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CONFORMED COPY
ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

NOV 27 2013

Sherri R. Carter, Executive Officer/Clerk
By: Shaunya Bolden, Deputy

Attorneys for PLAINTIFF
Environmental Research Center, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

BC529077

ENVIRONMENTAL RESEARCH CENTER,)
INC., a non-profit California corporation,)

PLAINTIFF,

v.

ORTHO MOLECULAR PRODUCTS, INC.;)
VITACOST.COM, INC.; DOES 1 through 10,)

DEFENDANT(s).

Case No.

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Health & Safety Code § 25249.5, *et seq.*

PLAINTIFF Environmental Research Center, Inc. ("PLAINTIFF") brings this action in
the interest of the general public and, on information and belief, hereby alleges:

INTRODUCTION

1. This action seeks to remedy ORTHO MOLECULAR PRODUCTS, INC.;
VITACOST.COM, INC. (hereinafter "DEFENDANT(s)") continuing failure to warn consumers
in California that they are being exposed to lead, a substance known to the State of California to
cause cancer, birth defects and other reproductive harm. DEFENDANT(s) manufactures,
packages, distributes, markets, and / or sells in California certain nutritional supplement products

1 containing lead (the “PRODUCTS”) including:

2 Ortho Molecular Products, Inc. Calmatrol – Lead

3 Ortho Molecular Products, Inc. Paracid Forte – Lead

4 Ortho Molecular Products, Inc. Fiber Plus Powder – Lead

5 Ortho Molecular Products, Inc. Core Restore BT Core Support – Lead

6 Ortho Molecular Products, Inc. Glycemic Foundation Smoothie Boost Vanilla–

7 Lead

8 Ortho Molecular Products, Inc. Ultimate Pak Essential Vitamins Morning Packet

9 – Lead

10 Ortho Molecular Products, Inc. Ultimate Pak Essential Vitamins Evening Packet–

11 Lead

12 Ortho Molecular Products, Inc. Tempe Apple-Cinnamon Bar - Lead

13 Ortho Molecular Products, Inc. InflammacORE Orange Splash - Lead

14 Ortho Molecular Products, Inc. InflammacORE Banana Crème - Lead

15 Ortho Molecular Products, Inc. K-Pax Fuel of Life Protein Blend Cherry-Vanilla

16 Flavor - Lead

17 Ortho Molecular Products, Inc. Glycemic Foundation Chocolate Drink Mix -

18 Lead

19 Ortho Molecular Products, Inc. Life CORE Creamy Vanilla - Lead

20 Ortho Molecular Products, Inc. LifeCORE Rich Dark Chocolate – Lead

21 Ortho Molecular Products, Inc. Tempe Chocolate-Mint Bar - Lead

22
23 2. Lead and lead compounds (“LISTED CHEMICALS”) are substances known to
24 the State¹ of California to cause cancer, birth defects and other reproductive harm.

25 3. The use and / or handling of the PRODUCTS causes exposures to the LISTED

26

¹ All statutory and regulatory references herein are to California law, unless otherwise specified.

1 CHEMICALS at levels requiring a “clear and reasonable warning” under California's Safe
2 Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code (“H&S Code”)
3 §25249.5, *et seq.* (“Proposition 65”). DEFENDANT(s) have failed to provide the health hazard
4 warnings required by Proposition 65.

5 4. DEFENDANT(s)’ continued manufacturing, packaging, distributing, marketing
6 and/or sales of the PRODUCTS without the required health hazard warnings, causes individuals
7 to be involuntarily and unwittingly exposed to levels of the LISTED CHEMICALS that violate
8 Proposition 65.

9 5. PLAINTIFF seeks injunctive relief enjoining DEFENDANT(s) from the
10 continued manufacturing, packaging, distributing, marketing and/or sales of the PRODUCTS in
11 California without provision of clear and reasonable warnings regarding the risks of cancer, birth
12 defects and other reproductive harm posed by exposure to the LISTED CHEMICALS through
13 the use and / or handling of the PRODUCTS. PLAINTIFF seeks an injunctive order compelling
14 DEFENDANT(s) to bring its business practices into compliance with Proposition 65 by
15 providing a clear and reasonable warning to each individual who has been and who in the future
16 may be exposed to LISTED CHEMICALS from the use of the PRODUCTS. PLAINTIFF also
17 seeks an order compelling DEFENDANT(s) to identify and locate each individual person who in
18 the past has purchased the PRODUCTS, and to provide to each such purchaser a clear and
19 reasonable warning that the use of the PRODUCTS will cause exposures to the LISTED
20 CHEMICALS.

