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4 Berkeley, CA 94704  
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ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 30 2015

CLERK OF THE SUPERIOR COURT  
By Aman Barnes  
Deputy

8 Attorneys for Plaintiff  
9 ENVIRONMENTAL RESEARCH CENTER, INC.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF ALAMEDA

RG15764471

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

14 Plaintiff, )

15 v. )

16 NORTH AMERICAN HERB AND SPICE )  
17 CO. LTD. LLC dba NORTH AMERICAN )  
18 HERB AND SPICE LLC, an Illinois Limited )  
19 Liability Company; NORTH AMERICAN )  
20 HERB AND SPICE CO. LTD. LLC, an )  
21 Illinois Limited Liability Company )

22 Defendants. )

Case No. \_\_\_\_\_

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

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

23 Plaintiff ENVIRONMENTAL RESEARCH CENTER, INC. ("Plaintiff" or "ERC")

24 brings this action in the interests of the general public and, on information and belief, hereby  
25 alleges:

26 **INTRODUCTION**

1. This action seeks to remedy the continuing failure of Defendants NORTH  
AMERICAN HERB AND SPICE CO. LTD. LLC dba NORTH AMERICAN HERB AND  
SPICE LLC and NORTH AMERICAN HERB AND SPICE CO. LTD. LLC (collectively  
"NAHS" or "Defendants") 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

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1 reproductive harm.

2 2. Defendants manufacture, package, distribute, market, and/or sell in California  
3 certain products containing lead, including each of the following products (“PRODUCTS”):

- 4 a. North American Herb & Spice Extract of Wild Nettles;
- 5 b. North American Herb & Spice Raw ToxiPurge;
- 6 c. North American Herb & Spice EstroNorm;
- 7 d. North American Herb & Spice Hyper-Ten;
- 8 e. North American Herb & Spice Hema-Build;
- 9 f. North American Herb & Spice Total Daily Purge+;
- 10 g. North American Herb & Spice LivaClenz;
- 11 h. North American Herb & Spice Raw Purely-Min;
- 12 i. North American Herb & Spice Purely-B;
- 13 j. North American Herb & Spice ProstaCLENZ.

14 3. Lead and lead compounds (hereinafter, the “LISTED CHEMICAL”) is a substance  
15 known to the State<sup>1</sup> of California to cause cancer, birth defects, and other reproductive harm.

16 4. The use and/or handling of the PRODUCTS causes exposures to the LISTED  
17 CHEMICAL at levels requiring a “clear and reasonable warning” under California's Safe  
18 Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code (“H&S Code”)  
19 §25249.5, *et seq.* (also known as “Proposition 65”). Defendants have failed to provide the  
20 health hazard warnings required by Proposition 65.

21 5. Defendants’ continued manufacturing, packaging, distributing, marketing and/or  
22 sales of the PRODUCTS without the required health hazard warnings, causes individuals to be  
23 involuntarily and unwittingly exposed to levels of the LISTED CHEMICAL that violate  
24 Proposition 65.

25  
26 \_\_\_\_\_  
<sup>1</sup> All statutory and regulatory references herein are to California law, unless otherwise specified.

1 6. Plaintiff seeks injunctive relief enjoining Defendants from the continued  
2 manufacturing, packaging, distributing, marketing and/or sales of the PRODUCTS in  
3 California without provision of clear and reasonable warnings regarding the risks of cancer,  
4 birth defects, and other reproductive harm posed by exposure to the LISTED CHEMICAL  
5 through the use and/or handling of the PRODUCTS. Plaintiff seeks an injunctive order  
6 compelling Defendants to bring their business practices into compliance with Proposition 65 by  
7 providing a clear and reasonable warning to each individual who has been and who in the  
8 future may be exposed to the LISTED CHEMICAL from the use of the PRODUCTS. Plaintiff  
9 also seeks an order compelling Defendants to identify and locate each individual person who in  
10 the past has purchased the PRODUCTS, and to provide to each such purchaser a clear and  
11 reasonable warning that the use of the PRODUCTS will cause exposures to the LISTED  
12 CHEMICAL.

13 7. In addition to injunctive relief, Plaintiff seeks an assessment of civil penalties in  
14 excess of \$15 million to remedy Defendants' failure to provide clear and reasonable warnings  
15 regarding exposures to the LISTED CHEMICAL.

#### 16 **JURISDICTION AND VENUE**

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

21 9. This Court has jurisdiction over Defendants because, based on information and  
22 belief, Defendants are businesses having sufficient minimum contacts with California, or  
23 otherwise intentionally availing themselves of the California market through the distribution  
24 and sale of the PRODUCTS in the State of California, to render the exercise of jurisdiction  
25 over them by the California courts consistent with traditional notions of fair play and  
26 substantial justice.

