

ENDORSED
FILED
ALAMEDA COUNTY

JAN 21 2016

CLERK OF THE SUPERIOR COURT

By M. Salcido

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2 CHRISTINA M. CARO (CBN 250797)
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10 Attorneys for Plaintiff
11 ENVIRONMENTAL RESEARCH CENTER, INC.

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF ALAMEDA

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

16 Plaintiff,

17 v.

18 VITAQUEST INTERNATIONAL, LLC, a
19 Delaware Limited Liability Company;
20 VITAQUEST INTERNATIONAL, INC., a
21 Delaware Corporation; WINDMILL HEALTH
22 PRODUCTS, LLC, a New Jersey Limited
23 Liability Company; WINDMILL HEALTH
24 PRODUCTS, LLC dba GARDEN GREENS, a
25 New Jersey Limited Liability Company; and
26 DOES 1-100, inclusive,

27 Defendants.

Case No.

RC16801018

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

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

28 Plaintiff ENVIRONMENTAL RESEARCH CENTER, INC. ("Plaintiff" or "ERC")
brings this action in the interests of the general public and hereby alleges:

INTRODUCTION

1. This action seeks to remedy the continuing failure of Defendants VITAQUEST INTERNATIONAL, LLC, a Delaware Limited Liability Company; VITAQUEST INTERNATIONAL, INC., a Delaware Corporation; WINDMILL HEALTH PRODUCTS, LLC, a New Jersey Limited Liability Company; WINDMILL HEALTH PRODUCTS, LLC

1 dba GARDEN GREENS, a New Jersey Limited Liability Company (collectively "Vitaquest"
2 or "Defendants") to warn consumers in California that they are being exposed to lead, a
3 substance known to the State of California to cause cancer, birth defects, and other
4 reproductive harm.

5 2. Defendant manufactures, packages, distributes, markets, and/or sells in
6 California certain products containing lead, including each of the following products
7 (collectively, the "PRODUCTS"):

- 8 a. Garden Greens Essential Greens 3000;
- 9 b. Garden Greens Essential Greens Garden Greens Blend Very Berry
10 Flavor;
- 11 c. Garden Greens 24 Hour Inner Cleanse 7 Day Intestinal Cleansing
12 Formula, a kit containing the below products:
 - 13 i. Garden Greens 24 Hour Inner Cleanse 7 Day Intestinal
14 Cleansing Formula Daytime Formula; and
 - 15 ii. Garden Greens 24 Hour Inner Cleanse 7 Day Intestinal
16 Cleansing Formula Nighttime Formula.

17 3. Lead and lead compounds, (hereinafter, the "LISTED CHEMICAL") are
18 substances known to the State¹ of California to cause cancer, birth defects, and other
19 reproductive harm. Proposition 65 requires that consumers must be warned before they are
20 exposed to the LISTED CHEMICAL.

21 4. The use and/or handling of the PRODUCTS causes exposures to the LISTED
22 CHEMICAL at levels requiring a "clear and reasonable warning" under California's Safe
23 Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code ("H&S Code")
24 §25249.5, *et seq.* (also known and referred to herein as "Proposition 65").
25
26
27

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

1 5. Defendants have failed to provide the health hazard warnings required by
2 Proposition 65.

3 6. Defendants' past and continuing manufacturing, packaging, distributing,
4 marketing and/or sales of the PRODUCTS without the required health hazard warnings causes
5 individuals to be involuntarily and unwittingly exposed to levels of the LISTED CHEMICAL
6 that violate Proposition 65. As a proximate result of these actions, Defendants have violated
7 and will continue to violate Proposition 65.

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

20 8. In addition to injunctive relief, Plaintiff seeks an assessment of civil penalties in
21 excess of \$93 million to remedy Defendants' failure to provide clear and reasonable warnings
22 regarding exposures to the LISTED CHEMICAL.

23 **JURISDICTION AND VENUE**

24 9. This Court has jurisdiction over this action pursuant to California Constitution
25 Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes
26 except those given by statute to other trial courts." The statute under which this action is
27 brought does not specify any other basis for jurisdiction.
28

1 17. Defendant WINDMILL HEALTH PRODUCTS, LLC dba GARDEN GREENS
2 is a limited liability company organized under the laws of the State of New Jersey and is a
3 person doing business within the meaning of H&S Code section 25249.11. Defendant
4 manufactures, packages, distributes, markets and/or sells the PRODUCTS for sale or use in
5 California and in Alameda County.

