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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, **v.** **21ST CENTURY HEALTHCARE, INC., et al.** Defendants.	Case No.: RG08426937 ASSIGNED FOR ALL PURPOSES TO: JUDGE WYNNE CARVILL DEPARTMENT 21 **CONSENT JUDGMENT AS TO DEFENDANT 21ST CENTURY HEALTHCARE, INC.** Trial Date: May 6, 2013 Action Filed: December 23, 2008

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1. INTRODUCTION

1.1 Introduction

This Consent Judgment is entered pursuant to a stipulation by and between Plaintiff, the People of the State of California, and Defendant 21st Century Healthcare, Inc. ("21st Century," or "Defendant"). Plaintiff and Defendant are collectively referred to as the "parties," and individually as a "party," in this Consent Judgment.

1.2 Plaintiff

Plaintiff is the People of the State of California. The Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.5 et seq. ("Proposition 65"), at section 25249.7, subdivision (c), provides that actions to enforce Proposition 65 may be brought by the Attorney General in the name of the People of the State of California or by any district attorney. California Business and Professions Code sections 17203 and 17204 also provide that actions to prohibit unfair and unlawful business practices may be brought in the name of the People of the State of California by the Attorney General or by any district attorney.

1.3 Defendant

The settling defendant is 21st Century Healthcare, Inc., an Arizona corporation, with its principal place of business at Tempe, Arizona. For purposes of this Consent Judgment, Defendant acknowledges that it is currently a business with more than 10 employees and that it currently therefore is a "person in the course of doing business" within the meaning of Proposition 65. If in the future Defendant employs fewer than 10 employees (according to the definition of "employee" in California Code of Regulations, title 27, section 25102, subdivision (h)), then Section 2 shall not apply for the period in which Defendant has fewer than 10 employees, provided that Defendant first notifies the People in writing that it employs fewer than 10 employees and provides proof of the number of employees it employs. Until such time as the Defendant provides notices and proof as set forth above, it shall continue to comply with the terms of the Consent Judgment.

1.4 General Allegations

The People's Complaint alleges that, through the manufacture, distribution, and/or sale of vitamin supplements to consumers in California, Defendant violated the provisions of Proposition 65 and engaged in unfair competition, as defined in Business and Professions Code section 17200, by knowingly exposing persons to lead, a chemical known to cause cancer and reproductive toxicity, without providing a clear and reasonable warning to such individuals.

1.5 Covered Products

The term "Covered Product" means a dietary supplement that Defendant manufactures for sale in California, Distributes into California, and/or directly sells to a consumer in California and for which 21 Code of Federal Regulations part 101.36(b)(2) (2011) requires a label that supplies information indicating that the maximum recommended daily dose of the product:

(a) Contains 250 milligrams or more of calcium or 100 milligrams or more of magnesium; or

(b) Contains 100 percent or more of the Reference Daily Intake (as set forth in 21 Code of Federal Regulations part 101.9(c)(8)(iv) (2011)) of four or more of the following vitamins and minerals (each of which is hereinafter referred to as "Specified Vitamins and Minerals"): calcium, iron, Vitamin A, Vitamin D, Vitamin C, folate (folic acid, folacin), Vitamin B-6 (pyridoxine), or Vitamin B-12 (cyanocobalamin); or

(c) Contains 50 percent or more of the Reference Daily Intake (as set forth in 21 Code of Federal Regulations part 101.9(c)(8)(iv) (2011)) of any of the Specified Vitamins and Minerals and also meets any of the following criteria:

(1) The product is identified on the label or in advertisements or marketing material as a vitamin-mineral, multivitamin, or multi-mineral supplement;

(2) The product is identified on the label or in advertisements or marketing material as a prenatal, lactation, or fertility supplement;

(3) The product is identified on the label or in advertisements or marketing material as a supplement for children or teenagers;

(4) The product contains 0.4 milligrams or more of folate (folic acid, folacin)

per daily dose; or

(5) The product is intended to be consumed primarily by, or is marketed primarily toward, any of the following persons: children under the age of 18; pregnant women; lactating women; or women or men seeking to enhance fertility, improve reproductive health, or conceive a child.

The presence of substances such as herbs, herbal extracts, or amino acids does not preclude a product from falling within the definition of Covered Products if it otherwise falls within the terms set forth. Covered Products do not, however, include the following:

(i) Fortified foods, i.e., foods to which additional vitamins and minerals have been added, including but not limited to cereal or pasta with vitamins and minerals added, or iodized salt;

(ii) Beverages that otherwise would fall within the definition;

(iii) Meal replacement products, i.e., products that are intended to provide calories or nutritional benefits sufficient to replace a meal; or

(iv) Protein supplements, i.e., products supplying at least 10 grams of protein per daily serving.

A list of the Covered Products manufactured, distributed, and/or sold by Defendant and subject to this Consent Judgment is set forth in Exhibit A. Any product manufactured, distributed, and/or sold by Defendant that is not set forth in Exhibit A is not covered by the injunctive relief provisions of Section 2, except as specifically provided in Section 1.6 or Section 9 below.

"Distributing into California" (or "Distribute[s][d] into California") means to directly ship a Covered Product into California for sale in California or to sell a Covered Product to a distributor that Defendant knows will sell the Covered Product in California.

1.6 Private Label Products

(a) Defendant will submit to the Office of the Attorney General, prior to the Effective Date, a list of "private label" or contract-manufactured products that meet the definition of Covered Products, along with the products' brand name and customer and any additional

information necessary to identify the products as corresponding to Covered Products listed on Exhibit A. Defendant deems this identifying information to be confidential, proprietary, or trade secret. This identifying information, as updated from time to time, is referred to herein as "Confidential Private Label Information." Defendant shall provide to the Attorney General updates to the Confidential Private Label Information at least annually by March 1 of each year, unless there is no change to the list from the previous year, until such time that Defendant no longer has a duty under this Consent Judgment to test the Covered Products. The update requirement in the preceding sentence terminates five (5) years from the Effective Date of this Consent Judgment. Private label or contract-manufactured products that Defendant identifies in the most recent Confidential Private Label Information submitted to the Attorney General each year as products listed on Exhibit A shall be Covered Products for the purposes of this Consent Judgment. Nothwisthanding anything else in this Section 1.6(a), Defendant shall not be required to update its Confidential Private Label Information more frequently than twice per year.

