



Sequel Naturals LTD Vega Sport Pre-Workout Energizer Acai Berry – Lead  
Sequel Naturals LTD Vega Sport Recovery Accelerator Tropical – Lead  
Sequel Naturals LTD Vega One Nutritional Shake Natural – Lead  
Sequel Naturals LTD Vega One Nutritional Shake Vanilla Chai – Lead  
Sequel Naturals LTD Plant Based Vega One All-In-One Nutritional Shake Berry Dietary Supplement – Lead  
Sequel Naturals LTD Plant Based Vega Energizing Smoothie Oh Natural Dietary Supplement – Lead  
Sequel Naturals LTD Plant Based Vega Energizing Smoothie Tropical Tango Dietary Supplement – Lead  
Sequel Naturals LTD Plant Based Vega Energizing Smoothie Choc-A-Lot Dietary Supplement – Lead  
Sequel Naturals LTD Plant Based Vega Energizing Smoothie Bodacious Berry Dietary Supplement – Lead  
Sequel Naturals LTD Vega Sport Natural Plant-Based Pre-Workout Energizer Prepare Lemon Lime Dietary Supplement – Lead  
Sequel Naturals LTD Vega Sport Natural Plant-Based Recovery Accelerator Recover Apple Berry Dietary Supplement – Lead  
Sequel Naturals LTD Vega Whole Food Vibrancy Bar Barre Vibrancy Green Synergy Vert Synergie – Lead  
Sequel Naturals LTD Vega Complete Whole Food Health Optimizer All-in-one, natural plant-based formula Natural Flavor Dietary Supplement – Lead  
Sequel Naturals LTD Vega Complete Whole Food Health Optimizer All-in-one, natural plant-based formula Chocolate Flavor Dietary Supplement – Lead  
Sequel Naturals LTD Vega Complete Whole Food Health Optimizer All-in-one, natural plant-based formula Vanilla Chai Flavor Dietary Supplement – Lead  
Sequel Naturals LTD Vega Complete Whole Food Health Optimizer All-in-one, natural plant-based formula Berry Flavor Dietary Supplement – Lead  
Sequel Naturals LTD Vega Whole Food Smoothie Infusion - Lead

2. Lead and lead compounds (“LISTED CHEMICALS”) are substances known to the State<sup>1</sup> of California to cause cancer, birth defects and other reproductive harm.

3. The use and / or handling of the PRODUCTS causes exposures to the LISTED CHEMICALS at levels requiring a “clear and reasonable warning” under California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code (“H&S Code”) §25249.5, *et seq.* (“Proposition 65”). DEFENDANT(s) has failed to provide the health hazard warnings required by Proposition 65.

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



1 or otherwise intentionally availing itself of the California market through the distribution and  
2 sale of the PRODUCTS in the State of California to render the exercise of jurisdiction over it by  
3 the California courts consistent with traditional notions of fair play and substantial justice.

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

6 **PARTIES**

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

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

12 12. PLAINTIFF is informed and believes that DEFENDANTS SEQUEL  
13 NATURALS, LTD and SEQUEL NATURALS, INC. ("DEFENDANTS"), are limited liability  
14 companies organized under the laws of the State of California and a person doing business  
15 within the meaning of H&S Code § 25249.11.

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

22 14. DEFENDANT(s) manufactures, packages, distributes, markets and / or sells the  
23 PRODUCTS for sale or use in California and in Los Angeles County.

24 **STATUTORY BACKGROUND**

25 15. The People of the State of California have declared in Proposition 65 their right  
26 "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other

1 reproductive harm.” (Section 1(b) of Initiative Measure, Proposition 65).

2 16. To effect this goal, Proposition 65 requires that individuals be provided with a  
3 “clear and reasonable warning” before being exposed to substances listed by the State of  
4 California as causing cancer or reproductive toxicity. H&S Code § 25249.6 states, in pertinent  
5 part:

6 “No person in the course of doing business shall knowingly and intentionally  
7 expose any individual to a chemical known to the state to cause cancer or  
8 reproductive toxicity without first giving clear and reasonable warning to such  
9 individual . . .”

10 17. Proposition 65 provides that any person “violating or threatening to violate” the  
11 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase  
12 “threatening to violate” is defined to mean creating “a condition in which there is a substantial  
13 likelihood that a violation will occur.” (H&S Code § 25249.11(e).) Violators are liable for civil  
14 penalties of up to \$2,500.00 per day for each violation of the Act. (H&S Code § 25249.7.)

