

ENDORSED
FILED
ALAMEDA COUNTY

NOV 13 2014

CLERK OF THE SUPERIOR COURT
By Ciceli Johnson
Deputy

1 MICHAEL R. LOZEAU (CBN 142893)
2 RICHARD T. DRURY (CBN 163559)
3 LOZEAU | DRURY LLP
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6 Attorneys for Plaintiff
7 ENVIRONMENTAL RESEARCH CENTER, INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA

10
11 ENVIRONMENTAL RESEARCH CENTER,
INC. a non-profit California corporation,

12 Plaintiff,

13 v.

14 FOOD FOR HEALTH INTERNATIONAL,
15 LLC, ACTIVZ, LLC, and HONEST
16 NUTRITION, LLC, Utah limited liability
companies,

17 Defendants.

Case No. **RG 14748008**

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

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

18
19 Plaintiff Environmental Research Center, Inc. ("PLAINTIFF" or "ERC") brings this
20 action in the interests of the general public and, on information and belief, hereby alleges:

21 **INTRODUCTION**

22 1. This action seeks to remedy the continuing failure of Defendants FOOD FOR
23 HEALTH INTERNATIONAL, LLC; ACTIVZ, LLC; and HONEST NUTRITION, LLC
24 (collectively "FOOD FOR HEALTH" or "DEFENDANTS") to warn consumers in California
25 that they are being exposed to lead, a substance known to the State of California to cause
26 cancer, birth defects, and other reproductive harm. DEFENDANTS manufacture, package,

1 distribute, market, and/or sell in California certain products containing lead (collectively, the
2 “PRODUCTS”):

- 3 • **Activz Organic Rice Protein Shake Chocolate**
- 4 • **Activz 100% Organic Wheatgrass Juice Powder**
- 5 • **Activz Organic Mango Whole Powder**
- 6 • **Activz Organic Spinach Whole + Juice Powder**
- 7 • **Activz Whole-Food Multivitamin Shake Complete Berries &**
8 **Cream Flavor**

9 2. Lead (hereinafter, the “LISTED CHEMICAL”) is a substance known to the
10 State¹ of California to cause cancer, birth defects, and other reproductive harm.

11 3. The use and/or handling of the PRODUCTS causes exposures to the LISTED
12 CHEMICAL at levels requiring a “clear and reasonable warning” under California's Safe
13 Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code (“H&S Code”)
14 §25249.5, *et seq.* (also known as “Proposition 65”). DEFENDANTS have failed to provide the
15 health hazard warnings required by Proposition 65.

16 4. DEFENDANTS’ past sales and continued manufacturing, packaging,
17 distributing, marketing and/or sales of the PRODUCTS without the required health hazard
18 warnings, cause individuals to be involuntarily and unwittingly exposed to levels of the
19 LISTED CHEMICAL that violate Proposition 65.

20 5. PLAINTIFF seeks injunctive relief enjoining DEFENDANTS from the
21 continued manufacturing, packaging, distributing, marketing and/or sales of the PRODUCTS
22 in California without provision of clear and reasonable warnings regarding the risks of cancer,
23 birth defects, and other reproductive harm posed by exposure to the LISTED CHEMICAL
24 through the use and/or handling of the PRODUCTS. PLAINTIFF seeks an injunctive order
25 compelling DEFENDANTS to bring their business practices into compliance with Proposition
26

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

1 65 by providing a clear and reasonable warning to each individual who has been and who in
2 the future may be exposed to the LISTED CHEMICAL from the use of the PRODUCTS.
3 PLAINTIFF also seeks an order compelling DEFENDANTS to identify and locate each
4 individual person who in the past has purchased the PRODUCTS, and to provide to each such
5 purchaser a clear and reasonable warning that the use of the PRODUCTS will cause exposures
6 to the LISTED CHEMICAL.

7 6. In addition to injunctive relief, PLAINTIFF seeks an assessment of civil
8 penalties up to the maximum civil penalty of \$2,500 per day per exposure authorized by
9 Proposition 65 to remedy DEFENDANTS' failure to provide clear and reasonable warnings
10 regarding exposures to the LISTED CHEMICAL.

11 **JURISDICTION AND VENUE**

12 7. This Court has jurisdiction over this action pursuant to California Constitution
13 Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes
14 except those given by statute to other trial courts." The statute under which this action is
15 brought does not specify any other basis for jurisdiction.