6 18. Plaintiff is currently unaware of the true names and capacities of Defendants
7 DOES 1 – 100. Plaintiff will seek leave to amend this Complaint to state the true names and
8 capacities of the fictitiously named Defendants when they have been ascertained.

9 **STATUTORY BACKGROUND**

10 19. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative
11 statute passed as “Proposition 65” by a vote of the People of the State of California in 1986. In
12 passing Proposition 65, the People declared in their right “[t]o be informed about exposures to
13 chemicals that cause cancer, birth defects, or other reproductive harm.” Section 1(b) of
14 Initiative Measure, Proposition 65.

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

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

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

26 22. Proposition 65 establishes a procedure by which the Governor lists chemicals
27 known to the state to cause cancer or reproductive toxicity. H&S Code § 25249.8. The warning
28

1 requirements under Proposition 65 for a given chemical go into effect one year after the
2 Governor places that chemical on the list. H&S Code § 25249.10(b).

3 23. Proposition 65 provides that any person “violating or threatening to violate” the
4 warning requirements of the statute may be enjoined in a court of competent jurisdiction. H&S
5 Code § 25249.7. The phrase “threatening to violate” is defined to mean creating “a condition in
6 which there is a substantial likelihood that a violation will occur.” H&S Code § 25249.11(e).

7 24. Violators are liable for civil penalties of up to \$2,500 per day for each violation
8 of the Act. H&S Code § 25249.7.

9 FACTUAL BACKGROUND

10 25. On February 27, 1987, the State of California officially listed the chemical lead
11 as a chemical known to cause reproductive toxicity. Lead became subject to the Proposition 65
12 warning requirement one year later and was therefore subject to the “clear and reasonable”
13 warning requirements beginning on February 27, 1988. H&S Code § 25249.5, *et seq.*; 27 CCR
14 § 25000, *et seq.* Due to the high toxicity of lead, the maximum allowable dose level for lead is
15 0.5 ug/day (micrograms per day) for reproductive toxicity. 27 CCR § 25805(b).

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

22 27. The PRODUCTS have been sold by Defendants for use in California since at
23 least February 13, 2012.

24 28. To test Defendant’s PRODUCTS for lead, Plaintiff hired a well-respected and
25 accredited testing laboratory that designed the testing protocol used and approved by the
26 California Attorney General years ago for testing heavy metals. The results of testing
27 undertaken by Plaintiff of Defendant’s PRODUCTS show that the PRODUCTS tested were in
28 violation of the 0.5 ug/day “safe harbor” daily dose limit for lead set forth in Proposition 65’s

1 regulations. Very significant is the fact that people are being exposed to lead through ingestion
2 as opposed to other, less harmful, methods of exposure such as dermal exposure. Ingestion of
3 lead produces much higher exposure levels and health risks than does dermal exposure to this
4 chemical.

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

8 30. On February 13, 2015, Plaintiff served Defendants and each of the appropriate
9 public enforcement agencies with a 60-Day Notice of Proposition 65 notice document entitled
10 "Notice of Violations of California Health & Safety Code Section 25249.5 ("Notice"). A true
11 and correct copy of the Notice is attached hereto as Exhibit A and incorporated by reference.
12 The Notice was issued pursuant to, and in compliance with, the requirements of H&S Code
13 section 25249.7(d) and the statute's implementing regulations which require the notice of
14 violations to be given to certain public enforcement agencies and to the violator. The Notice
15 included, *inter alia*, the following information: the name, address, and telephone number of the
16 noticing individual; the name of the alleged violator; the statute violated; the approximate time
17 period during which violations occurred; and descriptions of the violations, including the
18 chemicals involved, the routes of toxic exposure, and the specific product or type of product
19 causing the violations, and was issued as follows:

- 20 a. Defendants were provided a copy of the Notice by Certified Mail;
- 21 b. Defendants were provided a copy of a document entitled "The Safe
22 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
23 Summary," which is also known as Appendix A to Title 27 of CCR
24 section 25903;
- 25 c. the California Attorney General was provided a copy of the Notice via
26 online submission; and
- 27 d. the California Attorney General was provided with a Certificate of Merit
28 by the attorney for the noticing party, stating that there is a reasonable

1 and meritorious case for this action, and attaching factual information
2 sufficient to establish a basis for the certificate, including the identity of
3 the persons consulted with and relied on by the certifier, and the facts,
4 studies, or other data reviewed by those persons, pursuant to H&S Code
5 section 25249.7(h) (2); and

6 e. the applicable District Attorneys were provided a copy of the Notice by
7 Priority Mail, pursuant to H&S Code section 25249.7(d)(1) and 27 CCR
8 section 25903.

