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7 Attorney for Plaintiff Environmental Research Center

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN FRANCISCO**

11 **ENVIRONMENTAL RESEARCH CENTER,**
12 **a California non-profit corporation**

Case No. CGC-11-513254

13 **Plaintiff,**

**NOTICE OF ENTRY OF JUDGMENT
AND STATUTORY FINDINGS AND
ORDER APPROVING SETTLEMENT**

14
15 **v.**

16 **TIANSHI HEALTH PRODUCTS, INC.**
17 **and DOES 1-100**

**Date: November 7, 2011
Time: 9:30 a.m.
Dept. 302**

18 **Defendants.**

19
20
21
22 **PLEASE TAKE NOTICE** that the Court has entered Judgment and approved the Settlement in
23 this case. A true and correct copy of the Consent Judgment and Statutory Findings and Order
24 Approving Settlement is attached hereto as Exhibit A.

25 Dated: November 7, 2011

26
27 By 
28 Michael Freund
Attorney for Plaintiff Environmental
Research Center

Michael Freund SBN 99687
Law Office of Michael Freund
1915 Addison Street
Berkeley, CA 94704
Telephone: (510) 540-1993
Facsimile: (510) 540-5543

Attorney for Plaintiff
Environmental Research Center

ENDORSED
FILED
San Francisco County Superior Court
NOV 07 2011
CLERK OF THE COURT
BY _____
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

ENVIRONMENTAL RESEARCH CENTER,
a California non-profit corporation

Plaintiff

v.

TIANSHI HEALTH PRODUCTS, INC.
and DOES 1-100

Defendants.

Case No. CGC-11-513254

[PROPOSED] CONSENT
JUDGMENT

Date: November 7, 2011

Time: 9:30 a.m.

Dept.: 302

I. INTRODUCTION

1.1 On August 10, 2011, Plaintiff Environmental Research Center ("ERC") as a private attorney general and in the public interest filed a Complaint for Injunctive Relief and Civil Penalties against Defendant Tianshi Health Products, Inc. ("Tianshi"). The Complaint alleges that Tianshi violated Health and Safety Code section 25249.6 of the Safe Drinking Water and Toxic Enforcement Act of 1986 (also known as "Proposition 65,") through the sale of various nutritional/dietary supplements by failing to provide a clear and reasonable warning.

1.2 The Complaint is based on allegations contained in a Notice of Violation dated June 29, 2010 and a second Notice of Violation dated December 23, 2010, served on the California Attorney General, other public enforcers and Tianshi. A true and correct copy of the Notices of Violation are attached hereto as Exhibits A and B.

1.3 Plaintiff 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.

1.4. Defendant Tianshi is a business entity that manufactures, distributes and/or sells Tiens Cardio System; Tiens Women's Formula; Tiens Internal Cleanser; Tiens Triple Ginseng Plus; Tiens Essential System and Tiens Spirulina ("Covered Products") for sale in the state of California. For purposes of this Consent Judgment, Tianshi does not dispute that it has employed ten or more persons during the relevant statutory period.

1.5 The Parties enter into this Consent Judgment in order to achieve a full settlement of disputed claims between the Parties as alleged in the Complaint for the purpose of avoiding prolonged litigation. Plaintiff ERC has diligently prosecuted this matter and is settling this case in the public interest.

1.6 Nothing in the Consent Judgment shall be construed as an admission by Tianshi of any fact, issue of law or violation of law, nor shall compliance with the Consent Judgment constitute or be construed as an admission by Tianshi of any fact, issue of law or violation of law, at any time, for any purpose. Nothing in the Consent Judgment shall prejudice, waive or impair any right, remedy or defense that Tianshi may have in any other or further legal proceedings. Nothing in the Consent Judgment or any document referred to herein, shall be construed as

giving rise to any presumption or inference of admission or concession by Tianshi as to any fault, wrongdoing or liability whatsoever.

II. JURISDICTION AND VENUE

For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over the subject matter of this action and personal jurisdiction over the Parties, that venue is proper in this Court, and that this Court has jurisdiction to enter a Consent Judgment pursuant to the terms set forth herein.

III. INJUNCTIVE RELIEF -REFORMULATION AND TESTING

3.1 Reformulation of Covered Products

Pursuant to the terms of this Consent Judgment, Tianshi shall reformulate the Covered Products for sale in California (and for sale to a third party for retail sale in California) so that after January 1, 2011 the Covered Products do not expose anyone to a daily dose of more than 0.5 ug of lead when taken as directed on the Product's label and as defined by the quality control methodology set forth in Exhibit C.

