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8 Attorneys for Plaintiff
Environmental Health Advocates, Inc.

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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

11 ENVIRONMENTAL HEALTH ADVOCATES,
INC.,

12 Plaintiff,

13 v.

14 PALLADIO BEAUTY GROUP, LLC, a
Delaware limited liability company, SALLY
15 BEAUTY SUPPLY, LLC, a Virginia limited
liability company, ELEMENTIS PLC, a UK
16 public limited company, MONDO MINERALS
B.V., a Dutch limited liability company,
17 TONNIE COSMETICS CO., LTD., a
Taiwanese corporation, and DOES 1 through
18 100, inclusive,

19 Defendants.

Case No.:

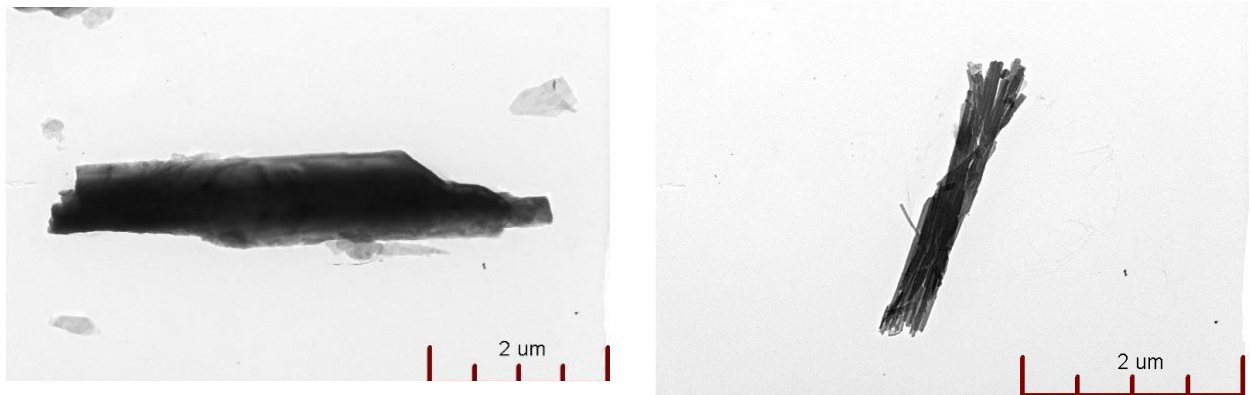
**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 et seq.)

I.

INTRODUCTION

1. This Complaint is a representative action brought by Environmental Health Advocates, Inc. (“Plaintiff”) in the public interest of the citizens of the State of California (“the People”). Plaintiff seeks to remedy Defendants’ failure to inform the People of exposure to asbestos, a known carcinogen. Defendants expose consumers to asbestos by manufacturing, importing, selling, and/or distributing blush and bronzer products including, but not limited to, Palladio Mosaic Powder 2-in-1 Blush Bronzer (“Products”). Defendants know and intend that customers will use Products containing asbestos. Below are pictures of asbestos fibers found in an exemplar of Defendants’ Products:



2. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code, section 25249.6 et seq. (“Proposition 65”), “[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. . . .” (Health & Safety Code, § 25249.6.)

3. California identified and listed asbestos as a chemical known to cause cancer as early as February 27, 1987.

4. Defendants failed to sufficiently warn consumers and individuals in California about potential exposure to asbestos in connection with Defendants’ manufacture, import, sale, or distribution of Products. This is a violation of Proposition 65.

5. Plaintiff seeks injunctive relief compelling Defendants to sufficiently warn consumers in California before exposing them to asbestos in Products. (Health & Safety Code, § 25249.7(a).)

1 Plaintiff also seeks civil penalties against Defendants for their violations of Proposition 65 along with
2 attorney’s fees and costs. (Health & Safety Code, § 25249.7(b).)

3 **II.**

4 **PARTIES**

5 6. Plaintiff ENVIRONMENTAL HEALTH ADVOCATES, INC. (“Plaintiff”) is a
6 corporation in the State of California dedicated to protecting the health of California citizens through
7 the elimination or reduction of toxic exposure from consumer products. It brings this action in the public
8 interest pursuant to Health and Safety Code, section 25249.7.

9 7. Defendant PALLADIO BEAUTY GROUP, LLC (“PBG”) is a limited liability
10 company organized and existing under the laws of Delaware. PBG is registered to do business in
11 California, and does business in the County of Alameda, within the meaning of Health and Safety Code,
12 section 25249.11. PBG manufactures, imports, sells, or distributes the Products in California and
13 Alameda County.

14 8. Defendant SALLY BEAUTY SUPPLY, LLC (“SBS”) is a limited liability company
15 organized and existing under the laws of Virginia. SBS is registered to do business in California, and
16 does business in the County of Alameda, within the meaning of Health and Safety Code, section
17 25249.11. SBS manufactures, imports, sells, or distributes the Products in California and Alameda
18 County.

19 9. Defendant ELEMENTIS PLC (“Elementis”) is a public limited company organized and
20 existing under the laws of the United Kingdom. Elementis is registered to do business in California, and
21 does business in the County of Alameda, within the meaning of Health and Safety Code, section
22 25249.11. Elementis manufactures, imports, sells, or distributes the Products in California and Alameda
23 County.

24 10. Defendant MONDO MINERALS B.V. (“MMB”) is a limited liability company
25 organized and existing under the laws of the Netherlands. MMB is registered to do business in
26 California, and does business in the County of Alameda, within the meaning of Health and Safety Code,
27 section 25249.11. MMB manufactures, imports, sells, or distributes the Products in California and
28 Alameda County.