(b) All Confidential Private Label Information provided to the Attorney General, whether before or after the Effective Date, is deemed to be Protected Information under the Protective Order entered in this case on November 19, 2009 ("Protective Order"). For the purposes of this Consent Judgment, all elements of the Protective Order shall apply to Confidential Private Label Information, except that (a) Paragraphs 6, 7, 9, 16, and 17 of the Protective Order do not apply to Confidential Private Label Information; and (b) documents containing Confidential Private Label Information need not be consecutively Bates-numbered. Further, to the extent the Court modifies the Protective Order upon motion by any party to this action in accordance with Paragraph 18 of the Protective Order, such modification shall not apply to the application of the Protective Order to this Consent Judgment without the written consent of Defendant.

(c) Notwithstanding anything herein or in the Protective Order to the contrary, the People shall disclose Confidential Private Label Information if requested to do so by Defendant. The People will return or destroy all Confidential Private Label Information submitted by Defendant if, after the date that is five (5) years from the Effective Date, Defendant requests in writing that the People do so.

1.7 Released Products

The term "Released Products" means the Covered Products set forth in Exhibit B.

1.8 Complaint

On December 23, 2008, the People filed a complaint in the Superior Court in and for the County of Alameda against Defendant and certain other vitamin supplement manufacturers, distributors, and sellers, alleging violations of Proposition 65 and acts of unfair competition, as defined in Business and Professions Code section 17200, based on the alleged exposures to lead contained in the vitamin supplements. On March 27, 2009, the People filed a First Amended Complaint ("Complaint" or "Action"). Defendant filed an answer to the Complaint on July 23, 2009.

1.9 Complaint Deemed Amended

This Consent Judgment amends the Complaint, effective as of March 27, 2009, such that all allegations in the Complaint regarding "Vitamin Supplements" (or "vitamin supplements") sold, manufactured, and/or distributed by Defendant are replaced by allegations regarding the Covered Products.

1.10 No Admissions or Findings

Defendant denies the material, factual and legal allegations contained in Plaintiff's Complaint and maintains that all Covered Products that it sold and distributed in California have been and are in compliance with all laws, including Proposition 65. The parties enter into this Consent Judgment pursuant to a settlement of certain disputed claims between the parties as alleged in the Complaint for the purpose of avoiding prolonged and costly litigation between the parties hereto. By execution of this Consent Judgment, Defendant does not admit any facts or conclusions of law suggesting or demonstrating any violations of Proposition 65, the Unfair Competition Act, or any other statutory, common law or equitable requirements relating to the Covered Products. Nothing in this Consent Judgment shall be construed as an admission by Defendant of any fact, issue of law, or violation of law. Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, or defense Defendant may have in this or any other or future legal proceedings. However, this Section shall

not diminish or otherwise affect the obligations, responsibilities, and duties of Defendant under this Consent Judgment. By execution of this Consent Judgment, the People do not admit any facts or conclusions of law concerning any violations of Proposition 65, the Unfair Competition Act, or any other statutory, common law or equitable requirements relating to the Covered Products. Nothing in this Consent Judgment shall be construed as an admission by the People of any fact or issue of law, nor shall entering into the Consent Judgment constitute or be construed as an admission by the People of any fact or issue of law. Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, or argument the People may have in this or any other or future legal proceedings.

1.11 Consent to Jurisdiction

For purposes of this Consent Judgment only, the parties stipulate that this Court has jurisdiction over Defendant as to the allegations contained in the Complaint, that venue is proper in the County of Alameda, and that this Court has jurisdiction to enter and enforce the provisions of this Consent Judgment. This Consent Judgment shall have no application or effect on Defendant for Covered Products or other products distributed or sold by Defendant to consumers outside of the state of California.

1.12 Effective Date

For purposes of this Consent Judgment, the term "Effective Date" shall mean the date this Consent Judgment is entered by the Court.

2. INJUNCTIVE RELIEF/ PERMANENT INJUNCTION

2.1. On and after March 1, 2012, Defendant shall be permanently enjoined and restrained, pursuant to Health & Safety Code §25249.7 and Business and Professions Code § 17203, from manufacturing for sale in California, Distributing into California, or directly selling to a consumer in California any Covered Product for which the maximum daily dose recommended on the label contains more than 0.5 micrograms of lead, after subtracting out the amount of lead deemed "naturally occurring" for each ingredient listed in Table 2.4 below that is present in the Covered Product, as described in Section 2.4 below, unless such Covered Product complies with the warning requirement set forth in Section 2.2 below. This injunction shall not

apply to individual units of Covered Product that Defendant puts into the stream of commerce before March 1, 2012. To put into the stream of commerce means the individual unit of Covered Product was put into final packaging for consumer sale, Distributed into California, or sold in California by Defendant. Defendant shall not reduce the recommended dose (by size, number of tablets, volume, weight, or frequency) of a Covered Product solely to avoid the warning requirement of Section 2.1. Nothing in this Consent Judgment shall impair or limit the ability of Defendant to reformulate, relabel, or alter the dose of any Covered Product for other reasons.

2.2. *Clear and Reasonable Warnings.* For those Covered Products that are subject to the warning requirement of Section 2.1, Defendant shall provide one of the following warnings ("Warning") as specified below:

> **[California Residents Proposition 65] WARNING [(California Proposition 65)]:** This product contains [lead,] [a] chemical[s] known [to the State of California] to cause [cancer and] birth defects or other reproductive harm.

> **[California Residents Proposition 65] WARNING [(California Proposition 65)]:** This product contains [lead,] [a] substance[s] known [to the State of California] to cause [cancer and] birth defects or other reproductive harm.

(The text in brackets in the warnings above is optional, except that the term "cancer" must be included if the maximum daily dose recommended on the label contains more than 15 micrograms of lead after subtracting out the amount of lead deemed "naturally occurring" for each ingredient listed in Table 2.4 below that is present in the Covered Product.)