3.2 Stop Production of Covered Products or Provide Clear and Reasonable Warning:

In the event that Tianshi obtains information that any of the Covered Products manufactured after August 1, 2011 for sale in California or distributed to a third party for retail sale in California exposes anyone to a daily dose of more than .5ug when taken as directed on the Product's label and as defined by the quality control methodology set forth in Exhibit C, Tianshi shall either immediately stop the sale of such Covered Products to California until further testing demonstrates that no person will be exposed to a daily dose of more than .5ug when taken as directed on the Product's label and as defined by the quality control methodology set forth in Exhibit C or provide a clear and reasonable warning on any such lots in its possession for so long as the exposure exceeds

.5ug/day with the following language:

WARNING: This product contains a chemical known to the State of California to cause [cancer], birth defects or other reproductive harm.

The term "cancer" shall be included in the warning only if there is an exposure to a daily dose of more than 15 micrograms of lead when taken as directed on the Product's label and as defined by the quality control methodology set forth in Exhibit C.

In the event that a Proposition 65 warning is required, the warning shall be prominently affixed with a permanent adhesive or printed upon the product's label of any the Covered Products so as to be clearly conspicuous, as compared with other statements or designs on the label as to render it likely to be read and understood by an ordinary purchaser or user of the product. If the warning is displayed on the product's label, the warning shall be at least the same size as the largest of any other health or safety warnings on the product and the word "warning" shall be in all capital letters and in bold print.

3.3 Testing

Commencing no later than thirty (30) days after the Notice of Entry of Judgment is served on Tianshi, the company shall arrange for the lead testing of at least five (5) randomly selected samples of each Covered Product (in the form intended for sale to the end-user) to ensure that the daily dose is no more than .5 ug when taken as directed on the Product's label and as defined by the quality control methodology set forth in Exhibit C. Tianshi shall continue to arrange for lead testing, at a minimum, once a year, on or before the anniversary of the entry of the Consent Judgment, of at least five (5) randomly selected samples of each of the Covered Products. The testing shall continue so long as the Covered Products are sold in California or sold to a third party for retail sale in California.

All testing pursuant to this Consent Judgment shall be performed by a laboratory certified by the California Environmental Laboratory Accreditation Program for the analysis of heavy metals or a laboratory that is approved by, accredited by, or registered with the United States Food & Drug Administration for the analysis of heavy metals. The laboratory shall follow the quality control methodology set forth in Exhibit C. The method of selecting samples for testing must comply with the regulations of the Food and Drug Administration as set forth in Title 21, Part 111, Subpart E of the Code of Federal Regulations, including section 111.80 (c).

Nothing in this Consent Judgment shall limit Tianshi's ability to conduct, or require that others conduct, additional testing of the Covered Products, including the raw materials used in their manufacture.

Tianshi shall retain copies of its test data from the date testing commenced and shall provide all test data to ERC upon fifteen (15) days of receipt of said data after conducting the required testing as set forth above. The requirement to provide all test data to ERC shall cease after three years from date of entry of Judgment.

IV. PAYMENT

In full and final satisfaction of civil penalties, payment in lieu of civil penalties, ERC's costs of litigation and attorney's fees, Tianshi shall make a total payment of \$50,000.00, \$40,000.00 of which shall be made payable within ten (10) business days of receiving the Notice of Entry of Consent Judgment and an additional payment of \$10,000.00 made payable no later than 90 days after the initial \$40,000.00 payment. Said payments shall be for the following:

- \$5,000.00 shall be payable as civil penalties pursuant to Health & Safety Code Section 25249.7

(b) (1). Of this amount, \$3,750.00 shall be payable to the Office of Environmental Health Hazard Assessment ("OEHHA") and \$1,250.00 shall be payable to the Environmental Research

Center. Health & Safety Code Section 25249.12 (c) (1) & (d). Tianshi shall send both payments to ERC's counsel who shall be responsible to forward the civil penalty payment to OEHHA along with a copy of the transmittal to Tianshi.

- \$14,250.00 payable to Environmental Research Center in lieu of further civil penalties which includes: A) projects and activities protecting people from exposures to toxic chemicals, researching and testing consumer products, increasing consumer, worker and community awareness of the health hazards posed by toxic chemicals, post settlement monitoring of the Covered Products and the continued enforcement of Proposition 65; and B) \$4,250.00 as reimbursement to ERC for reasonable investigation costs associated with the enforcement of Proposition 65 and other costs incurred as a result of investigating, bringing this matter to Defendant's attention, litigating and negotiating this settlement. ERC's Tax Identification No. is 271312633.

- \$21,750.00 payable to Michael Freund as reimbursement of ERC's attorney's fees and reimbursement of expenses not yet reimbursed by ERC. \$9,000.00 payable to Karen Evans as reimbursement of ERC's attorney's fees and reimbursement of expenses not yet reimbursed by ERC. Tianshi's payments shall be mailed to the Law Office of Michael Freund.

