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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 APS&EE, LLC, a limited liability company,)
11 Plaintiff,)
12 v.)
13 DIVA FAM INC. D/B/A TRUE SEA MOSS,)
14 a corporation, and DOES 1 through 100,)
15 inclusive,)
16 Defendants.)
17)

CASE NO. 25STCV29574

[PROPOSED] CONSENT JUDGMENT

Judge: Hon. Randolph M. Hammock
Dept.: 49
Compl. Filed: October 9, 2025

Unlimited Jurisdiction

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1 **1. RECITALS**

2 **1.1 The Parties**

3 **1.1.1** This Consent Judgment (“Consent Judgment”) is entered into by and
4 between APS&EE, LLC (“Plaintiff”) and DIVA FAM INC. (“Defendant”). Plaintiff and
5 Defendant shall hereinafter collectively be referred to as the “Parties” or individually as a
6 “Party.”

7 **1.1.2** APS&EE is an organization based in California with an interest in
8 protecting the environment, improving human health and the health of ecosystems, and
9 supporting environmentally sound practices, which includes promoting awareness of exposure to
10 toxic chemicals and reducing exposure to hazardous substances found in consumer products.

11 **1.1.3** Plaintiff alleges that Defendant is a person in the course of doing business
12 as the term is defined in California *Health & Safety Code* section 25249.6 et seq. (“Proposition
13 65”).

14 **1.2 Allegations**

15 **1.2.1** Plaintiff alleges that Defendant sold True Sea Moss greens powder &
16 organic sea moss, including but not limited to 5-061033-690007 (hereinafter, the “Products”), in
17 the State of California causing users in California to be exposed to hazardous levels of Lead
18 without providing “clear and reasonable warnings”, in violation of Proposition 65. Lead is
19 potentially subject to Proposition 65 warning requirements because it is listed as known to cause
20 cancer and birth defects or other reproductive harm.

21 **1.2.2** On July 29, 2025, Plaintiff sent a Sixty-Day Notice of Violation (the
22 “Notice”) to Defendant and iHerb, LLC, as well as the various public enforcement agencies
23 regarding the alleged violation of Proposition 65 with respect to the Products. On October 9,
24 2025, Plaintiff, acting in the public interest, filed the instant action (the “Complaint”) in the
25 Superior Court for the County of Los Angeles, alleging violations of Proposition 65.

26 **1.3 No Admissions**

27 Defendant denies all allegations in Plaintiff’s Notice and Complaint and maintains that
28 the Products have been, and are, in compliance with all laws, and that Defendant has not violated

1 Proposition 65. This Consent Judgment shall not be construed as an admission of liability by
2 Defendant but to the contrary as a compromise of claims that are expressly contested and denied.
3 Nothing in this Consent Judgment, nor compliance with its terms, shall constitute or be construed
4 as an admission by the Defendant of any fact, conclusion of law, issue of law, or violation of
5 law, or of fault, wrongdoing, or liability by any Defendant, its officers, directors, employees, or
6 parent subsidiary or affiliated corporations, or be offered or admitted as evidence in any
7 administrative or judicial proceeding or litigation in any court, agency, or forum. Furthermore,
8 nothing in this Consent Judgment shall prejudice, waive or impair any right, remedy, argument,
9 or defense the Parties may have in any other or future legal proceeding, except as expressly
10 provided in this Consent Judgment. However, nothing in this section shall affect the Parties'
11 obligations, duties, and responsibilities under this Consent Judgment.

12 **1.4 Compromise**

13 The Parties enter into this Consent Judgment in order to resolve the controversy
14 described above in a manner consistent with prior Proposition 65 settlements and consent
15 judgments that were entered in the public interest and to avoid prolonged and costly litigation
16 between them.

17 **1.5 Jurisdiction and Venue**

18 For purposes of this Consent Judgment only, the Parties stipulate that the above-entitled
19 Court has jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper
20 in Los Angeles County, and that this Court has jurisdiction to enter and enforce the provisions of
21 this Consent Judgment pursuant to California Code of Civil Procedure Section 664.6 and
22 Proposition 65.