21 6. In addition to injunctive relief, PLAINTIFF seeks an assessment of civil penalties
22 in excess of \$1 million to remedy DEFENDANT(s)’ failure to provide clear and reasonable
23 warnings regarding exposures to the LISTED CHEMICALS.

24 **JURISDICTION AND VENUE**

25 7. This Court has jurisdiction over this action pursuant to California Constitution
26 Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except

1 those given by statute to other trial courts.” The statute under which this action is brought does
2 not specify any other basis for jurisdiction.

3 8. This Court has jurisdiction over DEFENDANT(s) because, based on information
4 and belief, DEFENDANT(s) is a business having sufficient minimum contacts with California,
5 or otherwise intentionally availing itself of the California market through the distribution and
6 sale of the PRODUCTS in the State of California to render the exercise of jurisdiction over it by
7 the California courts consistent with traditional notions of fair play and substantial justice.

8 9. Venue in this action is proper in the Los Angeles Superior Court because the
9 DEFENDANT(s) has violated California law in the County of Los Angeles.

10 **PARTIES**

11 10. PLAINTIFF is a corporation organized under California’s Corporation Law.
12 ERC is dedicated to, among other causes, reducing the use and misuse of hazardous and toxic
13 substances, consumer protection, worker safety and corporate responsibility.

14 11. ERC is a person within the meaning of H&S Code § 25118 and brings this
15 enforcement action in the public interest pursuant to H&S Code § 25249.7(d).

16 12. PLAINTIFF is informed and believes that DEFENDANTS ORTHO
17 MOLECULAR PRODUCTS, INC. and VITACOST.COM, INC. (“DEFENDANTS”), are
18 limited liability companies organized under the laws of the State of California and a person
19 doing business within the meaning of H&S Code § 25249.11.

20 13. Upon information and belief, and upon that basis, PLAINTIFF alleges that the
21 true names, or capacities of DOES 1 through 10, inclusive (“DOES”), whether individual,
22 corporate, associate or otherwise, are presently unknown to PLAINTIFF, who therefore sue said
23 DEFENDANT(s) by such fictitious names. PLAINTIFF will amend this Complaint to show
24 their true names and capacities when the same have been ascertained. All DEFENDANTS were
25 in some manner responsible for the violations set forth in this Complaint.
26

1 reasonable” warning requirements of Proposition 65 beginning on October 1, 1993. (27 CCR
2 § 25000, *et seq.*; H&S Code § 25249.6, *et seq.*) Due to the high toxicity of lead, the maximum
3 allowable dose level for lead is 0.5 ug/day (micrograms a day) for reproductive toxicity.

4 20. To test the PRODUCTS for lead, PLAINTIFF hired a well-respected and
5 accredited testing laboratory that designed the testing protocol used and approved by the
6 California Attorney General years ago for testing heavy metals. The testing results undertaken
7 by PLAINTIFF of the PRODUCTS show violation of the Proposition 65 0.5 ug/day “safe
8 harbor” daily dose limit. Some PRODUCTS tested for daily exposure approaching 40 times the
9 Proposition 65 “safe harbor” daily dose limit. Very significant is the fact that people are
10 continuing to be exposed to lead through ingestion as opposed to other not as harmful methods of
11 exposure such as dermal exposure. Ingestion of lead produces much higher exposure levels and
12 health risks than dermal exposure to this chemical.

13 21. At all times relevant to this action, DEFENDANT(s) therefore have knowingly
14 and intentionally exposed the users and / or handlers of the PRODUCTS to LISTED
15 CHEMICALS without first giving a clear and reasonable warning to such individuals.

16 22. As a proximate result of acts by DEFENDANT(s), as persons in the course of
17 doing business within the meaning of Health & Safety Code § 25249.11, individuals throughout
18 the State of California, including in the County of Los Angeles, have been exposed to the
19 LISTED CHEMICALS without clear and reasonable warning. The individuals subject to the
20 violative exposures include normal and foreseeable users of the PRODUCTS, as well as all other
21 persons exposed to the PRODUCTS.

22 **FIRST CAUSE OF ACTION**

23 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning the**
24 **PRODUCTS described in PLAINTIFF’s January 6, 2012, July 9, 2012 and November 30,**
25 **2012 60-Day Notices of Violation)**
26 **Against DEFENDANT(S) and DOES**

23 23. PLAINTIFF realleges and incorporates by reference Paragraphs 1 through 22,
26 inclusive, as if specifically set forth herein.