V. RELEASE AND CLAIMS COVERED

This Consent Judgment is a full, final and binding resolution between ERC, on its own behalf, and Tianshi Health Products, Inc., including Tianshi (Canada) Health Products, Inc., its customers, officers, directors, shareholders, employees, agents, predecessors, successors, assigns, attorneys and representatives of any violation of Proposition 65 or its implementing regulations or any other statutory or common law claims that have been or could have been asserted in the Complaint for failure to provide clear and reasonable warnings of exposure to lead from the

handling, use or consumption of the Covered Products or any other claim based on the facts or conduct alleged in the Complaint as to such products.

ERC, on its own behalf, has full knowledge of the contents of Section 1542 of the Civil Code. ERC acknowledges that the claims released herein include unknown claims and therefore ERC waives Section 1542 as to any such unknown claims. Section 1542 reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

ERC, on its own behalf, acknowledges and understands the significance and consequences of this specific waiver of Civil Code Section 1542.

Furthermore, this Consent Judgment is a full, final and binding resolution between ERC, acting on behalf of the general public and in the public interest pursuant to Health & Safety Code Section 25249.7 (d) and Tianshi Health Products, Inc., including Tianshi (Canada) Health Products, Inc., its customers, officers, directors, shareholders, employees, agents, predecessors, successors, assigns, attorneys and representatives of any violation of Proposition 65 or its implementing regulations for failure to provide clear and reasonable warnings of exposure to lead from the handling, use or consumption of the Covered Products.

The parties hereby stipulate that this Consent Judgment and Release applies only to Tianshi Health Products, Inc., including Tianshi (Canada) Health Products, Inc., and not to any other entity upstream or downstream of the company, including but not limited to Tiens Biotech Group (USA), Inc., Tiens USA, Tiens Group Co., Ltd., Tianshi Group, Tianshi International

Holdings Group limited, Tianshi Biological Development Co., Ltd., Tiens Yihai Co., Ltd., Tianjin Tiens Life Resources Co., Ltd., and Tianshi Pharmaceuticals Co., Ltd or any of their parents, subsidiaries, affiliates, divisions, subdivisions or affiliates.

Tianshi waives any claims against ERC, its officers, directors, employees, agents, attorneys, and representatives ("the ERC Releasees") for all actions or statements made or undertaken by the ERC Releasees in the course of seeking enforcement of Proposition 65 in this Action.

Compliance with all of the requirements of Paragraph 3.2 constitutes compliance with Proposition 65 with respect to any obligation of Defendant to provide a warning as to the lead content of any Covered Products.

VI. CONTINUING OBLIGATIONS

Nothing herein shall be construed as diminishing Tianshi's continuing obligations to comply with Proposition 65.

VII. SEVERABILITY OF UNENFORCEABLE PROVISIONS

In the event that, after entry of this Consent Judgment in its entirety, any of the provisions hereof are subsequently held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

VIII. ENFORCEMENT OF CONSENT JUDGMENT

ERC may, by motion or as otherwise provided for enforcement of Judgments, seek relief from this Superior Court of the State of California to enforce the terms and conditions contained in this Consent Judgment after its entry by the Court.

IX. APPLICATION OF CONSENT JUDGMENT

This Consent Judgment entered by the Court shall apply to, be binding upon and inure to the

benefit of Tianshi, its officers, directors, shareholders, employees, agents, attorneys, successors and assigns, and upon ERC on his own behalf and on behalf of the general public and the public interest as specified in Paragraph V, as well as ERC's, employees, agents, successors, attorneys and assigns.

X. MODIFICATION OF CONSENT JUDGMENT

This Consent Judgment entered by the Court may be modified only upon written agreement of the Parties and upon entry of a modified Consent Judgment by the Court thereon, or upon a regularly-noticed motion of any Party to the Consent Judgment as provided by law and upon entry of a modified Consent Judgment by the Court.

XI. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter to enforce, modify or terminate the Consent Judgment.

XII. AUTHORITY TO STIPULATE TO THIS CONSENT JUDGMENT

Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to enter into this Consent Judgment and to execute it on behalf of the party represented and legally to bind that party.

XIII. COURT APPROVAL

This Consent Judgment shall be effective only after it has been executed by the Court. Otherwise, it shall be of no force or effect and cannot be used in any proceeding for any purpose.

XIV. EXECUTION IN COUNTERPARTS

This Consent Judgment may be executed in counterparts and/or by facsimile, which taken together shall be deemed to constitute one document.