(a) For sales in retail stores, the Warning may be provided by either of the following methods, (1) Identifying Signs and Designated Symbol in Retail Stores, or (2) Other Clear and Reasonable Warnings in Retail Stores, below:

(1) *Identifying Signs and Designated Symbol in Retail Stores.* In retail stores, the Warning may be provided through the use of a system that combines both a designated symbol and an identifying sign that explains the meaning of the designated symbol. The designated symbol ("Symbol") shall be the Symbol shown on Exhibit C and shall appear as shown on Exhibit C, with black "Prop 65" and "!" text, black border, and yellow background, wherever it is displayed.

(A) *Covered Products Displayed in Retail Stores: Signs.*

(i) Form of Sign. A Sign shall be rectangular and at least 36 square inches in size, with the word "WARNING" centered one-half of an inch from the top of the sign all in one-half inch capital letters. For the body of the warning message, left and right margins of at least one-half of an inch, and a bottom margin of at least one-half inch shall be observed. The Symbol must be at least one inch high. Larger signs shall bear substantially the same proportions of type size and spacing to sign dimension as a sign that is 36 square inches in size. Unless modified by agreement of the parties, the sign shall contain the following text (text in brackets is optional, except as described above):

WARNING:
CALIFORNIA PROPOSITION 65
Products with the symbol
[Shown on Exhibit C]
contain [lead,] [a] chemical[s] known to
the State of California to
cause [cancer and] birth defects
or other reproductive harm

(ii) Placement of Sign. Signs shall be placed in each California establishment in which any of Defendant's Covered Products that requires a warning are sold. Where a retail establishment sells only products that do not require a warning, it is not required to post the Sign. Signs shall not be covered or obscured, and shall be placed and displayed in a manner rendering them likely to be read and understood by an ordinary individual prior to purchase. At least one Sign shall be posted in each aisle or on each shelf or display where the Covered Products for which the warning is being provided are offered or displayed for sale, unless the retail establishment has less than 7,500 square feet of retail space and no more than two cash registers, or the retail establishment's principal purpose is to sell dietary supplements, in which case the Sign may be posted at each cash register. Additional signs shall be posted as are necessary to assure that any potential purchaser of Covered Products would be reasonably likely to see a Sign prior to purchase.

(iii) Defendant shall provide an exemplar Sign to the central purchasing office for all distributors and retail establishments with whom Defendant transacts business for sale of the Covered Products in California that require a warning. Defendant shall send to each such entity instructions, substantially similar to the sample letter attached as Exhibit D, to post the Sign (in the case of a retailer) or request that retailers post the Sign (in the case of a distributor) in accordance with this Consent Judgment, and shall request a response to Defendant with a written acknowledgment that the Sign will be posted (in the case of a retailer), or that the distributor shall request retailers to post the Sign, within 30 days of receipt of the instructions. Defendant shall send a follow-up communication, substantially similar to the sample letter attached as Exhibit E, to entities who were sent the original instructions and who did not timely send an acknowledgment. Defendant shall maintain files demonstrating compliance with this provision, including the communications sent and receipts of any acknowledgments from retailers and distributors, which shall be provided to the Attorney General on written request. If Defendant learns that a retailer, distributor, or other person has failed to, or failed to request another entity to, post or maintain the Sign in accordance with subsection (ii) above, Defendant shall stop providing Covered Products to such retailer, distributor, or other person until it verifies that compliance with the terms of subsection (ii) above is achieved.

(iv) If Defendant complies with the terms of subsection (iii) above, it shall not be found to have violated this Consent Judgment where a retail store, distributor, or other person fails to, or fails to request another entity to, post or maintain the Sign in accordance with this Consent Judgment.

(B) *Covered Products Sold in Retail Stores: Symbol.* The Symbol shall be prominently displayed with such conspicuousness, as compared with other words, statements, designs, or devices used at the point the Covered Product is offered for sale, as to render the Symbol likely to be seen by an ordinary individual prior to purchase. The Symbol shall be displayed on or adjacent to the Covered Products in any one or more of the following locations:

(i) The Symbol may be permanently affixed to or prominently printed on any placards, signs, or shelf stickers adjacent to the Covered Product that identify the name or

price of the Covered Product displayed, in which case the Symbol shall be at least as tall as the largest letter or numeral in the name or price of the Covered Product; or

(ii) The Symbol may be permanently affixed to or printed on (at the point of manufacture, prior to shipment to California, or prior to distribution within California) the outside packaging or container of each unit of the Covered Product, in which case the Symbol must be large enough that the text "Prop 65" and "!" are in a type size no smaller than 6 point, and in no case shall the Symbol be less than one-quarter inch (0.25 inch) high; or

(iii) The Symbol may be permanently affixed to or printed on a "hang tag" secured to the container of each unit of the Covered Product, in which case the Symbol shall be at least one-half inch tall.

(2) *Other Clear and Reasonable Warnings in Retail Stores.* In stores not using the Identifying Signs and Designated Symbol in Retail Stores system described above in Section 2.2(a)(1), the Warning shall be permanently affixed to or printed on (at the point of manufacture, prior to shipment to California, or prior to distribution within California) the outside packaging or container of each unit of the Covered Product, or on a "hang tag" secured to the container of each unit of the Covered Product. The Warning shall be displayed with such conspicuousness, as compared with other words, statements, designs, or devices on the packaging or labeling, as to render it likely to be read and understood by an ordinary individual prior to purchase. If the Warning is displayed on the product container or labeling, the Warning shall be at least the same size as the largest of any other health or safety warnings on the product container or labeling, and the word "warning" shall be in all capital letters and in bold print. If printed on the labeling itself, the Warning shall be contained in the same section of the labeling that states other safety warnings concerning the use of the product.

(b) For Covered Products sold to California consumers through the Internet, the Warning shall be prominently displayed on each webpage describing the ingredients or attributes of the Covered Product, or the Warning may be provided at the time the customer enters a California address for the shipping address. For sales of Covered Products to California consumers through websites of third parties not affiliated with Defendant, where the Covered Product may be

returned by the consumer for a full refund with no extra charge or shipping or handling fee, the Warning may alternatively be displayed on the outside packaging or container of each unit of the Covered Product or on an invoice that accompanies the shipment of the Covered Product. In all circumstances, the Warning shall be displayed with such conspicuousness, as compared with other words, statements, designs, or devices on the webpages, packaging, container, or invoice, as to render it likely to be read and understood by an ordinary individual prior to use. The Warning shall be at least the same size as the largest of any other health or safety warnings on the webpage, invoice, or product packaging, and the word "warning" shall be in all capital letters and in bold print. A Warning printed on an invoice must be in a type size at be at least as tall as the largest letter or numeral in the name or price of the Covered Product printed on the invoice. The requirements of this paragraph may be modified by written agreement between Defendant and the People.