23 **1.6 Effective Date**

24 The "Effective Date" shall be the date this Consent Judgment is approved and entered by
25 the Court.

26 **2. INJUNCTIVE RELIEF**

27 **2.1 Reformulation Standard**

28 As of the Effective Date, Defendant shall not sell, distribute, or cause the Products to be

1 offered for sale in California unless: (a) the Products expose a person to less than 0.5 micrograms
2 of lead per day based on the recommended Daily Serving as calculated below in Section 2.2, or
3 (b) the Products are distributed, sold, or offered for sale with a clear and reasonable warning as
4 described below in Section 2.3.

5 **2.2 Exposure Calculation**

6 **2.2.1** A “Daily Serving” (for purposes of determining Proposition 65
7 compliance for chemicals present in the Products for the purposes of this agreement only) shall
8 be defined by the serving size set forth on the label of the Products under "Nutrition Facts",
9 "Supplement Facts", or equivalent. If the label, package, or Product display page on the internet¹
10 do not recommend a number of daily servings, then the number of daily servings shall be one.

11 **2.2.2** The daily exposure shall be calculated by using the following formula:
12 micrograms of lead per gram multiplied by grams of Product per serving, multiplied by servings
13 of the Product per day.

14 **2.3 Proposition 65 Warnings**

15 Whenever a clear and reasonable warning is required under Section 2.1, Defendant shall
16 use one of the following options:

17 Option 1

18 **WARNING [or CA WARNING or CALIFORNIA WARNING]:**

19 Consuming this product can expose you to Lead, which is known to the State of
20 California to cause [cancer and] birth defects or other reproductive harm. For
21 more information go to www.P65Warnings.ca.gov/food.

22 Option 2

23 **WARNING [or CA WARNING or CALIFORNIA WARNING]: Risk of**

24 [cancer and] reproductive harm from exposure to lead. See
25 www.P65Warnings.ca.gov/food.

27 ¹ The “Product display page on the internet” applies to Products purchased therefrom, not to Products
28 purchased elsewhere, such as a brick-and-mortar retail store.

1 *or*

2 **WARNING** [*or* **CA WARNING** *or* **CALIFORNIA WARNING**]: Can expose
3 you to lead, a [carcinogen and] reproductive toxicant. See
4 www.P65Warnings.ca.gov/food.

5 Option 3 (for Product manufactured and labeled before January 1, 2028)

6 **WARNING:** [Cancer and] Reproductive Harm -www.P65Warnings.ca.gov/food.

7 If the daily exposure for the Product exceeds 15 micrograms of lead, where daily
8 exposure is determined pursuant to Section 2.2, Defendant shall include the phrase “cancer and”
9 or “carcinogen and” in the warning.

10 Nothing in this Agreement shall prevent Defendant from modifying any warning
11 contained in Option 1 or 2 to disclose the presence of additional chemicals, if Defendant
12 determines that such disclosure is appropriate or required.

13 Under Option 3, the warning shall be accompanied by a symbol consisting of a black
14 exclamation point in a yellow equilateral triangle with a bold black outline. Where the label for
15 the product is not printed using the color yellow, the symbol may be printed in black and white.
16 The symbol shall be placed to the left of the text of the warning, in a size no smaller than the
17 height of the word “WARNING”.

18 Each warning shall be provided on the Product label, set off from other surrounding
19 information, enclosed in a box. Additionally, if the Product contains consumer information in a
20 foreign language, the warning must be provided in the foreign language. The Products shall carry
21 said warning on each label with such conspicuousness as compared with other words, statements
22 or designs as to render it likely to be read and understood by an ordinary consumer prior to sale.
23 A Product that is sold by Defendant on the internet to persons located in California shall also
24 provide the warning message to Californians by a clearly marked hyperlink on the product
25 display page, or otherwise prominently displayed to the California purchaser before the
26 purchaser completes his or her purchase of the Product. For Products that Defendant provides for
27 a downstream entity to sell on the internet to persons located in California, Defendant shall
28 comply with 27 CCR section 25600.2(b) and (c) and include an instruction that the entity comply

1 with the warning requirements of this section.