1 24. On January 6, 2012, July 9, 2012 and November 30, 2012, PLAINTIFF sent 60-
2 Day Notice of Proposition 65 violations to the requisite public enforcement agencies, and to
3 DEFENDANT(s) (“Notices”), attached hereto as Exhibit A, B and C respectively. The Notices
4 were issued pursuant to, and in compliance with, the requirements of H&S Code § 25249.7(d)
5 and the statute's implementing regulations regarding the notice of the violations to be given to
6 certain public enforcement agencies and to the violator. The Notices given included, *inter alia*,
7 the following information: the name, address, and telephone number of the noticing individual;
8 the name of the alleged violator; the statute violated; the approximate time period during which
9 violations occurred; and descriptions of the violations, including the chemicals involved, the
10 routes of toxic exposure, and the specific product or type of product causing the violations, and
11 was issued as follows:

- 12 a. DEFENDANT(s) and the California Attorney General were provided
13 copies of the Notices by Certified Mail. The various other public
14 prosecutors were served by regular mail. PLAINTIFF’S Notices are listed
15 on the California Attorney General’s website for DEFENDANT(s) and all
16 public prosecutors to review, confirming that in fact the Attorney General
17 did receive the Notices. PLAINTIFF used for the Notices the United
18 States Postal Service online shipping label system called “Click-N-Ship”
19 that automatically corrects prior to mailing any errors in the zip code.
20 None of these Notices were returned to PLAINTIFF. The Notices were
21 served on all intended actors, were substantially sound, and all purposes of
22 providing notice under Proposition 65 were met.
- 23 b. DEFENDANT(s) was provided a copy of a document entitled “The Safe
24 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
25 Summary,” which is also known as Appendix A to Title 27 of CCR
26 § 25903.
- c. The California Attorney General was provided with a Certificate of Merit

1 by the attorney for the noticing party, stating that there is a reasonable and
2 meritorious case for this action, and attaching factual information
3 sufficient to establish a basis for the certificate, including the identity of
4 the persons consulted with and relied on by the certifier, and the facts
5 studies, or other data reviewed by those persons, pursuant to H&S Code
6 § 25249.7(h)(2).

7 25. The appropriate public enforcement agencies have failed to commence and
8 diligently prosecute a cause of action under H&S Code § 25249.5, *et seq.* against
9 DEFENDANT(s) based on the allegations herein.

10 26. The Notices reached DEFENDANT(S) and it was provided all necessary
11 information. DEFENDANT(S) timely received all the Notices and was provided sufficient time
12 to investigate and settle this case well prior to filing of the Complaint. This is clear because
13 through its counsel DEFENDANT(S) did contact PLAINTIFF during the 60-Day Notice period
14 concerning the allegations made in the Notices.

15 27. PLAINTIFF is informed and believes that DEFENDANT(S) have failed and/or
16 refused to remedy these violations and continue to manufacture and distribute the PRODUCTS
17 into California. These are not trivial or de minimis exceedances of Proposition 65. By
18 committing the acts alleged in this Complaint DEFENDANT(s) at all times relevant to this
19 action, and continuing through the present, has violated H&S Code § 25249.6 by, in the course
20 of doing business, knowingly and intentionally exposing individuals who use or handle the
21 PRODUCTS set forth in the Notices to the LISTED CHEMICAL, without first providing a clear
22 and reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

23 28. By the above-described acts, DEFENDANT(s) has violated H&S Code § 25249.6
24 and is therefore subject to an injunction ordering DEFENDANT(s) to stop violating Proposition
25 65, to provide warnings to all present and future customers and to provide warnings to
26 DEFENDANT(s)' past customers who purchased or used the PRODUCTS without receiving a
clear and reasonable warning.

1 injury by continuing to cause consumers to be involuntarily and unwittingly exposed to the
2 LISTED CHEMICALS through the use and/or handling of the PRODUCTS.

3 **PRAYER FOR RELIEF**

4 Wherefore, PLAINTIFF accordingly prays for the following relief:

5 A. a preliminary and permanent injunction, pursuant to H&S Code § 25249.7(b),
6 enjoining DEFENDANT(s), its agents, employees, assigns and all persons acting in concert or
7 participating with DEFENDANT(s), from distributing or selling the PRODUCTS in California
8 without first providing a clear and reasonable warning, within the meaning of Proposition 65,
9 that the users and/or handlers of the PRODUCTS are exposed to the LISTED CHEMICALS.