XV. NOTICES

All notices required to be given to either Party to this Consent Judgment by the other shall be sent to the following agents:

FOR ENVIRONMENTAL RESEARCH CENTER:

Christopher Heptinstall, Executive Director
Environmental Research Center
5694 Mission Center Road, # 199
San Diego, CA 92108

Michael Bruce Freund
Law Offices of Michael Freund
1915 Addison Street
Berkeley, CA 94704
Telephone: (510) 540-1992
Facsimile: (510) 540-5543

Karen Evans
Coordinating Counsel
Environmental Research Center
4218 Biona Place
San Diego, CA 92116
Telephone: (619) 640-8100

FOR TIANSHI HEALTH PRODUCTS, INC. :

Kevin Rao
Tianshi Health Products, Inc.
15 Allstate Parkway, Suite 105
Markham, Ontario
Canada L3R 5B4

Susan Condon
GCA Law Partners, LLP
1891 Landings Drive
Mountain View, CA 94043
Telephone: (650) 428-3900
Facsimile: (650) 428-3901

XVI. GOVERNING LAW

The validity, construction and performance of this Consent Judgment shall be governed by

the laws of the State of California.

XVII. DRAFTING

The terms of this Consent Judgment have been reviewed by the respective counsel for the Parties to this Settlement prior to its signing, and each Party has had an opportunity to fully discuss the terms with counsel. The Parties agree that, in any subsequent interpretation and construction of this Consent Judgment entered thereon, the terms and provisions shall not be construed against either Party.

XVIII. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

In the event a dispute arises with respect to either party's compliance with the terms of this Consent Judgment entered by the Court, the Parties shall meet either in person or by telephone and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the absence of such a good faith attempt to resolve the dispute beforehand. In the event an action or motion is filed, however, the prevailing party may seek to recover costs and reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party" means a party who is successful in obtaining relief more favorable to it than the relief that the other party was amenable to providing during the parties' good faith attempt to resolve the dispute that is the subject of such enforcement action.

XIX. ENTIRE AGREEMENT

This Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any party

hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

XX. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF CONSENT JUDGMENT

This settlement has come before the Court upon the request of the Parties. The Parties request the Court to fully review this settlement and, being fully informed regarding the matters which are the subject of this action, to:

(1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable settlement of all matters raised by the allegations of the Complaint, that the matter has been diligently prosecuted, and that the public interest is served by such settlement; and

(2) Make the findings pursuant to Health & Safety Code § 25249.7 (f) (4), approve the Settlement and approve this Consent Judgment.

IT IS SO STIPULATED:

TIANSHI HEALTH PRODUCTS, INC.

Dated: _____, 2011

Kevin Rao

ENVIRONMENTAL RESEARCH CENTER

Dated: _____, 2011

Christopher Hepstinstall, Executive Director

hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

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(1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable settlement of all matters raised by the allegations of the Complaint, that the matter has been diligently prosecuted, and that the public interest is served by such settlement; and

(2) Make the findings pursuant to Health & Safety Code § 25249.7 (f) (4), approve the Settlement and approve this Consent Judgment.

IT IS SO STIPULATED:

TIANSHI HEALTH PRODUCTS, INC.

Dated: _____, 2011

Kevin Rao

ENVIRONMENTAL RESEARCH CENTER

Dated: 8/19/, 2011

Christopher Hepstinstall, Executive Director

hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.

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- (1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable settlement of all matters raised by the allegations of the Complaint, that the matter has been diligently prosecuted, and that the public interest is served by such settlement; and
- (2) Make the findings pursuant to Health & Safety Code § 25249.7 (f) (4), approve the Settlement and approve this Consent Judgment.

IT IS SO STIPULATED:

Dated: Aug 31st, 2011

TIANSHI HEALTH PRODUCTS, INC.



Kevin Rao

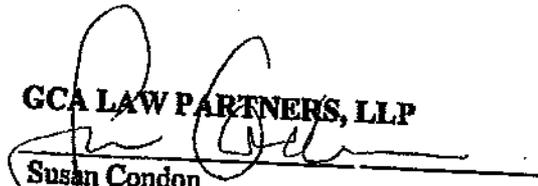
ENVIRONMENTAL RESEARCH CENTER

Dated: _____, 2011

Christopher Hepstinstall, Executive Director

APPROVED AS TO FORM:

Dated: 9 September, 2011


GCA LAW PARTNERS, LLP
Susan Condon
Attorney for Tianshi Health Products, Inc.