2 **2.4** In addition to the warning requirements set forth above, Defendant may comply
3 with this Consent Judgment by using any other warning and transmission method(s) set forth in
4 27 Cal. Code Regs. §§ 25601, 25602, 25603, et seq., and amended subsequently thereafter that
5 are applicable to the Products. If regulations or legislation are enacted providing that Proposition
6 65 warnings are no longer required with respect to lead in the Products, or should safe harbor
7 warning exposure thresholds be promulgated, such that the lack of a warning will not thereafter
8 breach this Consent Judgment, then Defendant may move for modification of the Consent
9 Judgment pursuant to Section 6 below.

10 **3. PAYMENTS**

11 **3.1 Civil Penalty Pursuant To Proposition 65**

12 In settlement of all claims referred to in this Consent Judgment, Defendant shall pay a
13 total civil penalty of three thousand dollars (\$3,000.00) to be apportioned in accordance with
14 *Health and Safety Code* section 25249.12(c)(1) and (d), with 75% (\$2,250.00) for State of
15 California Office of Environmental Health Hazard Assessment (“OEHHA”), and the remaining
16 25% (\$750.00) for Plaintiff.

17 Defendant shall issue these payments collectively as part of the total payment described
18 below in Section 3.2 via wire transfer to Law Offices of Lucas T. Novak. After receipt of the
19 wire transfer, Law Offices of Lucas T. Novak shall be responsible for forwarding the respective
20 payments to OEHHA and APS&EE.

21 **3.2 Reimbursement Of Plaintiff’s Fees And Costs**

22 Defendant shall reimburse Plaintiff’s reasonable experts’ and attorney’s fees and costs
23 incurred in prosecuting the instant action for all work performed through execution and approval
24 of this Consent Judgment, in the amount of nineteen thousand dollars (\$19,000.00). Accordingly,
25 Defendant shall remit total payment via wire transfer to Law Offices of Lucas T. Novak in the
26 amount of twenty-two thousand dollars (\$22,000.00), which includes the civil penalty described
27 in Section 3.1, within ten (10) business days of the Effective Date. Wire instructions have been
28 exchanged between the Parties.

1 **4. RELEASES**

2 **4.1 Plaintiff's Release Of Defendant**

3 Plaintiff, acting in its individual capacity, and in the public interest, in consideration of
4 the promises and monetary payments contained herein, hereby releases Defendant, its parents,
5 subsidiaries, shareholders, directors, members, officers, employees, attorneys, successors and
6 assignees, and Defendant's downstream distributors, retailers, and franchisees, including but not
7 limited to iHerb, LLC (all of the foregoing, collectively "Released Parties"), from any alleged
8 Proposition 65 violation claims asserted in Plaintiff's Notice or Complaint regarding failure to
9 warn about Lead exposure from the Products sold by Defendant before and up to the Effective
10 Date. Defendant's compliance with the injunctive terms described in Section 2 of this Consent
11 Judgment shall be deemed to constitute compliance with Proposition 65 by Defendant regarding
12 alleged exposures to Lead from the Products.

13 **4.2 Defendant's Release Of Plaintiff**

14 Defendant, by this Consent Judgment, waives all rights to institute any form of legal
15 action against Plaintiff, its shareholders, directors, members, officers, employees, attorneys,
16 experts, successors and assignees for actions or statements made or undertaken, whether in the
17 course of investigating claims or seeking enforcement of Proposition 65 against Defendant in
18 this matter. If any Released Party should institute any such action, then Plaintiff's release of said
19 Released Party in this Consent Judgment shall be rendered void and unenforceable.

20 **4.3 Waiver Of Unknown Claims**

21 Each of the Parties acknowledges that it is familiar with Section 1542 of California Civil
22 Code which provides as follows:

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

Each of the Parties waives and relinquishes any right or benefit it has or may have under
Section 1542 of California Civil Code or any similar provision under the statutory or non-

1 statutory law of any other jurisdiction to the full extent that it may lawfully waive all such rights
2 and benefits. The Parties acknowledge that each may subsequently discover facts in addition to,
3 or different from, those that it believes to be true with respect to the claims released herein. The
4 Parties acknowledge they have been specifically advised by counsel as to the effect of this
5 general release. The Parties agree that this Consent Judgment and the releases contained herein
6 shall be and remain effective in all respects notwithstanding the discovery of such additional or
7 different facts.