10 B. an injunctive order, pursuant to H&S Code § 25249.7(b), compelling
11 DEFENDANT(s) to identify and locate each individual who has purchased the PRODUCTS
12 since January 6, 2009 and to provide a warning to such person that the use of the PRODUCTS
13 will expose the user to chemicals known to cause cancer, birth defects, and other reproductive
14 harm.

15 C. an assessment of civil penalties pursuant to Health & Safety Code § 25249.7(b),
16 against DEFENDANT(s) in the amount of \$2,500.00 per day for each violation of Proposition
17 65, in an amount in excess of \$1 million;

18 D. an award to PLAINTIFF of its reasonable attorneys fees and costs of suit pursuant
19 to California Code of Civil Procedure § 1021.5, as PLAINTIFF shall specify in further
20 application to the Court; and,

21 E. such other and further relief as to the Court shall seem just and proper.

22 DATED: November 27, 2013

ROSE, KLEIN & MARIAS LLP

23 
24 _____
25 David A. Rosen
26 Kevin P. Smith
Attorneys for PLAINTIFF
Environmental Research Center, Inc.

EXHIBIT “A”

THEIS
Law Group

January 6, 2012

**NOTICE OF VIOLATIONS OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“ERC”), 5694 Mission Center Road #199, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. 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.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter “the Violator”) is:

Ortho Molecular Products, Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Ortho Molecular Products, Inc. Calmatrol - Lead
Ortho Molecular Products, Inc. Paracid Forte - Lead
Ortho Molecular Products, Inc. Fiber Plus Powder - Lead
Ortho Molecular Products, Inc. Core Restore BT Core Support - Lead
Ortho Molecular Products, Inc. Glycemic Foundation Smoothie Boost Vanilla - Lead
Ortho Molecular Products Inc. Ultimate Pak Essential Vitamins Morning Packet - Lead
Ortho Molecular Products Inc. Ultimate Pak Essential Vitamins Evening Packet - Lead

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 and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

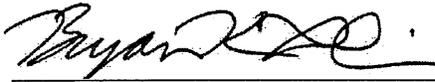
Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least January 6, 2009, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. 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 label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Bryan Theis

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Ortho Molecular Products, Inc. and its Registered Agent for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: The Environmental Research Center's Notice of Proposition 65 Violations by Ortho Molecular Products, Inc.

I, Bryan Theis, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties 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 chemicals that are 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: January 6, 2012



Bryan Theis

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 January 6, 2012, 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:

Gary Powers, President
Ortho Molecular Products, Inc.
Corporate Offices
1991 Duncan Place
Woodstock, IL 60098

Ortho Molecular Products, Inc.
3017 Business Park Drive
Stevens Point, WI 54482

On January 6, 2012, 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 January 6, 2012, 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 January 6, 2012, in Fort Oglethorpe, Georgia.



Chris Heptinstall

Service List

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

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

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

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

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

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

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

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

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

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

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

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

District Attorney, Imperial County
939 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

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

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Rm 345
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

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

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

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

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Monterey County
230 Church Street, Bldg 2
Salinas, CA 93901

District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959

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

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, 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

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

EXHIBIT “B”

THEIS
Law Group

July 9, 2012

**NOTICE OF VIOLATIONS OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“ERC”), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. 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.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter “the Violator”) is:

Vitacost.com, Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Ortho Molecular Products, Inc. Calmatrol - Lead

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 and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least July 9, 2009, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. 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 label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



Bryan Theis

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Vitacost.com, Inc. and its Registered Agent for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)

Re: The Environmental Research Center's Notice of Proposition 65 Violations by Vitacost.com, Inc.

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Bryan Theis, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties 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 chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on all 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 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 Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and 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: July 9, 2012



Bryan Theis

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. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On July 9, 2012, 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 with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
Vitacost.com, Inc.
5400 Broken Sound Blvd NW, Suite 500
Boca Raton, FL 33487

Corporation Service Company
(Registered Agent of Vitacost.com)
2711 Centerville Road, Suite 400
Wilmington, DE 19808

On July 9, 2012, 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 with the postage fully prepaid 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 July 9, 2012, 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 with the postage fully prepaid for delivery by Priority Mail.

Executed on July 9, 2012, in Fort Oglethorpe, Georgia.



