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Environmental Health Advocates, Inc.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF ALAMEDA**

13 ENVIRONMENTAL HEALTH
14 ADVOCATES, INC.,

15 Plaintiff,

16 v.

17 DLC LABORATORIES, INC., a California
18 corporation; CERA VE LLC, a New York
19 limited liability company; L'OREAL USA
20 S/D, INC., a Delaware corporation;
21 ARCADIA BEAUTY LABS LLC, a
22 Delaware limited liability company; COTY
23 DTC HOLDINGS LLC, a Delaware limited
24 liability company; UNILEVER
25 MANUFACTURING (US),
26 INC., a Delaware corporation; GRISI HNOS.,
27 S.A. DE C.V., a Mexican corporation;
28 AMAZON.COM, INC., a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 24CV102662

**[PROPOSED] AMENDED CONSENT
JUDGMENT**

(Health & Safety Code § 25249.6 *et seq.* and
Code Civ. Proc. § 664.6)

1. INTRODUCTION

1.1 Parties

This Consent Judgment is entered into by and between Environmental Health Advocates, Inc., (“EHA” or “Plaintiff”) and DLC Laboratories, Inc. (“Defendant” or “DLC Laboratories”) with EHA and DLC Laboratories each individually referred to as a “Party” and collectively referred to as the “Parties.”

1.2 Plaintiff

EHA is a corporation organized in the state of California, acting in the interest of the general public. It seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products.

1.3 Defendant

DLC Laboratories is a corporation organized in the state of California engaged in the business of manufacturing its own brand of personal care products. DLC Laboratories employs ten or more individuals and for purposes of this Consent Judgment only, is a “person in the course of doing business” for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code section 25249.6 et seq. (“Proposition 65”).

1.4 General Allegations

EHA alleges that DLC Laboratories manufactures, imports, sells, and distributes for sale De La Cruz Moisturizer Vitamin E Cream that contains diethanolamine ("DEA"). EHA further alleges that DLC Laboratories does so without providing a sufficient health hazard warning as required by Proposition 65 and related Regulations. DLC Laboratories denies these allegations and asserts that its products are safe and in compliance with all applicable laws, rules and regulations.

1.5 Notice of Violation

On or around September 5, 2024, EHA served Defendant DLC Laboratories, the California Attorney General, and all other required public enforcement agencies with a 60-Day Notice of Violation of Proposition 65 (“Notice”). The Notice alleged that DLC Laboratories had violated Proposition 65 by failing to sufficiently warn consumers in California of the health hazards associated with exposures to diethanolamine ("DEA") contained in cosmetic products, including but not limited

1 to De La Cruz Moisturizer Vitamin E Cream manufactured or processed by DLC Laboratories that
2 allegedly contain DEA and are imported, sold, shipped, delivered, or distributed for sale to consumers
3 in California by Releasees (as defined in section 4.1).

4 No public enforcer has commenced or is otherwise prosecuting an action to enforce the
5 violations alleged in the Notice.

6 **1.6 Product Description**

7 The products covered by this Consent Judgment are moisturizer products, including but not
8 limited to De La Cruz Moisturizer Vitamin E Cream manufactured or processed by DLC Laboratories
9 that allegedly contain DEA and are imported, sold, shipped, delivered, or distributed for sale to
10 consumers in California by Releasees (as defined in section 4.1) ("Covered Products").

11 **1.7 State of the Pleadings**

12 On or around December 10, 2024, EHA filed a Complaint against DLC Laboratories for the
13 alleged violations of Proposition 65 that are the subject of the Notice ("Complaint").

14 **1.8 No Admission**

15 DLC Laboratories denies the material factual and legal allegations of the Notice and Complaint
16 and maintains that all of the products it has manufactured, imported, sold, and/or distributed for sale in
17 California, including Covered Products, have been, and are, in compliance with all applicable laws,
18 rules and regulations. Nothing in this Consent Judgment shall be construed as an admission of any fact,
19 finding, conclusion of law, issue of law, or violation of law, nor shall compliance with this Consent
20 Judgment be construed as an admission of any fact, finding, conclusion of law, issue of law, or violation
21 of law. This Section shall not, however, diminish or otherwise affect DLC Laboratories' obligations,
22 responsibilities, and duties under this Consent Judgment.

23 **1.9 Jurisdiction**

24 For purposes of this Consent Judgment and the Complaint only, the Parties stipulate that this
25 Court has jurisdiction over DLC Laboratories as to the allegations in the Complaint, that venue is
26 proper in the County of Alameda, and that the Court has jurisdiction to enter and enforce the provisions
27 of this Consent Judgment pursuant to Proposition 65 and Code of Civil Procedure section 664.6.

