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4 *Attorneys for Plaintiff*
5 *Alex Martinez*

6 **HAHN LOESER & PARKS LLP**
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600 West Broadway, Suite 1500
8 San Diego, CA 92101
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10 *Attorneys for Defendant*
11 *VMV Cosmetics Group d/b/a Salerm Cosmetics*

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES**

14 ALEX MARTINEZ, an individual,
15
16 Plaintiff,

17 v.

18 VMV COSMETICS GROUP D/B/A SALERM
19 COSMETICS, *et. al.*
20 Defendants.

Case No.: 22STCV33108

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

(Health & Safety Code § 25249.5, et seq.)

Complaint Filed: October 6, 2022
Trial Date: None Set

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I. INTRODUCTION

1.1 The Parties. This Consent Judgment is entered into by and between Alex Martinez (“Martinez”) and Salerm Cosmetica professional SA named in this lawsuit as VMV Cosmetic Group (“VMV”), d/b/a Salerm Cosmetics.¹ Martinez is an individual residing in California that seeks to promote awareness of exposures to toxic chemicals and improve human health by reducing or eliminating hazardous substances contained in consumer products. Martinez alleges that VMV employs ten or more persons and is a person in the course of doing business for purposes of Proposition 65, California Health and Safety Code section 25249.5, *et seq.* (“Proposition 65”). Martinez and VMV are hereinafter referred to individually as a “Party” or collectively as the “Parties.”

1.2 The Allegations. On October 6, 2022, Martinez, as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”) pursuant to Proposition 65 against VMV and VMV Cosmetic Group South California, Inc. In this action, Martinez alleges that VMV’s cosmetic products, including “Stop Stress Shampooing-Gel” (the “Covered Products” or the “Products”) contain Coconut Oil Diethanolamine Condensate, a chemical listed under Proposition 65 as a carcinogen. Martinez alleges that the Covered Products expose consumers to this chemical at a level requiring a Proposition 65 warning.

1.3 Martinez alleges that VMV is a business entity that has employed ten or more persons at all times relevant to this action, and qualifies as a “person in the course of doing business” within the meaning of Proposition 65. VMV, distributes, and/or sells the Covered Products.

1.4 Notice of Violation. The Complaint is based on allegations contained in Martinez’s Notice of Violation dated August 1, 2022 that was served on the California Attorney General, other public enforcers, and VMV (the “Notice”). A true and correct copy of the 60-Day Notice is attached hereto as **Exhibit A** and incorporated herein by reference. More than 60 days have passed since the Notice was served on the Attorney General, public enforcers, and VMV; and no designated governmental entity has filed a Complaint against VMV with regard to the Covered Products or the alleged violations.

¹ Salerm Cosmetics is the trade name.

1 **1.5** Martinez’s Notice and Complaint allege that use of the Products by California consumers
2 exposes them to Coconut Oil Diethanolamine Condensate without first receiving clear and reasonable
3 warnings from VMV, which is in violation of California Health and Safety Code section 25249.6. VMV
4 denies all material allegations contained in the Notice and Complaint.

5 **1.6** The Parties have entered into this Consent Judgment in order to settle, compromise, and
6 resolve disputed claims and thus avoid prolonged and costly litigation. Nothing in this Consent Judgment
7 nor compliance with this Consent Judgment shall constitute or be construed as an admission by any of the
8 Parties or by any of their respective officers, directors, shareholders, employees, agents, parent companies,
9 subsidiaries, divisions, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers
10 of any fact, issue of law, or violation of law.

11 **1.7** Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice,
12 waive, or impair any right, remedy, argument, or defense the Parties may have in any current or future
13 legal proceeding unrelated to these proceedings.

14 **1.8** The Effective Date of this Consent Judgment is the date on which Martinez serves the
15 Notice of Entry of the Consent Judgment.

16 **II. JURISDICTION AND VENUE**

17 **2.1** For purposes of this Consent Judgment and any further court action that may become
18 necessary to enforce this Consent Judgment only, the Parties stipulate that this Court has subject matter
19 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction over
20 VMV as to the acts alleged in the Complaint.

