

FILED

OCT 09 2012

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Chen, Deputy

1 Michael Freund SBN 99687
2 Ryan Hoffman SBN 283297
3 Law Office of Michael Freund
4 1919 Addison Street, Suite 105
5 Berkeley, CA 94704
6 Telephone: (510) 540-1992
7 Facsimile: (510) 540-5543

8 Attorney for Plaintiff Environmental Research Center

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

10 **COUNTY OF MARIN**

11
12 **ENVIRONMENTAL RESEARCH CENTER,**
13 **a California non-profit corporation**

Case No. *LiV* **1204688**

14 **Plaintiff,**

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF AND
CIVIL PENALTIES**

15 **v.**

16 **ISAGENIX INTERNATIONAL, LLC and**
17 **DOES 1-100**

[Miscellaneous Civil Complaint (42)]
Proposition 65, Health & Safety Code
Section 25249.5 et seq.]

18 **Defendants.**

19 _____
20
21 Plaintiff Environmental Research Center hereby alleges:

22 **I**

23
24 **INTRODUCTION**

25
26 1. Plaintiff Environmental Research Center (hereinafter "Plaintiff" or "ERC") brings this
27 action as a private attorney general enforcer and in the public interest pursuant to Health & Safety
28 Code Section 25249.7 (d). This complaint seeks injunctive and declaratory relief and civil penalties
to remedy Defendant Isagenix International, LLC's ("Isagenix") failure to warn consumers that they

1 employees, or in some other manner, causing the harms alleged by ERC in this complaint. When
2 said true names and capacities of Does are ascertained, ERC will seek leave to amend this complaint
3 to set forth the same.
4

5 III

6 JURISDICTION AND VENUE

7 5. This Court has jurisdiction pursuant to California Constitution Article VI, Section 10 because
8 this case is a cause not given by statute to other trial courts.
9

10 6. The Complaint is based on allegations contained in Notices of Violation dated June 29,
11 2010, November 23, 2010, and December 23, 2010, served on the California Attorney General,
12 other public enforcers and Isagenix. A true and correct copy of the Notices of Violation is
13 attached hereto as Exhibit A. More than 60 days have passed since the Notices of Violation were
14 mailed and no public enforcement entity has filed a complaint in this case.
15

16 7. This Court is the proper venue for the action because the causes of action have arisen in the
17 County of Marin where some of the violations of law have occurred. Furthermore, this Court is the
18 proper venue under Code of Civil Procedure Section 395.5 and Health & Safety Code Section
19 25249.7.
20

IV

21 STATUTORY BACKGROUND

22 A. Proposition 65

23 8. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute passed as
24 "Proposition 65" by an overwhelming majority vote of the people in November of 1986.
25

26 9. The warning requirement of Proposition 65 is contained in Health & Safety Code Section
27 25249.6, which provides:
28

No 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, except as provided in Section 25249.10.

1 have been exposed to lead from several of the company's nutritional health products. Lead is a
2 chemical known to the State of California to cause cancer, birth defects and other reproductive
3 harm. Based on the Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety
4 Code Section 25249.5 *et seq.*) also known as "Proposition 65," businesses with ten or more
5 employees must provide a "clear and reasonable warning" prior to exposing persons to these
6 chemicals.
7

8 II

9 PARTIES

10
11 2. Plaintiff ERC is a California non-profit corporation dedicated to, among other causes, helping
12 safeguard the public from health hazards by bringing about a reduction in the use and misuse of
13 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and
14 encouraging corporate responsibility.
15

16 3. Defendant Isagenix is a business that manufactures, distributes and/or sells nutritional health
17 products that have exposed users to lead in the State of California within the relevant statute of
18 limitations period. These Covered Products include Isagenix Greens; IsaFruits; IsaLean Shake -
19 Natural Creamy Chocolate; Ionix Supreme; Isagenix International LLC Isalean Shake- French
20 Vanilla 30.10 oz; Isagenix International LLC Isalean Shake- Rich Chocolate 30.10 oz; Isagenix
21 International LLC Isalean Shake- Natural Creamy Vanilla 30.10 oz; and Isagenix International LLC
22 IsaFlush! 60 Capsules. Isagenix is a company subject to Proposition 65 as it employs ten or more
23 persons.
24