(c) For Covered Products sold to California consumers through a printed catalog, the Warning shall be prominently displayed on a catalog page describing the ingredients or attributes of the Covered Product. Where the Covered Product may be returned by the consumer for a full refund with no extra charge or shipping or handling fee, the Warning may alternatively be displayed on the outside packaging or container of each unit of the Covered Product or on an invoice that accompanies the shipment of the Covered Product. The Warning shall be displayed with such conspicuousness, as compared with other words, statements, designs, or devices on the catalog page, invoice, or product packaging, as to render it likely to be read and understood by an ordinary individual prior to the time of use. The Warning shall be at least the same size as the largest of any other health or safety warnings on the catalog page, invoice, or product packaging, and the word "warning" shall be in all capital letters and in bold print. A Warning printed on an invoice must be in a type size at be at least as tall as the largest letter or numeral in the name or price of the Covered Product printed on the invoice.

(d) For sales and distribution of Covered Products not described in subsections (a), (b), and (c), above, the Warning shall be provided at the point of sale or distribution prior to purchase by the consumer. The Warning shall be displayed with such conspicuousness, as compared with

other words, statements, designs, or devices, as to render it likely to be read and understood by an ordinary individual prior to purchase. The Warning shall be at least the same size as the largest of any other health or safety warnings presented, and the word "warning" shall be in all capital letters and in bold print.

2.3. The warning requirements set forth herein are imposed pursuant to the terms of this Consent Judgment, and are recognized by the parties as not being the exclusive methods of providing a warning for the Covered Products under Proposition 65 and its implementing regulations.

2.4. Calculation of Lead Content

For the purposes of Section 2.1 of this Consent Judgment, the amount of lead deemed "naturally occurring" in a Covered Product is the sum of the amounts of "naturally occurring" lead supplied by the quantity of each ingredient listed in Table 2.4 that is present in the maximum daily dose recommended on the label of Covered Product. For each ingredient, the amount of "naturally occurring" lead is listed in Table 2.4 in micrograms ("mcg") of "naturally occurring" lead per gram of the ingredient contained in the maximum daily dose recommended on the label of Covered Product. If the amount of elemental calcium contained in the maximum daily dose recommended on the label of a Covered Product exceeds 1500 milligrams, then the amount of "naturally occurring" lead supplied by each ingredient listed in Table 2.4 is limited to that amount of lead supplied by the quantity of the ingredient that would be contained in that fraction of the maximum daily dose of the Covered Product that would supply only 1500 milligrams of elemental calcium.

TABLE 2.4

INGREDIENT	NATURALLY OCCURRING AMOUNT OF LEAD
Calcium (elemental)	0.8 mcg Pb per gram of elemental Calcium
Ferrous Fumarate	0.4 mcg Pb per gram of Ferrous Fumarate
Zinc Oxide	8.0 mcg Pb per gram of Zinc Oxide
Magnesium Oxide	0.4 mcg Pb per gram of Magnesium Oxide
Magnesium Carbonate	0.332 mcg Pb per gram of Magnesium Carbonate
Magnesium Hydroxide	0.4 mcg Pb per gram of Magnesium Hydroxide
Zinc Gluconate	0.8 mcg Pb per gram of Zinc Gluconate
Potassium Chloride	1.1 mcg Pb per gram of Potassium Chloride

2.5. Modification of "Naturally Occurring" Allowance

(a) In the event that the Attorney General determines that the naturally occurring levels set forth in Table 2.4 of Section 2.4 above are higher than the "lowest level currently feasible," as stated in California Code of Regulations, title 27, section 25501, the Attorney General shall have the right to seek a modification of the Consent Judgment to reflect the alleged "lowest level currently feasible" of naturally occurring lead in the specified ingredients. Prior to seeking such modification, the Attorney General shall provide written notice to Defendant that the Attorney General intends to seek the modification. The parties shall have ninety (90) days in which to confer with the Attorney General concerning the modification. If Defendant and the Attorney General are unable to agree on a modification to the Consent Judgment, the Attorney General may file a motion with the Court seeking a modification of the Consent Judgment. In any motion by the Attorney General seeking such a modification, the burden of producing evidence shall be initially upon the Attorney General to demonstrate a prima facie case that the modification sought by the Attorney General is the "lowest level currently feasible." A Defendant who does not agree to such modification retains the ultimate burden of proving that the modification sought by the Attorney General is lower than the "lowest level currently feasible." The parties hereby agree that the Consent Judgment should be modified to reflect any agreement

of the parties or any determination by the Court concerning what is the "lowest level currently feasible" for lead in the specified ingredients.

(b) In the event that Defendant determines that the naturally occurring levels set forth in Table 2.4 of Section 2.4 above are lower than the "lowest level currently feasible," as stated in California Code of Regulations, title 27, section 25501, Defendant shall have the right to seek modification of the Consent Judgment to reflect the alleged "lowest level currently feasible" of naturally occurring lead in the specified ingredients. Prior to seeking such modification, Defendant shall provide written notice to the Attorney General that it intends to seek the modification. The parties shall have ninety (90) days in which to confer concerning the modification. If the parties are unable to agree on a modification to the Consent Judgment, Defendant may file a motion with the Court seeking a modification of the Consent Judgment. In any motion by Defendant seeking such modification, the burden of producing evidence and of proof shall be on Defendant to prove that the modification sought by the Defendant is the "lowest level currently feasible." The parties hereby agree that the Consent Judgment should be modified to reflect any agreement of the parties or any determination by the Court concerning what is the "lowest level currently feasible" for lead in the specified ingredients.

