

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into by and between the California Air Resources Board (CARB), with its principal office at 1001 I Street, Sacramento, California, and Great American Beauty, Incorporated and its subsidiary Palm Beach Beauté, LLC (collectively, "Great American Beauty") with its principal place of business at 124 North Swinton Avenue, Delray Beach, Florida.

RECITALS

1. The Consumer Products Regulation, title 17, California Code of Regulations (17 CCR) section 94500 et seq. applies to any person who sells, supplies, offers for sale, or manufactures consumer products for use in California.
2. The Table of Standards in 17 CCR section 94509(a) sets forth the percentage by weight of allowed volatile organic compounds (VOC) for the Personal Fragrance Product: products with 20% or less fragrance category manufactured after January 1, 1999. Personal Fragrance Product: products with 20% or less fragrance must meet the 75 percent by weight standard for VOC.
3. A manufacturer of a consumer product subject to 17 CCR section 94509 is required to display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date as set forth in 17 CCR section 94512(b) .
4. Failure to comply with the Consumer Products Regulation is a violation of state law resulting in penalties. Among other penalties, Health and Safety Code (H&SC) sections 42400-42403 authorize strict liability penalties up to \$10,000 for each day that the violation occurs.
5. CARB alleges that Great American Beauty manufactured, sold, supplied, or offered for sale in California, the following deodorant body spray products that are subject to a VOC limit for the "Personal Fragrance Product: products with 20% or less fragrance" category specified in 17 CCR section 94509(a): Penthouse Pet Playful Womens Deodorant Body Spray, Penthouse Passionate Womens Deodorant Body Spray, Penthouse Provocative Womens Deodorant Body Spray, Penthouse Influential Mens Deodorant Body Spray, Penthouse Ionic Mens Deodorant Body Spray, Penthouse Powerful Mens Deodorant Body Spray, Penthouse Legendary Mens Deodorant Body Spray, Penthouse Prestigious Mens Deodorant Body Spray, Adidas Deo Body Spray Deep Energy, Adidas Deo Body Spray Extreme Power, David Beckham Instinct Sport Deodorant, Intimately Beckham Men Deodorant Spray, Adidas Deo Body Spray Ice Dive, Adidas Deo Body Spray Intense Touch, Adidas Deo Body Spray Pure Game, Adidas

Deo Body Spray, Get Ready!, Adidas Deo Body Spray UEFA Champions and, Super Playboy 24 Hour Deodorant Body Spray.

6. CARB alleges that the following deodorant body spray products referenced in Recitals paragraph 5 contain concentrations of VOC exceeding the 75 percent by weight limit the "Personal Fragrance Product: products with 20% or less fragrance" category specified in 17 CCR section 94509(a): Penthouse Pet Playful Womens Deodorant Body Spray, Penthouse Passionate Womens Deodorant Body Spray, Penthouse Provocative Womens Deodorant Body Spray, Penthouse Influential Mens Deodorant Body Spray, Penthouse Ionic Mens Deodorant Body Spray, Penthouse Powerful Mens Deodorant Body Spray, Penthouse Legendary Mens Deodorant Body Spray, Penthouse Prestigious Mens Deodorant Body Spray, Adidas Deo Body Spray Deep Energy, Adidas Deo Body Spray Extreme Power, David Beckham Instinct Sport Deodorant, Intimately Beckham Men Deodorant Spray, Adidas Deo Body Spray Ice Dive, Adidas Deo Body Spray Intense Touch, Adidas Deo Body Spray Pure Game, Adidas Deo Body Spray Get Ready!, Adidas Deo Body Spray UEFA Champions and, Super Playboy 24 Hour Deodorant Body Spray.
7. CARB alleges that the following deodorant body spray products did not display on each consumer product container or package, the day, month, and year on which the product was manufactured as specified in 17 CCR section 94512(b): Penthouse Playful Deodorant Body Spray, Penthouse Passionate Deodorant Body Spray, and Penthouse Influential Deodorant Body Spray.
8. CARB alleges that if the allegations described in Recitals paragraphs 5, 6, and 7 were proven, civil penalties could be imposed against Great American Beauty as provided in H&SC section 42402 et seq. for each and every unit involved in the violations.
9. Great American Beauty admits the allegations described in Recitals paragraphs 5, 6, and 7, but denies any liability resulting from said allegations.
10. In consideration of the foregoing, and of the promises and facts set forth herein, the Parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed alleged violation and voluntarily agree to resolve this matter by means of this Agreement, without the need for formal litigation. Great American Beauty has taken, or agrees to take, the actions enumerated below within the Terms and Conditions. CARB accepts this Agreement in termination and settlement of this matter.

