Court in
6 Department 55, the Honorable Malcolm Mackey presiding. Counsel for Plaintiff did [not]
7 appear; counsel for Defendant did [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 b. The reimbursement of fees and costs to be paid pursuant to the Settlement
16 Agreement is reasonable under California law; and
- 17 c. The civil penalty amount to be paid pursuant to Settlement Agreement is
18 reasonable.
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20 The Consent Judgment is approved, and the clerk is directed to ENTER JUDGMENT in
21 accordance with the terms of the Consent Judgment above.

22 IT IS SO ORDERED, ADJUDGED AND DECREED:

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25
26 _____
27 Date

26 _____
27 Judge of the Superior Court