(c) The term "feasible" as used in Section 2.5 includes, but is not limited to, a consideration of the following factors: availability and reliability of a supply of low-lead ingredients that meet the requirements set forth in Section 2.4; cost of low-lead ingredients and resulting increase in manufacturers' prices resulting from the use of the low-lead ingredients; performance characteristics of low-lead ingredients and of the resulting Covered Products, including, but not limited to, formulation, performance, safety, efficacy, and stability. Nothing in this Consent Judgment shall be interpreted to require Defendant to use any ingredient in a Covered Product that would render the Covered Product unlawful under state or federal law as measured by existing and/or future applicable California and federal food and drug laws and regulations.

2.6. Testing

(a) Once a year, on or before the anniversary of the entry of the Consent Judgment (or, in the case of a New Product deemed to be a Covered Product pursuant to Section 9, prior to the time it is Distributed into California or directly sold to a consumer in California), Defendant shall test for lead content, or require its supplier to test for lead content, randomly-selected samples of each Covered Product (in the form intended for sale to the end-user) for which a batch or lot was manufactured in the preceding twelve months. This testing requirement does not apply to a Covered Product for which Defendant has provided the warning specified in Section 2.2 since the Effective Date or during the preceding twelve months, whichever is the more recent period, nor does it apply to a Covered Product during any time period in which Defendant has provided the warning specified in Section 2.2. The method of selecting samples for testing must comply with the regulations of the Food and Drug Administration as set forth in 21 Code of Federal Regulations part 111, subpart E, including part 111.80(c) (2011). This testing requirement will no longer apply to Covered Products identified on Exhibit A or to New Products if those products are reformulated so that they no longer meet the definition of Covered Products contained in Section 1.5.

(b) Testing for lead shall be performed using a laboratory method that complies with the performance and quality control factors appropriate for the method used (including limit of detection, limit of quantification, accuracy, and precision) and that meets either of the following sets of criteria:

(1) Closed-vessel, microwave-assisted acid digestion employing high-purity reagents, followed by Inductively Coupled Plasma-Mass Spectrometry (ICP-MS), achieving a limit of quantification of ≤ 0.060 mg/kg, or any other testing method previously agreed upon in writing by the parties; or

(2) Heat-assisted acid digestion employing high-purity reagents, followed by Inductively Coupled Plasma-Mass Spectrometry (ICP-MS), achieving a limit of quantification of ≤ 0.060 mg/kg.

Defendant acknowledges that the method specified in (b)(2) may be a less accurate method of determining the lead content of its products than (b)(1) and may tend to underreport the actual amount of lead present in the product. If Defendant elects to use method (b)(2) for testing any Covered Product, and the results of the test report an amount of lead that would lead to an exposure of more than 0.35 micrograms of lead per day, based on the maximum daily dose recommended on the label of the Covered Product, then prior to distributing into California or directly selling in California that Covered Product Defendant shall re-test the product using the method outlined in (b)(1) and shall disregard the results of the first test.

(c) Defendant shall provide any test results and documentation within fifteen (15) working days of any written request from the People, and shall retain all test results and documentation for a period of four (4) years from the date of the test. All test results for lead content, once provided to the Attorney General, shall be public documents, but Defendant may redact any test reports to remove results of tests for chemicals other than lead. Absent good cause, the People shall not request test data from Defendant pursuant to this Section 2.6 more frequently than twice a year.

(d) If tests conducted pursuant to subsection (b) demonstrate that no warning is required for a Covered Product during each of four (4) consecutive years, then the testing requirements of this Section 2.6 are suspended as to that Covered Product until there is a material change in the product's formula, manufacturing process, ingredients, or recommended dosage, at which time the testing requirements applicable to New Products in subsection (a) shall apply; however, such suspension of the testing requirements does not suspend or waive any other requirement of this Consent Judgment, including any obligation to provide a warning pursuant to Section 2.1.

(e) Nothing in this Consent Judgment shall limit Defendant's ability to conduct, or require that others conduct, additional testing of the Covered Products, including the raw materials used in their manufacture.

(f) This Consent Judgment, including the testing and sampling methodology set forth in this Section, is the product of negotiation and compromise, and is accepted by the parties for purposes of settling, compromising, and resolving issues disputed in this action, including future

compliance by Defendant with Section 2 of this Consent Judgment, and shall not be used for any other purpose, or in any other matter and, except for the purpose of determining future compliance with this Consent Judgment, shall not constitute an adoption or employment of a method of analysis for a listed chemical in a specific medium as set forth in California Code of Regulations, title 27, section 25900, subdivision (g).

2.7. Nothing in the Consent Judgment shall preclude Defendant from seeking to modify this Consent Judgment pursuant to Section 8.1 to establish that any ingredient or ingredients not set forth in Table 2.4 of Section 2.4 of this Consent Judgment contain(s) lead that is naturally occurring at the lowest level currently feasible as stated in California Code of Regulations, title 27, section 25501.

3. SETTLEMENT PAYMENTS

Based on test results of the Released Product and sales information provided by Defendant and the other relief provided in this Consent Judgment, Defendant will pay no civil penalty or other payment. Each settling party shall bear its own costs and attorney fees.

4. ENFORCEMENT OF CONSENT JUDGMENT

(a) In the event that the People believe that Defendant is in violation of any provision of this Consent Judgment, the People shall provide written notice of such alleged violation to Defendant. The Parties must meet and confer regarding the alleged violation within twenty (20) business days of Defendant's receipt of the notice. After sending such a notice of alleged violation, and notwithstanding the meet-and-confer obligation in the preceding sentence, the People may, by motion or order to show cause before the Superior Court of Alameda County, enforce the terms and conditions contained in this Consent Judgment. In any action brought by the People to enforce this Consent Judgment, the People may seek whatever fines, costs, penalties, or remedies as are provided by law for failure to comply with the Consent Judgment. Where said failure to comply constitutes a violation of Proposition 65, unfair competition, as defined by Business and Professions Code section 17200, or a violation of other laws, the People are not limited to enforcement of this Consent Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are provided by law for failure to comply with Proposition

65 or other laws or for engaging in unfair competition. The rights of Defendant to defend itself and its actions in law or equity shall not be abrogated or reduced in any fashion by the terms of this Section 4.

