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10 Attorneys for Plaintiff
11 ENVIRONMENTAL RESEARCH CENTER, INC.

ENDORSED
FILED
ALAMEDA COUNTY

AUG 31 2015

CLERK OF THE SUPERIOR COURT
By ~~Xian Xii Bowie~~

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 WEIDER GLOBAL NUTRITION, LLC, a
19 Nevada Limited Liability Company, WEIDER
20 HEALTH AND FITNESS, a Nevada
21 Corporation, and WEIDER GLOBAL
22 NUTRITION II, LLC, a Nevada Limited
23 Liability Company

24 Defendants.

Case No. **RG15784036**

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

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

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

INTRODUCTION

1. This action seeks to remedy the continuing failure of Defendants WEIDER
GLOBAL NUTRITION, LLC, WEIDER HEALTH AND FITNESS, and WEIDER GLOBAL
NUTRITION II, LLC ("WEIDER" or "DEFENDANTS") to warn consumers in California that

1 they are being exposed to lead and/or cadmium, substances known to the State of California to
2 cause cancer, birth defects, and other reproductive harm. DEFENDANTS manufacture,
3 package, distribute, market, and/or sell in California certain products containing lead and
4 cadmium (collectively, the “PRODUCTS”):

- 5 • Weider Global Nutrition LLC WFit Nutrition VO2-100 - Lead
- 6 • Weider Global Nutrition LLC 100% Whey Double Chocolate - Lead
- 7 • Weider Global Nutrition LLC Dynamic Weight Gainer Smooth Chocolate –
8 Lead, Cadmium
- 9 • Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 2000 Creamy
10 Vanilla - Lead
- 11 • Weider Global Nutrition LLC Red Yeast Rice Plus - Lead
- 12 • Weider Global Nutrition LLC Garcinia Cambogia - Lead
- 13 • Weider Global Nutrition LLC Dynamic Muscle Builder Smooth Chocolate -
14 Lead
- 15 • Weider Global Nutrition LLC Dynamic Muscle Builder Creamy Vanilla - Lead
- 16 • Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 2000 Smooth
17 Chocolate - Lead
- 18 • Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 4000 Creamy
19 Vanilla - Lead
- 20 • Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 4000 Smooth
21 Chocolate - Lead
- 22 • Weider Global Nutrition LLC 100% Whey Chocolate Caramel Coconut- Lead

23 2. Lead and Cadmium (hereinafter, the “LISTED CHEMICALS”) are substances
24 known to the State¹ of California to cause cancer, birth defects, and other reproductive harm.
25

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

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

6 4. DEFENDANTS’ past sales and continued manufacturing, packaging,
7 distributing, marketing and/or sales of the PRODUCTS without the required health hazard
8 warnings, cause individuals to be involuntarily and unwittingly exposed to levels of the
9 LISTED CHEMICALS that violate Proposition 65.

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

22 6. In addition to injunctive relief, PLAINTIFF seeks an assessment of civil
23 penalties up to the maximum civil penalty of \$2,500 per day per exposure authorized by
24 Proposition 65 to remedy DEFENDANTS’ failure to provide clear and reasonable warnings
25 regarding exposures to the LISTED CHEMICALS.

26 ///

1 **JURISDICTION AND VENUE**

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

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

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

14 10. On April 10, 2015, PLAINTIFF sent a 60-Day Notice of Proposition 65
15 (“Notice”) violations to the requisite public enforcement agencies, and to DEFENDANTS.
16 The Notice was issued pursuant to, and in compliance with, the requirements of H&S Code
17 §25249.7(d) and the statute's implementing regulations regarding the notice of the violations to
18 be given to certain public enforcement agencies and to the violators. The Notice included,
19 *inter alia*, the following information: the name, address, and telephone number of the noticing
20 individuals; the name of the alleged violator; the statute violated; the approximate time period
21 during which violations occurred; and descriptions of the violations, including the chemicals
22 involved, the routes of toxic exposure, and the specific product or type of product causing the
23 violations, and was issued as follows:

- 24 a. DEFENDANTS were provided a copy of the Notice by Certified Mail.
25 b. DEFENDANTS were provided a copy of a document entitled “The Safe
26 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A

1 Summary,” which is also known as Appendix A to Title 27 of CCR §25903.

2 c. The California Attorney General was provided a copy of the Notice via
3 online submission.

4 d. The California Attorney General was provided with a Certificate of Merit by
5 the attorney for the noticing parties, stating that there is a reasonable and
6 meritorious case for this action, and attaching factual information sufficient
7 to establish a basis for the certificate, including the identity of the persons
8 consulted with and relied on by the certifier, and the facts, studies, or other
9 data reviewed by those persons, pursuant to H&S Code §25249.7(h) (2).