9 31. Defendants have sold at least one unit (one package) of the PRODUCT
10 Garden Greens Essential Greens 3000 to a person in the State of California each day
11 since at least February 13, 2012. Each unit contains 30 servings of this PRODUCT.
12 Each serving of this PRODUCT contains levels of the LISTED CHEMICAL that exceed
13 the 0.5 ug/day "safe harbor" daily dose limit for lead set forth in Proposition 65's
14 regulations. Therefore, consumption of a single serving of this PRODUCT results in an
15 exposure to the LISTED CHEMICAL at levels requiring a warning under Proposition 65.
16 Defendants' sales of this PRODUCT without the requisite warning have therefore
17 resulted in at least 32,850 individual exposures, within the meaning of Proposition 65,
18 since at least February 13, 2012.

19 32. Defendants have sold at least one unit (one package) of this PRODUCT
20 Garden Greens Essential Greens Garden Greens Blend Very Berry Flavor to a person in
21 the State of California each day since at least February 13, 2012. Each unit contains 30
22 servings of this PRODUCT. Each serving of this PRODUCT contains levels of the
23 LISTED CHEMICAL that exceed the 0.5 ug/day "safe harbor" daily dose limit for lead
24 set forth in Proposition 65's regulations. Therefore, consumption of a single serving of
25 this PRODUCT results in an exposure to the LISTED CHEMICAL at levels requiring a
26 warning under Proposition 65. Defendants' sales of this PRODUCT without the
27 requisite warning have therefore resulted in at least 32,850 individual exposures, within
28 the meaning of Proposition 65, since at least February 13, 2012.

1 33. Defendants have sold at least one kit (one package) of Garden Greens 24
2 Hour Inner Cleanse 7 Day Intestinal Cleansing Formula to a person in the State of
3 California each day since at least February 13, 2012.

4 a. Each kit contains 21 servings of the PRODUCT Garden Greens 24 Hour
5 Inner Cleanse 7 Day Intestinal Cleansing Formula Daytime Formula.
6 Each serving of this PRODUCT contains levels of the LISTED
7 CHEMICAL that exceed the 0.5 ug/day "safe harbor" daily dose limit for
8 lead set forth in Proposition 65's regulations. Therefore, consumption of
9 a single serving of this PRODUCT results in an exposure to the LISTED
10 CHEMICAL at levels requiring a warning under Proposition 65.
11 Defendants' sales of this PRODUCT without the requisite warning have
12 therefore resulted in at least 22,995 individual exposures, within the
13 meaning of Proposition 65, since at least February 13, 2012.

14 b. Each kit contains 21 servings of the PRODUCT Garden Greens 24 Hour
15 Inner Cleanse 7 Day Intestinal Cleansing Formula Nighttime Formula.
16 Each serving of this PRODUCT contains levels of the LISTED
17 CHEMICAL that exceed the 0.5 ug/day "safe harbor" daily dose limit for
18 lead set forth in Proposition 65's regulations. Therefore, consumption of
19 a single serving of this PRODUCT results in an exposure to the LISTED
20 CHEMICAL at levels requiring a warning under Proposition 65.
21 Defendants' sales of this PRODUCT without the requisite warning have
22 therefore resulted in at least 22,995 individual exposures, within the
23 meaning of Proposition 65, since at least February 13, 2012.

24 34. Defendants' sales of the PRODUCTS have resulted in at least
25 111,690 individual exposures without the warnings required by Proposition 65 since at
26 least February 13, 2012, the three-year period preceding Plaintiff's February 13, 2015
27 service of the Notice that is relevant to Plaintiff's prayer for injunctive relief. H&S Code
28 § 25249.7(a); CCP § 338.