Dated: September 9, 2011

LAW OFFICE OF MICHAEL FREUND

Michael Freund
Attorney for Environmental Research Center

IT IS SO ORDERED:

Dated: NOV 07 2011, 2011

HAROLD KAHN
JUDGE, SUPERIOR COURT

MICHAEL FREUND
ATTORNEY AT LAW
1915 ADDISON STREET
BERKELEY, CALIFORNIA 94704-1101

TEL 510/540-1992
FAX 510/540-5543
EMAIL FREUND1@AOL.COM

June 29, 2010

Re: Notice of Violation Against Tianshi Health Products, Inc. for Violation of California Health & Safety Code Section 25249.6

Dear Prosecutors:

I represent the Environmental Research Center ("ERC"), a non-profit California corporation whose mission is to safeguard the public from health hazards that impact families, workers and the environment. ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. ERC is located at 5694 Mission Center Road, # 199, San Diego, CA 92108. Through this Notice of Violation, ERC seeks to reduce exposure to the public from lead that is contained in the named products manufactured and distributed by Tianshi Health Products, Inc.

This letter constitutes notification that Tianshi Health Products, Inc., located at 15 Allstate Parkway, Markham, Ontario L3R 5B4, Canada has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code).

In particular, this company has manufactured and distributed products which have exposed and continue to expose numerous individuals within California to lead. Lead was listed pursuant to Proposition 65 as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. Lead was listed pursuant to Proposition 65 as a carcinogen on October 1, 1992. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been oral through ingestion.

Tianshi Health Products, Inc. is exposing people to lead from the following products: Tiens Triple Gingseng Plus; Tiens Internal Cleanser; Tiens Women's Formula; and Tiens Cardio System.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Tianshi Health Products, Inc. is in violation of Proposition 65 because the company failed to provide a warning to persons using their products that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to lead, without first providing clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A).

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the

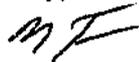
EXHIBIT A

suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This Notice covers all violations of Proposition 65 that are currently known to ERC from 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, and referenced as Appendix A, has been provided to the noticed party.

Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against Tianshi Health Products, Inc. unless the company agrees in an enforceable written instrument to: (1) reformulate these products so as to eliminate further lead exposures; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this Notice, ERC will focus its efforts in seeking a constructive resolution of this matter. Such resolution will avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation.

If you have any questions, please contact my office at your earliest convenience.

Sincerely,



Michael Freund

cc: Chris Heptinstall, ERC
Karen Evans, Esq. ERC

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Michael Freund hereby declare:

1. This Certificate of Merit accompanies the Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party Environmental Research Center ("ERC"). ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. The Notice of Violation alleges that the party identified has exposed persons in California to lead from products that it manufactures and distributes. Please refer to the Notice of Violation for additional details regarding the alleged violations.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action. In particular, I have consulted with the laboratory that conducted the testing to determine the concentration of lead in the products identified in the Notice of Violation and I have relied on the testing results. The testing was conducted by a reputable testing laboratory with substantial experience in testing for lead. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through oral exposure (ingestion).
4. Based on my consultation with the laboratory, the results of the laboratory testing, as well as published studies on lead, it is clear that there is sufficient evidence that human

exposures exist from exposure to the products from the noticed party. Furthermore, as a result of the above, I have concluded that 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 the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 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: June 27, 2010



Michael Freund
Attorney for Environmental Research Center

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On June 29, 2010 I served the within:

Notice of Violation and Certificate of Merit (Supporting documentation pursuant to 11 CCR section 3102 sent to Attorney General only)

on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Oakland, California to said parties addressed as follows:

See Attached Service List

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on June 29, 2010 at Berkeley, California.



Michael Freund

District Attorney of Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

District Attorney of Glenn County
PO Box 430
Willows, CA 95988

District Attorney of Marin County
3501 Civic Center Dr., Room 130
San Rafael, CA 94903

District Attorney of Colusa County
547 Market Street
Colusa, CA 95932

District Attorney of Kings County
1400 West Lacey
Hanford, CA 93239

District Attorney of Mono County
PO Box 617
Bridgeport, CA 93517

District Attorney of Contra Costa
County
627 Ferry Street
Martinez, CA 94553

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

District Attorney of Mariposa County
PO Box 730
Mariposa, CA 95338

District Attorney of Alpine County
PO Box 248
Markleeville, CA 96120

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

District Attorney of Monterey County
230 Church Street, Bdg. 2
Salinas, CA 93901

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

District Attorney of Imperial County
939 Main Street
El Centro, CA 92243

District Attorney of Mendocino County
PO Box 1000
Ukiah, CA 95482

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

District Attorney of Lassen County
220 S. Lassen St., Ste 8
Susanville, CA 96130

District Attorney of Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney of Butte County
25 County Center Drive
Oroville, CA 95965

District Attorney of Inyo County
PO Drawer D
Independence, CA 93526

District Attorney of Merced County
2222 "M" Street
Merced, CA 95340

District Attorney of El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney of Los Angeles County
210 W. Temple Street, Room 345
Los Angeles, CA 90012