1 11. Defendant TONNIE COSMETICS CO., LTD. (“TCC”) is a corporation organized and
2 existing under the laws of Taiwan. TCC is registered to do business in California, and does business in
3 the County of Alameda, within the meaning of Health and Safety Code, section 25249.11. TCC
4 manufactures, imports, sells, or distributes the Products in California and Alameda County.

5 12. Plaintiff does not know the true names and/or capacities, whether individual, partners,
6 or corporate, of the defendants sued herein as DOES 1 through 100, inclusive, and for that reason sues
7 said defendants under fictitious names. Plaintiff will seek leave to amend this Complaint when the true
8 names and capacities of these defendants have been ascertained. Plaintiff is informed and believes and
9 thereon alleges that these defendants are responsible in whole or in part for the remedies and penalties
10 sought herein.

11 III.

12 VENUE AND JURISDICTION

13 13. California Constitution Article VI, Section 10 grants the Superior Court original
14 jurisdiction in all cases except those given by statute to other trial courts. The Health and Safety Code
15 statute upon which this action is based does not give jurisdiction to any other court. As such, this Court
16 has jurisdiction.

17 14. Venue is proper in Alameda County Superior Court pursuant to Code of Civil
18 Procedure, sections 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
19 County. Defendants conducted and continue to conduct business in this County as it relates to Products.

20 15. Defendants have sufficient minimum contacts in the State of California or otherwise
21 purposefully avail themselves of the California market. Exercising jurisdiction over Defendants would
22 be consistent with traditional notions of fair play and substantial justice.

23 IV.

24 CAUSES OF ACTION

25 FIRST CAUSE OF ACTION

26 (Violation of Proposition 65 – Against all Defendants)

27 16. Plaintiff incorporates by reference each and every allegation contained above.
28

1 17. Proposition 65 mandates that citizens be informed about exposures to chemicals that
2 cause cancer, birth defects, and other reproductive harm.

3 18. Defendants manufactured, imported, sold, and/or distributed Products containing
4 asbestos in violation of Health and Safety Code, section 25249.6 et seq. Plaintiff is informed and
5 believes such violations have continued after receipt of the Notice (defined *infra*) and will continue to
6 occur into the future. Plaintiff's expert utilized a methodology to detect asbestos, as that chemical is
7 defined by Proposition 65, in the Products that meets and/or is more stringent than the methodology
8 ordinarily used by OEHHA to detect asbestos. A comparison to the micron scale proves that the fibers
9 observed in this product of the mineral tremolite were long enough and wide enough to be counted by
10 any asbestos counting criteria, including phase or polarized light microscopy. Further, asbestiform
11 tremolite was observed and counted by Plaintiff's expert in analyzing a sample of Defendants' Products
12 in a manner consistent with the methodologies used by OEHHA to set the Proposition 65 limits.

13 19. In manufacturing, importing, selling, and/or distributing Products, Defendants failed to
14 provide a clear and reasonable warning to consumers and individuals in California who may be exposed
15 to asbestos through reasonably foreseeable use of the Products.

16 20. Products expose individuals to asbestos through direct inhalation. This exposure is a
17 natural and foreseeable consequence of Defendants placing Products into the stream of commerce. As
18 such, Defendants intend that consumers will use Products, exposing them to asbestos.

19 21. Defendants knew or should have known that the Products contained asbestos and
20 exposed individuals to asbestos in the way provided above. The Notice informed Defendants of the
21 presence of asbestos in the Products. Likewise, media coverage concerning asbestos and related
22 chemicals in consumer products provided constructive notice to Defendants.

23 22. Defendants' actions in this regard were deliberate and not accidental.

24 23. More than sixty days prior to naming each defendant in this lawsuit, Plaintiff issued a
25 60-Day Notice of Violation ("Notice") as required by and in compliance with Proposition 65. Plaintiff
26 provided the Notice to the various required public enforcement agencies along with a certificate of merit.
27 The Notice alleged that Defendants violated Proposition 65 by failing to sufficiently warn consumers in
28 California of the health hazards associated with exposures to asbestos contained in the Products.

1 24. The appropriate public enforcement agencies provided with the Notice failed to
2 commence and diligently prosecute a cause of action against Defendants.

3 25. Individuals exposed to asbestos contained in Products through inhalation resulting from
4 reasonably foreseeable use of the Products have suffered and continue to suffer irreparable harm. There
5 is no other plain, speedy, or adequate remedy at law.

6 26. Defendants are liable for a maximum civil penalty of \$2,500 per day for each violation
7 of Proposition 65 pursuant to Health and Safety Code, section 252497(b). Injunctive relief is also
8 appropriate pursuant to Health and Safety Code, section 25249.7(a).

9 **PRAYER FOR RELIEF**

10 Wherefore, Plaintiff prays for judgment against Defendants as follows:

11 1. Civil penalties in the amount of \$2,500 per day for each violation. Plaintiff alleges that
12 damages total a minimum of \$1,000,000;

13 2. A preliminary and permanent injunction against Defendants from manufacturing,
14 importing, selling, and/or distributing Products in California without providing a clear and reasonable
15 warning as required by Proposition 65 and related Regulations;

16 3. Reasonable attorney's fees and costs of suit; and

17 4. Such other and further relief as may be just and proper.
18

19 Respectfully submitted:

20 Dated: May 4, 2022

ENTORNO LAW, LLP

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23 By:



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27 Attorneys for Plaintiff
28 Environmental Health Advocates, Inc.