25 4. Defendants Does I-100, are named herein under fictitious names, as their true names and
26 capacities are unknown to Plaintiff. ERC is informed and believes, and thereon alleges, that each
27 of said Does is responsible, in some actionable manner, for the events and happenings hereinafter
28 referred to, either through said Defendant's conduct, or through the conduct of its agents, servants or

1
2 10. Implementing regulations for Proposition 65 provide that warnings are required for consumer
3 product exposures. A “consumer product exposure is an exposure which results from a person’s
4 acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer
5 good, or any exposure that results from receiving a consumer service.” 27 CCR Section 25601 (b).
6

7 11. Whenever a clear and reasonable warning is required under Health & Safety Code Section
8 25249.6, the “method employed to transmit the warning must be reasonably calculated considering
9 the alternative methods available under the circumstances, to make the warning message available
10 prior to exposure.” 27 CCR Section 25601. The warning requirement may be satisfied by a
11 warning that appears on a product’s label or other labeling, shelf labeling, signs, a system of signs,
12 public advertising identifying the system and toll-free information services, or any other, system,
13 that provides clear and reasonable warnings. *Id.*, Section 25603.1 (a) – (d).
14

15 12. Proposition 65 establishes a procedure by which the State is to develop a list of
16 chemicals “known to the State to cause cancer or reproductive toxicity.” Health & Safety Code
17 Section 25249.8. There is no duty to provide a clear and reasonable warning until 12-months after
18 the chemical was published on the State list. *Id.*, Section 25249.10 (b). Lead was listed as a
19 chemical known to the State of California to cause developmental toxicity and male and female
20 reproductive toxicity on February 27, 1987. Lead was listed as a chemical known to the State of
21 California to cause cancer on October 1, 1992. Title 27, Cal. Code Regs., Section 27001.
22

23 13. Proposition 65 may be enforced by any person in the public interest who provides notice
24 sixty days before filing suit to both the violator and designated law enforcement officials. The
25 failure of law enforcement officials to file a timely complaint enables a citizen suit to be filed
26 pursuant to Health & Safety Code Section 25249.7 (c).
27
28

1 14. Proposition 65 provides that any person “violating or threatening to violate” Proposition 65
2 may be enjoined in any court of competent jurisdiction. Health & Safety Code Section 25249.7 (a).
3 To “threaten to violate” means “to create a condition in which there is a substantial probability that a
4 violation will occur.” Id., Section 25249.11 (e). Furthermore, violators are subject to a civil penalty
5 of up to \$2,500 per day for each violation. Id., Section 25249.7 (b).
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V

STATEMENT OF FACTS

15. Isagenix has manufactured, distributed and/or sold the Covered Products containing lead to the State of California. Consumers have been ingesting these products for many years, without any knowledge of their exposure to lead, a very dangerous chemical.

16. For many years, Isagenix has knowingly and intentionally exposed numerous persons to lead, without providing a Proposition 65 warning. Prior to ERC’s Notice of Violations, Isagenix failed to provide a warning on the label of the Covered Products, nor was there any mention on the company’s website that the products contained lead. Isagenix has at all times relevant hereto been aware that the Covered Products contained lead and that persons using these products have been exposed to the chemical. The company’s website represents to the public that the products have natural ingredients, are extensively researched and tested in all phases of development and manufacturing to ensure its quality and safety, and possess healing and life enhancing properties. Isagenix has been aware of the lead in the Covered Products and has failed to disclose the presence of this chemical to the public, who undoubtedly believed they have been ingesting totally healthy and pure products.

17. Prior to ERC’s Notice of Violations, Isagenix failed to provide consumers of the Covered Products with a clear and reasonable warning that they have been exposed to a chemical known to the State of California to cause cancer, birth defects and other reproductive harm.

1
2
3 **FIRST CAUSE OF ACTION**

4 **(Violation of Section 25249.6 of the Health and Safety Code, Failure to Provide Clear**
5 **and Reasonable Warning under Proposition 65)**

6 18. ERC refers to paragraphs 1-17, inclusive, and incorporates them herein by this reference.