#### 15 FACTUAL BACKGROUND

16 18. On February 27, 1987, the State of California officially listed the chemical lead as  
17 a chemical known to cause reproductive toxicity. Lead became subject to the warning  
18 requirement one year later and was therefore subject to the "clear and reasonable" warning  
19 requirements of Proposition 65 beginning on February 27, 1988. (27 California Code of  
20 Regulations (“CCR”) § 25000, *et seq.*; H&S Code § 25249.5, *et seq.*)

21 19. On October 1, 1992, the State of California officially listed the chemicals lead and  
22 lead compounds as chemicals known to cause cancer. Lead and lead compounds became subject  
23 to the warning requirement one year later and were therefore subject to the “clear and  
24 reasonable” warning requirements of Proposition 65 beginning on October 1, 1993. (27 CCR  
25 § 25000, *et seq.*; H&S Code § 25249.6, *et seq.*) Due to the high toxicity of lead, the maximum  
26 allowable dose level for lead is 0.5 ug/day (micrograms a day) for reproductive toxicity.

20. To test the PRODUCTS for lead, PLAINTIFF hired a well-respected and  
accredited testing laboratory that designed the testing protocol used and approved by the

1 California Attorney General years ago for testing heavy metals. The testing results undertaken  
2 by PLAINTIFF of the PRODUCTS show violation of the Proposition 65 0.5 ug/day “safe  
3 harbor” daily dose limit. Some PRODUCTS tested for daily exposure in excess of 20 times the  
4 Proposition 65 “safe harbor” daily dose limit. Very significant is the fact that people are  
5 continuing to be exposed to lead through ingestion as opposed to other not as harmful methods of  
6 exposure such as dermal exposure. Ingestion of lead produces much higher exposure levels and  
7 health risks than dermal exposure to this chemical.

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

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

17 **FIRST CAUSE OF ACTION**

18 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, et seq. concerning the**  
19 **PRODUCTS described in PLAINTIFF’s October 26, 2012, and November 30, 2012 60-Day**  
20 **Notices of Violation)**  
21 **Against DEFENDANT(S) and DOES**

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

24 24. On October 26, 2012, PLAINTIFF sent 60-Day Notice of Proposition 65  
25 violations to the requisite public enforcement agencies, and to DEFENDANT(s) (“Notices”),  
26 attached hereto as Exhibit A. The Notices were issued pursuant to, and in compliance with, the  
requirements of H&S Code § 25249.7(d) and the statute's implementing regulations regarding  
the notice of the violations to be given to certain public enforcement agencies and to the

1 violator. The Notices given included, *inter alia*, the following information: the name, address,  
2 and telephone number of the noticing individual; the name of the alleged violator; the statute  
3 violated; the approximate time period during which violations occurred; and descriptions of the  
4 violations, including the chemicals involved, the routes of toxic exposure, and the specific  
5 product or type of product causing the violations, and was issued as follows:

- 6 a. DEFENDANT(s) and the California Attorney General were provided  
7 copies of the Notices by Certified Mail. The various other public  
8 prosecutors were served by regular mail. PLAINTIFF'S Notices are listed  
9 on the California Attorney General's website for DEFENDANT(s) and all  
10 public prosecutors to review, confirming that in fact the Attorney General  
11 did receive the Notices. PLAINTIFF used for the Notices the United  
12 States Postal Service online shipping label system called "Click-N-Ship"  
13 that automatically corrects prior to mailing any errors in the zip code.  
14 None of these Notices were returned to PLAINTIFF. The Notices were  
15 served on all intended actors, were substantially sound, and all purposes of  
16 providing notice under Proposition 65 were met.
- 17 b. DEFENDANT(s) was provided a copy of a document entitled "The Safe  
18 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A  
19 Summary," which is also known as Appendix A to Title 27 of CCR  
20 § 25903.
- 21 c. The California Attorney General was provided with a Certificate of Merit  
22 by the attorney for the noticing party, stating that there is a reasonable and  
23 meritorious case for this action, and attaching factual information  
24 sufficient to establish a basis for the certificate, including the identity of  
25 the persons consulted with and relied on by the certifier, and the facts  
26 studies, or other data reviewed by those persons, pursuant to H&S Code  
§ 25249.7(h)(2).