21 **2.2** For purposes of this Consent Judgment, the Parties stipulate that venue is proper in Los
22 Angeles County, California, and that this Court has jurisdiction to enter this Consent Judgment as a full
23 and final resolution of all claims up through and including the Effective Date that were or could have been
24 asserted in this action based on the facts alleged in the Notice and Complaint.

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26 //

III. REFORMULATION OR WARNINGS

3.1 Clear and Reasonable Warnings

Beginning on June 1, 2023 or, if later, the Effective Date, (the “Compliance Date”) VMV agrees to manufacture, import, or purchase for sale in California only Covered Products that either contain no Coconut Oil Diethanolamine Condensate or are accompanied by the following warning:

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 <https://www.p65warnings.ca.gov/>.

The above statement (the “Warning”) must be in a type size no smaller than the largest type size used for other consumer information on the Product. “Consumer information” includes warnings, directions for use, ingredient lists, and nutritional information. “Consumer information” does not include the brand name, product name, company name, location of manufacture, or product advertising. In no case shall the Warning appear in a type size smaller than six (6) point type. In addition, a symbol consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline shall be placed to the left of the text of the Warning, in a size no smaller than the height of the word “WARNING.” Where the label for the product is not printed using the color yellow, the symbol may be in black and white. Covered Products that were manufactured by VMV or its subsidiaries prior to the Effective Date shall be deemed exempted from the warning requirement and shall be permitted to be sold through all sales channels as previously manufactured, packaged and labeled, as they have been included in the calculation of civil penalties below.

3.1.1 Internet Sales. For any Product sold over the Internet, the Warning shall be prominently displayed as follows: (a) on the primary display page for the Product; (b) as a clearly marked hyperlink using the word “WARNING” in all capital and bold letters on the Product’s primary display page; so long as the hyperlink goes directly to a page prominently displaying the Warning without content that detracts from the Warning; (c) on the checkout page or any other page in the checkout process when a California delivery address is indicated for any purchase of any Product and with the Warning clearly associated

1 with the Product to indicate that the product is subject to the Warning; or (d) by otherwise prominently
2 displaying the Warning to the purchaser prior to completing the purchase. The Warning is not prominently
3 displayed if the purchaser must search for it in the general content of the website.

4 **3.1.2 Warning Prominence.** The Warning shall be at least the same size as the largest of any
5 other health or safety warnings also appearing on the website or on the label and the word “WARNING”
6 shall be in all capital letters and in bold print. VMV must display the Warning with such conspicuousness,
7 as compared with other words, statements or designs on the label, or on its website, if applicable, to render
8 the Warning likely to be read and understood by an ordinary individual under customary conditions of
9 purchase or use of the product. The Warning may be accompanied by supplemental information only to
10 the extent that the supplemental information identifies the source of the exposure or provides information
11 on how to avoid or reduce exposure to the identified chemical or chemicals. For purposes of this Consent
12 Judgment, the term “label” means a display of written, printed or graphic material that is printed on or
13 affixed to a Covered Products or their immediate container or wrapper.

14 **3.2 Compliance with Warning Regulations.** VMV shall be deemed to be in compliance with
15 this Consent Judgment by (1) adhering to section 3.1 of this Consent Judgment, or (2) complying with
16 any future warning requirements adopted by the State of California’s Office of Environmental Hazard
17 Assessment (“OEHHA”) after the Effective Date, that are applicable to the product and the chemical at
18 issue.

19 **3.3 Entry of Consent Judgment.** Upon execution of this Consent Judgment by the Parties,
20 Martinez shall notice a Motion for Court Approval and comply with the requirements set forth in California
21 Health & Safety Code section 25249.7(f).

22 **3.4** It is the parties’ intention that this Consent Judgment shall have preclusive effect such that
23 no other actions by private enforcers, whether purporting to act in his, her, or its interests or the public
24 interest shall be permitted to pursue and/or take any action with respect to any violation of Proposition 65
25 that was alleged in the Complaint, or that could have been brought pursuant to the Notice against VMV
26 and/or the Downstream Releasees of the Covered Products (“Proposition 65 Claims”). Compliance with

1 the terms of this Consent Judgment constitutes compliance with Proposition 65 with regard to the Covered
2 Products.