7 19. By committing the acts alleged above, Isagenix has, in the course of doing business,
8 knowingly and intentionally exposed users of the Covered Products to lead, a chemical known to
9 the State of California to cause cancer, birth defects and other reproductive harm without first giving
10 clear and reasonable warning to such individuals, within the meaning of Health & Safety Code
11 Section 25249.6.

12 20. Said violations render Isagenix liable for civil penalties up to \$2,500 (two thousand, five
13 hundred dollars) per day, for each violation.

14
15 **SECOND CAUSE OF ACTION**

16 **(Declaratory Relief)**

17 21. ERC refers to paragraphs 1-20, inclusive, and incorporates them herein by this reference.

18 22. There exists an actual controversy relating to the legal rights and duties of the parties,
19 within the meaning of Code of Civil Procedure Section 1060, between ERC and Isagenix
20 concerning:
21

22 a) whether Isagenix has exposed individuals to a chemical known to the State of California
23 to cause cancer, birth defects and other reproductive harm without providing clear and reasonable
24 warning.
25

26 **VI**

27 **PRAYER**

28 WHEREFORE ERC prays for relief as follows:

1 1. On the First Cause of Action, for civil penalties for each and every violation according to
2 proof;

3
4 2. On the First Cause of Action, and pursuant to Health & Safety Code Section 25249.7 (a), for
5 such temporary restraining orders, preliminary and permanent injunctive orders, or other orders,
6 prohibiting Isagenix from exposing persons to lead without providing clear and reasonable warning;

7 3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil
8 Procedure Section 1060 declaring:

9 a. that Isagenix has exposed individuals to a chemical known to the State of California to
10 cause, birth defects and other reproductive harm without providing clear and reasonable warning;
11 and
12

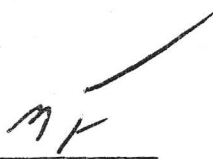
13 4. On all Causes of Action, for reasonable attorneys' fees pursuant to Section 1021.5 of the Code
14 of Civil Procedure or the substantial benefit theory;

15 5. For costs of suit herein; and

16 6. For such other relief as the Court may deem just and proper.
17

18 Dated: October 3, 2012

19 By



20
21 _____
22 Michael Freund
23 Attorney for Environmental Research Center
24
25
26
27
28

MICHAEL FREUND
ATTORNEY AT LAW
1915 ADDISON STREET
BERKELEY, CALIFORNIA 94704-1101

TEL 510/540-1992
FAX 510/540-5543
EMAIL FREUND1@AOL.COM

June 29, 2010

Re: Notice of Violation Against Isagenix International for Violation of California Health & Safety Code Section 25249.6

Dear Prosecutors:

I represent the Environmental Research Center ("ERC"), a non-profit California corporation whose mission is to safeguard the public from health hazards that impact families, workers and the environment. ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. ERC is located at 5694 Mission Center Road, # 199, San Diego, CA 92108. Through this Notice of Violation, ERC seeks to reduce exposure to the public from lead contained in the named products manufactured and distributed by Isagenix International.

This letter constitutes notification that Isagenix International located at 2225 S. Price Road, Chandler, AZ 85286 has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code).

In particular, this company has manufactured and distributed products which have exposed and continue to expose numerous individuals within California to lead. Lead was listed pursuant to Proposition 65 as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. Lead was listed pursuant to Proposition 65 as a carcinogen on October 1, 1992. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been oral through ingestion.

Isagenix International is exposing people to lead from the following products: Fiber Pro; Isagenix Greens; Antioxidants; Natural Accelerator; IsaFruits; IsaLean Shake - Natural Creamy Chocolate; Cleanse for Life; - Tropical Berry; and Ionix Supreme.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Isagenix International is in violation of Proposition 65 because the company failed to provide a warning to persons using their products that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to lead, without first providing clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A).

