

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement and Release is entered into by and between Precila Balabbo (“Balabbo”), Victoria’s Secret Beauty Company, Victoria’s Secret & Co., Victoria’s Secret Stores, LLC (collectively, “Victoria’s Secret”). Together, Balabbo and Victoria’s Secret are collectively referred to as the “Parties.” Balabbo is an individual who resides in the State of California, and seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Balabbo alleges that Victoria’s Secret is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code § 25249.6, et seq. (“Proposition 65”).

1.2 General Allegations. Balabbo alleges that Victoria’s Secret has exposed individuals to coconut oil diethanolamine condensate (“Cocamide DEA”) from its sales of *Victoria’s Secret*® body washes, UPC # 0667554119352, without first providing users and consumers of the product with a clear and reasonable health hazard exposure warning as required pursuant to Proposition 65. Cocamide DEA is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer. Victoria’s Secret denies Balabbo’s allegations that the Products require Proposition 65 warnings.

1.3 Product Description. The products covered by this Settlement Agreement are *Victoria’s Secret*® body washes, UPC # 0667554119352, (the “Products”) that have been imported, distributed, offered for sale and/or sold in California by Victoria’s Secret that expose users to Cocamide DEA.

1.4 Notice of Violation. On November 24, 2021, Balabbo served TSA International, Limited, TSA International, Inc. (collectively, “TSA”), Victoria’s Secret, and various public enforcement agencies with a document entitled “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (the “Notice”). The Notice provided Victoria’s Secret and such others, including public enforcers, with notice that alleged that Victoria’s Secret was in violation of California Health & Safety Code § 25249.6, for failing to warn California consumers and customers that use of

the Products will expose them to Cocamide DEA. No public enforcer has diligently prosecuted the allegations set forth in the Notice.

1.5 No Admission. Victoria's Secret denies all material factual and legal allegations contained in the Notice and maintains that all products that are or have been sold and distributed in California, including the Products, have been and are in compliance with all laws, including Proposition 65. Nothing in this Settlement Agreement shall be construed as an admission by Victoria's Secret of any fact, finding, issue of law, or violation of law; nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Victoria's Secret of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Victoria's Secret. However, this § 1.5 shall not diminish or otherwise affect the obligations, responsibilities and duties under this Settlement Agreement. Notwithstanding the allegations in the Notice, Victoria's Secret maintains that it has not knowingly manufactured, or caused to be manufactured, the Products for sale in California in violation of Proposition 65.

1.6 Effective Date. For purposes of this Settlement Agreement, the term "Effective Date" shall mean fourteen (14) days following the execution of this Agreement by the Parties.

1.7 Compliance Date. For purposes of this Settlement Agreement, the term "Compliance Date" shall mean one hundred twenty (120) days after the Effective Date.


2. INJUNCTIVE RELIEF: REFORMULATION AND/OR WARNINGS

2.1 Reformulation of Products. As of the Compliance Date, and continuing thereafter, Products that Victoria's Secret directly manufactures, imports, distributes, sells, or offers for sale in California shall either be: (a) reformulated Products pursuant to § 2.2, below; or (b) labeled with a clear and reasonable exposure warning pursuant to §§ 2.3 and 2.4, below. For purposes of this Settlement Agreement, a "Cocamide DEA Free Reformulated Product" is a Product that is in compliance with the standard set forth in § 2.2, below. The warning requirements set forth in §§ 2.3 and 2.4 shall not apply to any Cocamide DEA Free Reformulated Product or to any Product manufactured prior to the Compliance Date.

2.2 Cocamide DEA Free Reformulation Standard. To qualify as a “Cocamide DEA Free Reformulated Product” the Product must meet the following standard: Cocamide DEA content that is nondetect when the Product is analyzed pursuant to liquid chromatography/tandem mass spectrometry (LC/MS/MS), inductively coupled mass-spectroscopy (ICP-MS) or other method of analysis utilized by the International Organization for Standardization (ISO) for qualitative or quantitative screening of cosmetics and cosmetic raw materials.