16 8. This Court has jurisdiction over DEFENDANTS because, based on information
17 and belief, DEFENDANTS are businesses having sufficient minimum contacts with California,
18 or otherwise intentionally availing themselves of the California market through the distribution
19 and sale of the PRODUCTS in the State of California to render the exercise of jurisdiction over
20 them by the California courts consistent with traditional notions of fair play and substantial
21 justice.

22 9. Venue in this action is proper in the Alameda Superior Court because the
23 DEFENDANTS have violated California law in the County of Alameda.

24 10. On August 29, 2014, PLAINTIFF sent a 60-Day Notice of Proposition 65
25 ("Notice") violations to the requisite public enforcement agencies, and to DEFENDANTS.
26 The Notice was issued pursuant to, and in compliance with, the requirements of H&S Code

1 §25249.7(d) and the statute's implementing regulations regarding the notice of the violations to
2 be given to certain public enforcement agencies and to the violators. The Notice included,
3 *inter alia*, the following information: the name, address, and telephone number of the noticing
4 individuals; the name of the alleged violators; the statute violated; the approximate time period
5 during which violations occurred; and descriptions of the violations, including the chemicals
6 involved, the routes of toxic exposure, and the specific product or type of product causing the
7 violations, and was issued as follows:

- 8 a. DEFENDANTS were provided a copy of the Notice by Certified Mail.
- 9 b. DEFENDANTS were provided a copy of a document entitled "The Safe
10 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
11 Summary," which is also known as Appendix A to Title 27 of CCR §25903.
- 12 c. The California Attorney General was provided a copy of the Notice via
13 online submission.
- 14 d. The California Attorney General was provided with a Certificate of Merit by
15 the attorney for the noticing parties, stating that there is a reasonable and
16 meritorious case for this action, and attaching factual information sufficient
17 to establish a basis for the certificate, including the identity of the persons
18 consulted with and relied on by the certifier, and the facts, studies, or other
19 data reviewed by those persons, pursuant to H&S Code §25249.7(h) (2).

20 11. At least 60-days have elapsed since PLAINTIFF sent the NOTICE to
21 DEFENDANTS. The appropriate public enforcement agencies have failed to commence and
22 diligently prosecute a cause of action under H&S Code §25249.5, *et seq.* against
23 DEFENDANTS based on the allegations herein.

24 **PARTIES**

25 12. PLAINTIFF is a non-profit corporation organized under California's
26 Corporation Law. ERC is dedicated to, among other causes, reducing the use and misuse of
hazardous and toxic substances, consumer protection, worker safety, and corporate

1 responsibility.

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

4 14. DEFENDANTS are limited liability companies organized under the State
5 of Utah's Law and are each a person doing business within the meaning of H&S Code
6 §25249.11.

7 15. DEFENDANTS have manufactured, packaged, distributed, marketed and /or
8 sold the PRODUCTS for sale or use in California and the County of Alameda. ERC is
9 informed and believes, and thereupon alleges, that DEFENDANTS continue to manufacture,
10 package, distribute, market and/or sell the PRODUCTS for sale or use in California and in
11 Alameda County.

12 **STATUTORY BACKGROUND**

13 16. The People of the State of California have declared in Proposition 65 their right
14 "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
15 reproductive harm." (Section 1(b) of Initiative Measure, Proposition 65).

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

20 No person in the course of doing business shall knowingly and intentionally
21 expose any individual to a chemical known to the state to cause cancer or
22 reproductive toxicity without first giving clear and reasonable warning to such
23 individual....

24 18. "'Knowingly' refers only to knowledge of the fact that a discharge of, release of,
25 or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No
26 knowledge that the discharge, release or exposure is unlawful is required." (27 California Code
of Regulations ("CCR") § 25102(n).)

19. Proposition 65 provides that any person "violating or threatening to violate" the

1 statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The phrase
2 “threatening to violate” is defined to mean creating “a condition in which there is a substantial
3 likelihood that a violation will occur.” (H&S Code §25249.11(e)). Violators are liable for civil
4 penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

5 **FACTUAL BACKGROUND**

6 20. On February 27, 1987, the State of California officially listed lead as a chemical
7 known to cause reproductive toxicity. Lead became subject to the warning requirement one
8 year later and was therefore subject to the “clear and reasonable” warning requirements of
9 Proposition 65 beginning on February 27, 1988. (27 CCR § 25000, *et seq.*; H&S Code
10 §25249.5, *et seq.*) Due to the high toxicity of lead, the maximum allowable dose level for lead
11 is 0.5 ug/day (micrograms a day) for reproductive toxicity. (27 CCR § 25805(b).)