(b) If, after the date this Consent Judgment is executed by Defendant, Defendant receives or becomes aware of a notice of alleged violation pursuant to California Health and Safety Code section 25249.7, subdivision (d), alleging that a Covered Product has caused an exposure to lead in violation of section 25249.6, and the Defendant provides evidence to the People, within thirty (30) days of receipt or knowledge of such notice of alleged violation, that either (1) the Covered Product would not have required a warning under the standards set out in Section 2.1 had they then been applicable, or (2) Defendant has discontinued, reformulated, or relabeled the Covered Product such that a warning is no longer required under Section 2.1, then Defendant and the People shall meet and confer respecting such matter within thirty (30) days of the People's receipt of such evidence. As a result of those discussions between the People and Defendant, the People may seek to modify this Consent Judgment to add the Covered Product that is the subject of the notice of alleged violation to the list of Released Products if the Defendant and the People agree on such modification. Otherwise, the People may take such other action as allowed by law, or the People may elect to take no action respecting such Covered Product.

5. COVERED CLAIMS

This Consent Judgment is a full, final, and binding resolution between the People and Defendant, its parents, shareholders, divisions, subdivisions, subsidiaries, sister companies, affiliates, and cooperative members (collectively, the "Covered Entities"), and with the licensors, licensees, retailers, distributors, wholesalers, upstream suppliers, contract manufacturers, agents, representatives of the Covered Entities, and the officers, directors, employees, attorneys, agents, representatives, predecessors, successors, and assigns of any of the above, of any violation of Proposition 65 or its implementing regulations, any acts of unfair competition, as defined by Business and Professions Code sections 17200, or any violation of any other statutory or common law that have been or could have been asserted in the Action for failure to provide clear and reasonable warnings required by Proposition 65 of exposure to lead from use of the Released

Products, or any other claim based on the facts or conduct alleged in the Complaint as to such Released Products. Defendant waives any claims against the People based on the filing or prosecution of the Action. Compliance with all of the requirements of Section 2 constitutes compliance with Proposition 65 and Business and Professions Code sections 17200 et seq. with respect to any obligation of Defendant to provide a warning as to the lead content of any Covered Product.

6. COURT APPROVAL

The People shall submit this Consent Judgment to the Court for its approval and entry in the Action.

7. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter to implement the Consent Judgment, including modifications to add products to the list of Released Products, and to enforce the Consent Judgment and enable the collection of additional civil penalties and costs, if appropriate, under the terms of the Consent Judgment.

8. MODIFICATION

8.1 This Consent Judgment may be modified from time to time by express written agreement of the parties, with the approval of the Court, or by an order of this Court. Before filing an application with the Court for a modification to this Consent Judgment, the Parties shall meet and confer with each other to determine whether each will consent to the proposed modification. If a proposed modification is agreed upon, then the Parties will present the modification to the Court by means of a stipulated modification to the Consent Judgment. Grounds for considering modification shall include any that are permitted by law, including but not limited to the grounds set forth below.

8.2 If the Attorney General subsequently agrees in a settlement or judicially-entered injunction or consent judgment that vitamin supplements made with the same ingredients as, and having a composition similar to, any of Defendant's Covered Products do not require a warning under Proposition 65, or that a modified warning for such vitamin supplements is appropriate that differs from that imposed in this Consent Judgment, or establishes allowances for naturally-

occurring lead in ingredients used in any of Defendant's Covered Products; or a court of competent jurisdiction renders a final judgment in a case brought by the Attorney General that eliminates the warning requirement for vitamin supplements made with the same ingredients as, and having a composition similar to, any of Defendant's Covered Products, or that modifies the warning requirement for such vitamin supplements, either by establishing allowances for naturally-occurring lead or otherwise, then Defendant shall be entitled to seek to modify the terms of this Consent Judgment to make it consistent with the Attorney General agreement or Court judgment described herein. The parties intend that this Consent Judgment may be modified to allow Defendant to take advantage of allowances for naturally-occurring lead in ingredients that are used in any of Defendant's Covered Products that may be established in such Attorney General agreement or Court judgment described herein.

9. NEW PRODUCTS

A "New Product" means either of the following: (1) a product that is intended to substantially replace or be substantially duplicative of a Covered Product identified on Exhibit A hereto and that meets the definition of a Covered Product; or (2) a new product formulation which, had it existed on the date Defendant executed this Consent Judgment, would have met the definition of a Covered Product. Each New Product is deemed also to be a Covered Product. Defendant shall not manufacture for sale in California, Distribute into California, or directly sell to a consumer in California any New Product unless the New Product adheres to the requirements of this Consent Judgment with respect to Covered Products. On or prior to March 1 of each year, Defendant shall send written notice to the Office of the Attorney General listing any New Products it manufactured for sale in California, Distributed into California, or directly sold in California during the previous calendar year for which such notice has not previously been provided. The notice requirement in the preceding sentence terminates five (5) years from the Effective Date of this Consent Judgment. Defendant shall not be deemed in violation of this Consent Judgment if there is an inadvertent error or omission on the annual New Products list submitted to the People, provided that Defendant provides corrected information to the People within fifteen (15) days of discovery of the inadvertent error or omission.

10. SEVERABILITY

If, subsequent to the execution of this Consent Judgment, any of the provisions of this Consent Judgment are held by a Court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

11. ENTIRE AGREEMENT

This Consent Judgment contains the sole and entire agreement and understanding of the parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments, and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the parties.

12. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the State of California and apply within the State of California.

13. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class, registered or certified mail, return receipt requested; or (ii) overnight courier to any party at the following addresses:

To Defendant:

Peg Carew Toledo, Esq.
Mennemeier, Glassman & Stroud LLP
980 9th Street, Suite 1700
Sacramento, CA 95814

Steve Snyder, CEO
21st Century Healthcare, Inc.
2119 South Wilson Street
Tempe, AZ 85282-2034

To the Office of the Attorney General:

Laura J. Zuckerman, Esq.
Timothy E. Sullivan, Esq.
California Department of Justice
P.O. Box 70550
1515 Clay Street, Suite 2000
Oakland, CA 94612

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

IT IS SO ORDERED, ADJUDGED, AND DECREED:

Dated: June 19, 2012

JUDGE OF THE SUPERIOR COURT

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EXHIBIT A: Covered Products

[See attached four-page list.]