3 **IV. MONETARY TERMS.**

4 **4.1** In full satisfaction of all potential civil penalties, additional settlement payments, attorneys’
5 fees, and costs, VMV shall make a total payment of \$25,000.00 (the “Total Settlement Amount”) to
6 Martinez within ten (10) business days of the Effective Date (“Due Date”). VMV shall make this payment
7 by wire transfer to KJC Law Group, A.P.C., attorneys of record for Martinez, for which KJC Law Group
8 will give VMV the necessary wire account information. The Total Settlement Amount shall be
9 apportioned as follows:

10 Civil Penalty

11 VMV shall cause to be paid \$5,000 as a Civil Penalty pursuant to California Health and Safety
12 Code section 25249.7(b)(1), to be apportioned in accordance with California Health & Safety Code Section
13 25192, with 75% of these funds remitted to OEHHA and the remaining 25% of the Civil Penalty remitted
14 to Martinez, as provided by California Health & Safety Code section 25249.12(d).

15 Within ten (10) business days of the Effective Date, VMV shall cause to be issued two separate
16 checks for the Civil Penalty payment to (a) “OEHHA” in the amount of \$3,750; and (2) to “KJC Law
17 Group in Trust for Martinez” in the amount of \$1,250. Payment owed to Martinez pursuant to this Section
18 shall be delivered to the following payment address:

19 **KJC Law Group, A.P.C.**
20 9701 Wilshire Blvd., Suite 1000
21 Beverly Hills, CA 90212

22 Payment owed to OEHHA (EIN: 68:0284486) pursuant to this Section shall be delivered directly
23 to OEHHA (Memo Line: “Prop 65 Penalties”) at one of the following addresses:

24 If by U.S. Postal Service:

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

27 For Non-United States Postal Service Delivery:

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

3 A copy of the check payable to OEHHA shall be mailed to KJC Law Group as proof of payment
4 to OEHHA.

5 Attorneys' Fees

6 Within ten (10) business days of the Effective Date, VMV shall cause to be paid \$20,000 to KJC
7 Law Group, A.P.C. (attorneys of record for Martinez) as complete reimbursement for Martinez's
8 attorneys' fees and costs incurred as a result of investigating, bringing this matter to VMV's attention,
9 litigating, negotiating, and obtaining judicial approval of a settlement in the public interest. VMV shall
10 make the payment by wire transfer to the following:

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14 **Wire Transfer**

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

1 Judgment, VMV shall reimburse Martinez his costs and reasonable attorneys’ fees for the time spent
2 in the meet-and-confer process and filing and arguing the motion or application.

3 **VI. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

4 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or terminate this
5 Consent Judgment.

6 **VII. APPLICATION OF CONSENT JUDGMENT**

7 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their respective
8 officers, directors, shareholders, members, employees, agents, parent companies, representatives,
9 partners, sister companies, affiliates, manufacturers, suppliers, subsidiaries, divisions, subdivisions,
10 franchisees, licensees, customers, distributors, wholesalers, retailers, predecessors, successors, and
11 assigns. This Consent Judgment shall have no application to any Covered Products that are distributed or
12 sold exclusively outside the State of California and that is not used by California consumers.

13 **VIII. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

14 **8.1** This Consent Judgment is a full, final, and binding resolution between Martinez, on behalf
15 of himself and in the public interest, and VMV and its respective officers, directors, shareholders,
16 members, employees, agents, parent companies, representatives, partners, sister companies, affiliates,
17 manufacturers, suppliers, subsidiaries, divisions, subdivisions, suppliers, franchisees, licensees, customers
18 distributors, wholesalers, retailers, and all other upstream and downstream entities in the distribution chain
19 of any Product, and the predecessors, successors, and assigns of any of them (collectively, “Released
20 Parties”).

21 **8.2** Martinez, acting in the public interest, releases the Released Parties from any and all claims
22 for violations of Proposition 65 up to and including the Effective Date based on exposure to Coconut Oil
23 Diethanolamine Condensate from the Product as set forth in the Notice and Complaint.

24 **8.3** Martinez on his own behalf only, and VMV on its own behalf only, further waive and
25 release any and all claims they may have against each other for all actions or statements made or
26 undertaken in the course of seeking or opposing enforcement of Proposition 65 in connection with the

1 Notice and Complaint up through and including the Effective Date, provided, however, that nothing in
2 Section 8 shall affect or limit any Party’s right to seek to enforce the terms of this Consent Judgment.