28 ///

1 **1.10 Effective Date**

2 For purposes of this Consent Judgment, the term “Effective Date” means the date on which this
3 Consent Judgment is approved and entered as a judgment of the Court, as discussed in Section 5.

4 **2. INJUNCTIVE RELIEF**

5 **2.1 Reformulation of the Covered Products**


6 Beginning thirty (30) days after the Effective Date, DLC Laboratories shall be permanently
7 enjoined from manufacturing, distributing, or directly selling in the State of California any Covered
8 Product that has a DEA content above the Reporting Limit of 10 mg/kg when analyzed pursuant to
9 liquid chromatography/tandem mass spectrometry (LC/MS/MS), inductively coupled mass-
10 spectroscopy (ICP-MS) or other method of analysis utilized by the International Organization for
11 Standardization (ISO) for qualitative and quantitative screening of cosmetics and cosmetic raw
12 materials.

13 **2.2 Clear and Reasonable Warnings**


14 Commencing on the Effective Date, DLC Laboratories agrees any Covered Product sold in
15 California, exceeding the Reformulation Standard set forth in section 2.1 above, and which are
16 distributed or directly sold by DLC Laboratories in the State of California on or after the Effective
17 Date, shall contain a “clear and reasonable” Proposition 65 warning, within the meaning of Section
18 25249.6 of the Act. DLC Laboratories agrees that each warning shall be prominently placed with such
19 conspicuousness, as compared with other words, statements, designs, or devices as to render it likely
20 to be seen, read and understood by an ordinary individual under customary conditions before purchase
21 or use. Each warning shall be provided in a manner such that the consumer or user understands to
22 which specific Covered Products the warning applies, and which listed chemical(s) is/are implicated,
23 so as to minimize the risk of consumer confusion.

24 For purposes of this Settlement Agreement, a clear and reasonable warning for the Covered
25 Products shall consist of a product-specific warning via one or more of the following methods: (1) A
26 posted sign, shelf tag, or shelf sign for the consumer product at each point of display of the product;
27 (2) Any electronic device or process that automatically provides the warning to the purchaser (not
28 applicable to internet purchases, which are subject to the provisions of § 25602(b)); (3) A warning

1 directly affixed to the product's label or tag; or (4) A short-form warning on the label that complies
2 with the content requirements set forth in §§ 25603(b) and 25603(a). Specifically, pursuant to §
3 25603(a) – (d), one of the following statements must be utilized:

4
5 1)  **WARNING:**” [or] “**CA WARNING:**” [or] “**CALIFORNIA**
6 **WARNING:**” This product can expose you to chemicals including
7 diethanolamine (“DEA”), which is known to the State of California
8 to cause cancer. For more information go to
9 www.P65Warnings.ca.gov.

10 **OR**

11 **SHORT FORM** 2)  **WARNING:**” [or] “**CA WARNING:**” [or] “**CALIFORNIA WARNING:**
12 Cancer risk from exposure to diethanolamine ("DEA"). See
13 www.P65Warnings.ca.gov.

14 **OR**

15 **SHORT FORM** 3)  **WARNING:**” [or] “**CA WARNING:**” [or] “**CALIFORNIA**
16 **WARNING:** Can expose you to diethanolamine ("DEA"), a
17 carcinogen. See www.P65Warnings.ca.gov.

18 **SHORT FORM ON A PRODUCT**
19 **MANUFACTURED/LABELED PRIOR TO 1/1/28,**
20 **REGARDLESS OF DATE OF SALE**

OR

21 4)  **WARNING:** Cancer- www.P65Warnings.ca.gov

22 The triangle above shall be yellow on the warning statement. Where the sign, label, or
23 shelf tag for the product is not printed using the color yellow, the symbol may be printed in black and
24 white. The symbol shall be placed to the left of the warning text, in a size no smaller than the height of
25 the word, “WARNING.” A short-form warning must be provided on a product in a type size that
26 complies with Cal. Code Regs Tit. 27, § 25601(c). In no case shall a warning statement displayed on
27 the Covered Products’ packaging appear in a type size smaller than 6-point type. Where a sign, labeling,
28 or label as defined in Section 256001.1 is used to provide a warning that includes consumer information
about a product in a language other than English, the warning must also be provided in that language

1 in addition to English.