District Attorney of Nevada County
110 Union Street
Nevada City, CA 95959-2503

District Attorney of Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Madera County
209 West Yosemite Ave.
Madera, CA 93637

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

District Attorney of Fresno County
2220 Tulare Street, # 1000
Fresno, CA 93721

District Attorney of Kern County
1215 Truxtun Ave.
Bakersfield, CA 93301

District Attorney of Modoc County
204 S. Court Street
Alturas, CA 96101-4020

District Attorney of Placer County
2501 North Lake Blvd.
Tahoe City, CA 96145

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

District Attorney of Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney of San Bernardino Cty
316 N. Mountain View Ave.
San Bernardino, CA 92415

District Attorney of Sierra County
Courthouse, PO Box 457
Donieville, CA 95936

District Attorney of Ventura County
800 South Victoria Ave.
Ventura, CA 93009

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

District Attorney of Santa Barbara
County
1105 Santa Barbara Street
Santa Barbara, 93101

District Attorney of Tehama County
PO Box 519
Red Bluff, CA 96080

District Attorney of San Diego County
330 West Broadway, Suite 1320
San Diego, 92101

District Attorney of Siskiyou County
PO Box 986
Yreka, CA 96097

District Attorney of Yolo County
301 Second Street
Woodland, CA 95695

District Attorney of Riverside County
4075 Main Street
Riverside, CA 92501

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

District Attorney of Trinity County
PO Box 310
11 Court Street
Weaverville, CA 96093

District Attorney of San Francisco
County
850 Bryant Street, Room 325
San Francisco, CA 94103

District Attorney of Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110

District Attorney of Yuba County
215 Fifth Street
Marysville, CA 95901

District Attorney of Sacramento County
901 "G" Street
Sacramento, CA 95814

District Attorney of Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060

District Attorney of Tulare County
221 S. Mooney Ave., Room 224
Visalia, CA 93291

District Attorney of San Joaquin County
PO Box 990
Stockton, CA 95201

District Attorney of Sonoma County
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

District Attorney of Tuolumne County
423 No. Washington Street
Sonora, CA 95370

District attorney of San Luis Obispo
County
1050 Monterey St., Room 450
San Luis Obispo, CA 93408

District Attorney of Shasta County
1525 Court Street, Third Floor
Redding, CA 96001-1632

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

District Attorney of San Benito County
19 Fourth Street, 2nd Floor
Lollister, CA 95023

District Attorney of Stanislaus County
800 11th Street, Room 200
PO Box 442
Modesto, CA 95353

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

San Diego City Attorney's Office
1200 3rd Ave. # 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

California Attorney General's Office
Attn: Proposition 65 Coordinator
1515 Clay Street, Suite 2000
PO Box 70550
Oakland, CA 94612

Karen A. Evans, General Counsel
Environmental Research Center
Law Office of Karen A. Evans.
4218 Biona Place
San Diego, CA 92116

SW & W Legal Services, Inc.
c/o Tianshi Health Products, Inc.
1420 Fifth Ave., Suite 3010
Seattle, WA 98101



Environmental Research Center

5694 Mission Center Road #199

San Diego, CA 92108

619.309.4194

December 23, 2010

VIA CERTIFIED MAIL

Current President or CEO
Tianshi Health Products, Inc.
917 134th Street Sw, Suite A8
Everett, WA 98204

VIA PRIORITY MAIL

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

SW & W Legal Services, Inc.
(Tianshi Health Products, Inc.'s Registered
Agent for Service of Process)
1420 Fifth Avenue, Suite 3010
Seattle, WA 98101

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

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

Dear Addressees:

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

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

The name of the Company covered by this Notice that violated Proposition 65 is:

Tianshi Health Products, Inc.

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

Tianshi Health Products Inc. Tiens Spirulina 90 Capsules
Tianshi Health Products Inc. Tiens Essential System 100 Capsules

EXHIBIT B

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 as chemical known to cause cancer.

This letter is a Notice to Tianshi Health Products, Inc. and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This Notice covers all violations of Proposition 65 involving Tianshi Health Products, Inc. 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, has been provided to the Noticed Company with a copy of this letter.

Tianshi Health Products, Inc. has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The primary route of exposure to these chemicals has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product's label. Tianshi Health Products, Inc. violated Proposition 65 because the Company has failed to provide an appropriate warning to persons using these products that they are being exposed to the identified chemical.

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 Tianshi Health Products, Inc. agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and ERC'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.

Please direct all questions concerning this notice to ERC's attorney, Michael Freund, address: 1915 Addison Street, Berkeley, California, 94704-1101, telephone no.: 510-540-1992, e-mail: Freund1@aol.com.