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

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

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

17           28.     By the above-described acts, DEFENDANT(s) has violated H&S Code § 25249.6  
18 and is therefore subject to an injunction ordering DEFENDANT(s) to stop violating Proposition  
19 65, to provide warnings to all present and future customers and to provide warnings to  
20 DEFENDANT(s)' past customers who purchased or used the PRODUCTS without receiving a  
21 clear and reasonable warning.

22           29.     An action for injunctive relief under Proposition 65 is specifically authorized by  
23 Health & Safety Code § 25249.7(a).

24           30.     Continuing commission by DEFENDANT(s), of the acts alleged above will  
25 irreparably harm the citizens of the State of California, for which harm they have no plain,  
26 speedy, or adequate remedy at law.

Wherefore, PLAINTIFF prays judgment against DEFENDANT(s), as set forth hereafter.



**SECOND CAUSE OF ACTION**

**(Civil Penalties for Violations of Health and Safety Code § 25249.5, et seq. concerning the PRODUCTS described in PLAINTIFF's NOTICES)  
Against DEFENDANTS and DOES**

31. PLAINTIFF realleges and incorporates by reference Paragraphs 1 through 30, inclusive, as if specifically set forth herein.

32. By committing the acts alleged in this Complaint, DEFENDANT(s) at all times relevant to this action, and continuing through the present, has violated H&S Code § 25249.6 by, in the course of doing business, knowingly and intentionally exposing individuals who use or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICALS, without first providing a clear and reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

33. By the above-described acts, DEFENDANT(s) is liable, pursuant to H&S Code § 25249.7(b), for a civil penalty of \$2,500.00 per day per violation for each unlawful exposure to a LISTED CHEMICAL from the PRODUCTS, in an amount in excess of \$1 million.

Wherefore, PLAINTIFF prays judgment against DEFENDANT(S), as set forth hereafter.

**THE NEED FOR INJUNCTIVE RELIEF**

34. PLAINTIFF realleges and incorporates by this reference Paragraphs 1 through 33, as if set forth below.

35. By committing the acts alleged in this Complaint, DEFENDANT(s) has caused irreparable harm for which there is no plain, speedy or adequate remedy at law. In the absence of equitable relief, DEFENDANT(s) will continue to create a substantial risk of irreparable injury by continuing to cause consumers to be involuntarily and unwittingly exposed to the LISTED CHEMICALS through the use and/or handling of the PRODUCTS.

**PRAYER FOR RELIEF**

Wherefore, PLAINTIFF accordingly prays for the following relief:

A. a preliminary and permanent injunction, pursuant to H&S Code § 25249.7(b), enjoining DEFENDANT(s), its agents, employees, assigns and all persons acting in concert or

1 participating with DEFENDANT(s), from distributing or selling the PRODUCTS in California  
2 without first providing a clear and reasonable warning, within the meaning of Proposition 65,  
3 that the users and/or handlers of the PRODUCTS are exposed to the LISTED CHEMICALS.

4 B. an injunctive order, pursuant to H&S Code § 25249.7(b), compelling  
5 DEFENDANT(s) to identify and locate each individual who has purchased the PRODUCTS  
6 since October 26, 2009 and to provide a warning to such person that the use of the PRODUCTS  
7 will expose the user to chemicals known to cause cancer, birth defects, and other reproductive  
8 harm.

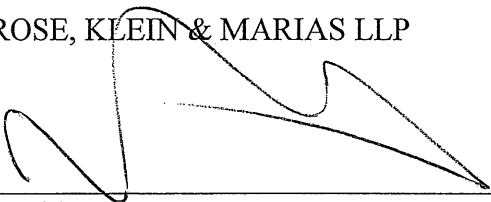
9 C. an assessment of civil penalties pursuant to Health & Safety Code § 25249.7(b),  
10 against DEFENDANT(s) in the amount of \$2,500.00 per day for each violation of Proposition  
11 65, in an amount in excess of \$1 million;

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

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

16 ✓  
17 DATED: April 2, 2013  
18 2

ROSE, KLEIN & MARIAS LLP

19   
20 David A. Rosen  
21 Kevin P. Smith  
22 Attorneys for PLAINTIFF  
23 Environmental Research Center, Inc.  
24  
25  
26