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7 Attorney for Plaintiff Environmental Research Center, Inc.

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

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

12 **Plaintiff,**

13 **vs.**

14 **ZICO RISING, INC.; GROUNDFORCE**
15 **CAPITAL MANAGEMENT, LLC,**
16 **individually and dba POWER PLANT**
17 **PARTNERS; and DOES 1-100**

18 **Defendants.**

CASE NO. 24CV07662

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF AND
CIVIL PENALTIES

[Miscellaneous Civil Complaint (42)]
Proposition 65, Health & Safety Code
Section 25249.5 et seq.]

19 Plaintiff Environmental Research Center, Inc. hereby alleges:

20 **I**

21 **INTRODUCTION**

22 1. Plaintiff Environmental Research Center, Inc. (hereinafter "Plaintiff" or "ERC") brings
23 this action as a private attorney general enforcer and in the public interest pursuant to Health &
24 Safety Code section 25249.7, subdivision (d). The Safe Drinking Water and Toxic Enforcement
25 Act of 1986 (Health & Safety Code section 25249.5 *et seq.*) also known as "Proposition 65,"
26 mandates that businesses with ten or more employees must provide a "clear and reasonable
27 warning" prior to exposing any individual to a chemical known to the state to cause cancer or
28 reproductive toxicity. Lead is a chemical known to the State of California to cause cancer, birth

1 defects, and other reproductive harm. This Complaint seeks injunctive and declaratory relief
2 and civil penalties to remedy the ongoing failure of Defendants Zico Rising, Inc. and
3 Groundforce Capital Management, LLC, individually and dba Power Plant Partners
4 (collectively “Zico”) and Does 1-100 (hereinafter individually referred to as “Defendant” or
5 collectively as “Defendants”), to warn consumers that they have been exposed to lead from a
6 number of Zico’s nutritional health products as set forth in paragraph 3 at levels exceeding the
7 applicable Maximum Allowable Dose Level (“MADL”) and requiring a warning pursuant to
8 Health & Safety Code section 25249.6.

9 **II**

10 **PARTIES**

11 2. Plaintiff ERC is a California non-profit corporation dedicated to, among other causes,
12 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
13 and toxic chemicals, facilitating a safe environment for consumers and employees, and
14 encouraging corporate responsibility.

15 3. Defendant Zico is a business that develops, manufactures, markets, distributes, and/or
16 sells nutritional health products that have exposed users to lead in the State of California within
17 the relevant statute of limitations period. These “SUBJECT PRODUCTS” (as identified in the
18 Notices of Violation dated January 19, 2024 and February 2, 2024 attached hereto as **Exhibits**
19 **A and B**) are: (1) Zico Natural 100% Coconut Water, (2) Zico Rapid Hydration Hydrate
20 Coconut Lime Hydration Beverage, (3) Zico Plant-Based Chocolate Coconut Water, and (4)
21 Zico Hydrate Rapid Hydration Fruit Punch. Zico Rising, Inc. and Groundforce Capital
22 Management, LLC, individually and dba Power Plant Partners are companies subject to
23 Proposition 65 as each company employs ten or more persons and has employed ten or more
24 persons at all times relevant to this action.

25 4. Defendants Does 1-100, are named herein under fictitious names, as their true names
26 and capacities are unknown to ERC. ERC is informed and believes, and thereon alleges, that
27 each of said Does is responsible, in some actionable manner, for the events and happenings
28 hereinafter referred to, either through said Does’ conduct, or through the conduct of its agents,

1 servants or employees, or in some other manner, causing the harms alleged by ERC in this
2 Complaint. When said true names and capacities of Does are ascertained, ERC will seek leave
3 to amend this Complaint to set forth the same.

4 III

5 JURISDICTION AND VENUE

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

10 6. This Court has jurisdiction over Zico because Zico has sufficient minimum contacts with
11 California, and otherwise intentionally avails itself of the California market through the
12 marketing, distribution, and/or sale of the SUBJECT PRODUCTS in the State of California so
13 as to render the exercise of jurisdiction over it by the California courts consistent with
14 traditional notions of fair play and substantial justice.