2.3 Clear and Reasonable Warning. As of the Compliance Date, and continuing thereafter, a clear and reasonable exposure warning as set forth in this §§ 2.3 and 2.4 must be provided for all Products that Victoria’s Secret manufacturers, distributes, sells, or offers for sale in California. There shall be no obligation for Victoria’s Secret to provide an exposure warning for Products that entered the stream of commerce prior to the Compliance Date. The warning shall consist of either the **Warning** or **Alternative Warning** described in §§ 2.3(a) or (b), respectively:

(a) **Warning.** The “Warning” shall consist of the statement:

 **WARNING:** This product can expose you to chemicals including Coconut Oil Diethanolamine condensate (Cocamide DEA), which are known to the State of California to cause cancer. For more information go to www.P65Warnings.ca.gov.

(b) **Alternative Warning:** Victoria’s Secret may, but is not required to, use the alternative short-form warning as set forth in this § 2.3(b) (“**Alternative Warning**”) as follows:

 **WARNING:** Cancer - www.P65Warnings.ca.gov.

2.4 A Warning or Alternative Warning provided pursuant to § 2.3 must print the word “**WARNING:**” in all capital letters and in bold font, followed by a colon. The warning symbol to the left of the word “**WARNING:**” must be a black exclamation point in a yellow equilateral triangle with a black outline, except that if the sign or label for the Products does not use the color yellow, the symbol may be in black and white. The symbol must be in a size no smaller than the height of the word “**WARNING:**”. The **Warning** or **Alternative Warning** shall be affixed to or printed on the Products’ packaging or labeling, or on a placard, shelf tag, sign or electronic device or automatic process, provided that the **Warning** or **Alternative Warning** is displayed with such conspicuousness, as compared with other words, statements, or designs as to render it likely to be read and understood

by an ordinary individual under customary conditions of purchase or use. The **Warning** or **Alternative Warning** may be contained in the same section of the packaging, labeling, or instruction booklet that states other safety warnings, if any, concerning the use of the Product and shall be at least the same size as those other safety warnings. If “consumer information,” as that term is defined in Title 27, California Code of Regulations, Section 25600.1(c) as it may be amended from time to time, is provided in a foreign language, Victoria’s Secret shall provide the **Warning** in the foreign language in accordance with applicable warning regulations adopted by OEHHA.

In addition to affixing the **Warning** or **Alternative Warning** to the Product’s packaging or labeling, the **Warning** or **Alternative Warning** shall be posted on websites where Victoria’s Secret offers Products for sale to consumers in California. The requirements of this Section shall be satisfied if the **Warning** or **Alternative Warning**, or a clearly marked hyperlink using the word “**WARNING**,” appears on the product display page, or by otherwise prominently displaying the warning to the purchaser prior to completing the purchase. To comply with this Section, Victoria’s Secret shall (a) post the **Warning** or **Alternative Warning** on its own website and, if it has the ability to do so, on the websites of its third-party internet sellers; and (b) if it does not have the ability to post the **Warning** or **Alternative Warning** on the websites of its third-party internet sellers, provide such sellers with written notice in accordance with Title 27, California Code of Regulations, Section 25600.2.

2.5 Compliance with Warning Regulations. The Parties agree that Victoria’s Secret shall be deemed to be in compliance with this Settlement Agreement by either adhering to § 2 of this Settlement Agreement or by complying with warning requirements adopted by the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”) applicable to the Product and the exposure at issue after the Compliance Date.

2.6 Changes in Warning Regulations or Statutes. In the event that the State of California’s Office of Environmental Health Hazard Assessment (“OEHHA”) promulgates one or more regulations requiring or permitting Proposition 65 warning text and/or methods of transmission applicable to the Products and the chemical at issue, which are different than those set forth above,

Victoria's Secret shall be entitled to use, at its discretion, such other warning text and/or method of transmission without being deemed in breach of this Agreement. If regulations or legislation are enacted providing that Proposition 65 warnings as to Cocamide DEA in the Products are no longer required, a lack of warning by Victoria's Secret will not thereafter be a breach of this Agreement.

