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ALAMEDA COUNTY

JUN 21 2019

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Attorney for Plaintiff
ENVIRONMENTAL RESEARCH CENTER, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

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

Plaintiff,

v.

GENERAL NUTRITION CORPORATION, a
Pennsylvania corporation; GENERAL
NUTRITION COMPANIES, INC., a
Delaware corporation; GENERAL
NUTRITION INVESTMENT COMPANY, an
Arizona corporation; GENERAL
NUTRITION CENTERS, INC., a Delaware
corporation; GNC CORPORATION, a
Delaware corporation; GNC HOLDINGS,
INC., a Delaware corporation; GNC PARENT
LLC, a Delaware limited liability company;
GNC HEADQUARTERS, INC., a
Pennsylvania corporation; GNC
HEADQUARTERS, LLC, a Pennsylvania
limited liability company; GNC PARENT
CORPORATION, a Delaware corporation;
and GNC, INC., a Pennsylvania corporation,

Defendants.

Case No.

[Signature] 19024024

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

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

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

1 **INTRODUCTION**

2 1. This action seeks to remedy the continuing failure of Defendants GENERAL
3 NUTRITION CORPORATION, GENERAL NUTRITION COMPANIES, INC., GENERAL
4 NUTRITION INVESTMENT COMPANY, GENERAL NUTRITION CENTERS, INC., GNC
5 CORPORATION, GNC HOLDINGS, INC., GNC PARENT LLC, GNC HEADQUARTERS,
6 INC., GNC HEADQUARTERS, LLC, GNC PARENT CORPORATION, and GNC, INC.
7 (collectively “GNC” or “DEFENDANTS”) to warn consumers in California that they are being
8 exposed to lead and/or cadmium, substances known to the State of California to cause cancer,
9 birth defects, and other reproductive harm. DEFENDANTS manufacture, package, distribute,
10 market, and/or sell in California certain products containing lead and/or cadmium (collectively,
11 the “PRODUCTS”):

- 12 **1. GNC SuperFoods Maximum Greens Complete Original Flavor -**
13 **Lead**
- 14 **2. GNC SuperFoods Cherry Complex Tart & Black Cherries - Lead**
- 15 **3. GNC SuperFoods Spiru-Meal High Protein Energy Shake Vanilla**
16 **Flavor - Lead**
- 17 **4. GNC SuperFoods Spiru-Meal High Protein Energy Shake**
18 **Chocolate Flavor – Lead, Cadmium**
- 19 **5. GNC SuperFoods Wheat Grass Nutrient Dense - Lead**
- 20 **6. GNC Total Lean Lean Shake 25 Swiss Chocolate - Lead**
- 21 **7. GNC Total Lean Lean Shake 25 Strawberries & Cream - Lead**
- 22 **8. GNC Total Lean Advanced Lean Shake Burn Calorie-Burning**
23 **Thermogenic & Whey Protein Blend Cookies & Cream - Lead**
- 24 **9. GNC Total Lean Advanced Lean Shake Burn Calorie-Burning**
25 **Thermogenic & Whey Protein Blend Strawberry - Lead**
- 26 **10. GNC Total Lean Vegan Lean Shake 25 Natural Chocolate Flavor**
27 **– Lead, Cadmium**
- 28 **11. GNC Total Lean Lean Shake 25 Cookies & Cream - Lead**

- 1 **12. GNC Total Lean Lean Shake 25 Banana - Lead**
- 2 **13. GNC Total Lean Lean Shake Clinically Proven Weight Loss**
- 3 **Shake Vanilla Bean - Lead**
- 4 **14. GNC Total Lean Vegan Lean Shake 25 Natural Vanilla Flavor –**
- 5 **Lead, Cadmium**
- 6 **15. GNC Total Lean Lean Shake 25 French Vanilla - Lead**
- 7 **16. GNC Total Lean Lean Shake Clinically Proven Weight Loss**
- 8 **Shake Swiss Chocolate - Lead**
- 9 **17. GNC MSM/Glucosamine - Lead**
- 10 **18. GNC Men's Maca Man - Lead**
- 11 **19. GNC Pro Performance Bulk 1340 Vanilla Ice Cream - Lead**
- 12 **20. GNC Natural Brand Colon Pure Purified Psyllium Husk**
- 13 **Unflavored - Lead**
- 14 **21. GNC Women's Prenatal Formula with DHA - Lead**
- 15 **22. GNC Pro Performance Bulk 1340 Cookies & Cream - Lead**
- 16 **23. GNC Natural Brand Colon Pure Purified Psyllium Husk Natural**
- 17 **Citrus Flavor- Lead**
- 18 **24. GNC Pro Performance Bulk 1340 Double Chocolate – Lead,**
- 19 **Cadmium**
- 20 **25. GNC Pro Performance Bulk 1340 Strawberries & Cream - Lead**
- 21 **26. GNC Herbal Plus Maca Root - Lead**
- 22 **27. GNC Herbal Plus Siberian Root - Lead**
- 23 **28. GNC Pro Performance 100% Casein Chocolate Supreme - Lead**
- 24 **29. GNC Pro Performance 100% Casein Vanilla Cream - Lead**
- 25 **30. GNC Pro Performance Weight Gainer Double Chocolate – Lead,**
- 26 **Cadmium**
- 27 **31. GNC Pro Performance Weight Gainer Strawberries & Cream -**
- 28 **Lead**