12 21. On October 1, 1992, the State of California officially listed lead and lead
13 compounds as chemicals known to cause cancer. Lead and lead compounds became subject to
14 the warning requirement one year later and were therefore subject to the “clear and reasonable”
15 warning requirements of Proposition 65 beginning on October 1, 1993 (27 CCR § 25000, *et*
16 *seq.*; H&S Code §25249.6 *et seq.*). Due to the carcinogenicity of lead, the no significant risk
17 level for lead is 15 ug/day (micrograms a day). (27 CCR § 25705(b)(1).)

18 22. To test DEFENDANTS’ PRODUCTS for lead, PLAINTIFF hired a well-
19 respected and accredited testing laboratory. The results of testing undertaken by PLAINTIFF
20 of DEFENDANTS’ PRODUCTS show that the PRODUCTS tested were in violation of the 0.5
21 ug/day “safe harbor” daily dose limit set forth in Proposition 65’s regulations. Very significant
22 is the fact that people are being exposed to lead through ingestion as opposed to other not as
23 harmful methods of exposure such as dermal exposure. Ingestion of lead produces much
24 higher exposure levels and health risks than does dermal exposure to this chemical.

25 23. At all times relevant to this action, DEFENDANTS, therefore, have knowingly
26 and intentionally exposed the users and/or handlers of the PRODUCTS to the LISTED

1 CHEMICAL without first giving a clear and reasonable warning to such individuals.

2 24. The PRODUCTS have allegedly been sold by DEFENDANTS for use in
3 California since at least August 29, 2011. The PRODUCTS continue to be distributed
4 and sold in California without the requisite warning information.

5 25. On August 29, 2014, ERC served DEFENDANTS and each of the appropriate
6 public enforcement agencies with a Proposition 65 Notice, a document entitled “Notice of
7 Violations of California Health & Safety Code Section 25249.5” that provided DEFENDANTS
8 and the public enforcement agencies with notice that DEFENDANTS were in violation of
9 Proposition 65 for failing to warn purchasers and individuals using the PRODUCTS that the
10 use of the PRODUCTS exposes them to lead, a chemical known to the State of California to
11 cause cancer and/or reproductive toxicity (a true and copy of the 60-Day Notice is attached
12 hereto as **Exhibit A** and incorporated by reference).

13 26. As a proximate result of acts by DEFENDANTS, as persons in the course of
14 doing business within the meaning of Health & Safety Code §25249.11, individuals throughout
15 the State of California, including in the County of Alameda, have been exposed to the LISTED
16 CHEMICAL without a clear and reasonable warning. The individuals subject to the illegal
17 exposures include normal and foreseeable users of the PRODUCTS, as well as all other
18 persons exposed to the PRODUCTS.

19 **FIRST CAUSE OF ACTION**
20 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, et seq. concerning**
21 **the PRODUCTS described in the August 29, 2014, Prop. 65 Notice)**
22 **Against DEFENDANTS**

23 27. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 26,
24 inclusive, as if specifically set forth herein.

25 28. By committing the acts alleged in this Complaint, DEFENDANTS, at all times
26 relevant to this action, and continuing through the present, have violated H&S Code §25249.6
by, in the course of doing business, knowingly and intentionally exposing individuals who use

1 or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICAL, without first
2 providing a clear and reasonable warning to such individuals pursuant to H&S Code §§
3 25249.6 and 25249.11(f).

4 29. By the above-described acts, DEFENDANTS have violated H&S Code §
5 25249.6 and are therefore subject to an injunction ordering DEFENDANTS to stop violating
6 Proposition 65, to provide warnings to all present and future customers, and to provide warnings
7 to DEFENDANTS' past customers who purchased or used the PRODUCTS without receiving a
8 clear and reasonable warning.

9 30. An action for injunctive relief under Proposition 65 is specifically authorized by
10 Health & Safety Code §25249.7(a).

11 31. Continuing commission by DEFENDANTS of the acts alleged above will
12 irreparably harm the citizens of the State of California, for which harm they have no plain,
13 speedy, or adequate remedy at law.