2.7 Compliance with Proposition 65. The Parties agree and intend for compliance with the terms of this Section 2 to constitute compliance with Proposition 65 with respect to exposures to Cocamide DEA from the Products. The requirements for warnings, set forth above, are imposed pursuant to the terms of this Settlement Agreement. The Parties recognize that these are not the exclusive methods of providing a warning under Proposition 65 and its implementing regulations. The Parties agree that Victoria's Secret and Releasees (as defined herein) shall be deemed to be in compliance with Proposition 65 and this Agreement as it relates to Products by adhering to this Section 2 or by complying with warning requirements set forth under California Health & Safety Code §25249.5, et seq. and/or adopted by OEHHA applicable to the product and the exposure at issue that are in effect after the Compliance Date.

3. PENALTIES PURSUANT TO HEALTH & SAFETY CODE § 25249.7(b)

In settlement of all the claims referred to in this Settlement Agreement, Victoria's Secret shall pay \$3,000.00 as a Civil Penalty in accordance with this Section. The Civil Penalty payment shall be allocated in accordance with California Health & Safety Code §§ 25249.12(c)(1) and (d), with 75% of the Penalty remitted to OEHHA and the remaining 25% of the Penalty remitted to Balabbo. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

3.1 Civil Penalty. Within thirty (30) days of the Effective Date, Victoria's Secret shall issue check(s) for the Civil Penalty payment to (a) "OEHHA" in the amount of \$2,250.00; and to (b) "Brodsky Smith in Trust for Balabbo" in the amount of \$750.00. The Civil Penalty payment(s) shall be delivered to the addresses identified in § 3.2, below.

3.2 Payment Procedures.

(a) Issuance of Payments. Payments shall be delivered as follows:

(i) All payments owed to Balabbo, pursuant to § 3.1 shall be delivered to the following payment address:

Evan J. Smith, Esquire
Brodsky Smith
Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004

(ii) All payments owed to OEHHA (EIN: 68-0284486), pursuant to § 3.1 shall be delivered directly to Brodsky Smith or OEHHA (Memo Line “Prop 65 Penalties”) at the following addresses:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

(b) Copy of Payments to OEHHA. Victoria’s Secret agrees to provide Balabbo’s counsel with a copy of the check(s) payable to OEHHA, simultaneous with its penalty payments to Balabbo, to be delivered to the address provided in § 3.2(a)(i), as proof of payment to OEHHA.

(c) Tax Documentation. Victoria’s Secret agrees to provide a completed IRS 1099 for its payments to, and Balabbo agrees to provide IRS W-9 forms for, each of the following payees under this Settlement Agreement:

(i) “Precila Balabbo” whose address and tax identification number shall be provided within five (5) days after this Settlement Agreement is fully executed by the Parties;

(ii) “Brodsky Smith” (EIN: 23-2971061) at the address provided in Section 3.2(a)(i); and

(iii) “Office of Environmental Health Hazard Assessment” 1001 I Street, Sacramento, CA 95814.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties acknowledge that Balabbo and her counsel offered to reach preliminary agreement on the material terms of this dispute before reaching terms on the amount of fees and costs to be reimbursed to them. The Parties thereafter reached an accord on the compensation due to Balabbo and her counsel under general contract principles and the private attorney general doctrine and principles codified at California Code of Civil Procedure § 1021.5, for all work performed through the mutual execution of this agreement. Under these legal principles, Victoria’s Secret shall reimburse Balabbo’s counsel for reasonable fees and costs incurred as a result of investigating and bringing this matter to the attention of Victoria’s Secret, and negotiating a settlement in the public interest. Within thirty (30) business days of the Effective Date, Victoria’s Secret shall issue a check payable to “Brodsky Smith” in the amount of \$32,000.00 for delivery to the address identified in § 3.2(a)(i), above.

5. CLAIMS COVERED AND RELEASED

5.1 Release of Victoria’s Secret and Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution of all claims between Balabbo, acting on her own behalf, and Victoria’s Secret, regarding Proposition 65 that was or could have been asserted by Balabbo or on her behalf by her past and current agents, representatives, attorneys, successors, and/or assigns (“Releasers”) for failure to provide warnings for alleged exposures to Cocamide DEA from use of the Products, and Releasers hereby release any such claims against Victoria’s Secret and its parents, subsidiaries, affiliated entities, shareholders, marketplaces, directors, officers, agents, employees, attorneys, successors, assignees, licensors and each entity to whom Victoria’s Secret directly or indirectly distributes or sells the Products, including but not limited to, upstream and downstream manufacturers, distributors, wholesalers, customers, retailers, including but not limited to TSA, its respective subsidiaries, affiliates and parents, franchisees, cooperative members and

licensees (collectively, the "Releasees"), from all claims for violations of Proposition 65 through the Compliance Date based on exposure to Cocamide DEA from use of the Products.