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- 32. GNC Total Lean Lean Shake 25 Vanilla Bean - Lead**
- 33. GNC Total Lean Lean Shake 25 Banana Cream - Lead**
- 34. GNC Total Lean Lean Shake 25 Chocolate Peanut Butter - Lead**
- 35. GNC Total Lean Lean Shake 25 Natural Vanilla - Lead**
- 36. GNC Total Lean Advanced Waterex Elite - Lead**
- 37. GNC Total Lean Advanced Diet Cleanse Purifying Complex
Spiced Apple - Lead**
- 38. GNC Total Lean Lean Shake 25 Rich Chocolate - Lead**
- 39. GNC Total Lean Advanced Lean Shake Burn Chocolate Fudge -
Lead**
- 40. GNC Total Lean Garcinia Cambogia Soft Chew Berry Punch -
Lead**
- 41. GNC Total Lean Lean Shake 25 Orange Cream - Lead**
- 42. GNC Total Lean Lean Shake 25 Natural Chocolate - Lead**
- 43. GNC Total Lean Lean Bar Vanilla Birthday Cake - Lead**
- 44. GNC Total Lean Lean Bar Chocolate Chip - Lead**
- 45. GNC Total Lean Lean Bar Blueberry Yogurt - Lead**
- 46. Performix Pro Whey + Chocolate - Lead**
- 47. Performix Protein Wafers Chocolate Mint - Lead**
- 48. Performix Pro Gainer + Double Chocolate Brownie - Lead**
- 49. Performix Pro Gainer + Peanut Butter Brownie - Lead**
- 50. Performix Pro Whey + SST Mint Chocolate Chip - Lead**
- 51. Performix ION v2X Cherry Lime Slush - Lead**
- 52. Performix ION v2X Blackberry Lemonade - Lead**
- 53. Performix Iridium ISO¹ 9:2:2 Cherry Limeade - Lead**
- 54. Performix Pump Stimfree Perpetual Pump Pre-Workout Cherry**

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- Limeade - Lead**
- 55. Performix Iridium SSTⁱ Blue Razz Ice - Lead**
- 56. Performix ION Heat Pineapple Express - Lead**
- 57. Performix ION Build Cotton Candy- Lead**
- 58. Performix SST Time-Released Energy Original - Lead**
- 59. Performix Pro Gainer+ Multi-Phase Mass Gainer + Time-Release
Glutamine Peanut Butter Brownie – Lead**
- 60. Performix Pump v2X Unrelenting Pump Multi-Phase Pre-
Workout Patriot Pop - Lead**
- 61. Performix Pump v2X Unrelenting Pump Multi-Phase Pre-
Workout Sweet Tea Lemonade - Lead**
- 62. Performix Pump Stimfree Perpetual Pump Pre-Workout
Watermelon - Lead**
- 63. Performix Pump Stimfree Perpetual Pump Pre-Workout Blue Ice
- Lead**
- 64. Performix Pro Whey + Super Male T Peanut Butter Cup - Lead**
- 65. Performix ION v2X Unrelenting Energy Multi Phase Pre-
Workout Iced Tea - Lead**
- 66. Performix ION v2X Unrelenting Energy Multi Phase Pre-
Workout Lemonade - Lead**
- 67. Performix ION v2X Unrelenting Energy Multi Phase Pre-
Workout Cherry - Lead**
- 68. Performix ION v2X Unrelenting Energy Multi Phase Pre-
Workout Lime - Lead**
- 69. GNC Mega Men Energy Chocolate - Lead**
- 70. GNC Mega Men 50 Plus One Daily - Lead**
- 71. GNC Women's Ultra Mega Energy & Metabolism Vanilla - Lead**
- 72. GNC Mega Men Energy Vanilla - Lead**

- 1 **73. GNC Women's Ultra Mega One Daily – Lead**
- 2 **74. Advanced Nutrition Systems ISO T-Drive Testosterone Booster –**
- 3 **Lead**
- 4 **75. GNC Calcium 600 MG Caramel – Lead**
- 5 **76. GNC Activated Charcoal 520 MG – Lead**
- 6 **77. Solgar Prenatal Nutrients – Lead**
- 7 **78. GNC Vitamin C 500 MG – Lead**
- 8 **79. Syntrax Matrix 5.0 Sustained-Release Protein Blend Milk**
- 9 **Chocolate – Lead, Cadmium**
- 10 **80. Syntrax Matrix 5.0 Sustained-Release Protein Blend Cookies &**
- 11 **Cream – Lead, Cadmium**
- 12 **81. Syntrax Trophix 5.0 Ultra Sustained-Release Protein Chocolate**
- 13 **Supreme – Lead**
- 14 **82. Syntrax Micellar Crème Chocolate Milkshake – Lead**
- 15 **83. Syntrax Matrix 5.0 Sustained-Release Protein Blend Perfect**
- 16 **Chocolate – Lead, Cadmium**
- 17 **84. Syntrax Matrix 5.0 Sustained-Release Protein Blend Mint Cookie**
- 18 **– Lead**
- 19 **85. Syntrax Trophix 5.0 Ultra Sustained-Release Protein Creamy**
- 20 **Vanilla – Lead**
- 21 **86. Syntrax Trophix 5.0 Ultra Sustained-Release Protein Strawberry**
- 22 **Smoothie – Lead**
- 23 **87. Syntrax Nectar Whey Protein Isolate Lemon Tea - Lead**

24 2. Lead and cadmium (hereinafter, the “LISTED CHEMICALS”) are substances

25 known to the State¹ of California to cause cancer, birth defects, and other reproductive harm.

26 3. The ingestion of the PRODUCTS causes exposures to the LISTED

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

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

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

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

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

25 **JURISDICTION AND VENUE**

26 7. This Court has jurisdiction over this action pursuant to California Constitution
27 Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes
28 except those given by statute to other trial courts.” The statute under which this action is

1 brought does not specify any other basis for jurisdiction.

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

8 9. Venue in this action is proper in the Alameda Superior Court because the
9 DEFENDANTS have violated or threaten to violate California law in the County of Alameda.

10 10. On January 29, 2019, March 8, 2019, and April 11, 2019, PLAINTIFF sent 60-
11 Day Notices of Proposition 65 Violations (“NOTICES”) to the requisite public enforcement
12 agencies, and to DEFENDANTS. The NOTICES were issued pursuant to, and in compliance
13 with, the requirements of H&S Code §25249.7(d) and the statute’s implementing regulations
14 regarding the notice of the violations to be given to certain public enforcement agencies and to
15 the violators. The NOTICES included, *inter alia*, the following information: the name,
16 address, and telephone number of the noticing individuals; the name of the alleged violators;
17 the statute violated; the approximate time period during which violations occurred; and
18 descriptions of the violations, including the chemicals involved, the route of toxic exposure,
19 and the specific product or type of product causing the violations, and were issued as follows:

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

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

6 e. The district attorneys, city attorneys or prosecutors of each jurisdiction
7 within which the PRODUCTS are offered for sale within California were
8 provided with copies of the NOTICES pursuant to H&S Code §
9 25249.7(d)(1).