1 10. Venue in this action is proper in the Alameda Superior Court because the  
2 Defendants have violated California law in the County of Alameda.

3 **PARTIES**

4 11. Plaintiff ERC is a non-profit corporation organized under California's Corporation  
5 Law. ERC is dedicated to, among other causes, reducing the use and misuse of hazardous and  
6 toxic substances, consumer protection, worker safety, and corporate responsibility.

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

9 13. Defendant NORTH AMERICAN HERB AND SPICE CO. LTD. LLC dba NORTH  
10 AMERICAN HERB AND SPICE LLC is a Limited Liability Company organized under the  
11 laws of the State of Illinois and is a person doing business within the meaning of H&S Code  
12 §25249.11. NAHS manufactures, packages, distributes, markets and/or sells the PRODUCTS  
13 for sale or use in California and in Alameda County.

14 14. Defendant NORTH AMERICAN HERB AND SPICE CO. LTD. LLC is a Limited  
15 Liability Company organized under the laws of the State of Illinois and is a person doing  
16 business within the meaning of H&S Code §25249.11. NAHS manufactures, packages,  
17 distributes, markets and/or sells the PRODUCTS for sale or use in California and in Alameda  
18 County.

19 **STATUTORY BACKGROUND**

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

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

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

5 17. “‘Knowingly’ refers only to knowledge of the fact that a discharge of, release of, or  
6 exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No  
7 knowledge that the discharge, release or exposure is unlawful is required.” 27 California Code  
8 of Regulations (“CCR”) §25102(n).

9 18. Proposition 65 provides that any person “violating or threatening to violate” the  
10 statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The  
11 phrase “threatening to violate” is defined to mean creating “a condition in which there is a  
12 substantial likelihood that a violation will occur.” (H&S Code §25249.11(e)). Violators are  
13 liable for civil penalties of up to \$2,500 per day for each violation of the Act. (H&S Code  
14 §25249.7.)

### 15 **FACTUAL BACKGROUND**

16 19. On February 27, 1987, the State of California officially listed the chemical lead as a  
17 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.* Due to the high toxicity of  
21 lead, the maximum allowable dose level for lead is 0.5 ug/day (micrograms a day) for  
22 reproductive toxicity. 27 CCR § 25805(b).

23 20. On October 1, 1992, the State of California officially listed the chemicals lead and  
24 lead compounds as chemicals known to cause cancer. Lead and lead compounds became  
25 subject to the warning requirement one year later and were therefore subject to the “clear and  
26 reasonable” warning requirements of Proposition 65 beginning on October 1, 1993. 27 CCR  
§ 25102, *et seq.*; H&S Code §25249.6, *et seq.* Due to the carcinogenicity of lead, the no  
significant risk level for lead is 15 ug/day (micrograms a day). 27 CCR § 25705(b)(1).

1           21. To test Defendants' PRODUCTS for lead, Plaintiff hired a well-respected and  
2 accredited testing laboratory that designed the testing protocol used and approved by the  
3 California Attorney General years ago for testing heavy metals. The results of testing  
4 undertaken by Plaintiff of Defendants' PRODUCTS show that the PRODUCTS tested were in  
5 violation of the 0.5 ug/day "safe harbor" daily dose limit set forth in Proposition 65's  
6 regulations. Very significant is the fact that people are being exposed to lead through ingestion  
7 as opposed to other not as harmful methods of exposure such as dermal exposure. Ingestion of  
8 lead produces much higher exposure levels and health risks than does dermal exposure to this  
9 chemical.

10           22. At all times relevant to this action, Defendants, therefore, have knowingly and  
11 intentionally exposed the users and/or handlers of the PRODUCTS to the LISTED  
12 CHEMICAL without first giving a clear and reasonable warning to such individuals.

13           23. The PRODUCTS have allegedly been sold by Defendants for use in  
14 California since at least September 26, 2011. The PRODUCTS continue to be distributed  
15 and sold in California without the requisite warning information.

16           24. On September 26, 2014, Plaintiff sent a 60-Day Notice of Proposition 65 violations  
17 ("Notice I") to the requisite public enforcement agencies, and to Defendant NORTH  
18 AMERICAN HERB AND SPICE CO. LTD. LLC dba NORTH AMERICAN HERB AND  
19 SPICE LLC. A true and correct copy of Notice I is attached hereto as Exhibit A and  
20 incorporated by reference. On December 22, 2014, Plaintiff sent a 60-Day Notice of  
21 Proposition 65 violations ("Notice II") to the requisite public enforcement agencies, and to  
22 Defendant NORTH AMERICAN HERB AND SPICE CO. LTD. LLC. A true and correct  
23 copy of Notice II is attached hereto as Exhibit B and incorporated by reference. The Notices  
24 were issued pursuant to, and in compliance with, the requirements of H&S Code §25249.7(d)  
25 and the statute's implementing regulations regarding the notice of the violations to be given to  
26 certain public enforcement agencies and to the violator. The Notices included, *inter alia*, the