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to §§ 3 and 4 above, Balabbo, on behalf of herself, her past and current agents, representatives, attorneys, successors and/or assignees, hereby covenants not to sue and waives any right to institute, participate in, directly or indirectly, any form of legal action and releases all claims that she may have, including without limitation, all actions and causes of action in law and in equity, all obligations, expenses (including without limitation all attorneys' fees, expert fees, and investigation fees, and costs), damages, losses, liabilities and demands against any of the Releasees of any nature, character, or kind, whether known or unknown, suspected or unsuspected, limited to and arising out of the alleged or actual exposure to Proposition 65 from Cocamide DEA from use of the Products.

5.2 Victoria's Secret's Release of Balabbo. Victoria's Secret, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Balabbo, her attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Balabbo and/or her attorneys and other representatives, whether in the course of investigating claims or otherwise seeking to enforce Proposition 65 against it in this matter or with respect to exposure to Cocamide DEA from the Products.

5.3 California Civil Code § 1542. It is possible that other claims not known to the Parties arising out of the facts alleged in the Notice and relating to the Products will develop or be discovered. Balabbo on behalf of herself only, on one hand, and Victoria's Secret, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Compliance Date, including all rights of action therefor. The Parties acknowledge that the claims released in §§ 5.1 and 5.2, above, may include unknown claims, and nevertheless waive California Civil Code § 1542 as to any such unknown claims. California Civil Code § 1542 reads as follows:

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

Balabbo and Victoria's Secret each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

5.4 Deemed Compliance with Proposition 65. The Parties agree that compliance by Victoria's Secret with this Settlement Agreement constitutes compliance by Victoria's Secret with Proposition 65 with respect to exposure to Cocamide DEA from use of the Products.

5.5 Public Benefit. It is Victoria's Secret's understanding that the commitments it has agreed to herein, and actions to be taken by Victoria's Secret under this Settlement Agreement confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201.

6. SEVERABILITY

If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected but only to the extent the deletion of the provision deemed unenforceable does not materially affect, or otherwise result in the effect of the Settlement Agreement being contrary to the intent of the Parties in entering into this Settlement Agreement.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the law of the State of California and apply within the State of California. In the event that Proposition 65 is preempted and/or repealed or is otherwise rendered inapplicable or limited by reason of law generally, or as to the Products, Victoria's Secret shall provide written notice to Balabbo of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement 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 Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any party by the other party to the following addresses, with a copy sent via email addresses listed below:

For Victoria's Secret:

General Counsel
VS & Co.
4 Limited Parkway
Reynoldsburg, OH 43068
generalcounselvs@victoria.com

For Balabbo:

Evan J. Smith
Brodsky Smith
Two Bala Plaza, Suite 805
Bala Cynwyd, PA 19004
esmith@brodskysmith.com

Either 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.

9. COUNTERPARTS: SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or .pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

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

Balabbo agrees to comply with the reporting requirements referenced in Health & Safety Code § 25249.7(f).

11. MODIFICATION

This Settlement Agreement may be modified only by a written agreement of the Parties.

12. ENFORCEMENT

In any action to enforce the terms of this Settlement Agreement, each Party shall bear its own attorneys' fees and costs in connection with the claims resolved in this Settlement Agreement.

13. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement of the Parties and any and all prior negotiations and understandings related hereto shall be deemed to have been merged within it. No representations or terms of agreement other than those contained herein exist or have been made by any Party with respect to the other Party or the subject matter hereof.

14. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

Date: _____

By: _____
Precila Balabbo

AGREED TO:

Date: April 19, 2024

By: *Leah Brndjar*
_____ Victoria's Secret & Co.

13. ENTIRE AGREEMENT

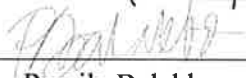
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The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

Date: 4 | 22 | 24

By: 
Precila Balabbo

AGREED TO:

Date: _____

By: _____
Victoria's Secret & Co.