Sincerely,



Chris Heptinstall, Executive Director
Environmental Research Center

cc: Karen Evans

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Tianshi Health Products, Inc. and its Registered Agent for Service only)
- Additional Supporting Information for Certificate of Merit (to AG only)

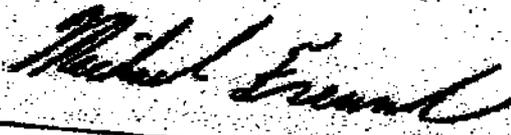
CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Tianshi Health Products, Inc.

I, Michael Freund, declare:

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

Dated: December 23, 2010



Michael Freund
Attorney for Environmental Research Center

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On December 23, 2010, I served the following documents:

**NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ;
CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF
1986 (PROPOSITION 65): A SUMMARY"**

On the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current President or CEO
Tianshi Health Products, Inc.
917 134th Street Sw, Suite A8
Everett, WA 98204

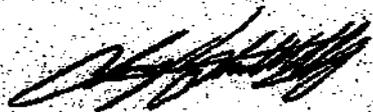
SW & W Legal Services, Inc.
(Tianshi Health Products, Inc.'s Registered
Agent for Service of Process)
1420 Fifth Avenue, Suite 3010
Seattle, WA 98101

On December 23, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On December 23, 2010, 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 with the U.S. Postal Service for delivery by Priority Mail.

Executed on December 23, 2010, in Fort Oglethorpe, Georgia.



Chris Heptinstall

Service List

- District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612
- District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120
- District Attorney, Amador County
708 Court Street, #202
Jackson, CA 95642
- District Attorney, Butte County
25 County Center Drive
Oroville, CA 95965
- District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
- District Attorney, Colusa County
547 Market Street
Colusa, CA 95932
- District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553
- District Attorney, Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531
- District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667
- District Attorney, Fresno County
2220 Tulare Street, #1000
Fresno, CA 93721
- District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988
- District Attorney, Humboldt County
825 5th Street
Eureka, CA 95501
- District Attorney, Imperial County
939 West Main Street, Ste 102
El Centro, CA 92243
- District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514
- 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, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130
- District Attorney, Los Angeles County
210 West Temple Street, Rm 345
Los Angeles, CA 90012
- District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 95637
- District Attorney, Marin County
3501 Civic Center, 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
2222 M 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, Monterey County
230 Church Street, Bldg 2
Salinas, CA 93901
- District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559
- District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959
- District Attorney, Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

Notice of Violations of California Health & Safety Code §25249.5 et seq.
December 23, 2010

Page 6

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, Riverside County
4075 Main Street, 1st Floor
Riverside, CA 92501

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 9581

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

District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

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

District Attorney, San Francisco County
850 Bryant Street, Room 225
San Francisco, CA 94103

District Attorney, San Joaquin County
Post Office Box 990
Stockton, CA 95201

District Attorney, San Luis Obispo County
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

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

District Attorney, Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110

District Attorney, Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95060

District Attorney, Shasta County
1525 Court Street, Third Floor
Redding, CA 96001-1632

District Attorney, Sierra County
PO Box 457
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, Sonoma County
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95353

District Attorney, Sutter County
446 Second 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, Tulare County
221 S. Mooney Avenue, Room 224
Visalia, CA 93291

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

District Attorney, Ventura County
800 South Victoria Avenue
Ventura, CA 93009

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

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

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

San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
1 Drive Carlton B Goodlett Place
San Francisco, CA 94102

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

Lead (Pb) Testing for California Prop 65 using ICPMS

Introduction

This procedure is used to test solid samples for amounts of Pb. The sample is dissolved (or extracted) in a mineral acid digestion, spiked with internal standard (^{204}Pb), and diluted to volume. The solutions are then analyzed by Inductively Coupled Plasma-Mass Spectrometry (ICPMS).

Sample Preparation - Solids

Approximately 0.5 g of sample weighed to the nearest 0.01 g is digested in 10 mL of high purity nitric acid (Baker Ultrex or equivalent) at $\sim 110^\circ\text{C}$ for 1 Hr. The digestion can be carried out on a HotBlock using virgin polypropylene digestion vessels to minimize contamination. If the sample contains significant organic material, cool the digestate and add 0.5 mL of 30% hydrogen peroxide and continue the digestion for ~ 30 min or until the volume reduces to 2-3 mL. Cool the digestate and add 1000 μL of 1 $\mu\text{g}/\text{mL}$ ^{204}Pb internal standard solution. Dilute to a final mass of ~ 100 g and mix well. This represents a dilution factor of ~ 200 , therefore a 10 $\mu\text{g}/\text{L}$ solution result is equivalent to a 2 $\mu\text{g}/\text{g}$ sample result.