10 11. At least 60-days have elapsed since PLAINTIFF sent the NOTICES 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 GENERAL NUTRITION CORPORATION is a
22 corporation organized under Pennsylvania's Corporation Law and is a person doing
23 business within the meaning of H&S Code §25249.11.

24 15. DEFENDANT GENERAL NUTRITION COMPANIES, INC. is a
25 corporation organized under Delaware's Corporation Law and is a person doing business
26 within the meaning of H&S Code §25249.11.

27 16. DEFENDANT GENERAL NUTRITION INVESTMENT COMPANY is
28 a corporation organized under Arizona's Corporation Law and is a person doing business

1 within the meaning of H&S Code §25249.11.

2 17. DEFENDANT GENERAL NUTRITION CENTERS, INC. is a
3 corporation organized under Delaware's Corporation Law and is a person doing business
4 within the meaning of H&S Code §25249.11.

5 18. DEFENDANT GNC CORPORATION is a corporation organized under
6 Delaware's Corporation Law and is a person doing business within the meaning of H&S
7 Code §25249.11.

8 19. DEFENDANT GNC HOLDINGS, INC. is a corporation organized under
9 Delaware's Corporation Law and is a person doing business within the meaning of H&S
10 Code §25249.11.

11 20. DEFENDANT GNC PARENT LLC is a limited liability company
12 organized under Delaware's Corporation Law and is a person doing business within the
13 meaning of H&S Code §25249.11.

14 21. DEFENDANT GNC HEADQUARTERS, INC. is a corporation organized
15 under Pennsylvania's Corporation Law and is a person doing business within the
16 meaning of H&S Code §25249.11.

17 22. DEFENDANT GNC HEADQUARTERS, LLC is a limited liability
18 company organized under Pennsylvania's Corporation Law and is a person doing
19 business within the meaning of H&S Code §25249.11.

20 23. DEFENDANT GNC PARENT CORPORATION is a corporation
21 organized under Delaware's Corporation Law and is a person doing business within the
22 meaning of H&S Code §25249.11.

23 24. DEFENDANT GNC, INC. is a corporation organized under Pennsylvania's
24 Corporation Law and is a person doing business within the meaning of H&S Code
25 §25249.11.

26 25. DEFENDANTS have manufactured, packaged, distributed, marketed and /or
27 sold the PRODUCTS for sale or use in California and the County of Alameda. ERC is
28 informed and believes, and thereupon alleges, that DEFENDANTS continue to manufacture,

1 package, distribute, market and/or sell the PRODUCTS for sale or use in California and in
2 Alameda County.

3 **STATUTORY BACKGROUND**

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

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

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

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

19 29. Proposition 65 provides that any “person who violates or threatens to violate” the
20 statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7). The phrase
21 “threaten to violate” is defined to mean creating “a condition in which there is a substantial
22 probability that a violation will occur” (H&S Code §25249.11(e)). Violators are liable for civil
23 penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

24 **FACTUAL BACKGROUND**

25 30. On February 27, 1987, the State of California officially listed the chemical lead
26 as a chemical known to cause reproductive toxicity. Lead became subject to the warning
27 requirement one year later and was therefore subject to the “clear and reasonable” warning
28 requirements of Proposition 65 beginning on February 27, 1988. (27 CCR § 25000, *et seq.*;
H&S Code §25249.5, *et seq.*) Due to the high toxicity of lead, the maximum allowable dose

1 level for lead is 0.5 µg/day (micrograms a day) for reproductive toxicity. (27 CCR
2 § 25805(b).)

3 31. On October 1, 1992, the State of California officially listed the chemicals lead
4 and lead compounds as chemicals known to cause cancer. Lead and lead compounds became
5 subject to the warning requirement one year later and were therefore subject to the “clear and
6 reasonable” warning requirements of Proposition 65 beginning on October 1, 1993 (27 CCR §
7 25000, *et seq.*; H&S Code §25249.6 *et seq.*). Due to the carcinogenicity of lead, the no
8 significant risk level for lead is 15 µg/day (micrograms a day). (27 CCR § 25705(b)(1).)

9 32. Cadmium was officially listed as a chemical known to cause developmental
10 toxicity and male reproductive toxicity on May 1, 1997, while cadmium and cadmium
11 compounds were listed as chemicals known to the State of California to cause cancer on
12 October 1, 1987. (State of California EPA OEHHA Safe Drinking Water and Toxic
13 Enforcement Act of 1986 Chemicals Known to the State to Cause Cancer and Reproductive
14 Toxicity.) The MADL for cadmium as a chemical known to cause reproductive toxicity is 4.1
15 micrograms per day. (Cal. Code Regs., tit. 27, §25805, subd. (b).)

16 33. To test DEFENDANTS’ PRODUCTS for lead and cadmium, PLAINTIFF hired a
17 well-respected and accredited testing laboratory. The results of testing undertaken by
18 PLAINTIFF of DEFENDANTS’ PRODUCTS show that the PRODUCTS tested were in
19 violation of the 0.5 µg/day for lead “safe harbor” daily dose limits and/or the 4.1 µg/day “safe
20 harbor” daily dose limits for cadmium set forth in Proposition 65’s regulations. Very
21 significant is the fact that people are being exposed to lead and/or cadmium through ingestion
22 as opposed to other not as harmful methods of exposure such as dermal exposure.

23 34. At all times relevant to this action, DEFENDANTS, therefore, have knowingly
24 and intentionally exposed the users of the PRODUCTS to the LISTED CHEMICALS without
25 first giving a clear and reasonable warning to such individuals.