TERMS AND CONDITIONS

In consideration of CARB not filing a legal action against Great American Beauty for the violations referred to above, CARB and Great American Beauty agree as follows:

11. Great American Beauty shall not manufacture, sell, supply, or offer for sale in California, any consumer products in violation of the California Consumer Products Regulations set forth in 17 CCR section 94500 et seq.; the terms and conditions set forth in this Agreement will remain valid and enforceable notwithstanding any future violations that may occur.
12. Great American Beauty, in settlement of the above alleged violations of 17 CCR section 94507 et seq., agrees to pay a penalty to CARB in the amount of \$35,000 payable to the California Air Pollution Control Fund, concurrent with the execution of this Agreement. Payment and the signed Agreement shall be mailed to the address specified on the Payment Transmittal Form enclosed with this Agreement.
13. This Agreement shall apply to and be binding upon Great American Beauty and its officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations and upon CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this settlement.
14. The parties stipulate that this Agreement shall be the final resolution of CARB claims regarding the above-described allegations and shall have the same res judicata effect as a judgment in terms of acting as a bar to any civil action by CARB against Great American Beauty, its officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations. This Agreement shall be deemed the recovery of civil penalties for purposes of precluding subsequent criminal action as provided in H&SC section 42400.7(a).
15. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules.
16. This Agreement constitutes the entire agreement and understanding between CARB and Great American Beauty concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreements of any kind or nature, whether written or oral, between CARB and Great American Beauty concerning these claims.
17. The Effective Date of this Agreement shall be the date upon which it is fully executed.

18. This Agreement is deemed to have been drafted equally by CARB and Great American Beauty; it will not be interpreted for or against either Party on the ground that said Party drafted it.
19. No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by both parties to this Agreement.
20. This Agreement shall further serve to toll any statute of limitation until all terms and conditions of this Agreement have been fulfilled.
21. It is further agreed that the stipulated penalties described in this Agreement are non-dischargeable under United States Code, title 11, section 523(a)(7).
22. **Penalty Determination**

H&SC section 39619.7 requires CARB to provide information on the basis for the penalties it seeks. This Agreement includes this information, which is also summarized here.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

The penalty provision being applied in this case is H&SC section 42402 et seq. because Great American Beauty sold, supplied, offered for sale, or manufactured for sale deodorant body spray consumer products for commerce in California in violation of the Consumer Products Regulations (17 CCR section 94507 et seq.). The penalty provisions of H&SC section 42402 et seq. apply to violations of the Consumer Products Regulations because the regulations were adopted under authority of H&SC section 41712, which is in Part 4 of Division 26.

The manner in which the penalty amount was determined, including aggravating and mitigating factors and per unit or per vehicle basis for the penalty.

H&SC section 42402 et seq. provides strict liability penalties of up to \$10,000 per day for violations of the Consumer Product Regulations with each day being a separate violation. In cases like this, involving unintentional violations of the Consumer Products Regulations where the violator cooperates with the investigation, CARB has obtained penalties based on the excess emissions of VOCs. Administrative penalties are also obtained in some cases.

In this case, the total penalty is \$35,000 for the alleged administrative and emission violations. The per-unit penalty was based on 1.95 tons of excess

VOC emissions, and an administrative penalty. The penalty, in this case was reduced because this was a strict liability first-time violation and Great American Beauty made diligent efforts to comply and to cooperate with the investigation. To come into compliance, Great American Beauty immediately provided written notification to each customer that has previously purchased the products contained in this Agreement that these products are not legal to sell in California. Great American Beauty developed a compliance plan that was provided to CARB on or about June 19, 2019. Moving forward, as provided in the Compliance Plan, Great American Beauty is implementing new purchasing practices that address compliance with The California Consumer Products Regulations for future products.

Final penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar negotiated cases, and the potential cost and risk associated with litigating these particular violations. The penalty reflects alleged violations extending over a number of days resulting in quantifiable harm to the environment considered together with the complete circumstances of this case. Penalties in future cases might be smaller or larger on a per ton basis.

The final penalty in this case was based in part on confidential financial information or confidential business information provided by Great American Beauty that is not retained by CARB in the ordinary course of business. The penalty in this case was also based on confidential settlement communications between CARB and Great American Beauty that CARB does not retain in the ordinary course of business. The penalty also reflects CARB's assessment of the relative strength of its case against Great American Beauty, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that Great American Beauty may have secured from its actions.

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

The Consumer Product Regulations do not prohibit emissions above a specified level, but they do limit the concentration of VOC in regulated products. In this case, a quantification of the excess emissions attributable to the alleged violations was practicable because Great American Beauty made available to CARB the product formulation and sales data necessary to make this quantification. Based upon this information (which Great American Beauty has designated as confidential the alleged violations were calculated to have 1.95 tons of excess VOC emissions emitted in California.

- 23. Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be illegal, invalid, or unenforceable in any jurisdiction, the remainder of this Agreement remains in full force and effect.
- 24. The parties shall exchange signed copies of this Agreement. Facsimile or photocopied signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Agreement.
- 25. The undersigned represent that they have full power and authority to enter into this Agreement.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Great American Beauty, Inc.

By: _____ /S/

By: _____ /S/

Name: Ellen M. Peter

Name: Paul F. Smith

Title: Chief Counsel

Title: COO / CFO

Date: 12/24/2019

Date: 12/9/2019