35. Defendants' sales of the PRODUCTS have resulted in at least 37,230 individual exposures without the warnings required by Proposition 65 since at least February 13, 2014, the one-year period preceding the Notice. These exposures entitle the Court to award civil penalties in excess of \$93 million for the applicable statutory penalty period, which is one year prior to the date of the Notice of Violation. CCP § 340; *Consumer Advocacy Group, Inc.*, 150 Cal.App.4th at 981.

36. The imposition of a civil penalty award in excess of \$93 million will have a deterrent economic effect in that it is likely to deter future conduct in violation of Proposition 65 by both Defendant and the regulated community as a whole.

37. The PRODUCTS continue to be distributed and sold in California without the requisite warning information.

38. At least 60 days have elapsed since Plaintiff sent the Notice to the Defendants. The appropriate public enforcement agencies have failed to commence and diligently prosecute a cause of action under Proposition 65 against Defendants based on the allegations herein.

39. As a proximate result of acts by Defendants, as persons in the course of doing business within the meaning of H&S Code section 25249.11, individuals throughout the State of California, including in the County of Alameda, have been exposed to the LISTED CHEMICAL without a clear and reasonable warning. The individuals subject to the illegal exposures include normal and foreseeable users of the PRODUCTS, as well as all other persons exposed to the PRODUCTS.

FIRST CAUSE OF ACTION

**(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning
the PRODUCTS described in the February 13, 2015 Proposition 65 Notice.
By Plaintiff Against Defendants)**

40. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

41. By committing the acts alleged in this Complaint, Defendants at all times relevant to this action, and continuing through the present, have violated H&S Code section

1 25249.6 by, in the course of doing business, knowingly and intentionally exposing individuals
2 who use or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICAL, without
3 first providing a clear and reasonable warning to such individuals pursuant to H&S Code
4 sections 25249.6 and 25249.11(f).

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

10 43. An action for injunctive relief under Proposition 65 is specifically authorized by
11 H&S Code section 25249.7(a).

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

15 Wherefore, Plaintiff prays judgment against Defendants, as set forth 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 the February 13, 2015 Proposition 65 Notice.**
19 **By Plaintiff Against Defendants)**

20 45. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
21 fully set forth herein.

22 46. By committing the acts alleged in this Complaint, Defendants at all times relevant
23 to this action, and continuing through the present, have violated H&S Code section 25249.6 by,
24 in the course of doing business, knowingly and intentionally exposing individuals who use or
25 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 sections
27 25249.6 and 25249.11(f).
28

1 47. By the above-described acts, Defendants are liable, pursuant to H&S Code section
2 25249.7(b), for a civil penalty of \$2,500 per day per violation for each unlawful exposure to the
3 LISTED CHEMICALS from the PRODUCTS, in an amount in excess of \$93 million.

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

5 **THE NEED FOR INJUNCTIVE RELIEF**

6 48. Plaintiff realleges and incorporates by this reference all preceding paragraphs as
7 if set forth below.

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

21 B. an injunctive order, pursuant to H&S Code section 25249.7(a), compelling
22 Defendants to identify and locate each individual who has purchased the PRODUCTS since
23 February 13, 2012, and to provide a warning to such person that the use of the PRODUCTS
24 will expose the user to chemicals known to cause cancer, birth defects, and other reproductive
25 harm;

26 C. an assessment of civil penalties pursuant to H&S Code section 25249.7(b),
27 against Defendants in the amount of \$2,500 per day for each violation of Proposition 65, in an
28 amount in excess of \$93 million;

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

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

5 Dated: January 21, 2016

ADAMS BROADWELL JOSEPH & CARDOZO


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9 TANYA A. GULESSERIAN
10 CHRISTINA M. CARO
11 Attorneys for Plaintiff
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EXHIBIT A

LAW OFFICE OF CHRISTINA M. CARO

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Berkeley, CA 94704

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

christina@ccarolaw.com
www.ccarolaw.com

VIA CERTIFIED MAIL

Current CEO or President
Windmill Health Products, LLC
6 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Windmill Health Products, LLC
100 Lehigh Drive
Fairfield, NJ 07004

Current CEO or President
Windmill Health Products, LLC
21 Dwight Place
Fairfield, NJ 07004

Current CEO or President
Windmill Health Products, LLC
dba Garden Greens
6 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Windmill Health Products, LLC
dba Garden Greens
100 Lehigh Drive
Fairfield, NJ 07004

Current CEO or President
Windmill Health Products, LLC
dba Garden Greens
21 Dwight Place
Fairfield, NJ 07004