26 35. The PRODUCTS have allegedly been sold by DEFENDANTS for use in
27 California since at least January 29, 2016. The PRODUCTS continue to be distributed
28 and sold in California without the requisite warning information.

1 stop violating Proposition 65, to provide warnings to all present and future customers, and to
2 provide warnings to DEFENDANTS' past customers who purchased or ingested the
3 PRODUCTS without receiving a clear and reasonable warning.

4 41. An action for injunctive relief under Proposition 65 is specifically authorized by
5 Health & Safety Code §25249.7(a).

6 42. Continuing commission by DEFENDANTS of the acts alleged above will
7 irreparably harm the citizens of the State of California, for which harm they have no plain,
8 speedy, or adequate remedy at law.

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

11 **SECOND CAUSE OF ACTION**
12 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, *et seq.* concerning the**
13 **PRODUCTS described in the January 29, 2019, March 8, 2019, and April 11, 2019**
14 **Proposition 65 NOTICES) Against DEFENDANTS**

15 43. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 42,
16 inclusive, as if specifically set forth herein.

17 44. By committing the acts alleged in this Complaint, DEFENDANTS at all times
18 relevant to this action, and continuing through the present, have violated H&S Code §25249.6
19 by, in the course of doing business, knowingly and intentionally exposing individuals who
20 ingest the PRODUCTS set forth in the NOTICES to the LISTED CHEMICALS, without first
21 providing a clear and reasonable warning to such individuals pursuant to H&S Code §§
22 25249.6 and 25249.11(f).

23 45. By the above-described acts, DEFENDANTS are liable, pursuant to H&S Code
24 §25249.7(b), for a civil penalty of \$2,500 per day per violation for each unlawful exposure to
25 the LISTED CHEMICALS from the PRODUCTS.

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

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1 **THE NEED FOR INJUNCTIVE RELIEF**

2 46. PLAINTIFF re-alleges and incorporates by this reference Paragraphs 1 through
3 45, as if set forth below.

4 47. By committing the acts alleged in this Complaint, DEFENDANTS have caused
5 or threaten to cause irreparable harm for which there is no plain, speedy or adequate remedy at
6 law. In the absence of equitable relief, DEFENDANTS will continue to create a substantial
7 risk of irreparable injury by continuing to cause or threatening to cause consumers to be
8 involuntarily and unwittingly exposed to the LISTED CHEMICALS through the ingestion of
9 the PRODUCTS.

10 **PRAYER FOR RELIEF**

11 Wherefore, PLAINTIFF accordingly prays for the following relief:

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

17 B. An injunctive order, pursuant to H&S Code §25249.7(b), compelling
18 DEFENDANTS to identify and locate each individual who has purchased the PRODUCTS
19 since January 29, 2016, and to provide a warning to such person that the ingestion of the
20 PRODUCTS will expose the user to chemicals known to cause birth defects and other
21 reproductive harm;

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

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

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

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1 DATED: June 21, 2019

LOZEAU | DRURY LLP

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6 Rebecca Davis
7 Attorney for Plaintiff
8 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

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richard@lozeaudrury.com

VIA CERTIFIED MAIL

Current President or CEO
General Nutrition Corporation
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition
Corporation)
818 W 7th St, Ste 930
Los Angeles, CA 90017

National Registered Agents, Inc.
(Registered Agent for General Nutrition
Corporation)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

National Registered Agents, Inc.
(Registered Agent for General Nutrition
Corporation)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
General Nutrition Companies, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition
Companies, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
General Nutrition Investment Company
300 6th Avenue
Pittsburgh, PA 15222

VIA CERTIFIED MAIL

Current President or CEO
General Nutrition Investment Company
1002 S 63rd Ave
Phoenix, AZ 85043

National Registered Agents Inc.
(Registered Agent for General Nutrition
Investment Company)
3800 N Central Ave, Ste 460
Phoenix, AZ 85012

Current President or CEO
General Nutrition Centers, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition
Centers, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
GNC Corp.
300 6th Avenue
Pittsburgh, PA 15222

Barros, McNamara, Scanlon
Malkiewicz & Taylor, P.A.
(Registered Agent for GNC Corp.)
2 West Loockerman St
PO Box 1298
Dover, DE 19903

Current President or CEO
GNC Corporation
300 6th Avenue
Pittsburgh, PA 15222

VIA CERTIFIED MAIL

National Registered Agents, Inc.
(Registered Agent for GNC Corporation)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
GNC Holdings, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Holdings, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

National Registered Agents, Inc.
(Registered Agent for GNC Holdings, Inc.)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
GNC Parent LLC
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Parent LLC)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
GNC Headquarters, Inc.
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
GNC Headquarters, LLC
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Headquarters, LLC)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

VIA CERTIFIED MAIL

Current President or CEO
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300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Parent Corporation)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
GNC, Inc.
300 6th Avenue
Pittsburgh, PA 15222

Registered Agent for GNC, Inc.
5907 Penn Mall, Ste 210
Pittsburgh, PA 15206

VIA ELECTRONIC MAIL

Nancy O'Malley, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Thomas L. Hardy, District Attorney
Inyo County
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Independence, CA 93526
inyoda@inyocounty.us

VIA ELECTRONIC MAIL

Michelle Latimer, Program Coordinator
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mlatimer@co.lassen.ca.us

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Paul E. Zellerbach, District Attorney
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Riverside, CA 92501
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Anne Marie Schubert, District Attorney
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Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Avenue
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CityAttyProp65@sandiego.gov

Gregory Alker, Assistant District Attorney
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732 Brannan Street
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gregory.alker@sfgov.org

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

VIA ELECTRONIC MAIL

Tori Verber Salazar, District Attorney
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Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

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Phillip J. Cline, District Attorney
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Gregory D. Totten, District Attorney
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Ventura, CA 93009
daspecialops@ventura.org

VIA ELECTRONIC MAIL

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA FIRST CLASS MAIL

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

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

Dear Addressees:

I represent Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

**General Nutrition Corporation
General Nutrition Companies, Inc.
General Nutrition Investment Company
General Nutrition Centers, Inc.
GNC Corp.
GNC Corporation
GNC Holdings, Inc.
GNC Parent LLC
GNC Headquarters, Inc.
GNC Headquarters, LLC
GNC Parent Corporation
GNC, Inc.**

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

- 1. GNC SuperFoods Maximum Greens Complete Original Flavor - Lead**
- 2. GNC SuperFoods Cherry Complex Tart & Black Cherries - Lead**
- 3. GNC SuperFoods Spiru-Meal High Protein Energy Shake Vanilla Flavor - Lead**

4. **GNC SuperFoods Spiru-Meal High Protein Energy Shake Chocolate Flavor – Lead, Cadmium**
5. **GNC SuperFoods Wheat Grass Nutrient Dense - Lead**
6. **GNC Total Lean Lean Shake 25 Swiss Chocolate - Lead**
7. **GNC Total Lean Lean Shake 25 Strawberries & Cream - Lead**
8. **GNC Total Lean Advanced Lean Shake Burn Calorie-Burning Thermogenic & Whey Protein Blend Cookies & Cream - Lead**
9. **GNC Total Lean Advanced Lean Shake Burn Calorie-Burning Thermogenic & Whey Protein Blend Strawberry - Lead**
10. **GNC Total Lean Vegan Lean Shake 25 Natural Chocolate Flavor – Lead, Cadmium**
11. **GNC Total Lean Lean Shake 25 Cookies & Cream - Lead**
12. **GNC Total Lean Lean Shake 25 Banana - Lead**
13. **GNC Total Lean Lean Shake Clinically Proven Weight Loss Shake Vanilla Bean - Lead**
14. **GNC Total Lean Vegan Lean Shake 25 Natural Vanilla Flavor – Lead, Cadmium**
15. **GNC Total Lean Lean Shake 25 French Vanilla - Lead**
16. **GNC Total Lean Lean Shake Clinically Proven Weight Loss Shake Swiss Chocolate - Lead**
17. **GNC MSM/Glucosamine - Lead**
18. **GNC Men's Maca Man - Lead**
19. **GNC Pro Performance Bulk 1340 Vanilla Ice Cream - Lead**
20. **GNC Natural Brand Colon Pure Purified Psyllium Husk Unflavored - Lead**
21. **GNC Women's Prenatal Formula with DHA - Lead**
22. **GNC Pro Performance Bulk 1340 Cookies & Cream - Lead**
23. **GNC Natural Brand Colon Pure Purified Psyllium Husk Natural Citrus Flavor- Lead**
24. **GNC Pro Performance Bulk 1340 Double Chocolate – Lead, Cadmium**
25. **GNC Pro Performance Bulk 1340 Strawberries & Cream - Lead**
26. **GNC Herbal Plus Maca Root - Lead**
27. **GNC Herbal Plus Siberian Root - Lead**
28. **GNC Pro Performance 100% Casein Chocolate Supreme - Lead**
29. **GNC Pro Performance 100% Casein Vanilla Cream - Lead**
30. **GNC Pro Performance Weight Gainer Double Chocolate – Lead, Cadmium**
31. **GNC Pro Performance Weight Gainer Strawberries & Cream - Lead**
32. **GNC Total Lean Lean Shake 25 Vanilla Bean - Lead**
33. **GNC Total Lean Lean Shake 25 Banana Cream - Lead**
34. **GNC Total Lean Lean Shake 25 Chocolate Peanut Butter - Lead**
35. **GNC Total Lean Lean Shake 25 Natural Vanilla - Lead**
36. **GNC Total Lean Advanced Waterex Elite - Lead**
37. **GNC Total Lean Advanced Diet Cleanse Purifying Complex Spiced Apple - Lead**
38. **GNC Total Lean Lean Shake 25 Rich Chocolate - Lead**
39. **GNC Total Lean Advanced Lean Shake Burn Chocolate Fudge - Lead**
40. **GNC Total Lean Garcinia Cambogia Soft Chew Berry Punch - Lead**
41. **GNC Total Lean Lean Shake 25 Orange Cream - Lead**
42. **GNC Total Lean Lean Shake 25 Natural Chocolate - Lead**
43. **GNC Total Lean Lean Bar Vanilla Birthday Cake - Lead**
44. **GNC Total Lean Lean Bar Chocolate Chip - Lead**
45. **GNC Total Lean Lean Bar Blueberry Yogurt - Lead**

46. **Performix Pro Whey + Chocolate - Lead**
47. **Performix Protein Wafers Chocolate Mint - Lead**
48. **Performix Pro Gainer + Double Chocolate Brownie - Lead**
49. **Performix Pro Gainer + Peanut Butter Brownie - Lead**
50. **Performix Pro Whey + SST Mint Chocolate Chip - Lead**
51. **Performix ION v2X Cherry Lime Slush - Lead**
52. **Performix ION v2X Blackberry Lemonade - Lead**
53. **Performix Iridium ISO¹ 9:2:2 Cherry Limeade - Lead**
54. **Performix Pump Stimfree Perpetual Pump Pre-Workout Cherry Limeade - Lead**
55. **Performix Iridium SST¹ Blue Razz Ice - Lead**
56. **Performix ION Heat Pineapple Express - Lead**
57. **Performix ION Build Cotton Candy- Lead**
58. **Performix SST Time-Released Energy Original - Lead**
59. **Performix Pro Gainer+ Multi-Phase Mass Gainer + Time-Release Glutamine Peanut Butter Brownie – Lead**
60. **Performix Pump v2X Unrelenting Pump Multi-Phase Pre-Workout Patriot Pop - Lead**
61. **Performix Pump v2X Unrelenting Pump Multi-Phase Pre-Workout Sweet Tea Lemonade - Lead**
62. **Performix Pump Stimfree Perpetual Pump Pre-Workout Watermelon - Lead**
63. **Performix Pump Stimfree Perpetual Pump Pre-Workout Blue Ice - Lead**
64. **Performix Pro Whey + Super Male T Peanut Butter Cup - Lead**
65. **Performix ION v2X Unrelenting Energy Multi Phase Pre-Workout Iced Tea - Lead**
66. **Performix ION v2X Unrelenting Energy Multi Phase Pre-Workout Lemonade - Lead**
67. **Performix ION v2X Unrelenting Energy Multi Phase Pre-Workout Cherry - Lead**
68. **Performix ION v2X Unrelenting Energy Multi Phase Pre-Workout Lime - 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.