2 As set forth in Cal. Code Regs. Tit. 27, § 25602(b), to the extent Covered Products are
3 sold online, a warning that complies with the content requirements of Cal. Code Regs Tit. 27, § 25603
4 must be provided via of the following methods: (1) A warning on the product display page; (2) A
5 clearly marked hyperlink using the word “WARNING” or the words “CA WARNING” or
6 “CALIFORNIA WARNING” on the product display page that links to the warning; or (3) An otherwise
7 prominently displayed warning provided to the purchaser prior to completing the purchase. If a warning
8 is provided using the short-form label content pursuant to Section 25602(a)(4), the warning provided
9 on the website may use the same content. For purposes of this section, a warning is not prominently
10 displayed if the purchaser must search for it in the general content of the website. For internet purchases
11 made prior to 1/1/28, a retail seller is not responsible under Section 25600.2(e)(4) for conspicuously
12 posting or displaying the new warning online until 60 calendar days after the retailer receives a warning
13 or a written notice under Section 25600.2(b) and (c) which updates a short-form warning compliant
14 with Section 25603(c) with content compliant with Section 25603(b). These requirements extend to
15 any websites under the exclusive control of DLC Laboratories where Covered Products are sold into
16 California. In addition, DLC Laboratories shall instruct any third-party website to which it directly sells
17 its Covered Products to include the same online warning, as set forth above, as a condition of selling
18 the Covered Products in California.

19 There shall be no obligation for DLC Laboratories to provide a warning for Covered
20 Products that entered the stream of commerce prior to the Effective Date, and the Section 4 release
21 applies to all such Covered Products.

22 (i) Changes in Warning Regulations or Statutes

23 In the event that the Office of Environmental Health Hazard Assessment promulgates
24 one or more regulations requiring or permitting Proposition 65 warning text and/or methods of
25 transmission applicable to the Covered Products and the chemical at issue, which are different than
26 those set forth above, DLC Laboratories shall be entitled to use, at its discretion, such other warning
27 text and/or method of transmission without being deemed in breach of this Agreement. If regulations
28 or legislation are enacted providing that Proposition 65 warnings as to DEA in this product are no

longer required, Defendant shall move for modification of the agreement pursuant to the modification provision in Section 12.

2.3 Sell-Through Period

Notwithstanding anything else in this Consent Judgment, Covered Products that are manufactured, packaged, or put into commerce on or before the date this Agreement is executed shall be subject to the release of liability pursuant to this Consent Judgment, without regard to when such Covered Products were, or are in the future, distributed or sold to customers. As a result, the obligations of DLC Laboratories, or any Releasees (if applicable), stated in this Section 2 do not apply to Covered Products manufactured, packaged, or put into commerce between the date this Agreement is executed and the Effective Date.

3. MONETARY SETTLEMENT TERMS

3.1 Settlement Amount

DLC Laboratories shall pay fifty thousand dollars (\$50,000.00) in settlement and total satisfaction of all the claims referred to in the Notice(s), the Complaint, and this Consent Judgment. This includes civil penalties in the amount of five thousand dollars (\$5,000.00) pursuant to Health and Safety Code section 25249.7(b) and attorneys' fees and costs in the amount of forty-five thousand dollars (\$45,000.00) pursuant to Code of Civil Procedure section 1021.5.

3.2 Civil Penalty

The portion of the settlement attributable to civil penalties shall be allocated according to Health and Safety Code section 25249.12(c)(1) and (d), with seventy-five percent (75%) of the penalty paid to the California Office of Environmental Health Hazard Assessment ("OEHHA"), and the remaining twenty-five percent (25%) of the penalty paid to EHA individually. The to be determined dollars (X) in civil penalties shall be paid as follows:

- One payment of \$3,750.00 to OEHHA, due 14 (fourteen) days after the date the Court approves EHA's motion to approve this Consent Judgment.
- One payment of \$1,250.00 to EHA, due 14 (fourteen) days after the Effective date.

All payments owed to EHA shall be delivered to the following address:

Environmental Health Advocates
225 Broadway, Suite 2100
San Diego, CA 92101

All payments owed to OEHHHA (EIN: 68-0284486) shall be delivered directly to OEHHHA (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 Federal Express 2-Day Delivery:

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

DLC Laboratories agrees to provide EHA's counsel with a copy of the check payable to OEHHHA, simultaneous with its penalty payment to EHA.

Plaintiff and its counsel will provide completed IRS 1099, W-9, or other tax forms as required. Relevant information is set out below:

- "Environmental Health Advocates, Inc." (EIN: 84-2322975) at the address provided above.
- "Office of Environmental Health Hazard Assessment" 1001 I Street, Sacramento, CA 95814.