Current CEO or President
Vitacost International LLC
8 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Vitacost International Inc.
8 Henderson Drive
West Caldwell, NJ 07006

VIA CERTIFIED MAIL

Angela Vanhouten
(Windmill Health Products, LLC's
Registered Agent for Service of Process)
6 Henderson Drive
West Caldwell, NJ 07006

Angela Vanhouten
(Windmill Health Products, LLC
dba Garden Greens's Registered Agent
for Service of Process)
6 Henderson Drive
West Caldwell, NJ 07006

Scott Yagoda, Esquire
(Vitaquest International LLC's
Registered Agent for Service of Process)
8 Henderson Drive
West Caldwell, NJ 07006

Scott Yagoda, Esquire
(Vitaquest International Inc.'s
Registered Agent for Service of Process)
8 Henderson Drive
West Caldwell, NJ 07006

Corporation Service Company
(Vitaquest International LLC's
Registered Agent for Service of Process)
2711 Centerville Road, Suite 400
Wilmington, DE 19808

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 names of the Companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

**Vitaquest International LLC
Vitaquest International Inc.
Windmill Health Products, LLC
Windmill Health Products, LLC dba Garden Greens**

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

- **Garden Greens Essential Greens 3000- Lead**
- **Garden Greens Essential Greens Garden Greens Blend Very Berry Flavor - Lead**
- **Garden Greens 24 Hour Inner Cleanse 7 Day Intestinal Cleansing Formula- Lead**
 - *****(kit contains the below products)**
 - a. **Garden Greens 24 Hour Inner Cleanse 7 Day Intestinal Cleansing Formula Daytime Formula**
 - b. **Garden Greens 24 Hour Inner Cleanse 7 Day Intestinal Cleansing Formula Nighttime Formula**

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.

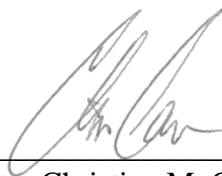
This letter is a notice to each of the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the information now available. ERC may 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 each of the Violators.

Each of the Violators 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. Each of 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 February 13, 2012, 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 each of the Violators 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 Vitaquest International LLC; Vitaquest International Inc.;

Windmill Health Products, LLC; Windmill Health Products, LLC dba Garden Greens; and their Registered Agents for Service of Process only)

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

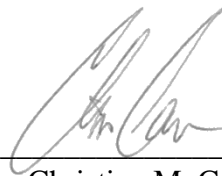
CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Vitaquest International LLC; Vitaquest International Inc.; Windmill Health Products, LLC; and Windmill Health Products, LLC dba Garden Greens

I, Christina Caro, 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: February 13, 2015



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 February 13, 2015, 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
Windmill Health Products, LLC
6 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Vitacost International Inc.
8 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Windmill Health Products, LLC
100 Lehigh Drive
Fairfield, NJ 07004

Angela Vanhouten
(Windmill Health Products, LLC's
Registered Agent for Service of Process)
6 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Windmill Health Products, LLC
21 Dwight Place
Fairfield, NJ 07004

Angela Vanhouten
(Windmill Health Products, LLC
dba Garden Greens's Registered Agent
for Service of Process)
6 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Windmill Health Products, LLC
dba Garden Greens
6 Henderson Drive
West Caldwell, NJ 07006

Scott Yagoda, Esquire
(Vitaquest International LLC's
Registered Agent for Service of Process)
8 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Windmill Health Products, LLC
dba Garden Greens
100 Lehigh Drive
Fairfield, NJ 07004

Scott Yagoda, Esquire
(Vitaquest International Inc.'s
Registered Agent for Service of Process)
8 Henderson Drive
West Caldwell, NJ 07006

Current CEO or President
Windmill Health Products, LLC
dba Garden Greens
21 Dwight Place
Fairfield, NJ 07004

Corporation Service Company
(Vitaquest International LLC's
Registered Agent for Service of Process)
2711 Centerville Road, Suite 400
Wilmington, DE 19808

Current CEO or President
Vitacost International LLC
8 Henderson Drive
West Caldwell, NJ 07006

February 13, 2015


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On February 13, 2015, 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 February 13, 2015, 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 February 13, 2015, in Fort Oglethorpe, Georgia.



Tiffany Capehart

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

February 13, 2015

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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 Post Office Box 720 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	