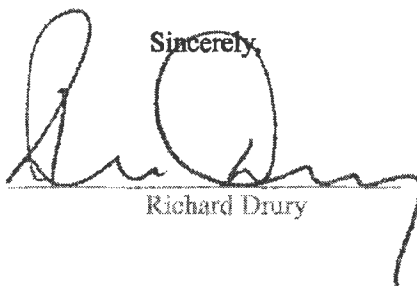
This letter is a notice to the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violators.

The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals, lead and/or cadmium. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead and/or cadmium. The method of warning should be a warning that appears on the

product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons ingesting these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since January 29, 2016, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons 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 General Nutrition Corporation, General Nutrition Companies, Inc., General Nutrition Investment Company, General Nutrition Centers, Inc., GNC Corp., GNC Corporation, GNC Holdings, Inc., GNC Parent LLC, GNC Headquarters, Inc., GNC Headquarters, LLC, GNC Parent Corporation and GNC, Inc. and their Registered Agents for Service of Process only)

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

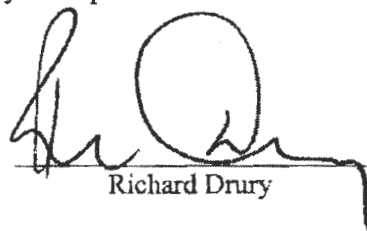
CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Growing Naturals, LLC and Axiom Foods, Inc. General Nutrition Corporation, General Nutrition Companies, Inc., General Nutrition Investment Company, General Nutrition Centers, Inc., GNC Corp., GNC Corporation, GNC Holdings, Inc., GNC Parent LLC, GNC Headquarters, Inc., GNC Headquarters, LLC, GNC Parent Corporation and GNC, Inc.

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: January 29, 2019


Richard Drury

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 and over the age of 18 years of age. 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 January 29, 2019 between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
General Nutrition Corporation
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
818 W 7th St, Ste 930
Los Angeles, CA 90017

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
General Nutrition Companies, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Companies, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
General Nutrition Investment Company
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
General Nutrition Investment Company
1002 S 63rd Ave
Phoenix, AZ 85043

National Registered Agents Inc.
(Registered Agent for General Nutrition Investment Company)
3800 N Central Ave, Ste 460
Phoenix, AZ 85012

Current President or CEO
General Nutrition Centers, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Centers, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
GNC Corp.
300 6th Avenue
Pittsburgh, PA 15222

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

January 29, 2019

Page 10

Barros, McNamara, Scanlon
Malkiewicz & Taylor, P.A.
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2 West Loockerman St
PO Box 1298
Dover, DE 19903

Current President or CEO
GNC Corporation
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(Registered Agent for GNC Corporation)
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Dover, DE 19904

Current President or CEO
GNC Holdings, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Holdings, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

National Registered Agents, Inc.
(Registered Agent for GNC Holdings, Inc.)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
GNC Parent LLC
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Parent LLC)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
GNC Headquarters, Inc.
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
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Pittsburgh, PA 15222

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Current President or CEO
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300 6th Avenue
Pittsburgh, PA 15222

Registered Agent for GNC, Inc.
5907 Penn Mall, Ste 210
Pittsburgh, PA 15206

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

January 29, 2019

Page 11

On January 29, 2019 between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 January 29, 2019 between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Nancy O'Malley, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Allison Haley, District Attorney
Napa County
1127 First Street, Suite C
Napa, CA 94559
CEPD@countyofnapa.org

Barbara Yook, District Attorney
Calaveras County
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San Andreas, CA 95249
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Paul E. Zellerbach, District Attorney
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Riverside, CA 92501
Prop65@rivcoda.org

Stacey Grassini, Deputy District Attorney
Contra Costa County
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Martinez, CA 94553
sgrassini@contracostada.org

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

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

January 29, 2019

Page 12

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DAConsumer.Environmental@sjcda.org

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San Luis Obispo County
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Phillip J. Cline, District Attorney
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EPU@da.sccgov.org

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

On January 29, 2019 between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 First Class Mail.

Executed on January 29, 2019, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

Service List

District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte County
25 County Center Drive, Suite 245
Oroville, CA 95965

District Attorney, Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado County
778 Pacific St
Placerville, CA 95667

District Attorney, Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles County
Hall of Justice
211 West Temple St., Ste 1200
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin County
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada County
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Nevada City, CA 95959

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District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
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Quincy, CA 95971

District Attorney, San Benito County
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Hollister, CA 95023

District Attorney, San Bernardino County
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San Bernadino, CA 92415

District Attorney, San Diego County
330 West Broadway, Suite 1300
San Diego, CA 92101

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District Attorney, Siskiyou County
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District Attorney, Solano County
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Fairfield, CA 94533

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

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District Attorney, Tuolumne County
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Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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EXHIBIT B



T 510.836.4200
F 510.836.4205

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VIA CERTIFIED MAIL

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cfepd@yolocounty.org

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA FIRST CLASS MAIL

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

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

Dear Addressees:

I represent Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

General Nutrition Corporation
General Nutrition Companies, Inc.
General Nutrition Investment Company
General Nutrition Centers, Inc.
GNC Corp.
GNC Corporation
GNC Holdings, Inc.
GNC Parent LLC
GNC Headquarters, Inc.
GNC Headquarters, LLC
GNC Parent Corporation
GNC, Inc.