Sample Analysis

Analyze the solution using ICPMS according to the manufacturer's recommendations for tuning, etc. Calibration standards should cover the range of 1-100 $\mu\text{g}/\text{L}$ for Pb. Acquire data for all four naturally occurring isotopes 204-208. Calculate the results using the internal standard.

Quality Control

For each batch of 20 or fewer samples, prepare at least one method blank. The background from the method blank should not exceed 0.1 $\mu\text{g}/\text{L}$ (equivalent to 0.02 $\mu\text{g}/\text{g}$ in the sample). For each batch of 20 or fewer samples also prepare at least one sample in duplicate and a sample spiked with Pb. Spiking a 0.5 g sample with 0.5 μg (50 μL of a 10 $\mu\text{g}/\text{mL}$ Pb solution) will prepare a 1 $\mu\text{g}/\text{g}$ spiked sample.

For each batch of samples prepare a Laboratory Control Standard (LCS) using NIST 1486, Bone Meal (Certified Value ~ 1.3 $\mu\text{g}/\text{g}$). The results for this QC sample should be within 20% of the certified value; typically the result is within 7%.

Within each ICPMS instrument run, the calibration should consist of at least 3 calibration standards (1, 10, and 100 $\mu\text{g}/\text{L}$) as well as a calibration blank. If the 1st order least squares regression > 0.995 , the midpoint standard may be used for calculating all results rather than the regression equation. Typically the regression fit is > 0.999 .

After calibration, analyze a Laboratory Control Standard solution such as NIST SRM 1640 Trace Metals in Water or similar solution with a Pb concentration in the range of 10-100 $\mu\text{g}/\text{L}$. The result should be within 7% of the certified value to confirm that the calibration standards were made correctly. Typically the result is within 5%.

Once the calibration is confirmed, analyze samples and blanks. After every 10 or fewer samples, repeat the calibration blank and the midpoint calibration standard. Calibration should not drift by more than 6%. One may re-calibrate on the continuing standards as long as the drift is $< 6\%$ between standards (typically $< 2\%$).

For any sample results $> 10\times$ the method blank background, the results from duplicate sample aliquots should agree within 25%. For spikes greater than the sample concentration, the % recovery should be 80-120% (typically 94-106%).

Dilute and reanalyze any solution with a concentration outside the calibration range.

1 Michael Freund SBN 99687
2 Law Office of Michael Freund
3 1915 Addison Street
4 Berkeley, CA 94704
5 Telephone: (510) 540-1992
6 Facsimile: (510) 540-5543

7 Attorney for Plaintiff Environmental Research Center

ENDORSED
FILED
San Francisco County Superior Court

NOV 07 2011

CLERK OF THE COURT

BY: _____
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 ENVIRONMENTAL RESEARCH CENTER,
12 a California non-profit corporation

13 Plaintiff,

14 v.

15 TIANSI HEALTH PRODUCTS, INC.
16 and DOES 1-100

17 Defendants.

Case No. CGC-11-513254

[PROPOSED] STATUTORY
FINDINGS AND ORDER
APPROVING SETTLEMENT

Date: October 31, 2011

Time: 9:30 a.m.

Dept.: 302

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22 This matter having come on calendar pursuant to a regularly noticed motion and the Court
23 having reviewed all the evidence submitted in support of Plaintiff Environmental Research
24 Center's motion in this case, hereby makes the following findings pursuant to Health & Safety
25 Code Section 25249.7 (f) (4):
26

- 27 1) Any warnings that may be required by the settlement fully comply with Proposition 65.
28 2) The attorney's fees provision in the settlement is reasonable under California law; and

STATUTORY FINDINGS AND ORDER APPROVING SETTLEMENT

1 3). The civil penalty is reasonable based on the criteria set forth in Health & Safety Code Section
2 25249.7 (b) (2) and 11 CCR Section 3203.
3

4 IT IS HEREBY ORDERED that the Settlement is approved.

5 Dated: NOV 07 2011

6 HAROLD KAHN
7 Judge of the Superior Court
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CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On November 7, 2011 I served the within:

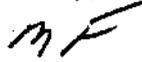
Notice of Entry of Judgment and Statutory Findings and Order Approving Settlement on the parties in said action, via electronic mail and/or placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box in Berkeley, California and/or by hand delivery to said parties addressed as follows:

California Attorney General
Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612

Susan Condon
GCA Law Partners, LLP
1891 Landings Drive
Mountain View, CA 94043

I, Michael Freund, declare under penalty of perjury that the foregoing is true and correct.

Executed on November 7, 2011 at Berkeley, California



Michael Freund