15 7. The Complaint is based on allegations contained in the Notices of Violation dated
16 January 19, 2024 and February 2, 2024, served on the California Attorney General, other public
17 enforcers, and Zico. The Notices of Violation constitute adequate notice to Zico because they
18 provided adequate information to allow Zico to assess the nature of the alleged violations,
19 consistent with Proposition 65 and its implementing regulations. A certificate of merit and a
20 certificate of service accompanied each copy of the Notices of Violation, and both certificates
21 comply with Proposition 65 and its implementing regulations. The Notices of Violation served
22 on Zico also included a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986
23 (Proposition 65): A Summary." Service of the Notices of Violation and accompanying
24 documents complied with Proposition 65 and its implementing regulations. Attached hereto as
25 **Exhibits A and B** are true and correct copies of the Notices of Violation and associated
26 documents. More than 60 days have passed since ERC mailed the Notices of Violation and no
27 public enforcement entity has filed a Complaint in this case.

28 8. This Court is the proper venue for the action because the causes of action have arisen in

1 the County of Alameda where some of the violations of law have occurred, and will continue to
2 occur, due to the ongoing sale of Zico's products. Furthermore, venue is proper in this Court
3 under Code of Civil Procedure section 395.5 and Health & Safety Code section 25249.7.

4 IV

5 **STATUTORY BACKGROUND**

6 9. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
7 passed as "Proposition 65" by an overwhelming majority vote of the people in November of
8 1986.

9 10. The warning requirement of Proposition 65 is contained in Health & Safety Code
10 section 25249.6, which provides:

11 No person in the course of doing business shall knowingly and
12 intentionally expose any individual to a chemical known to the state to
13 cause cancer or reproductive toxicity without first giving clear and
14 reasonable warning to such individual, except as provided in Section
25249.10.

15 11. The Office of Environmental Health Hazard Assessment ("OEHHA"), a division of Cal
16 EPA, is the lead agency in charge of the implementation of Proposition 65. OEHHA
17 administers the Proposition 65 program and administers regulations that govern Proposition 65
18 in general, including warnings to comply with the statute. The warning regulations are found at
19 Title 27 of the California Code of Regulations, Article 6. The regulations define expose as "to
20 cause to ingest, inhale, contact via body surfaces or otherwise come into contact with a listed
21 chemical. An individual may come into contact with a listed chemical through water, air, food,
22 consumer products and any other environmental exposure as well as occupational exposures."
23 (Cal. Code Regs., tit. 27, § 25102, subd. (i).)

24 12. In this case, the exposures are caused by consumer products. A consumer product is
25 defined as "any article, or component part thereof, including food, that is produced, distributed,
26 or sold for the personal use, consumption or enjoyment of a consumer." (Cal. Code Regs., tit.
27 27, § 25600.1, subd. (d).) Food "includes 'dietary supplements' as defined in California Code
28 of Regulations, title 17, section 10200." (*Id.* at subd. (g).) A consumer product exposure is "an

1 exposure that results from a person's acquisition, purchase, storage, consumption, or any
2 reasonably foreseeable use of a consumer product, including consumption of a food." (*Id.* at
3 subd. (e).)

4 13. On August 30, 2016, the Office of Administrative Law approved the adoption of
5 OEHHA's amendments to Article 6, Clear and Reasonable Warnings of the California Code of
6 Regulations. This action repealed virtually all of the regulatory provisions of Title 27 of the
7 California Code of Regulations, Article 6 (sections 25601 *et seq.*) and replaced the repealed
8 sections with new regulations set forth in two new Subarticles to Article 6 that became
9 operative on August 30, 2018 (the "New Warning Regulations"). The New Warning
10 Regulations provide, among other things, methods of transmission and content of warnings
11 deemed to comply with Proposition 65. Zico is subject to the warning requirements set forth in
12 the New Warning Regulations that became operative on August 30, 2018.

13 14. Health & Safety Code section 25249.6 provides that "No person in the course of doing
14 business shall knowingly and intentionally expose any individual to a chemical known to the
15 state to cause cancer or reproductive toxicity without first giving clear and reasonable warning
16 to such individual" The New Warning Regulations apply when clear and reasonable
17 warnings are required under Section 25249.6. Pursuant to the New Warning Regulations,
18 consumer product warnings "must be prominently displayed on a label, labeling, or sign, and
19 must be displayed with such conspicuousness as compared with other words, statements,
20 designs or devices on the label, labeling, or sign, as to render the warning likely to be seen,
21 read, and understood by an ordinary individual under customary conditions of purchase or use."
22 (*Id.* at § 25601, subd. (c).)