All payments referenced in this section shall be paid within fourteen (14) days of the date the Court approves EHA's motion to approve this Consent Judgment.

3.3 Attorney's Fees and Costs

The portion of the settlement attributable to attorneys' fees and costs shall be paid to EHA's counsel, who are entitled to attorneys' fees and costs incurred by it in this action, including but not limited to investigating potential violations, bringing this matter to DLC Laboratories' attention, as well as litigating and negotiating a settlement in the public interest.

DLC Laboratories shall provide its payment for civil penalty and for attorneys' fees and costs to EHA's counsel by physical check or by electronic means, including wire transfers, at DLC Laboratories' discretion, in the sum of forty-five thousand dollars (\$45,000.00). The forty-five thousand

dollars (\$45,000.00) shall be payable to Entorno Law, LLP as six-monthly installments of \$7,500.00 as outlined below.

- One payment of \$7,500.00 to Entorno Law, LLP, due 30 (thirty) days after the Effective date.
- One payment of \$7,500.00 to Entorno Law, LLP, due 60 (sixty) days after the Effective date.
- One payment of \$7,500.00 to Entorno Law, LLP, due 90 (ninety) days after the Effective date.
- One payment of \$7,500.00 to Entorno Law, LLP, due 120 (one hundred twenty) days after the Effective date.
- One payment of \$7,500.00 to Entorno Law, LLP, due 150 (one hundred fifty) days after the Effective date.
- One payment of \$7,500.00 to Entorno Law, LLP, due 190 (one hundred ninety) days after the Effective date.

The above-described payments shall be made payable to Entorno Law, LLP, at the below address:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 1900
San Diego, CA 92101

4. CLAIMS COVERED AND RELEASE

4.1 EHA's Public Release of Proposition 65 Claims

Plaintiff, acting on its own behalf and in the public interest, releases DLC Laboratories, and its parents, subsidiaries, affiliated entities under common ownership or control, its directors, officers, principals, agents, employees, attorneys, insurers, accountants, predecessors, successors, and assigns ("Defendant Entities"), each entity to whom Defendant directly or indirectly distributes, ships, or sells the Covered Products, including but not limited to downstream distributors, wholesalers, customers, retailers (including but not limited to Target Corporation), and marketplaces franchisees, franchisors, cooperative members, suppliers, licensees, and licensors, and all of the foregoing entities' owners, directors, officers, agents, principals, employees, attorneys, insurers, accountants, representatives,

1 predecessors, successors, and assigns (collectively referred to as the “Releasees”) from all claims for
2 violations of Proposition 65 up through the Effective Date based on exposure to DEA from Covered
3 Products as set forth in the Notice(s). Compliance with the terms of this Consent Judgment constitutes
4 compliance with Proposition 65 with respect to exposures to DEA from Covered Products as set forth
5 in the Notice(s). This Consent Judgment is a full, final, and binding resolution of all claims under
6 Proposition 65 that were or could have been asserted against DLC Laboratories and/or Releasees for
7 failure to comply with Proposition 65 for alleged exposure to DEA from Covered Products. This release
8 does not extend to any third-party retailers selling the product on a website who, after receiving
9 instruction from DLC Laboratories to include a warning as set forth above in section 2.2, do not include
10 such a warning.

11 **4.2 EHA’s Individual Release of Claims**

12 EHA, in its individual capacity, also provides a release to DLC Laboratories and/or Releasees,
13 which shall be a full and final accord and satisfaction of, as well as a bar to, all actions, causes of action,
14 obligations, costs, expenses, attorneys’ fees, damages, losses, claims, liabilities, and demands of every
15 nature, character, and kind, whether known or unknown, suspected or unsuspected, arising out of
16 alleged or actual exposures to DEA in Covered Products manufactured, imported, sold, or distributed
17 by DLC Laboratories before the Effective Date.

18 **4.3 DLC Laboratories’s Release of EHA**

19 DLC Laboratories on its own behalf, and on behalf of Releasees as well as its past and current
20 agents, representatives, attorneys, successors, and assignees, hereby waives any and all claims against
21 EHA and its attorneys and other representatives, for any and all actions taken or statements made by
22 EHA and its attorneys and other representatives, whether in the course of investigating claims,
23 otherwise seeking to enforce Proposition 65 against them, in this matter or with respect to the Covered
24 Products.

25 **4.4 No Other Known Claims or Violations**

26 EHA and EHA’s counsel affirm that they are not presently aware of any actual or alleged
27 violations of Proposition 65 by DLC Laboratories or for which DLC Laboratories bears legal
28 responsibility other than those that are fully resolved by this Consent Judgment.