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and

the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to ERC from information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against Isagenix International unless the company agrees in an enforceable written instrument to: (1) reformulate these products so as to eliminate further lead exposures; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this Notice, ERC will focus its efforts in seeking a constructive resolution of this matter. Such resolution will avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: Chris Heptinstall, ERC
Karen Evans, Esq. ERC

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)


I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party Environmental Research Center (“ERC”). ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. The Notice of Violation alleges that the party identified has exposed persons in California to lead from products that it manufactures and distributes. Please refer to the Notice of Violation for additional details regarding the alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action. In particular, I have consulted with the laboratory that conducted the testing to determine the concentration of lead in the products identified in the Notice of Violation and I have relied on the testing results. The testing was conducted by a reputable testing laboratory with substantial experience in testing for lead. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through oral exposure (ingestion).
4. Based on my consultation with the laboratory, the results of the laboratory testing, as well as published studies on lead, it is clear that there is sufficient evidence that human

exposures exist from exposure to the products from the noticed party. Furthermore, as a result of the above, I have concluded that there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 25249.7 (h) (2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

Dated: June 27, 2010



Michael Freund
Attorney for Environmental Research Center

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On June 29, 2010 I served the within:

Notice of Violation and Certificate of Merit (Supporting documentation pursuant to 11 CCR section 3102 sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Oakland, California to said parties addressed as follows:

See Attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on June 29, 2010 at Berkeley, California.



Michael Freund

District Attorney of Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney of Glenn County
PO Box 430
Willows, CA 95988

District Attorney of Marin County
3501 Civic Center Dr., Room 130
San Rafael, CA 94903

District Attorney of Colusa County
547 Market Street
Colusa, CA 95932

District Attorney of Kings County
1400 West Lacey
Hanford, CA 93239

District Attorney of Mono County
PO Box 617
Bridgeport, CA 93517

District Attorney of Contra Costa
County
627 Ferry Street
Martinez, CA 94553

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Mariposa County
PO Box 730
Mariposa, CA 95338

District Attorney of Alpine County
PO Box 248
Markleeville, CA 96120

District Attorney of Humboldt County
825 5th Street
Eureka, CA 95501

District Attorney of Monterey County
230 Church Street, Bdg. 2
Salinas, CA 93901

District Attorney of Del Norte County
450 H Street, Ste 171
Crescent City, CA 95531

District Attorney of Imperial County
939 Main Street
El Centro, CA 92243

District Attorney of Mendocino County
PO Box 1000
Ukiah, CA 95482

District Attorney of Amador County
708 Court Street, # 202
Jackson, CA 95642

District Attorney of Lassen County
220 S. Lassen St., Ste 8
Susanville, CA 96130

District Attorney of Napa County
931 Parkway Mail
Napa, CA 94559

District Attorney of Butte County
25 County Center Drive
Oroville, CA 95965

District Attorney of Inyo County
PO Drawer D
Independence, CA 93526

District Attorney of Merced County
2222 "M" Street
Merced, CA 95340

District Attorney of El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney of Los Angeles County
210 W. Temple Street, Room 345
Los Angeles, CA 90012

District Attorney of Nevada County
110 Union Street
Nevada City, CA 95959-2503

District Attorney of Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Madera County
209 West Yosemite Ave.
Madera, CA 93637

District Attorney of Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney of Fresno County
2220 Tulare Street, # 1000
Fresno, CA 93721

District Attorney of Kern County
1215 Truxtun Ave.
Bakersfield, CA 93301

District Attorney of Modoc County
204 S. Court Street
Alturas, CA 96101-4020



Environmental Research Center

5694 Mission Center Road #199

San Diego, CA 92108

619.309.4194

November 23, 2010

VIA CERTIFIED MAIL

Current President or CEO
Isagenix International, LLC
2225 S Price Rd
Chandler, AZ 85248

CT Corporation System
(Isagenix International, LLC's Registered
Agent for Service of Process)
2394 E. Camelback Road
Phoenix, AZ 85016

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I am the Executive Director of the Environmental Research Center ("ERC") in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The name of the Company covered by this Notice that violated Proposition 65 is:

Isagenix International, LLC

The products that are the subject of this Notice and the chemical in those products identified as exceeding allowable levels are:

Isagenix International LLC Isalean Shake- French Vanilla 30.10 oz - Lead
Isagenix International LLC Isalean Shake- Rich Chocolate 30.10 oz - Lead
Isagenix International LLC Isalean Shake- Natural Creamy Vanilla 30.10 oz - Lead

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
November 23, 2010
Page 2

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead as chemical known to cause cancer.

This letter is a Notice to Isagenix International, LLC and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This Notice covers all violations of Proposition 65 involving Isagenix International, LLC currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, has been provided to the Noticed Company with a copy of this letter.