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

14 **PARTIES**

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

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

21 14. DEFENDANT WEIDER GLOBAL NUTRITION, LLC is a limited
22 liability company organized under the State of Nevada’s Corporation Law and is a person
23 doing business within the meaning of H&S Code §25249.11.

24 15. DEFENDANT WEIDER HEALTH AND FITNESS is a corporation organized
25 under the State of Nevada’s Corporation Law and is a person doing business within the
26 meaning of H&S Code §25249.11.

1 16. DEFENDANT WEIDER GLOBAL NUTRITION II, LLC is a limited liability
2 company organized under the State of Nevada’s Corporation Law and is a person doing
3 business within the meaning of H&S Code §25249.11.

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

9 **STATUTORY BACKGROUND**

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

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

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

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

24 21. Proposition 65 provides that any person “violating or threatening to violate” the
25 statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The phrase
26 “threatening to violate” is defined to mean creating “a condition in which there is a substantial
likelihood that a violation will occur.” (H&S Code §25249.11(e)). Violators are liable for civil

1 penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

2 **FACTUAL BACKGROUND**

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

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

16 24. On May, 1, 1997, the State of California officially listed the chemical cadmium
17 as a chemical known to cause reproductive toxicity. Cadmium 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 May 1, 1998. (27 CCR § 25000, *et seq.*; H&S
20 Code §25249.5, *et seq.*). Due to the high toxicity of cadmium, the maximum allowable dose
21 level for cadmium is 4.1 ug/day (micrograms a day) for reproductive toxicity. (27 CCR
22 § 25805(b).)

23 25. On October 1, 1987, the State of California officially listed the chemicals
24 cadmium and cadmium compounds as chemicals known to cause cancer. Cadmium and
25 cadmium compounds became subject to the warning requirement one year later and were
26 therefore subject to the “clear and reasonable” warning requirements of Proposition 65

1 beginning on October 1, 1988 (27 CCR § 25000, *et seq.*; H&S Code §25249.6 *et seq.*).

2 26. To test DEFENDANTS' PRODUCTS for lead and cadmium, PLAINTIFF hired
3 a well-respected and accredited testing laboratory. The results of testing undertaken by
4 PLAINTIFF of DEFENDANTS' PRODUCTS show that the PRODUCTS tested were in
5 violation of the 0.5 ug/day for lead and 4.1 ug/day for cadmium "safe harbor" daily dose limits
6 set forth in Proposition 65's regulations. Very significant is the fact that people are being
7 exposed to lead and cadmium through ingestion as opposed to other not as harmful methods of
8 exposure such as dermal exposure. Ingestion of lead and cadmium produces much higher
9 exposure levels and health risks than dermal exposure to these chemicals.

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

13 28. The PRODUCTS have allegedly been sold by DEFENDANTS for use in
14 California since at least April 10, 2012. The PRODUCTS continue to be distributed and
15 sold in California without the requisite warning information.

16 29. On April 10, 2015, ERC served DEFENDANTS and each of the appropriate
17 public enforcement agencies with a Proposition 65 Notice, a document entitled "Notice of
18 Violations of California Health & Safety Code Section 25249.5" that provided DEFENDANTS
19 and the public enforcement agencies with notice that DEFENDANTS were in violation of
20 Proposition 65 for failing to warn purchasers and individuals using the PRODUCTS that the
21 use of the PRODUCTS exposes them to lead and cadmium, chemicals known to the State of
22 California to cause cancer and/or reproductive toxicity (a true and copy of the 60-Day Notice is
23 attached hereto as **Exhibit A** and incorporated by reference).

24 30. As a proximate result of acts by DEFENDANTS, as persons in the course of
25 doing business within the meaning of Health & Safety Code §25249.11, individuals throughout
26 the State of California, including in the County of Alameda, have been exposed to the LISTED

1 CHEMICALS 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 April 10, 2015, Prop. 65 Notice)**
7 **Against DEFENDANTS**

8 31. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1
9 through 30, inclusive, as if specifically set forth herein.

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

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

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

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

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

SECOND CAUSE OF ACTION

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

36. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 35, inclusive, as if specifically set forth herein.

37. 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 §25249.6 by, in the course of doing business, knowingly and intentionally exposing individuals who use or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICALS, without first providing a clear and reasonable warning to such individuals pursuant to H&S Code §§ 25249.6 and 25249.11(f).

38. By the above-described acts, DEFENDANTS are liable, pursuant to H&S Code §25249.7(b), for a civil penalty of \$2,500 per day per violation for each unlawful exposure to the LISTED CHEMICALS from the PRODUCTS.

