

SETTLEMENT AND RELEASE AGREEMENT

1. INTRODUCTION

1.1. Alex Martinez & Germaine de Capuccini

This Settlement Agreement is entered into by and between Alex Martinez (“Martinez”), on the one hand, and International Aesthetic Corporation dba Germaine de Capuccini (“Germaine”), on the other hand, with Martinez and Germaine collectively referred to as the “Parties.”

1.2. General Allegations

Martinez alleges that Germaine manufactured, distributed and/or offered for sale in the State of California “Germaine de Capuccini For Men Cool Scrub Purifying Facial Exfoliator” and “Germaine de Capuccini Exfoliating Scrub” containing Coconut Oil Diethanolamine Condensate, and that such sales have not included warnings pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code sections 25249.6, *et seq.* (“Proposition 65”). California has identified and listed Coconut Oil Diethanolamine Condensate under Proposition 65 as a chemical known to the State of California to cause cancer.

1.3. Product Description

The products that are covered by this Settlement Agreement are defined as “Germaine de Capuccini For Men Cool Scrub Purifying Facial Exfoliator” and “Germaine de Capuccini Exfoliating Scrub” that Germaine has sold, offered for sale, or distributed in California. All such items shall be referred to herein as the “Products.”

1.4. Notice of Violation

On July 26, 2022, Martinez served Germaine and the requisite public enforcement agencies eligible to initiate Proposition 65 actions on behalf of the People of the State of

California with a document entitled “Proposition 65 Notice of Violation” (“Notice”) that provided Germaine and such public enforcers with notice that Germaine was allegedly in violation of California Health & Safety Code section 25249.6 for failing to warn consumers and customers that the Products exposed users in California to Coconut Oil Diethanolamine Condensate. To the best of the Parties’ knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

1.5. No Admission

The Parties enter into this Settlement Agreement to settle disputed claims between them as set forth herein and in the Notice concerning Germaine’s compliance with Proposition 65. Germaine denies the material factual and legal allegations contained in Martinez’s Notice and maintains that all products that it has manufactured for sale and distribution in California, including the Products, have been and are in compliance with Proposition 65 or any other statutory, regulatory, common law or equitable doctrine. Nothing in this Settlement Agreement shall be construed as an admission by Germaine 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 Germaine of any fact, finding, conclusion, issue of law, or violation of law, all of which are specifically denied by Germaine. However, nothing in this section shall diminish or otherwise affect the obligations, responsibilities, and duties of Germaine under this Settlement Agreement.

1.6. Effective Date

For purposes of this Settlement Agreement, the term “Effective Date” shall mean the date this Settlement Agreement is fully executed.


2. **INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

As of the Effective Date, Germaine shall not manufacture, import, or otherwise source for sale in California Products containing Coconut Oil Diethanolamine Condensate unless they are labeled with a clear and reasonable Proposition 65 warning pursuant to Section 2.1 below. Products that were supplied to third parties by Germaine prior to the Effective Date shall be deemed exempted from the requirements of this Section 2 and shall be permitted to be sold through as previously manufactured, packaged and labeled.

2.1. **Warning Language**

Germaine shall provide Proposition 65 warnings on the label of any Product containing Coconut Oil Diethanolamine Condensate as follows:

(a) Germaine may use either of the following warning statements in full compliance with this Section:

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

(2)  **WARNING:** Cancer – www.P65Warnings.ca.gov.

(b) If Germaine uses either of the above warning statements to effectuate its compliance, it shall also include a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline as shown above. Where the label is not printed using the color yellow, the symbol may be printed in black and white. The symbol shall be placed to the left of the

text of the warning, in a size no smaller than the height of the word “WARNING.”

(c) The requirements for warnings, set forth in subsection (a) 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.

(d) If Proposition 65 warnings for Coconut Oil Diethanolamine Condensate should no longer be required under the law, Germaine shall have no further obligations pursuant to this Settlement Agreement.

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

In settlement of all the claims referred to in this Settlement Agreement, Germaine shall pay a total of \$2,000 in civil penalties in accordance with this Section. The penalty payment will be allocated in accordance with California Health & Safety Code section 25249.12(c)(1) & (d), with 75% of the funds remitted to the California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Martinez. Martinez’s counsel shall be responsible for delivering OEHHA’s portion of any penalty payment made under this Settlement Agreement.

4. REIMBURSEMENT OF FEES AND COSTS

The Parties reached an accord on the compensation due to Martinez and his counsel under the private attorney general doctrine and principles of contract law. Under these legal principles, Germaine shall reimburse Martinez’s counsel for fees and costs, incurred as a result of investigating and bringing this matter to Germaine’s attention. Germaine shall pay Martinez’s

counsel \$13,000 for all attorneys’ fees, expert and investigation fees, and related costs associated with this matter and the Notice.