14 Wherefore, PLAINTIFF prays for judgment against DEFENDANTS, as set forth
15 hereafter.

16 **SECOND CAUSE OF ACTION**
17 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, et seq. concerning the**
18 **PRODUCTS described in PLAINTIFF's NOTICE)**
19 **Against DEFENDANTS**

20 32. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 31,
21 inclusive, as if specifically set forth herein.

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

34. By the above-described acts, DEFENDANTS are liable, pursuant to H&S Code

1 §25249.7(b), for a civil penalty of \$2,500 per day per violation for each unlawful exposure to
2 the LISTED CHEMICAL from the PRODUCTS.

3 Wherefore, PLAINTIFF prays for judgment against DEFENDANTS, as set forth
4 hereafter.

5 **THE NEED FOR INJUNCTIVE RELIEF**

6 35. PLAINTIFF re-alleges and incorporates by this reference Paragraphs 1 through
7 34, as if set forth below.

8 36. By committing the acts alleged in this Complaint, DEFENDANTS have caused
9 irreparable harm for which there is no plain, speedy or adequate remedy at law. In the absence
10 of equitable relief, Defendants will continue to create a substantial risk of irreparable injury by
11 continuing to cause consumers to be involuntarily and unwittingly exposed to the LISTED
12 CHEMICAL through the use and/or handling of the PRODUCTS.

13 **PRAYER FOR RELIEF**

14 Wherefore, PLAINTIFF accordingly prays for the following relief:

15 A. a preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),
16 enjoining DEFENDANTS, their agents, employees, assigns and all persons acting in concert or
17 participating with DEFENDANTS, from distributing or selling the PRODUCTS in California
18 without first providing a clear and reasonable warning, within the meaning of Proposition 65,
19 that the users and/or handlers of the PRODUCTS are exposed to the LISTED CHEMICAL;

20 B. an injunctive order, pursuant to H&S Code §25249.7(b), compelling
21 DEFENDANTS to identify and locate each individual who has purchased the PRODUCTS
22 since August 29, 2011, and to provide a warning to such person that the use of the
23 PRODUCTS will expose the user to chemicals known to birth defects and other reproductive
24 harm;

25 C. an assessment of civil penalties pursuant to Health & Safety Code §25249.7(b),
26 against Defendants in the amount of \$2,500 per day for each violation of Proposition 65;

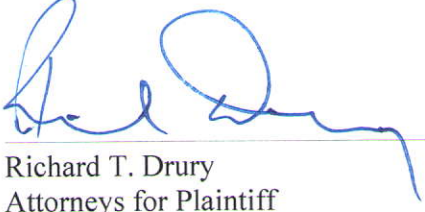
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D. an award to PLAINTIFF of its reasonable attorney's fees and costs of suit pursuant to California Code of Civil Procedure §1021.5, as PLAINTIFF shall specify in further application to the Court; and,

E. such other and further relief as may be just and proper.

DATED: Nov. 13, 2014

Lozeau | Drury LLP



Richard T. Drury
Attorneys for Plaintiff
Environmental Research Center

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Exhibit A



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

VIA CERTIFIED MAIL

Current CEO or President
Food for Health International, LLC
825 East 800 North
Orem, UT 84097

Current CEO or President
Food for Health International, LLC
3560 West Ninigret Drive
Salt Lake City, UT 84104

Current CEO or President
Food for Health International, LLC
391 South Orange Street, Suite C
Salt Lake City, UT 84104

Current CEO or President
Food for Health International, LLC
5350 West Harold Gatty Drive, Suite D
Salt Lake City, UT 84116

Current CEO or President
Activz, LLC
4626 North 300 West, #250
Provo, UT 84604

Frank L. Davis
(Activz, LLC's Registered Agent
for Service of Process)
825 East 800 North
Orem, UT 84097

Frank L. Davis
(Food for Health International, LLC's
Registered Agent for Service of Process)
825 East 800 North
Orem, UT 84097

Current President or CEO
Honest Nutrition, LLC
1050 East 3300 South, Suite 204
Salt Lake City, UT 84106

Current President or CEO
Honest Nutrition, LLC
1847 West 2300 South
Salt Lake City, UT 84119

Current President or CEO
Honest Nutrition, LLC
4576 South Park Manor Drive
Salt Lake City, UT 84117