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

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

20 25. At least 60-days have elapsed since Plaintiff sent the Notices to the  
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 26. As a proximate result of acts by Defendants, as persons in the course of doing  
25 business within the meaning of Health & Safety Code §25249.11, individuals throughout the  
26 State of California, including in the County of Alameda, have been exposed to the LISTED

1 CHEMICAL without a clear and reasonable warning. The individuals subject to the illegal  
2 exposures include normal and foreseeable users of the PRODUCTS, as well as all other  
3 persons exposed to the PRODUCTS.

4 **FIRST CAUSE OF ACTION**  
5 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning**  
6 **the PRODUCTS described in the September 26, 2014 and**  
7 **December 22, 2014 Prop. 65 Notices)**

8 27. Plaintiff realleges and incorporates by reference all preceding paragraphs as if  
9 specifically set forth herein.

10 27. By committing the acts alleged in this Complaint, Defendants at all times relevant to  
11 this action, and continuing through the present, have violated H&S Code §25249.6 by, in the  
12 course of doing business, knowingly and intentionally exposing individuals who use or handle  
13 the PRODUCTS set forth in the Notice to the LISTED CHEMICAL, without first providing a  
14 clear and reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and  
15 25249.11(f).

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

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

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

26 Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.



1 **SECOND CAUSE OF ACTION**

2 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, et seq. concerning the**  
3 **PRODUCTS described in the September 26, 2014 and**  
4 **December 22, 2014 Prop. 65 Notices)**

5 31. Plaintiff realleges and incorporates by reference all preceding paragraphs as if  
6 specifically set forth herein.

7 32. By committing the acts alleged in this Complaint, Defendants at all times relevant to  
8 this action, and continuing through the present, has violated H&S Code §25249.6 by, in the  
9 course of doing business, knowingly and intentionally exposing individuals who use or handle  
10 the PRODUCTS set forth in the Notices to the LISTED CHEMICAL, without first providing a  
11 clear and reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and  
12 25249.11(f).

13 33. By the above-described acts, Defendants are liable, pursuant to H&S Code  
14 §25249.7(b), for a civil penalty of \$2,500 per day per violation for each unlawful exposure to the  
15 LISTED CHEMICAL from the PRODUCTS, in an amount in excess of \$15 million.

16 Wherefore, Plaintiff prays judgment against Defendants, as set forth hereafter.

17 **THE NEED FOR INJUNCTIVE RELIEF**

18 34. Plaintiff realleges and incorporates by this reference all preceding paragraphs as  
19 if set forth below.

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

25 **PRAYER FOR RELIEF**

26 Wherefore, Plaintiff accordingly prays for the following relief:

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

1 participating with Defendants, 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 CHEMICAL;

4 B. An injunctive order, pursuant to H&S Code §25249.7(b), compelling  
5 Defendants to identify and locate each individual who has purchased the PRODUCTS since  
6 September 26, 2011, 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 Defendants in the amount of \$2,500 per day for each violation of Proposition 65, in an  
11 amount in excess of \$15 million;

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

15 E. Such other and further relief as may be just and proper.

16  
17 Dated: March 30, 2015

LAW OFFICE OF CHRISTINA M. CARO

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Christina M. Caro

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**Exhibit A**

## LAW OFFICE OF CHRISTINA M. CARO

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2506 Haste St.  
Berkeley, CA 94704

Tel: (510) 387-8597  
Fax: (510) 295-2649

christina@ccarolaw.com  
www.ccarolaw.com

### **VIA CERTIFIED MAIL**

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC  
13900 West Polo Trail Drive  
Lake Forest, IL 60045

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC  
PO Box 4885  
Buffalo Grove, IL 60089

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC  
9120 Double Diamond Parkway  
Reno, NV 89521

David P. Schippers  
(North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC's  
Registered Agent for Service of Process)  
20 North Clark Street, Suite 720  
Chicago, IL 60602

Laughlin Associates, Inc.  
(North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC's  
Registered Agent for Service of Process)  
9120 Double Diamond Parkway  
Reno, NV 89521

### **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 the 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 name of the Company covered by this notice that violated Proposition 65 (hereinafter the “Violator”) is:

**North American Herb and Spice Co. LTD. LLC dba North American Herb and Spice LLC**

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

**North American Herb & Spice Extract of Wild Nettles - Lead**  
**North American Herb & Spice Raw ToxiPurge - Lead**  
**North American Herb & Spice EstroNorm - Lead**  
**North American Herb & Spice Hyper-Ten - Lead**  
**North American Herb & Spice Hema-Build - Lead**  
**North American Herb & Spice Total Daily Purge+ - Lead**  
**North American Herb & Spice LivaClenz - Lead**  
**North American Herb & Spice Raw Purely-Min - Lead**  
**North American Herb & Spice Purely-B – Lead**  
**North American Herb & Spice ProstaCLENZ -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 Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator 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 Violator.