5. PAYMENT INFORMATION

Within 14 calendar days after Germaine receives a copy of this Settlement Agreement that is fully executed by the Parties, Germaine shall make a total payment of **\$15,000** for the civil penalties and attorneys’ fees / costs by wire transfer to Plaintiff’s counsel, KJC Law Group, A.P.C.:

Wire Transfer

Bank Name:	JPMorgan Chase Bank NA
Bank Address:	13949 Ventura Blvd, Sherman Oaks, CA 91423
SWIFT Code: (for international wires)	CHASUS33
Wire Routing Number:	021000021
Account Number:	611162618 - Trust account 611180099 - Operating account
Name on Bank Account:	KJC LAW GROUP 9701 Wilshire Blvd., Suite 1000 Beverly Hills, CA 90212

***If sending through ACH, please use:**

- Routing Number: 322271627
- Account Number: 611162618 (Trust Account)

Other than this payment, each side is to bear its own attorneys’ fees and costs.

6. RELEASE OF ALL CLAIMS

6.1. Release of Germaine, Downstream Customers and Upstream Vendors

In further consideration of the promises and agreements herein contained, and for the payments to be made pursuant to Sections 3 and 4 above, Martinez, on behalf of himself, his past

and current agents, employees, representatives, attorneys, successors and/or assignees, hereby waives all rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims relating to the Products, including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs, fines, penalties, losses or expenses (including, but not limited to, investigation fees, expert fees and attorneys' fees) of any nature whatsoever, whether known or unknown, fixed or contingent (collectively "Claims"), against (a) Germaine, (b) each of Germaine's downstream distributors, wholesalers, vendors, licensors, licensees, auctioneers, retailers, franchisees, dealers, shareholders, cooperative members, customers, owners, purchasers, users, and (c) Germaine's parent companies, corporate affiliates, subsidiaries, and their respective officers, directors, attorneys, representatives, shareholders, agents, and employees, and sister and parent entities (collectively "Releasees").

Martinez also, on behalf of himself, his past and current agents, representatives, attorneys, successors, and/or assignees and *not* in his representative capacity, provides a general release which shall be effective as a full and final accord and satisfaction, and as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, penalties, claims, liabilities and demands of any nature, character or kind, known or unknown, suspected or unsuspected, against Germaine and the Releasees. Martinez acknowledges that he is familiar with California Civil Code section 1542, which provides 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.

Martinez, in his capacity only, and on behalf of himself, his past and current agents, employees, representatives, attorneys, successors, and/or assignees expressly waives and

relinquishes any and all rights and benefits which he may have under, or which may be conferred on him by the provisions of California Civil Code section 1542, as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that he may lawfully waive such rights or benefits pertaining to the released matters.

6.2. Germaine's Release of Martinez

Germaine waives any and all claims against Martinez, his attorneys and other representatives, for any and all actions taken or statements made by Martinez and his attorneys and other representatives, in the course of investigating the claims or otherwise seeking enforcement of Proposition 65 against it in this matter, and/or with respect to the Products.

7. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California and apply within the State of California, and without regard to its conflicts of law principles. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Germaine shall have no further obligations pursuant to this Settlement Agreement.

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 courier on any party by the other party at the following addresses:

For Germaine: Matthew Kaplan, Esq.
 Tucker Ellis LLP
 515 South Flower Street, Forty Second Floor
 Los Angeles, CA 90071

For Martinez: Kevin J. Cole, Esq.
KJC Law Group, A.P.C.
9701 Wilshire Blvd., Suite 1000
Beverly Hills, CA 90212

Any 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; FACSIMILE/E-SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or e-signatures, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. Photographic and facsimile copies of such signed counterparts may be used in lieu of the originals for any purpose. The exchange of this Agreement and/or of signature pages by facsimile transmission or electronic mail attachment shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Signatures by scanned and e-mailed image or facsimile transmission shall have the same force and effect as original signatures and as an electronic record executed and adopted by a Party with the intent to sign the electronic record pursuant to Civil Code §§ 1633.1-1633.17.

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

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

11. ENTIRE AGREEMENT

This Settlement Agreement contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and all related prior discussions, negotiations, commitments and understandings. No agreements other than those which are set forth in this Settlement Agreement, oral or otherwise, exist to bind either of the Parties.

12. MODIFICATION

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

13. SEVERABILITY


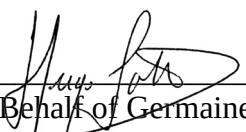
If, subsequent to the execution of this Settlement Agreement, any of the provisions of this Settlement Agreement are deemed by a court to be unenforceable, the validity of the remaining terms shall not be adversely affected.

14. JOINT DRAFTING

No inference, assumption or presumption shall be drawn, and no provision of this Agreement shall be construed against any Party, based upon the fact that one of the Parties and/or their counsel prepared or drafted any portion of this Agreement. It is conclusively presumed that the Parties participated equally in the drafting of this Agreement.

15. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective Parties and have read, understood and agree to all of the terms and conditions of this Settlement Agreement.

<p>AGREED TO:</p> <p>Date: <u>December 10</u>, 2022</p> <p>DocuSigned by:  By: _____ 466808DC74BF463... Alex Martinez</p>	<p>AGREED TO:</p> <p>Date: <u>December 7</u>, 2022</p> <p>By:  _____ On Behalf of Germaine de Capuccini</p>
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