23 15. Proposition 65 establishes a procedure by which the State is to develop a list of
24 chemicals "known to the State to cause cancer or reproductive toxicity." (Health & Safety Code,
25 § 25249.8.) There is no duty to provide a clear and reasonable warning until 12-months after
26 the chemical is published on the State list. (Health & Safety Code, § 25249.10, subd. (b).)

27 16. Lead was listed as a chemical known to the State of California to cause developmental
28 toxicity in the fetus and male and female reproductive toxicity on February 27, 1987. Lead was

1 listed as a chemical known to the State of California to cause cancer on October 1, 1992.
2 (OEHHA Chemicals Considered or Listed Under Proposition 65 -
3 <https://oehha.ca.gov/proposition-65/chemicals/lead-and-lead-compounds>.) The MADL for lead
4 as a chemical known to cause reproductive toxicity is 0.5 micrograms per day. (Cal. Code
5 Regs., tit. 27, §25805, subd. (b).) The No Significant Risk Level for lead as a carcinogen is 15
6 micrograms per day. (Cal. Code Regs., tit. 27, §25705, subd. (b).)

7 17. Proposition 65 provides that any person “violating or threatening to violate” Proposition
8 65 may be enjoined in any court of competent jurisdiction. (Health & Safety Code, §25249.7,
9 subd. (a).) To “threaten to violate” means “to create a condition in which there is a substantial
10 probability that a violation will occur.” (Health & Safety Code, § 25249.11, subd. (e).)
11 Furthermore, violators are subject to a civil penalty of up to \$2,500 per day for each violation.
12 (Health & Safety Code, § 25249.7, subd. (b)(1).)

13 18. Proposition 65 may be enforced by any person in the public interest who provides notice
14 sixty days before filing suit to both the violator and designated law enforcement officials. The
15 failure of law enforcement officials to file a timely Complaint enables a citizen suit to be filed
16 pursuant to Health & Safety Code section 25249.7, subdivisions (c) and (d).

17 V

18 **STATEMENT OF FACTS**

19 19. Zico has developed, manufactured, marketed, distributed, and/or sold the SUBJECT
20 PRODUCTS containing lead into the State of California. Consumption of the SUBJECT
21 PRODUCTS according to the directions and/or recommendations provided for said products
22 causes consumers to be exposed to lead at levels exceeding the 0.5 micrograms per day MADL
23 and requiring a warning. Consumers have been ingesting these products for many years,
24 without any knowledge of their exposure to this very dangerous chemical.

25 20. For many years, Zico has knowingly and intentionally exposed numerous persons to
26 lead without providing any type of Proposition 65 warning. Prior to ERC’s Notices of Violation
27 and this Complaint, Zico failed to provide a warning on the labels of the SUBJECT
28 PRODUCTS or provide any other legally acceptable warning. Zico has, at all times relevant

1 hereto, been aware that the SUBJECT PRODUCTS contained lead and that persons using these
2 products have been exposed to this chemical. Zico has been aware of the presence of lead in the
3 SUBJECT PRODUCTS and has failed to disclose the presence of this chemical to the public,
4 who undoubtedly believe they have been ingesting totally healthy and pure products pursuant to
5 the company's statements.

6 21. Both prior and subsequent to ERC's Notices of Violation, Zico failed to provide
7 consumers of the SUBJECT PRODUCTS with a clear and reasonable warning that they have
8 been exposed to a chemical known to the State of California to cause cancer, birth defects and
9 other reproductive harm. This failure to warn is ongoing.

10 **FIRST CAUSE OF ACTION**
11 **(Violation of Section 25249.6 of the Health and Safety Code, Failure to Provide Clear and**
12 **Reasonable Warning under Proposition 65)**

13 22. ERC refers to paragraphs 1-21, inclusive, and incorporates them herein by this
14 reference.

15 23. By committing the acts alleged above, Zico has, in the course of doing business,
16 knowingly and intentionally exposed users of the SUBJECT PRODUCTS to lead, a chemical
17 known to the State of California to cause cancer, birth defects, and other reproductive harm,
18 without first giving clear and reasonable warning to such individuals within the meaning of
19 Health & Safety Code section 25249.6. In doing so, Zico has violated Health & Safety Code
20 section 25249.6 and continues to violate the statute with each successive sale of the SUBJECT
21 PRODUCTS.