21st Century brand

UPC No.	Description
7-40985- 22667-4	Antioxidant
7-40985- 22668-1	B Complex w/C
7-40985- 22282-9	B-100 Complex PR
7-40985- 22251-5	B-50 Complex PR
7-40985- 22263-8	Cal Mag Zinc +D
7-40985- 27070-7	Calcium 1000 mg +D
7-40985- 22296-6	Calcium 500 mg (Oyster Shell)
7-40985- 22723-7	Calcium 500 mg (Oyster Shell)
7-40985- 22726-8	Calcium 500 mg (Oyster Shell)
7-40985- 22336-9	Calcium 500 mg +D (Oyster Shell)
7-40985- 22725-1	Calcium 500 mg +D (Oyster Shell)
7-40985- 22727-5	Calcium 500 mg +D (Oyster Shell)
7-40985- 22724-4	Calcium 600 mg
7-40985- 22728-2	Calcium 600 mg
7-40985- 22257-7	Calcium 600 mg
7-40985- 22305-5	Calcium 600 mg +D
7-40985- 22722-0	Calcium 600 mg +D
7-40985- 22729-9	Calcium 600 mg +D
7-40985- 27287-9	Calcium 600 mg +D Plus Minerals
7-40985- 22318-5	Calcium Citrate
7-40985- 21585-2	Calcium Citrate +D
7-40985- 22332-1	Calcium Citrate +D
7-40985- 23019-0	Calcium Citrate +D
7-40985- 21501-2	Calcium Citrate +D
7-40985- 22326-0	Calcium Plus
7-40985- 22773-2	CoraCal
7-40985- 22777-0	Coral Calcium 1000 mg
7-40985- 22818-0	Diabetic Support Formula
7-40985- 27006-6	Estro Support
7-40985- 27007-3	Estro Support ES
7-40985- 21377-3	Folic Acid 400 mcg
7-40985- 22563-9	Folic Acid 800 mcg
7-40985- 21434-3	Hair, Skin & Nails
7-40985- 22319-2	Healthy Eyes
7-40985- 22814-2	Healthy Eyes Extra
7-40985- 27071-4	Healthy Eyes Lutein
7-40985- 22815-9	Healthy Eyes SuperVision
7-40985- 27336-4	Healthy Eyes SuperVision
7-40985- 27337-1	Healthy Eyes SuperVision
7-40985- 22653-7	Liquid Filled Calcium 600 +D
7-40985- 22713-8	Magnesium 250 mg
7-40985- 22658-2	Mega Multi for Men
7-40985- 22659-9	Mega Multi for Women
7-40985- 27072-1	MgO 400 mg
7-40985- 27354-8	One Daily Adults 50+
7-40985- 27355-5	One Daily Cholesterol Health

7-40985- 27302-9	One Daily Energy
7-40985- 27303-6	One Daily Essential
7-40985- 27304-3	One Daily Maximum
7-40985- 27306-7	One Daily Men's 50+
7-40985- 27305-0	One Daily Men's Health
7-40985- 27307-4	One Daily Weight Control
7-40985- 27308-1	One Daily Women's
7-40985- 27309-8	One Daily Women's 50+
7-40985- 27342-5	One Daily Women's Active Metabolism
7-40985- 27310-4	PreNatal
7-40985- 27175-9	PreNatal + DHA
7-40985- 27008-0	Psyllium + Calcium
7-40985- 22380-2	Sentry
7-40985- 27318-0	Sentry
7-40985- 22702-2	Sentry
7-40985- 27317-3	Sentry
7-40985- 27341-8	Sentry Cardio Support
7-40985- 27349-4	Sentry Cardio Support
7-40985- 27311-1	Sentry Perform
7-40985- 22390-1	Sentry Senior
7-40985- 27316-6	Sentry Senior
7-40985- 22703-9	Sentry Senior
7-40985- 22327-7	Stress B
7-40985- 22342-0	Stress B + Iron
7-40985- 22331-4	Stress B + Zinc
7-40985- 22368-0	Therapeutic M
7-40985- 27315-9	Zoo Friends Complete
7-40985- 27312-8	Zoo Friends Little Ones
7-40985- 27372-2	Zoo Friends Multi Gummies
7-40985- 27313-5	Zoo Friends w/ Extra C
7-40985- 27314-2	Zoo Friends w/ Iron

Bulk #	Bulk Description
500514	Anti-Oxidant tb
500515	B Complex w/C tb
500302	Balanced B 100 PR tb
500303	Balanced B 50 PR tb
500355	Cal Mag Zinc +D tb
500828	Calcium 1000mg +D tb
500100	Calcium 500mg +D OS tb
500104	Calcium 500mg OS tb
500947	Calcium 600+D & Minerals chw
500519	Calcium 600mg +D sg
500029	Calcium 600mg +D tb
500025	Calcium 600mg tb
500033	Calcium Citrate +D tb
500032	Calcium Citrate tb
500323	Calcium Plus tb
500633	CoraCal cp
500701	Diabetic Multi Vit/Min tb
500798	Estro Support ES tb
500797	Estro Support tb
500058	Folic Acid 400mcg tb
500370	Folic Acid 800mcg tb
500078	Hair Skin & Nails tb
500639	Healthy Eyes Extra tb
500826	Healthy Eyes Lutein cp
500961	Healthy Eyes Supervision sg
500638	Healthy Eyes Supervision tb
500307	Healthy Eyes tb
500478	Magnesium 250mg tb
500506	Mega Multi for Men tb
500507	Mega Multi for Women tb
500557	One Daily + Iron tb
500965	One Daily Active Metabolism tb
500319	One Daily Adults 50+ tb
500796	One Daily Cholesterol Health tb
500849	One Daily Energy tb
500098	One Daily Essential tb
500099	One Daily Maximum tb
500860	One Daily Men's Advantage 50+ tb
500321	One Daily Men's tb
500684	One Daily Weight Control tb
500861	One Daily Women's Advantage 50+ tb
500308	One Daily Women's tb
500105	Prenatal tb
500800	Psyllium + Calcium cp
500964	Sentry Cardio tb
500508	Sentry Perform
500771	Sentry Senior tb
500772	Sentry tb
500119	Stress B tb
500322	Stress B w/Iron tb
500120	Stress B w/Zinc tb
500123	Therapeutic M tb
500127	Zoo Friends + Iron chw
500294	Zoo Friends +C chw
500293	Zoo Friends chw