Isagenix International, LLC has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The primary route of exposure to these chemicals has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product's label. Isagenix International, LLC violated Proposition 65 because the Company has failed to provide an appropriate warning to persons using these products that they are being exposed to the identified chemical.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this Notice unless Isagenix International, LLC agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and ERC's objectives in pursuing this Notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

Please direct all questions concerning this notice to ERC's attorney, Michael Freund, address: 1915 Addison Street, Berkley, California, 94704-1101, telephone no.: 510-540-1992, e-mail: Freund1@aol.com.

Sincerely,



Chris Heptinstall, Executive Director
Environmental Research Center

cc: Karen Evans

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Isagenix International, LLC and its Registered Agent for Service of Process only)
Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Isagenix International, LLC

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached sixty-day Notice in which it is alleged the party identified in the Notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the Notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this Certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: November 23, 2010

Michael Freund
Attorney for Environmental Research Center

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On November 23, 2010, I served the following documents:

NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"

On the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current President or CEO
Isagenix International, LLC
2225 S Price Rd
Chandler, AZ 85248

CT Corporation System
(Isagenix International, LLC's Registered
Agent for Service of Process)
2394 E. Camelback Road
Phoenix, AZ 85016

On November 23, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

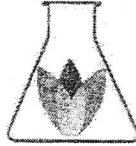
Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On November 23, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

Executed on November 23, 2010, in Fort Oglethorpe, Georgia.



Chris Heptinstall



Environmental Research Center

5694 Mission Center Road #199

San Diego, CA 92108

619.309.4194

December 23, 2010

VIA CERTIFIED MAIL

Current President or CEO
Isagenix International, LLC
2225 S Price Rd
Chandler, AZ 85248

CT Corporation System
(Isagenix International, LLC's Registered
Agent for Service of Process)
2394 E. Camelback Road
Phoenix, AZ 85016

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

VIA PRIORITY MAIL

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

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ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The name of the Company covered by this Notice that violated Proposition 65 is:

Isagenix International, LLC

The products that are the subject of this Notice and the chemical in those products identified as exceeding allowable levels are:

Isagenix International LLC IsaFlush! 60 Capsules - Lead

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

December 23, 2010

Page 6

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, Riverside County
4075 Main Street, 1st Floor
Riverside, CA 92501

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 9581

District Attorney, San Benito County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

District Attorney, San Diego County
330 West Broadway, Room 1300
San Diego, CA 92101

District Attorney, San Francisco County
850 Bryant Street, Room 325
San Francisco, CA 94103

District Attorney, San Joaquin County
Post Office Box 990
Stockton, CA 95201

District Attorney, San Luis Obispo County
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

District Attorney, San Mateo County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110

District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060

District Attorney, Shasta County
1525 Court Street, Third Floor
Redding, CA 96001-1632

District Attorney, Sierra County
PO Box 457
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Sonoma County
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95353

District Attorney, Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney, Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tulare County
221 S. Mooney Avenue, Room 224
Visalia, CA 93291

District Attorney, Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Ventura County
800 South Victoria Avenue
Ventura, CA 93009

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

District Attorney, Yuba County
215 Fifth Street
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm 800
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
1 Drive Carlton B Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead as chemical known to cause cancer.

This letter is a Notice to Isagenix International, LLC and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This Notice covers all violations of Proposition 65 involving Isagenix International, LLC currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, has been provided to the Noticed Company with a copy of this letter.

Isagenix International, LLC has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The primary route of exposure to these chemicals has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product's label. Isagenix International, LLC violated Proposition 65 because the Company has failed to provide an appropriate warning to persons using these products that they are being exposed to the identified chemical.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this Notice unless Isagenix International, LLC agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and ERC's objectives in pursuing this Notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

Please direct all questions concerning this notice to ERC's attorney, Michael Freund, address: 1915 Addison Street, Berkeley, California, 94704-1101, telephone no.: 510-540-1992, e-mail: Freund1@aol.com.

Sincerely,



Chris Heptinstall
Executive Director
Environmental Research Center

cc: Karen Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Isagenix International, LLC and its Registered Agent for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Isagenix International, LLC

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached sixty-day Notice in which it is alleged the party identified in the Notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the Notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this Certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: December 23, 2010



Michael Freund
Attorney for Environmental Research Center