3 **8.4** It is possible that other claims not known to the Parties, arising out of the facts alleged in
4 the Notice and Complaint, and relating to the Covered Products, will develop or be discovered. Martinez
5 on behalf of himself only, and VMV on behalf of itself only, acknowledge that this Consent Judgment is
6 expressly intended to cover and include all such claims up through and including the Effective Date,
7 including all rights of action therefore. Martinez and VMV acknowledge that the claims released in
8 Sections 8.2 and 8.3 above may include unknown claims, and nevertheless waive California Civil Code
9 section 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

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

15 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to constitute
16 compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to the Covered
17 Products as set forth in the Notice and Complaint.

18 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
19 environmental exposures arising under Proposition 65, nor shall it apply to any other VMV products other
20 than the Covered Products.

21 **IX. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

22 In the event that any of the provisions of this Consent Judgment are held by a court to be
23 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

24 **X. GOVERNING LAW**

25 The terms and conditions of this Consent Judgment shall be governed by and construed in
26 accordance with the laws of the State of California.

1 **XI. PROVISION OF NOTICE**

2 All notices required to be given to either Party to this Consent Judgment by the other shall be in
3 writing and sent to the following agents listed below via first-class mail or via electronic mail where
4 required.

5 **KJC LAW GROUP, A.P.C.**
6 Kevin J. Cole (SBN 321555)
7 9701 Wilshire Blvd., Suite 1000
8 Beverly Hills, CA 90212
9 Telephone: (310) 861-7797
10 e-Mail: kevin@kjclawgroup.com

11 *Attorneys for Plaintiff*
12 *Alex Martinez*

13 **HAHN LOESER & PARKS LLP**
14 Michael J. Gleason (SBN 279434)
15 One America Plaza
16 600 West Broadway, Suite 1500
17 San Diego, CA 92101
18 Telephone: (619) 810-4310
19 e-Mail: mgleason@hahnlaw.com

20 *Attorneys for Defendant*
21 *VMV*

22 **XII. COURT APPROVAL**

23 **12.1** Upon execution of this Consent Judgment by the Parties, Martinez shall notice a Motion for
24 Court Approval. The Parties shall use their best efforts to support entry of this Consent Judgment.

25 **12.2** If the California Attorney General objects to any term in this Consent Judgment, the Parties
26 shall use their best efforts to resolve the concern in a timely manner, and if possible, prior to the hearing on
27 the motion.

28 **12.3** If this Consent Judgment is not approved by the Court, it shall be void and have no force or
effect.

29 **XIII. EXECUTED AND COUNTERPARTS**

1 This Consent Judgment may be executed in counterparts, which taken together shall be deemed to
2 constitute one document. A facsimile or .pdf signature shall be construed to be as valid as the original
3 signature.

4 **XIV. DRAFTING**

5 The terms of this Consent Judgment have been reviewed by the respective counsel for each Party
6 prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with
7 legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent
8 Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Consent
9 Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the
10 Parties' legal counsel prepared and/or drafted all or any portion of the Consent Judgment. It is conclusively
11 presumed that all of the Parties participated equally in the preparation and drafting of this Consent Judgment.

12 **XV. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

13 If a dispute arises with respect to either Party's compliance with the terms of this Consent Judgment
14 entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in writing and
15 endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the absence of
16 such a good faith attempt to resolve the dispute beforehand.

17 **XVI. ENFORCEMENT**

18 The Parties may, by motion or order to show cause before the Superior Court of Los Angeles County,
19 enforce the terms and conditions contained in this Consent Judgment. In any successful action brought by
20 Martinez to enforce this Consent Judgment, Martinez may seek whatever fines, costs, penalties, or remedies
21 as are provided by law for failure to comply with the Consent Judgment and Proposition 65.

22 **XVII. ENTIRE AGREEMENT, AUTHORIZATION**

23 **17.1** This Consent Judgment contains the sole and entire agreement and understanding of the
24 Parties with respect to the entire subject matter herein, including any and all prior discussions, negotiations,
25 commitments, and understandings related thereto. No representations, oral or otherwise, express or implied,
26

1 other than those contained herein have been made by any Party. No other agreements, oral or otherwise,
2 unless specifically referred to herein, shall be deemed to exist or to bind any Party.