1 **5. COURT APPROVAL**

2 This Consent Judgment is not effective until it is approved by the Court and shall be null and
3 void if it is not approved by the Court within one year after it has been fully executed by the Parties, or
4 by such additional time as the Parties may agree to in writing.

5 **6. SEVERABILITY**

6 Subsequent to the Court's approval and entry of this Consent Judgment, if any provision is held
7 by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

8 **7. GOVERNING LAW**

9 The terms of this Consent Judgment shall be governed by the laws of the state of California as
10 applied within the state of California. In the event that Proposition 65 is repealed, or is otherwise
11 rendered inapplicable for reasons, including but not limited to changes in the law; or in the event the
12 California Office of Health Hazard Assessment adopts a regulation or safe use determination, or issues
13 an interpretive guideline that exempts Covered Products from meeting the requirements of Proposition
14 65; or if DEA cases are permanently enjoined by a court of competent jurisdiction; or if Proposition 65
15 is determined to be preempted by federal law or a burden on First Amendment rights with respect to
16 DEA in Covered Products or Covered Products substantially similar to Covered Products, then DLC
17 Laboratories may seek relief from the injunctive obligations imposed by this Consent Judgment to the
18 extent any Covered Products are so affected by modifying the agreement via the mechanisms set forth
19 in Section 12

20 **8. ENFORCEMENT**

21 In any action to enforce the terms of this Consent Judgment, the prevailing party shall be entitled
22 to its reasonable attorneys' fees and costs.

23 **9. NOTICE**

24 Unless otherwise specified herein, all correspondence and notice required by this Consent
25 Judgment shall be in writing and sent by: (i) personal delivery; (ii) first-class, registered, or certified
26 mail, return receipt requested; or (iii) a recognized overnight courier; and (iv) with a copy by email; to
27 the following addresses:

28 ///

1 If to DLC Laboratories:

2 Jeremy A. McLinden
3 Kahn, Soares & Conway, LLP
4 1415 L Street, Suite 400
San Francisco, CA 95814
jmcclinden@ksclawyers.com

If to EHA:

Noam Glick
Entorno Law, LLP
225 Broadway, Suite 2100
San Diego, CA 92101
noam@entornolaw.com

5 Any Party may, from time to time, specify in writing to the other, a change of address to which
6 notices and other communications shall be sent.

7 **10. COUNTERPARTS; DIGITAL SIGNATURES**

8 This Consent Judgment may be executed in counterparts and by facsimile signature, each of
9 which shall be deemed an original, and all of which, when taken together, shall constitute one and the
10 same document.

11 **11. POST EXECUTION ACTIVITIES**

12 EHA agrees to comply with the reporting form requirements referenced in Health and Safety
13 Code section 25249.7(f). The Parties further acknowledge that, pursuant to Health and Safety Code
14 section 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement, which
15 motion EHA shall draft and file. In furtherance of obtaining such approval, the Parties agree to mutually
16 employ their reasonable best efforts, including those of their counsel, to support the entry of this
17 agreement as judgment, and to obtain judicial approval of their settlement in a timely manner. For
18 purposes of this Section, “best efforts” shall include, at a minimum, supporting the motion for approval,
19 responding to any objection that any third-party may make, and appearing at the hearing before the
20 Court if so requested.

21 **12. MODIFICATION**

22 This Consent Judgment may be modified by: (i) a written agreement of the Parties and entry of
23 a modified consent judgment thereon by the Court; or (ii) a successful motion or application of any
24 Party, and the entry of a modified consent judgment thereon by the Court.

25 **13. AUTHORIZATION**

26 The undersigned are authorized to execute this Consent Judgment and acknowledge that they
27 have read, understand, and agree to all of the terms and conditions contained herein.

28 ///

1 **14. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

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

6 **15. ENTIRE AGREEMENT**

7 This Consent Judgment contains the sole and entire agreement and understanding of the Parties
8 with respect to the entire subject matter herein, and any and all prior discussions, negotiations,
9 commitments, and understandings related hereto. No representations, oral or otherwise, express or
10 implied, other than those contained herein have been made by any Party. No other agreements, oral or
11 otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

12 **AGREED TO:**

AGREED TO:

13
14 Date: May 27, 2025

Date: May 23, 2025

15
16 By: 
17 ENVIRONMENTAL HEALTH
ADVOCATES, INC.

By: JUAN MANZUR
DLQ LABORATORIES, INC.

18
19 **IT IS SO ORDERED.**

20
21 Date: _____

22 JUDGE OF THE SUPERIOR COURT
23
24
25
26
27
28