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

THE NEED FOR INJUNCTIVE RELIEF

39. PLAINTIFF re-alleges and incorporates by this reference Paragraphs 1 through 38, as if set forth below.

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

PRAYER FOR RELIEF

Wherefore, PLAINTIFF accordingly prays for the following relief:

A. a preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),

1 enjoining DEFENDANTS, their agents, employees, assigns and all persons acting in concert or
2 participating with DEFENDANTS, from distributing or selling the PRODUCTS in California
3 without first providing a clear and reasonable warning, within the meaning of Proposition 65,
4 that the users and/or handlers of the PRODUCTS are exposed to the LISTED CHEMICALS;

5 B. an injunctive order, pursuant to H&S Code §25249.7(b), compelling
6 DEFENDANTS to identify and locate each individual who has purchased the PRODUCTS
7 since April 10, 2012, and to provide a warning to such person that the use of the PRODUCTS
8 will expose the user to chemicals known to birth defects and other reproductive 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;

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

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

16 DATED: August 31, 2015

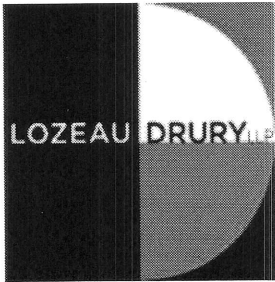
LOZEAU | DRURY LLP

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19 Richard T. Drury
20 Douglas J. Chermak
21 Attorneys for Plaintiff
Environmental Research Center, Inc.
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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
Weider Global Nutrition, LLC
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

Current CEO or President
Weider Global Nutrition, LLC
2002 South 5070 West
Salt Lake City, UT 84104

Current CEO or President
Weider Global Nutrition, LLC
1235 269th Avenue Southeast
Sammamish, WA 98075

Current CEO or President
Weider Global Nutrition II, LLC
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

Current CEO or President
Weider Health and Fitness
20750 Ventura Boulevard, Suite 310
Woodland Hills, CA 91364

Current CEO or President
Weider Health and Fitness
21100 Erwin Street
Woodland Hills, CA 91367

Current CEO or President
Weider Health and Fitness
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

VIA CERTIFIED MAIL

Current CEO or President
Weider Health and Fitness, LLC
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

Current CEO or President
Weider Nutrition International Holdings, Inc.
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

Current CEO or President
Weider Nutrition International Holdings, Inc.
2002 South 5070 West
Salt Lake City, UT 84104

David Neeley
(Weider Global Nutrition, LLC's
Registered Agent for Service of Process)
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

The Corporation Trust Company of Nevada
(Weider Global Nutrition, LLC's
Registered Agent for Service of Process)
311 South Division Street
Carson City, NV 89703

GKL Registered Agents/Filings, Inc.
(Weider Global Nutrition II, LLC's
Registered Agent for Service of Process)
3064 Silver Sage Drive, Suite 150
Carson City, NV 89701

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

April 10, 2015

Page 2

Bernard Cartoon
(Weider Health and Fitness' Registered
Agent for Service of Process)
20750 Ventura Boulevard, Suite 310
Woodland Hills, CA 91364

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA PRIORITY MAIL

National Registered Agents, Inc.
(Weider Health and Fitness, LLC's
Registered Agent for Service of Process)
160 Greentree Drive, Suite 101
Dover, DE 19904

District Attorneys of All California Counties
and Select City Attorneys
(See Attached Certificate of Service)

The Prentice-Hall Corporation System, Inc.
(Weider Nutrition International Holdings,
Inc.'s Registered Agent for Service of Process)
2711 Centerville Road, Suite 400
Wilmington, DE 19808

The Corporation Trust Company of Nevada
(Weider Health and Fitness' Registered Agent
for Service of Process)
311 South Division Street
Carson City, NV 89703

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:

**Weider Global Nutrition, LLC
Weider Health and Fitness, LLC
Weider Health and Fitness**

**Weider Nutrition International Holdings, Inc.
Weider Global Nutrition II, LLC**

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

- 1. Weider Global Nutrition LLC WFit Nutrition VO2-100 - Lead**
- 2. Weider Global Nutrition LLC 100% Whey Double Chocolate - Lead**
- 3. Weider Global Nutrition LLC Dynamic Weight Gainer Smooth Chocolate – Lead, Cadmium**
- 4. Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 2000 Creamy Vanilla - Lead**
- 5. Weider Global Nutrition LLC Red Yeast Rice Plus - Lead**
- 6. Weider Global Nutrition LLC Garcinia Cambogia - Lead**
- 7. Weider Global Nutrition LLC Dynamic Muscle Builder Smooth Chocolate - Lead**
- 8. Weider Global Nutrition LLC Dynamic Muscle Builder Creamy Vanilla - Lead**
- 9. Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 2000 Smooth Chocolate - Lead**
- 10. Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 4000 Creamy Vanilla - Lead**
- 11. Weider Global Nutrition LLC Anabolic Mass Gainer Mega Mass 4000 Smooth Chocolate - Lead**
- 12. Weider Global Nutrition LLC 100% Whey Chocolate Caramel Coconut- 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. Cadmium was officially listed as a chemical known to cause developmental toxicity and male reproductive toxicity on May 1, 1997 while Cadmium and Cadmium Compounds were listed as chemicals known to the State of California to cause cancer on October 1, 1987.