3 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized by the
4 Party he or she represents to stipulate to this Consent Judgment.

5 **XVIII. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
6 **CONSENT JUDGMENT**

7 This Consent Judgment has come before the Court upon the request of the Parties. The Parties
8 request the Court to fully review this Consent Judgment and, being fully informed regarding the matters
9 which are the subject of this action, make the findings pursuant to California Health and Safety Code
10 section 25249.7(f)(4) and approve this Consent Judgment.

11 **IT IS SO STIPULATED.**

12 DATED: February 18, 2023

KJC LAW GROUP, A.P.C.

13 By: /s/ Kevin J. Cole
14 Kevin J. Cole, Esq.

Attorneys for Plaintiff
Alex Martinez

DocuSigned by:

15
16
17 
18 Plaintiff, Alex Martinez

19 DATED: February 17, 2023

466808DC74BF463...

20
21 DATED: February ____, 2023

HAHN LOESER & PARKS LLP

22 By: /s/ Michael J. Gleason
23 Michael J. Gleason, Esq.

Attorneys for Defendant
VMV Cosmetic Group d/b/a Salerm Cosmetics

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By: /s/ Kevin J. Cole
Kevin J. Cole, Esq.

Attorneys for Plaintiff
Alex Martinez

DATED: February __, 2023

Plaintiff Alex Martinez

DATED: February __, 2023

HAHN LOESER & PARKS LLP
By: /s/ Michael J. Gleason
Michael J. Gleason, Esq.

Attorneys for Defendant
VMV Cosmetic Group d/b/a Salerm Cosmetics

DATED: February 24, 2023

**VMV COSMETICS GROUP D/B/A SALERM
COSMETICS**

By: OSCAR CLAVELL

Its: HEAD OF LEGAL

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Ex. A

Kevin J. Cole, Esq.
 e-Mail: kevin@kjclawgroup.com

August 1, 2022

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

VMV Cosmetic Group d/b/a Salerm Cosmetics
 Pza. de Víctor Martínez s/n
 Pol. LLissá de Vall
 08185 Barcelona
 Spain

VMV Cosmetic Group South California, Inc.
 c/o Oscar Aguiluz
 9314 Norwalk Blvd.
 Santa Fe Springs, CA 90670

Re: Proposition 65 Notice of Violation

To Whom It May Concern:

We represent Alex Martinez (“Plaintiff”), a citizen of the State of California acting in the interest of the general public. This letter serves as Notice that the parties listed above (the “Parties”) are in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act, commencing with section 25249.5 of the Health and Safety Code (“Proposition 65”). In particular, the violation alleged by this Notice consists of types of harm that may potentially result from exposures to the toxic chemical Coconut Oil Diethanolamine Condensate. This chemical was listed as a carcinogen on June 22, 2012.

The specific type of product that is causing exposures in violation of Proposition 65 is:

	<u>Product Name</u>	<u>Manufacturer</u>	<u>Distributor/Retailer</u>
1.	Salerm Cosmetics’ Stop Stress Shampooing-Gel (the “Product”)	VMV Cosmetic Group d/b/a Salerm Cosmetics	VMV Cosmetic Group South California, Inc.

The route of exposure for the violations is dermal absorption by consumers. These exposures occur through the reasonably foreseeable use of the Product. The sales of the Product have been occurring since at least January 1, 2022, are continuing to this day, and will continue to occur as long as the Product subject to this Notice is sold to and used by consumers.

Proposition 65 requires that a clear and reasonable warning be provided regarding exposures to Coconut Oil Diethanolamine Condensate caused by ordinary use of the Product. The Parties are in violation of Proposition 65 by failing to provide such warnings to consumers. As a result of the sales of this Product, exposures to Coconut Oil Diethanolamine Condensate have been occurring without proper warnings since at least the past year.

