

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 The Parties. This Settlement Agreement is entered into by and between Precila Balabbo (“Balabbo”) and Vraj Vihar LLC (“Vraj”). Together, Balabbo and Vraj 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. Vraj sold and/or sells the products described in subsection 1.3 below into the California marketplace. Balabbo alleges that Vraj 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 Vraj has exposed individuals to the chemicals Diethanolamine (DEA) and/or Coconut Oil Diethanolamine condensate (Cocamide DEA) from its sales of the three products described in § 1.3 below without first providing users and consumers of the product with a clear and reasonable health hazard exposure warning as required pursuant to Proposition 65.

1.3 Description of Products. The products covered by this Settlement Agreement are: 1) Mr. Bubble Children foam soap; 2) Diva by Cindy Stimulating Shampoo and; 3) Prell shampoo (collectively, the “Products”) that have been imported, distributed, offered for sale and/or sold in California by Vraj.

1.4 Notices of Violation. On May 7, 2021 (“Notice No. 1 - Mr. Bubble Children Soap/DEA”), and January 11, 2022 (“Notice No. 2 – Prell Shampoo/ Cocamide DEA) (“Notice No. 3 – Diva by Cindy Stimulating Shampoo/Cocamide DEA), Balabbo served Walmart, Inc., Walmart Apollo, LLC (collectively, “Walmart”) and various public enforcement agencies with documents each entitled a “Notice of Violation of California Health & Safety Code § 25249.6, et seq.” (collectively, the “Notices”) alleging a 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 and/or DEA. With respect to Notice Nos. 1 – 3 (collectively, the “Notices”). Vraj

was subsequently identified as the supplier of the Products in the Notices and entered into negotiations with Balabbo as indemnitor to Walmart to resolve Balabbo's claims concerning exposure to DEA/Cocamide DEA from use of the Products. No public enforcer has diligently prosecuted the allegations set forth in the Notices.

1.5 No Admission. Vraj, and on behalf of the noticed violator Walmart denies the material factual and legal allegations contained in the Notices and maintains that, to the best of its knowledge, all products that it has sold and distributed in California, including the Products, have been and are in compliance with all laws. Nothing in this Settlement Agreement shall be construed as an admission by Vraj, or by Walmart, 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 Vraj, or Walmart, of any fact, finding, conclusion, issue of law or violation of law, such being specifically denied by Vraj. 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, Vraj maintains that it has not knowingly sold or distributed 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 the date this Agreement is last executed by the Parties.

2. INJUNCTIVE RELIEF: WARNINGS

2.1 Commitment to Warn. Vraj agrees to provide the requisite health hazard warnings for the Products sold in California as set forth in subsections 2.3 through 2.5 below unless the Products are reformulated.

2.2 DEA Free and Cocamide DEA Free Reformulated Products. To qualify as a "DEA Free Reformulated Product" the Product must meet the following standard: DEA content that is either (i) not detectable (i.e., zero) or below the Reporting Limit (defined herein) when measured in the Product when 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 and quantitative

screening of cosmetics and cosmetic raw materials. “Cocamide DEA Free Reformulated Products” are those that contain no measurable Cocamide DEA.

2.2.1 Reporting Limit. The “Reporting Limit” is the lowest concentration at which DEA can be detected in a sample of a Product by an accredited testing laboratory employing LC/MS/MS analysis or other method of analysis utilized by the ISO for qualitative and quantitative screening of cosmetics and cosmetic raw materials

2.3 Clear and Reasonable Warning. As of the Effective 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 Vraj distributes, sells, or offers for sale in California that are not DEA Free Reformulated Products and/or Cocamide DEA Free Reformulated Products. There shall be no obligation for Vraj to provide an exposure warning for DEA Free Reformulated Products and/or Cocamide DEA Free Reformulated Products, and no obligation for Vraj to provide an exposure warning for Products that otherwise entered the stream of commerce prior to the Effective Date. The warning shall consist of either the **Warning** or **Alternative Warning** described in §§ 2.3(a) or (b), respectively, or a warning in compliance with Proposition 65 and its implementing regulations codified at 27 California Code of Regulations Division 4 Chapter 1:

(a) **Warning**¹. The “Warning” shall consist of the statement:

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

⚠ (c) **Alternative Warning:** Vraj may, but is not required to, use the alternative short-form warning as set forth in this § 2.3(c) (“**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

¹ If a Product exposes users to DEA and not Cocamide DEA, the language “Diethanolamine (DEA)” shall replace “Cocanut Oil Diethanolamine Condensate (Cocamide DEA)” in the **Warning**.

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 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, providing that the 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 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 Products and shall be at least the same size as those other safety warnings.

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 Vraj offers Products for sale to consumers in California. To comply with this Section, Vraj 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. Third-party internet sellers of the Product that have been provided with written notice in accordance with Title 27, California Code of Regulations, Section 25600.2 are not released in Section 5 of this Agreement if they fail to meet the warning requirements herein. Online warnings shall be satisfied if the foregoing warning appears either: (a) on the same web page on which a Product is displayed and/or described; (b) on the same page as the price for the Product; (c) on one or more web pages displayed to a California purchaser prior to purchase during the checkout process; or (d) via a hyperlink taking the customer to a separate page containing the warning language, provided that the hyperlink appears on the same page as either the product description or product price are displayed, or appears prior to completion of the sale at checkout. Alternatively, a symbol consisting of a black exclamation point in a yellow or white equilateral triangle may appear adjacent to or immediately

following the display, description, price, or checkout listing of the Product, if the warning statement appears elsewhere on the same web page in a manner that clearly associates it with the product(s) to which the warning applies.