500526	Zoo Friends Complete chw
90738	Zoo Friends Multi gummy 60

EXHIBIT B: Released Products

Mega Multi for Women

EXHIBIT C: Designated Symbol

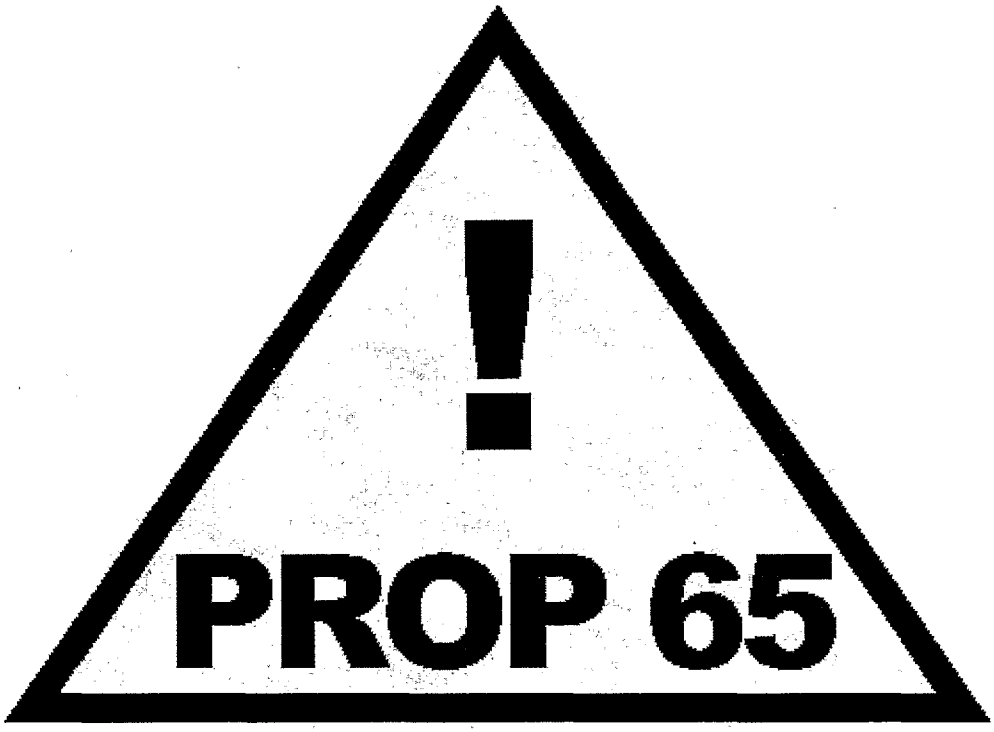

EXHIBIT D: Letter to Retailers and Distributors

(For use if Defendant provides sign and symbol warnings pursuant to Section 2.2(a))

THIS COMMUNICATION APPLIES ONLY TO RETAIL LOCATIONS IN CALIFORNIA

[Defendant] has entered into a consent judgment with the Attorney General for the State of California regarding the presence of lead in specified dietary supplements sold in California.

Under the terms of this consent judgment, [Defendant] is providing the enclosed sign warnings to you so that they can be posted in retail stores selling any of the specified dietary supplements identified below in California.

If you are a retailer, we request that you post copies of these signs in or on any shelf(ves), displays, or aisle(s) where the identified products are sold. If you are a distributor, we request that you provide these signs to all retailers to whom you distribute the identified products and instruct them to post copies of these signs in or on any shelf(ves), displays, or aisle(s) where the identified products are sold. Alternatively, if any store has less than 7,500 square feet of retail space and no more than two cash registers, or the store's principal purpose is to sell dietary supplements, the sign may be posted at each cash register. The signs may not be covered or obscured, and should be placed and displayed in such a way that they are likely to be read and understood by customers.

Please sign and return the written acknowledgment below within 30 days of receiving this letter to acknowledge that you have received the signs and that they will be posted in accordance with these specifications until you receive written instruction from [Defendant] to the contrary.

Thank you for your cooperation. If you need more signs or have any questions, such as the appropriate sign locations for your specific retail store(s), please contact [Contact Information]

Acknowledged by:

_____ (Signature)

_____ (Print Name)

_____ (Company/Store Location)

_____ (Date)

List of Products

EXHIBIT E: Follow-Up Letter to Retailers and Distributors

(For use if Defendant provides sign and symbol warnings pursuant to Section 2.2(a))

THIS COMMUNICATION APPLIES ONLY TO RETAIL LOCATIONS IN CALIFORNIA

On [Date], [Defendant] sent you a letter enclosing sign warnings for posting in your stores in California, or stores in California to which you distribute its dietary supplements, pursuant to a consent judgment entered into between [Defendant] and the Attorney General for the State of California regarding the presence of lead in specified dietary supplements sold in California.

Copies of these signs are to be posted in or on any shelf(ves), displays, or aisle(s) where any of the specified dietary supplements identified below are sold in your stores in California or stores in California to which you distribute these supplements. Alternatively, if any store has less than 7,500 square feet of retail space and no more than two cash registers, or the store's principal purpose is to sell dietary supplements, the sign may be posted at each cash register. The signs may not be covered or obscured, and should be placed and displayed in such a way that they are likely to be read and understood by customers.

We have not received your written acknowledgment that you have received the signs and that your stores will post these signs, or, if you are a distributor, that you will provide the signs and instructions to retailers to whom you distribute the idenfied products. Please sign and return the written acknowledgement below as soon as possible to acknowledge that you have received the signs and that they will be posted or provided in accordance with these specifications until you receive written instruction from [Defendant] to the contrary.

Thank you for your cooperation. If you need more signs or have any questions, such as the appropriate sign locations for specific retail stores, please contact [Contact Information]

Acknowledged by:

_____ (Signature)

_____ (Print Name)

_____ (Company/Store Location)

_____ (Date)

List of Products