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.

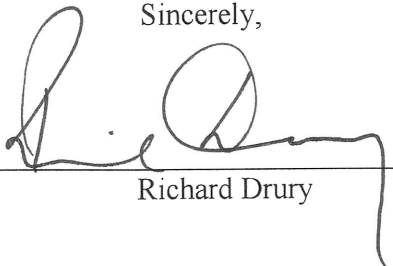
Each of the Violators has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals, lead and cadmium. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to lead and cadmium 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 and cadmium. 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 and cadmium. Each of these ongoing violations has occurred on every day since April 10, 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,



Richard Drury

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Weider Global Nutrition, LLC; Weider Health and Fitness, LLC; Weider Health and Fitness; Weider Nutrition International Holdings, Inc.; Weider Global Nutrition II, LLC and their Registered Agents for Service of Process only)

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

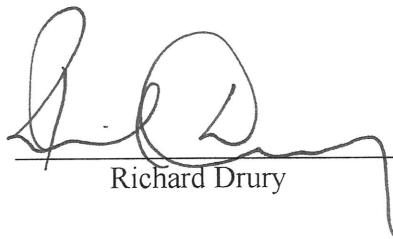
CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Weider Global Nutrition, LLC; Weider Health and Fitness, LLC; Weider Health and Fitness; Weider Nutrition International Holdings, Inc.; and Weider Global Nutrition II, 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 chemicals that are the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged 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: April 10, 2015


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 April 10, 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
Weider Global Nutrition, LLC
2212 East Williams Field Road
Suite 230
Gilbert, AZ 85295

Bernard Cartoon
(Weider Health and Fitness’ Registered
Agent for Service of Process)
20750 Ventura Boulevard, Suite 310
Woodland Hills, CA 91364

Current CEO or President
Weider Global Nutrition, LLC
2002 South 5070 West
Salt Lake City, UT 84104

National Registered Agents, Inc.
(Weider Health and Fitness, LLC’s
Registered Agent for Service of Process)
160 Greentree Drive, Suite 101
Dover, DE 19904

Current CEO or President
Weider Global Nutrition, LLC
1235 269th Avenue Southeast
Sammamish, WA 98075

The Prentice-Hall Corporation System, Inc.
(Weider Nutrition International Holdings,
Inc.’s Registered Agent for Service of Process)
2711 Centerville Road, Suite 400
Wilmington, DE 19808

Current CEO or President
Weider Global Nutrition II, LLC
2212 East Williams Field Road
Suite 230
Gilbert, AZ 85295

The Corporation Trust Company of Nevada
(Weider Health and Fitness’ Registered Agent
for Service of Process)
311 South Division Street
Carson City, NV 89703

Current CEO or President
Weider Health and Fitness
20750 Ventura Boulevard, Suite 310
Woodland Hills, CA 91364

Current CEO or President
Weider Health and Fitness, LLC
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

Current CEO or President
Weider Health and Fitness
21100 Erwin Street
Woodland Hills, CA 91367

Current CEO or President
Weider Nutrition International Holdings, Inc.
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

Current CEO or President
Weider Health and Fitness
2212 East Williams Field Road
Suite 230
Gilbert, AZ 85295

Current CEO or President
Weider Nutrition International Holdings, Inc.
2002 South 5070 West
Salt Lake City, UT 84104

The Corporation Trust Company of
Nevada
(Weider Global Nutrition, LLC's
Registered Agent for Service of
Process)
311 South Division Street
Carson City, NV 89703

David Neeley
(Weider Global Nutrition, LLC's
Registered Agent for Service of Process)
2212 East Williams Field Road, Suite 230
Gilbert, AZ 85295

GKL Registered Agents/Filings, Inc.
(Weider Global Nutrition II, LLC's
Registered Agent for Service of
Process)
3064 Silver Sage Drive, Suite 150
Carson City, NV 89701

On April 10, 2015, I verified 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)** were served on the following party when a true and correct copy thereof was uploaded 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 April 10, 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 April 10, 2015, in Fort Oglethorpe, Georgia.

Tiffany Capehart

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

April 10, 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 3 rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 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	