Amber Schaub

Service List

District Attorney, Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Room 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Room 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Avenue Ventura, CA 93009
District Attorney, Amador County 708 Court Street, #202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County Post Office Box 990 Stockton, CA 95201	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm 800 Los Angeles, CA 90012
District Attorney, Colusa County 547 Market Street Colusa, CA 95932	District Attorney, Merced County 2222 M Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco City Attorney's Office City Hall, Room 234 1 Drive Carlton B Goodlett Place San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, #1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street Eureka, CA 95501	District Attorney, Orange County 401 Civic Center Drive West Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Avenue, Room 224 Visalia, CA 93291	

EXHIBIT “C”

VICTOR C. ROSE (1907-1972)
ALFRED M. KLEIN (1913-2000)
EUGENE MARIAS (1919-1982)

*ROBERT B. STEINBERG
*HOWARD N. LEHMAN
*HERBERT I. GALPERSON
MARVIN N. SHAPIRO
*BARRY I. GOLDMAN
*G. RONALD FEENBERG
DENNIS D. WELCH
GREGORY STAMOS
DENNIS J. SHERWIN
*ROBERT I. VINES
*MANUEL L. NUNES
DAVID A. ROSEN
RICHARD G. BARONE
WILLIAM M. GREWE
HARRY H. SAMARGHACHIAN
DAVID S. GALPERSON

* DENOTES PROFESSIONAL CORPORATION
† ADMITTED ONLY IN SWEDEN

LAW OFFICES OF

ROSE, KLEIN & MARIAS LLP

801 S. GRAND AVENUE, 11TH FLOOR
LOS ANGELES, CALIFORNIA 90017-4645
FAX (213) 623-7755
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TONI RAYKOVICH
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WENDY HAYWARD-MARSHALL
BABETTE F. BEMEL
LILJA BALLESTROS
FRONNY MARTINSSON
JANET U. KROPP
MARCUS S. LOO
LISA F. JOU
ESTHER OZ
BENHUR SHERVAN
KEVIN SMITH
DENNIS BELMUDES
BRIAN J. RAMSEY
ERIN M. BERANEK

November 30, 2012

NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.* (PROPOSITION 65)

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center ("ERC"), 3111 Camino Del Rio North, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violators identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Ortho Molecular Products, Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

Ortho Molecular Products Inc. Tempo Apple-Cinnamon Bar - Lead

Ortho Molecular Products Inc. InflammACORE Orange Splash - Lead

Ortho Molecular Products Inc. InflammACORE Banana Crème - Lead

Ortho Molecular Products Inc. K-Pax Fuel of Life Protein Blend Cherry-Vanilla Flavor - Lead

Ortho Molecular Products Inc. Glycemic Foundation Chocolate Drink Mix - Lead

Ortho Molecular Products Inc. LifeCORE Creamy Vanilla - Lead

Ortho Molecular Products Inc. LifeCORE Rich Dark Chocolate - Lead

Ortho Molecular Products Inc. Tempo Chocolate-Mint Bar - Lead

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 and lead compounds as chemicals known to cause cancer.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least November 30, 2009, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. 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 label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a

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

November 30, 2012

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constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



David A. Rosen

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Ortho Molecular Products, Inc. and its Registered Agent for Service of Process only)

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

Re: Environmental Research Center's Notice of Proposition 65 Violations by Ortho Molecular Products, Inc.

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, David A. Rosen, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have 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.
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 alleged exposure to the listed chemical that is the subject of the action.
4. Based on the information obtained through those consultants, and on all 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 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 Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and 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: November 30, 2012

David A. Rosen

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. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On November 30, 2012, 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 with the postage fully prepaid for delivery by Certified Mail:

President or CEO
Ortho Molecular Products, Inc.
3017 Business Park Drive
Stevens Point, WI 54481

Paula Anderson
(Registered Agent for Service of Process for
Ortho Molecular Products)
1001 Union Street
P.O. Box 325
Stevens Point, WI 54481

President or CEO
Ortho Molecular Products, Inc.
1991 Duncan Place
Woodstock, IL 60098

On November 30, 2012, 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 with the postage fully prepaid 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

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

November 30, 2012

Page 6

On November 30, 2012, 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 with the postage fully prepaid for delivery by Priority Mail.

Executed on November 30, 2012, in Fort Oglethorpe, Georgia.



Amber Schaub

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

November 30, 2012

Page 7

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 1800 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3 rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
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District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	