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

- 1. GNC Mega Men Energy Chocolate - Lead**
- 2. GNC Mega Men 50 Plus One Daily - Lead**
- 3. GNC Women's Ultra Mega Energy & Metabolism Vanilla - Lead**
- 4. GNC Mega Men Energy Vanilla - Lead**
- 5. GNC Women's Ultra Mega One Daily - Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

This letter is a notice to the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violators.

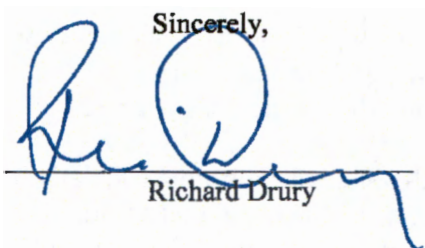
The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons ingesting these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since March 8, 2016, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemical; (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 chemical 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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
March 8, 2019
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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 General Nutrition Corporation, General Nutrition Companies, Inc., General Nutrition Investment Company, General Nutrition Centers, Inc., GNC Corp., GNC Corporation, GNC Holdings, Inc., GNC Parent LLC, GNC Headquarters, Inc., GNC Headquarters, LLC, GNC Parent Corporation and GNC, Inc. and their Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)

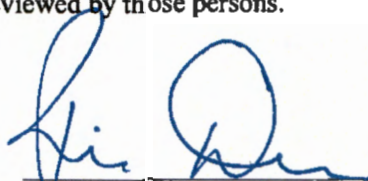
CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Growing Naturals, LLC and Axiom Foods, Inc. General Nutrition Corporation, General Nutrition Companies, Inc., General Nutrition Investment Company, General Nutrition Centers, Inc., GNC Corp., GNC Corporation, GNC Holdings, Inc., GNC Parent LLC, GNC Headquarters, Inc., GNC Headquarters, LLC, GNC Parent Corporation and GNC, Inc.

I, Richard Drury, declare:

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

Dated: March 8, 2019


Richard Drury

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 and over the age of 18 years of age. 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 March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
General Nutrition Corporation
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
818 W 7th St, Ste 930
Los Angeles, CA 90017

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
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Dover, DE 19904

Current President or CEO
General Nutrition Companies, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Companies, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
General Nutrition Investment Company
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
General Nutrition Investment Company
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Phoenix, AZ 85043

National Registered Agents Inc.
(Registered Agent for General Nutrition Investment Company)
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Phoenix, AZ 85012

Current President or CEO
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Pittsburgh, PA 15222

National Registered Agents, Inc.
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National Registered Agents, Inc.
(Registered Agent for General Nutrition Centers, Inc.)
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Harrisburg, PA 17101

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

March 8, 2019

Page 9

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Current President or CEO
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Pittsburgh, PA 15222

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160 Greentree Dr, Ste 101
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National Registered Agents, Inc.
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600 N. 2nd St, Ste 401
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Current President or CEO
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Pittsburgh, PA 15222

National Registered Agents, Inc.
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Dover, DE 19904

Current President or CEO
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Pittsburgh, PA 15222

Current President or CEO
GNC Headquarters, LLC
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
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Current President or CEO
GNC, Inc.
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
GNC, Inc.
5907 Penn Mall, Ste 210
Pittsburgh, PA 15206

On March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Nancy O'Malley, District Attorney
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7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Allison Haley, District Attorney
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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 8, 2019

Page 11

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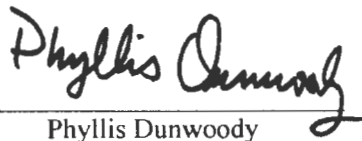
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On March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto 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 First Class Mail.

Executed on March 8, 2019, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

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APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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EXHIBIT C



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

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 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:

**General Nutrition Corporation
General Nutrition Companies, Inc.
General Nutrition Investment Company
General Nutrition Centers, Inc.
GNC Corporation
GNC Holdings, Inc.
GNC Parent LLC
GNC Headquarters, Inc.
GNC Headquarters, LLC
GNC Parent Corporation
GNC, Inc.**

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

- 1. Advanced Nutrition Systems ISO T-Drive Testosterone Booster - Lead**
- 2. GNC Calcium 600 MG Caramel - Lead**

3. **GNC Activated Charcoal 520 MG - Lead**
4. **Solgar Prenatal Nutrients - Lead**
5. **GNC Vitamin C 500 MG - Lead**
6. **Syntrax Matrix 5.0 Sustained-Release Protein Blend Milk Chocolate – Lead, Cadmium**
7. **Syntrax Matrix 5.0 Sustained-Release Protein Blend Cookies & Cream – Lead, Cadmium**
8. **Syntrax Trophix 5.0 Ultra Sustained-Release Protein Chocolate Supreme - Lead**
9. **Syntrax Micellar Crème Chocolate Milkshake - Lead**
10. **Syntrax Matrix 5.0 Sustained-Release Protein Blend Perfect Chocolate – Lead, Cadmium**
11. **Syntrax Matrix 5.0 Sustained-Release Protein Blend Mint Cookie - Lead**
12. **Syntrax Trophix 5.0 Ultra Sustained-Release Protein Creamy Vanilla - Lead**
13. **Syntrax Trophix 5.0 Ultra Sustained-Release Protein Strawberry Smoothie - Lead**
14. **Syntrax Nectar Whey Protein Isolate Lemon Tea - 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 the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violators.

The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals, lead and cadmium. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead and/or cadmium has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead and/or cadmium. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons ingesting these products that they are being exposed to lead and/or cadmium. Each of these ongoing violations has occurred on every day since April 11, 2016, 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.

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

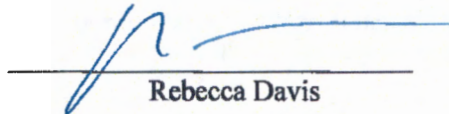
April 11, 2019

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Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons 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,



Rebecca Davis

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to General Nutrition Corporation, General Nutrition Companies, Inc., General Nutrition Investment Company, General Nutrition Centers, Inc., GNC Corporation, GNC Holdings, Inc., GNC Parent LLC, GNC Headquarters, Inc., GNC Headquarters, LLC, GNC Parent Corporation and GNC, Inc. 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 General Nutrition Corporation, General Nutrition Companies, Inc., General Nutrition Investment Company, General Nutrition Centers, Inc., GNC Corporation, GNC Holdings, Inc., GNC Parent LLC, GNC Headquarters, Inc., GNC Headquarters, LLC, GNC Parent Corporation and GNC, Inc.