22 24. Said violations render Zico liable for civil penalties, up to \$2,500 per day for each
23 violation, and subject Zico to injunction.

24 **SECOND CAUSE OF ACTION**
25 **(Declaratory Relief)**

26 25. ERC refers to paragraphs 1-24, inclusive, and incorporates them herein by this
27 reference.

1 26. There exists an actual controversy relating to the legal rights and duties of the Parties,
2 within the meaning of Code of Civil Procedure section 1060, between ERC and Zico,
3 concerning whether Zico has exposed individuals to a chemical known to the State of California
4 to cause cancer, birth defects, and other reproductive harm without providing clear and
5 reasonable warning.

6 VI

7 **PRAYER**

8 WHEREFORE ERC prays for relief as follows:

9 1. On the First Cause of Action, for civil penalties for each and every violation according
10 to proof;

11 2. On the First Cause of Action, and pursuant to Health & Safety Code section 25249.7,
12 subdivision (a), for such temporary restraining orders, preliminary and permanent injunctive
13 orders, or other orders as are necessary to prevent Zico from exposing persons to lead without
14 providing clear and reasonable warning;

15 3. On the Second Cause of Action, for a declaratory judgment pursuant to Code of Civil
16 Procedure section 1060 declaring that Zico has exposed individuals to lead without providing
17 clear and reasonable warning; and

18 4. On all Causes of Action, for reasonable attorneys' fees pursuant to Code of Civil
19 Procedure section 1021.5 or the substantial benefit theory;

20 5. For costs of suit herein; and

21 6. For such other relief as the Court may deem just and proper.

22
23 DATED: May 6, 2024

MICHAEL FREUND & ASSOCIATES

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26 Michael Freund
27 Attorney for Plaintiff Environmental Research Center
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EXHIBIT A

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice: 510.540.1992 • Fax: 510.371.0885

Michael Freund, Esq.

January 19, 2024

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.
(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Zico Rising, Inc.

Groundforce Capital Management, LLC, individually and dba Power Plant Partners

Consumer Products and Listed Chemical. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Zico Natural 100% Coconut Water – Lead**
- 2. Zico Rapid Hydration Hydrate Coconut Lime Hydration Beverage - 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.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least January 19, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (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. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Zico Rising, Inc., Groundforce Capital Management, LLC, individually and dba Power Plant Partners 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 Zico Rising, Inc. and Groundforce Capital Management, LLC, individually and dba Power Plant Partners

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that 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: January 19, 2024

Michael Freund

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 19, 2024, 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
Zico Rising, Inc.
12501 Seal Beach Blvd, Ste 270
Seal Beach, CA 90740

Current President or CEO
Groundforce Capital Management, LLC,
individually and dba Power Plant Partners
38 Miller Ave, Ste 20
Mill Valley, CA 94941

Daniel Gluck
(Registered Agent for Groundforce Capital
Management, LLC, individually and dba Power
Plant Partners)
38 Miller Ave, Ste 20
Mill Valley, CA 94941

Corporation Service Company
(Registered Agent for Groundforce Capital
Management, LLC, individually and dba
Power Plant Partners)
251 Little Falls Drive
Wilmington, DE 19808

Alan George
(Registered Agent for Zico Rising, Inc.)
12501 Seal Beach Blvd, Ste 270
Seal Beach, CA 90740

Cogency Global Inc.
(Registered Agent for Zico Rising, Inc.)
850 New Burton Rd, Ste 201
Dover, DE 19904

On January 19, 2024, 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 19, 2024, 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:

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

January 19, 2024

Page 5

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

January 19, 2024

Page 6

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On January 19, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on January 19, 2024, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

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

January 19, 2024

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Service List

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Colusa County 310 6 th St Colusa, CA 95932	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, San Bernardino County 303 West Third Street San Bernadino, CA 92415	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063	
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Sierra County Post Office Box 457 100 Courthouse Square, 2 nd Floor Downieville, CA 95936	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354	
District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012	District Attorney, Sutter County 463 2 nd Street Yuba City, CA 95991	
District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	

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.