2.5 Compliance with Warning Regulations. The Parties agree that Vraj shall be deemed to be in compliance with this Settlement Agreement by either adhering to §§ 2.3 and 2.4 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 Products and the exposures at issue after the Effective Date.

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

3.1 Civil Penalty Payment. In settlement of all the claims referred to in this Settlement Agreement, Vraj shall pay \$500 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. Balabbo’s counsel shall be responsible for delivering the Civil Penalty Payments owed pursuant to this Settlement Agreement.

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, Vraj shall reimburse Balabbo’s counsel \$12,000.00 for fees and costs incurred as a result of investigating and bringing these matters to Vraj’s attention, and negotiating a settlement in the public interest. Payment pursuant to this Section shall be issued in accordance with Section 5.1, below.

5. PAYMENT PROCEDURE

5.1 Payments shall be delivered within thirty (30) days of the Effective Date as follows:

5.1.1 All payments owed to Balabbo and her counsel pursuant to § 4 shall be delivered to the following payment address:

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

5.1.2 All payments owed to OEHHA (EIN: 68-0284486), pursuant to § 3.1 shall be delivered directly to 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

5.1.3 Copy of Payments to OEHHA. Vraj agrees to provide Balabbo’s counsel with a copy of the check payable to OEHHA, simultaneous with its penalty payments to Balabbo, to be delivered to the address provided in § 5.1.1, as proof of payment to OEHHA.

5.1.4 Tax Documentation. Vraj 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.

6. RELEASE OF ALL CLAIMS

6.1 Release of Vraj and Downstream Customers and Entities. This Settlement Agreement is a full, final and binding resolution between Balabbo, acting on her own behalf, and Vraj, of any violation of Proposition 65 that was or could have been asserted by Balabbo or on behalf of her past and current agents, representatives, attorneys, successors, and/or assigns (“Releasers”) for failure to provide warnings for alleged exposures to Cocamide DEA/DEA from use of the Products, and Releasers hereby release any such claims against Vraj, Walmart Inc., Wal-Mart Stores, Inc., Wal-Mart Stores East, Inc., Wal-Mart Stores East, LP, Walmart Apollo, LLC, Wal-Mart.com, Inc., Wal-Mart.com USA, LLC, and each of their respective parents, direct and indirect subsidiaries, affiliates, past and current agents, shareholders, marketplaces, directors, officers, agents, employees, representatives, attorneys, successors, and assignees and each entity whom Vraj and the Walmart entities referenced above directly or indirectly distribute or sell the Products, including but not limited to, downstream distributors, wholesalers, customers and retailers, and their respective subsidiaries, affiliates and parents, franchisees, cooperative members and licensees (collectively, the “Releasees”), from all claims for violations of Proposition 65 related to exposure to DEA and/or Cocamide DEA from use of the Products sold by Vraj through the Effective Date that could have been alleged in the Notices.

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 the Cocamide DEA/DEA in the Products.

6.2 Vraj's Release of Balabbo. Vraj, on behalf of itself, its past and current agents, representatives, employees, 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 the Product.

6.3 California Civil Code § 1542. It is possible that other claims not known to the Parties arising out of the facts alleged in the Notices and relating to the Products will develop or be discovered. Balabbo on behalf of herself only, on one hand, and Vraj, on the other hand, acknowledge that this Agreement is expressly intended to cover and include all such claims up through the Effective 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 HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Balabbo and Vraj each acknowledge and understand the significance and consequences of this specific waiver of California Civil Code § 1542.

6.4 Deemed Compliance with Proposition 65. The Parties agree that compliance by Vraj with this Settlement Agreement constitutes compliance with Proposition 65 with respect to exposure to Cocamide DEA and/or DEA from use of the Products.

6.5 Public Benefit. It is Vraj's understanding that the commitments it has agreed to herein, and actions to be taken by Vraj under this Settlement Agreement, would 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. As such, it is the intent of Vraj that to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to Vraj's failure to provide a warning concerning exposure to Cocamide DEA/DEA prior to use of the Products it has distributed, sold, or offered for sale in California, or will distribute, sell, or offer for sale in California, such private party action would not confer a significant benefit on the general public as to those Products addressed in this Settlement Agreement, provided that Vraj is in material compliance with this Agreement.

7. 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 Agreement.

8. 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 repealed or is otherwise rendered inapplicable or limited by reason of law generally, or as to the Products, Vraj 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.

9. 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:

For Vraj:

Dennis Raglin
Step toe & Johnson LLP

For Balabbo:

Evan J. Smith
Brodsky Smith

633 West Fifth Street, Suite 1900
Los Angeles, CA 90071

Two Bala Plaza, Ste. 805
Bala Cynwyd, PA 19004

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.

10. 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.

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

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

12. MODIFICATION

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

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**

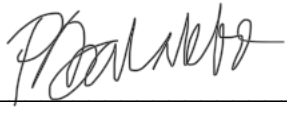
The undersigned are authorized to execute this Settlement Agreement and have read, understood and agree to all of the terms and conditions contained of this Settlement Agreement.

AGREED TO:

AGREED TO:

Date: 08/08/2022

Date: 08/06/2022

By: 
Precila Balabbo

By: Kunjan Patel
Vraj Vihar LLC