I, Rebecca Davis, 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 11, 2019



Rebecca Davis

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 and over the age of 18 years of age. 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 11, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
General Nutrition Corporation
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
818 W 7th St, Ste 930
Los Angeles, CA 90017

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

National Registered Agents, Inc.
(Registered Agent for General Nutrition Corporation)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
General Nutrition Companies, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Companies, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

National Registered Agents, Inc.
(Registered Agent for General Nutrition Companies, Inc.)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
General Nutrition Investment Company
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
General Nutrition Investment Company
1002 S 63rd Ave
Phoenix, AZ 85043

National Registered Agents Inc.
(Registered Agent for General Nutrition Investment Company)
3800 N Central Ave, Ste 460
Phoenix, AZ 85012

Current President or CEO
General Nutrition Centers, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for General Nutrition Centers, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

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

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National Registered Agents, Inc.
(Registered Agent for General Nutrition
Centers, Inc.)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
GNC Corporation
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Corporation)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
GNC Holdings, Inc.
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Holdings, Inc.)
160 Greentree Dr, Ste 101
Dover, DE 19904

National Registered Agents, Inc.
(Registered Agent for GNC Holdings, Inc.)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
GNC Parent LLC
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Parent LLC)
160 Greentree Dr, Ste 101
Dover, DE 19904

Current President or CEO
GNC Headquarters, Inc.
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
GNC Headquarters, LLC
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Headquarters, LLC)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
GNC Parent Corporation
300 6th Avenue
Pittsburgh, PA 15222

National Registered Agents, Inc.
(Registered Agent for GNC Parent Corporation)
600 N. 2nd St, Ste 401
Harrisburg, PA 17101

Current President or CEO
GNC, Inc.
300 6th Avenue
Pittsburgh, PA 15222

Current President or CEO
GNC, Inc.
5907 Penn Mall, Ste 210
Pittsburgh, PA 15206

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

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On April 11, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 11, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Nancy O'Malley, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Allison Haley, District Attorney
Napa County
1127 First Street, Suite C
Napa, CA 94559
CEPD@countyofnapa.org

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Gregory Alker, Assistant District Attorney
San Francisco County
732 Brannan Street
San Francisco, CA 94103
gregory.alker@sfgov.org

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

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

April 11, 2019

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Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney
Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Yen Dang, Supervising Deputy District Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Jeffrey S. Rosell, District Attorney
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr
Sonoma, CA 95403
jlbarnes@sonoma-county.org

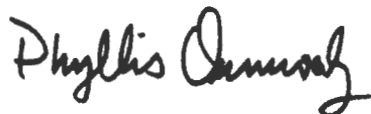
Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

On April 11, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 First Class Mail.

Executed on April 11, 2019, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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

April 11, 2019

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Service List

District Attorney, Alpine
County
P.O. Box 248
Markleeville, CA 96120

District Attorney,
Amador County
708 Court Street, Suite
202
Jackson, CA 95642

District Attorney, Butte
County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney, Colusa
County
346 Fifth Street Suite
101
Colusa, CA 95932

District Attorney, Del
Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El
Dorado County
778 Pacific St
Placerville, CA 95667

District Attorney, Fresno
County
2220 Tulare Street, Suite
1000
Fresno, CA 93721

District Attorney, Glenn
County
Post Office Box 430
Willows, CA 95988

District Attorney,
Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney,
Imperial County
940 West Main Street,
Ste 102
El Centro, CA 92243

District Attorney, Kern
County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
County
1400 West Lacey
Boulevard
Hanford, CA 93230

District Attorney, Lake
County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los
Angeles County
Hall of Justice
211 West Temple St., Ste
1200
Los Angeles, CA 90012

District Attorney,
Madera County
209 West Yosemite
Avenue
Madera, CA 93637

District Attorney, Marin
County
3501 Civic Center Drive,
Room 130
San Rafael, CA 94903

District Attorney,
Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney,
Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney,
Merced County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc
County
204 S Court Street,
Room 202
Alturas, CA 96101-4020

District Attorney, Mono
County
Post Office Box 617
Bridgeport, CA 93517

District Attorney,
Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange
County
401 West Civic Center
Drive
Santa Ana, CA 92701

District Attorney, Placer
County
10810 Justice Center
Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas
County
520 Main Street, Room
404
Quincy, CA 95971

District Attorney, San
Benito County
419 Fourth Street, 2nd
Floor
Hollister, CA 95023

District Attorney, San
Bernardino County
303 West Third Street
San Bernadino, CA
92415

District Attorney, San
Diego County
330 West Broadway,
Suite 1300
San Diego, CA 92101

District Attorney, San
Mateo County
400 County Ctr., 3rd
Floor
Redwood City, CA
94063

District Attorney, Shasta
County
1355 West Street
Redding, CA 96001

District Attorney, Sierra
County
100 Courthouse Square,
2nd Floor
Downieville, CA 95936

District Attorney,
Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano
County
675 Texas Street, Ste
4500
Fairfield, CA 94533

District Attorney,
Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter
County
463 2nd Street
Yuba City, CA 95991

District Attorney,
Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity
County
Post Office Box 310
Weaverville, CA 96093

District Attorney,
Tuolumne County
423 N. Washington
Street
Sonora, CA 95370

District Attorney, Yuba
County
215 Fifth Street, Suite
152
Marysville, CA 95901

Los Angeles City
Attorney's Office
City Hall East
200 N. Main Street, Suite
800
Los Angeles, CA 90012

San Jose City Attorney's
Office
200 East Santa Clara
Street,
16th Floor
San Jose, CA 95113

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.