Tedd Frandsen
(Honest Nutrition, LLC's Registered Agent
for Service of Process)
4576 South Park Manor Drive
Salt Lake City, UT 84117

VIA ONLINE SUBMISSION

Office of the California Attorney General

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 represent Environmental Research Center, Inc. (“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 names of the Companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Food for Health International, LLC
Activz, LLC
Honest Nutrition, LLC

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

- **Activz Organic Rice Protein Shake Chocolate - Lead**
- **Activz 100% Organic Wheatgrass Juice Powder - Lead**
- **Activz Organic Mango Whole Powder - Lead**
- **Activz Organic Spinach Whole + Juice Powder - Lead**
- **Activz Whole-Food Multivitamin Shake Complete Berries & Cream Flavor - 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.

This letter is a notice to the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators 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, is enclosed with the copy of this letter to the Violators.

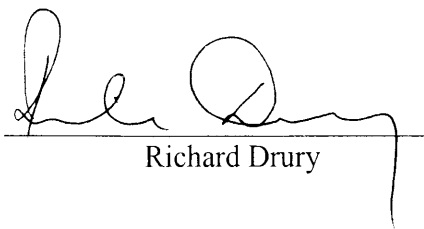
The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the

identified chemical, lead. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to lead 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 lead. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since August 29, 2011, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

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 the Violators agree in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client'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.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



Richard Drury

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Food for Health International, LLC, Activz, LLC, Honest Nutrition, LLC and their Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)

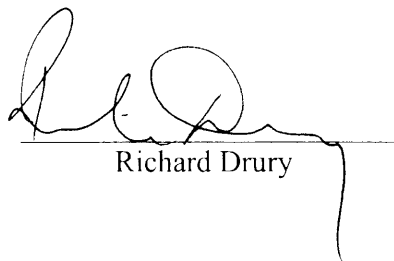
CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations
by Food for Health International, LLC, Activz, LLC, and Honest Nutrition,
LLC**

I, Richard Drury, declare:

1. This Certificate of Merit accompanies the attached sixty-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 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 Violators 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: August 29, 2014


Richard Drury

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 August 29, 2014, 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 U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
Food for Health International, LLC
825 East 800 North
Orem, UT 84097

Frank L. Davis
(Food for Health International, LLC’s
Registered Agent for Service of Process)
825 East 800 North
Orem, UT 84097

Current CEO or President
Food for Health International, LLC
3560 West Ninigret Drive
Salt Lake City, UT 84104

Current President or CEO
Honest Nutrition, LLC
1050 East 3300 South, Suite 204
Salt Lake City, UT 84106

Current CEO or President
Food for Health International, LLC
391 South Orange Street, Suite C
Salt Lake City, UT 84104

Current President or CEO
Honest Nutrition, LLC
1847 West 2300 South
Salt Lake City, UT 84119

Current CEO or President
Food for Health International, LLC
5350 West Harold Gatty Drive, Suite D
Salt Lake City, UT 84116

Current President or CEO
Honest Nutrition, LLC
4576 South Park Manor Drive
Salt Lake City, UT 84117

Current CEO or President
Activz, LLC
4626 North 300 West, #250
Provo, UT 84604

Tedd Frandsen
(Honest Nutrition, LLC’s Registered Agent
for Service of Process)
4576 South Park Manor Drive
Salt Lake City, UT 84117

Frank L. Davis
(Activz, LLC’s Registered Agent
for Service of Process)
825 East 800 North
Orem, UT 84097

On August 29, 2014, I electronically served the following documents: **NOTICE OF VIOLATIONS, 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 party by uploading a true and correct copy thereof on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

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

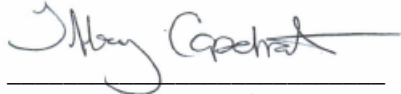
Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

August 29, 2014

Page 6

On August 29, 2014, I served the following documents: **NOTICE OF VIOLATIONS, 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 August 29, 2014, in Fort Oglethorpe, Georgia.

A handwritten signature in cursive script, appearing to read "Tiffany Capehart", written in black ink. The signature is positioned above a horizontal line.

Tiffany Capehart

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

August 29, 2014

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Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 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, 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 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 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 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 201 Commercial 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	
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 Blvd., Room 224 Visalia, CA 93291	