///

Based on the allegations set forth in this Notice, Plaintiff intends to file a citizen enforcement lawsuit against the Parties unless they agree in a binding written instrument to: (1) immediately cease causing unwarned exposures to Coconut Oil Diethanolamine Condensate; (2) provide clear and reasonable warnings for past and ongoing exposures to Coconut Oil Diethanolamine Condensate from the Product; and (3) pay appropriate civil penalties based on the factors enumerated in California Health and Safety Code section 25249.7(b). If the Parties are interested in resolving this dispute without resort to litigation, please feel free to contact me. However, we cannot: (1) finalize any settlement until after the 60-day notice period has expired, nor (2) speak for the Attorney General or any District or City Attorney who received the 60-day Notice. Therefore, while reaching an agreement with Plaintiff will resolve these claims, such agreement may not satisfy the public prosecutors.

This Notice also serves as a demand that the Parties preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to the use of Coconut Oil Diethanolamine Condensate in the Product; efforts to comply with Proposition 65 with respect to the use of Coconut Oil Diethanolamine Condensate in the Product; communications with any person relating to Coconut Oil Diethanolamine Condensate in the Product; and the length of time at which the Parties sold the Product into the California marketplace.

If you have any questions or wish to discuss any of the above, please contact me.

Sincerely,



Kevin J. Cole, Esq.
KJC Law Group, A Professional Corporation

See attached distribution list

Attachments:

Certificate of Merit
Certificate of Service
Proposition 65 Summary (to the alleged violator only)
Additional Supporting Information for Certificate of Merit (to the California Attorney General only)

CERTIFICATE OF MERIT

I, Kevin J. Cole, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice has violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that “reasonable and meritorious case for the private action” means that the information provides a credible basis that all elements of the Plaintiff’s case can be established, and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: August 1, 2022

A handwritten signature in black ink, appearing to read 'Kevin J. Cole', with a stylized flourish at the end.

Kevin J. Cole, Esq.
KJC Law Group, A Professional Corporation

CERTIFICATE OF SERVICE

I, Chen Wang, declare that I am over the age of 18 years, and am not a party to the within action. I am employed in the County of Los Angeles, California, where the mailing occurs; and my business address is 9701 Wilshire Blvd., Suite 1000, Beverly Hills, CA 90212.

On August 1, 2022, I served the following documents: **(1) 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE SECTION 25249.7(d); (2) CERTIFICATE OF MERIT; (3) PROPOSITION 65: A SUMMARY; and (4) CERTIFICATE OF MERIT ATTACHMENT (served only on the Attorney General)** on the party listed below by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at my business address with the U.S. Postal Service for delivery by Certified Mail with the postage thereon fully prepaid:

Via Certified Mail

VMV Cosmetic Group d/b/a Salerm Cosmetics
Pza. de Víctor Martínez s/n
Pol. LLissá de Vall
08185 Barcelona
Spain

VMV Cosmetic Group South California, Inc.
c/o Oscar Aguiluz
9314 Norwalk Blvd.
Santa Fe Springs, CA 90670

On August 1, 2022, I served the California Attorney General (via website Portal) by uploading a true and correct copy thereof as a PDF file via the California Attorney General's website.

On August 1, 2022, I transmitted via electronic mail the above-listed documents to the electronic mail addresses of the City and/or District Attorneys who have specifically authorized email service and the authorization appears on the Attorney General's website.

See Attached Service List

On August 1, 2022, I served the following persons and/or entities at the last known address by placing a true and correct copy thereof in a sealed envelope and depositing it at my business address with the U.S. Postal Service for delivery with the postage thereon fully prepaid, and addressed as follows:

See Attached Service List

///
///

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 1, 2022 in Los Angeles, California.

A handwritten signature in cursive script that reads "Chen Wang". The signature is written in black ink on a light-colored background.

Chen Wang

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA PROTECTION AGENCY THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the office of Environmental Health Hazard Assessment, the lead and Toxic Enforcement Act 1986 (commonly known as "Proposition 65") A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide law. The reader is directed to the statute and its implementing regulations (See citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code Regulations, Sections 250000 through 27000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List" Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 725 chemicals have been listed as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those chemicals must comply with the

following:

Clear and Reasonable Warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of the listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of the listing of chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70- year lifetime. The Proposition 65 regulations identify specific “no significant risk” levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm (“reproductive toxicants”), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level (NOEL),” divided by a 1,000- fold safety or uncertainty factor. The “no observable effect level” is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharge that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the list chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any

detectable amount; expect an amount that would meet the “ no significant risk” or “no observable effect” test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuit may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 27. California Code of Regulations, Section 25903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

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