The Violator has 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 Violator violated Proposition 65 because it 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 September 26, 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 Violator agrees 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 located in California 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,



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Christina M. Caro

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to North American Herb and Spice Co. LTD. LLC dba North American Herb and Spice LLC and its Registered Agent for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations  
by North American Herb and Spice Co. LTD. LLC dba North American  
Herb and Spice LLC**

I, Christina Caro, declare:

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

Dated: September 26, 2014



---

Christina M. Caro

**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 September 26, 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  
North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC  
13900 West Polo Trail Drive  
Lake Forest, IL 60045

David P. Schippers  
(North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC’s  
Registered Agent for Service of Process)  
20 North Clark Street, Suite 720  
Chicago, IL 60602

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC  
PO Box 4885  
Buffalo Grove, IL 60089

Laughlin Associates, Inc.  
(North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC’s  
Registered Agent for Service of Process)  
9120 Double Diamond Parkway  
Reno, NV 89521

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
dba North American Herb and Spice LLC  
9120 Double Diamond Parkway  
Reno, NV 89521

On September 26, 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

On September 26, 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 September 26, 2014, in Fort Oglethorpe, Georgia.

  
Tiffany Capehart



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

September 26, 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
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**Exhibit B**

## LAW OFFICE OF CHRISTINA M. CARO

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2506 Haste St.  
Berkeley, CA 94704

Tel: (510) 545-9346  
Fax: (510) 295-2649

christina@ccarolaw.com  
www.ccarolaw.com

### VIA CERTIFIED MAIL

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
13900 West Polo Trail Drive  
Lake Forest, IL 60045

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
PO Box 4885  
Buffalo Grove, IL 60089

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
9120 Double Diamond Parkway  
Reno, NV 89521

David P. Schippers  
(North American Herb and Spice Co. LTD. LLC's  
Registered Agent for Service of Process)  
20 North Clark Street, Suite 720  
Chicago, IL 60602

Laughlin Associates, Inc.  
(North American Herb and Spice Co. LTD. LLC's  
Registered Agent for Service of Process)  
9120 Double Diamond Parkway  
Reno, NV 89521

### VIA ONLINE SUBMISSION

Office of the California Attorney General

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

Dear Addressees:

I represent the 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 name of the Company covered by this notice that violated Proposition 65 (hereinafter the “Violator”) is:

**North American Herb and Spice Co. LTD. LLC**

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

**North American Herb & Spice Extract of Wild Nettles - Lead**  
**North American Herb & Spice Raw ToxiPurge - Lead**  
**North American Herb & Spice EstroNorm - Lead**  
**North American Herb & Spice Hyper-Ten - Lead**  
**North American Herb & Spice Hema-Build - Lead**  
**North American Herb & Spice Total Daily Purge+ - Lead**  
**North American Herb & Spice LivaClenz - Lead**  
**North American Herb & Spice Raw Purely-Min - Lead**  
**North American Herb & Spice Purely-B – Lead**  
**North American Herb & Spice ProstaCLENZ -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 Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator 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 Violator.

The Violator has 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 Violator violated Proposition 65 because it failed to provide

December 22, 2014

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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 December 22, 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 Violator agrees 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 located in California 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,



---

Christina M. Caro

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to North American Herb and Spice Co. LTD. LLC and its 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 North American Herb and Spice Co. LTD. LLC**

I, Christina Caro, declare:

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

Dated: December 22, 2014

  
\_\_\_\_\_  
Christina M. Caro

**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 December 22, 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  
North American Herb and Spice Co. LTD. LLC  
13900 West Polo Trail Drive  
Lake Forest, IL 60045

David P. Schippers  
(North American Herb and Spice Co. LTD. LLC’s  
Registered Agent for Service of Process)  
20 North Clark Street, Suite 720  
Chicago, IL 60602

Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
PO Box 4885  
Buffalo Grove, IL 60089

Laughlin Associates, Inc.  
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9120 Double Diamond Parkway  
Reno, NV 89521

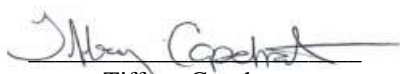
Current CEO or President  
North American Herb and Spice Co. LTD. LLC  
9120 Double Diamond Parkway  
Reno, NV 89521

On December 22, 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

On December 22, 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 December 22, 2014, in Fort Oglethorpe, Georgia.

  
Tiffany Capehart

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

December 22, 2014

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