8 **5. COURT APPROVAL**

9 Upon execution of this Consent Judgment by all Parties, Plaintiff shall file a noticed
10 Motion for Approval and Entry of Consent Judgment in the above-entitled Court. This Consent
11 Judgment is not effective until it is approved and entered by the Court. It is the intention of the
12 Parties that the Court approve this Consent Judgment, and in furtherance of obtaining such
13 approval, the Parties and their respective counsel agree to mutually employ their best efforts to
14 support the entry of this agreement in a timely manner, including cooperating on drafting and
15 filing any papers in support of the required motion for judicial approval.

16 If this Consent Judgment is not approved in full by the Court, (a) this Consent Judgment
17 and any and all prior agreements between the Parties merged herein shall terminate and become
18 null and void, and the actions shall revert to the status that existed prior to the execution date of
19 this Consent Judgment; (b) no term of this Consent Judgment or any draft thereof, or of the
20 negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall
21 have any effect, nor shall any such matter be admissible in evidence for any purpose in this
22 Action or in any other proceeding; and (c) the Parties agree to meet and confer to determine
23 whether or how to modify the terms of the Consent Judgment and to resubmit it for approval.

24 **6. MODIFICATION**

25 This Consent Judgment may be modified only upon written agreement of the Parties and
26 upon entry of a modified Consent Judgment by the Court thereon, or upon motion of any party as
27 provided by law and upon entry of a modified Consent Judgment by the Court. Any Party
28 seeking to modify this Consent Judgment shall attempt in good faith to meet and confer with the

1 other Party prior to filing a motion to modify the Consent Judgment.

2 **7. GOVERNING LAW**

3 The terms of this Consent Judgment shall be governed by the laws of the State of
4 California. This Consent Judgment is entered into in the State of California and may only be
5 enforced in the State of California.

6 **8. DUTIES LIMITED TO CALIFORNIA**

7 This Consent Judgment shall have no effect on Products sold by Defendant outside the
8 State of California and not intended to be sold by any entity in California.

9 **9. NOTICES**

10 All correspondence and notice required to be provided under this Consent Judgment shall
11 be in writing and delivered personally or sent by first class or certified mail addressed as follows:

12 TO DEFENDANT: 13 Erica R. Graves, Esq. 14 Blank Rome LLP 15 2029 Century Park East, 6th Floor 16 Los Angeles, CA 90067	TO PLAINTIFF: Lucas T. Novak, Esq. Law Offices of Lucas T. Novak 8335 W Sunset Blvd., Suite 217 Los Angeles, CA 90069
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17 **10. COUNTERPARTS**

18 This Consent Judgment may be executed via DocuSign, and in counterparts, each of
19 which shall be deemed an original, and all of which, when taken together, shall constitute the
20 same document. Execution and delivery of this Consent Judgment by e-mail, facsimile, or other
21 electronic means shall constitute legal and binding execution and delivery. Any photocopy of the
22 executed Consent Judgment shall have the same force and effect as the originals.

23 **11. AUTHORIZATION**

24 The undersigned are authorized to execute this Consent Judgment on behalf of their
25 respective Parties. Each Party has read, understood, and agrees to all of the terms and conditions
26 of this Consent Judgment. Each Party warrants to the other that it is free to enter into this
27 Consent Judgment and is not subject to any conflicting obligation that will or might prevent or
28 interfere with the execution or performance of this Consent Judgment by said Party.

1 **12. ATTORNEYS' FEES**

2 Except as specifically provided in Section 3 herein, each Party shall bear its own costs
3 and attorney fees in connection with this action.


4 **13. CONSTRUCTION**

5 The Parties, including their counsel, have participated in the preparation of this Consent
6 Judgment, which is the result of the joint efforts of the Parties. This Consent Judgment was
7 subject to revision and modification by the Parties and has been accepted and approved as to its
8 final form by all Parties and their counsel. Accordingly, any uncertainty or ambiguity existing in
9 this Consent Judgment shall not be interpreted against any Party as a result of the manner of the
10 preparation of this Consent Judgment.

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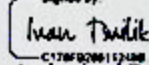
AGREED TO:

Date: 3/24/2026

By: 
Authorized Representative of APS&EE, LLC

AGREED TO:

Date: 3/24/2026

By: 
C178F026112148
Authorized Representative of DIVA FAM INC.

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT