

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

NOV 07 2011

John A. Clarke, Executive Officer/ Clerk
By S. BLAND, Deputy

1 GIDEON KRACOV (SBN 179815)
801 S. Grand Avenue, Ste. 1100
2 Los Angeles, CA 90017
213.629.2071
3 FAX 213.623.7755
gk@gideonlaw.net
4 Attorneys for Plaintiff
5 Environmental Research Center

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES
10

11 ENVIRONMENTAL RESEARCH CENTER,)
a non-profit California corporation;)

12 Plaintiff,)

13 v.)

14 VITATECH INTERNATIONAL, INC.,)
15 DOES 1 through 10;)

16 Defendant(s).)

Case No. BC 446151

Hon: Barbara M. Scheper

**[PROPOSED] ORDER APPROVING
PROPOSITION 65 CONSENT
JUDGMENT**

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

Date: 11/7/11

Time: 8:30 a.m.

Dept.: 30

1 Plaintiff Environmental Research Center's Motion for Court Approval of the Consent
2 Judgment came on regularly for hearing before this Court on November 7, 2011, the Honorable
3 Barbara M. Scheper, presiding, with attorneys for all parties in that case having had the
4 opportunity to be heard by this Court. After considering the proposed Consent Judgment
5 between Plaintiff and Defendants Vitatech International, Inc. and Bodywise International,
6 LLC, the moving papers, declarations, pleadings, oral arguments and all other relevant
7 documents in the court file, and any other matters presented to this Court, and GOOD CAUSE
8 APPEARING THEREFORE, this Court GRANTS the Motion for Court Approval of the
9 Consent Judgment, and makes the following findings pursuant to California Health & Safety
10 Code section 25249.7(f) and 11 Cal. Code Regs. section 3201, *et seq.*:

- 11 1. The warning required by the Consent Judgment complies with Proposition
12 65;
- 13 2. The awards of attorney's fees and costs provided in the Consent Judgment is
14 reasonable under California law;
- 15 3. The penalties provided by the Consent Judgment are reasonable; and
- 16 4. The Consent Judgment is in the public interest.

17 Therefore, for the foregoing reasons, the Consent Judgment shall be entered as the
18 Judgment of this Court.

19 IT IS SO ORDERED.

20
21 DATE: NOV 07 2011



BARBARA M. SCHEPER

Honorable Barbara M. Scheper
Judge of the Superior Court

PROOF OF SERVICE

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I, Gideon Kracov, being duly sworn, deposes and says:

I am a citizen of the United States and work in Los Angeles County, California. I am over the age of eighteen years and am not a party to the within entitled action. My business address is: 801 S. Grand Ave., 11th Fl., LA, CA 90017. On 11/4, 2011, I served this list of persons with the following documents: **[PROPOSED] ORDER**

The documents were served on:

Mike Hornak
Rutan & Tucker, LLP
611 Anton Boulevard, 14th Floor
Costa Mesa, CA 92626

Michael J. Steponovich, Jr.
STEPONOVICH & ASSOCIATES
701 South Parker Street, Suite 7500
Orange, California 92868

✓ by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States Post Office mail box at 801 S. Grand Ave., Los Angeles, California, addressed as set forth above. I am readily familiar with my firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date of postage meter date is more than 1 day after date of deposit for mailing in affidavit.

I declare under penalty of perjury, according to the laws of the State of California, that the foregoing is true and correct.

Executed this 11/4, 2011 at Los Angeles, California.



Gideon Kracov

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

NOV 07 2011

John A. Clarke, Executive Officer/ Clerk
By S. BLAND, Deputy

RECEIVED
SEP 21 2011
ROOM 102

1 GIDEON KRACOV (SBN 179815)
2 801 S. Grand Avenue, Ste. 1100
3 Los Angeles, CA 90017
4 213.629.2071
5 FAX 213.623.7755
6 gk@gideonlaw.net

7 Attorneys for Plaintiff
8 ENVIRONMENTAL RESEARCH CENTER

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11 ENVIRONMENTAL RESEARCH CENTER, a) Case No. BC 446151
12 non-profit California corporation,)
13 Plaintiff,) Hon: Barbara Scheper
14) [PROPOSED] STIPULATED CONSENT
15 VITATECH INTERNATIONAL, INC.;) JUDGMENT
16 BODYWISE INTERNATIONAL, LLC; DOES)
17 2 through 10;)
18 Defendants.)

19 IT IS HEREBY STIPULATED AND AGREED by the Parties hereto, as follows:

20 WHEREAS:

21 A. ENVIRONMENTAL RESEARCH CENTER ("ERC") is a citizen enforcer of
22 California Health and Safety Code § 25249.6 *et seq.* ("Proposition 65") and is a non-profit
23 corporation organized under California's Non-Profit Public Benefit Corporation Law.

24 B. Defendant VITATECH INTERNATIONAL INC. ("VITATECH") is a corporation
25 organized under the laws of the State of California and a person doing business within the

26 [PROPOSED] STIPULATED CONSENT JUDGMENT

1 meaning of H&S Code §25249.11 with an office at 2832 Dow Ave., Tustin, CA 92780.
2 Defendant BODY WISE INTERNATIONAL, LLC. (“BODY WISE”) is a limited liability
3 company organized under the laws of the State of Delaware and a person doing business within
4 the meaning of H&S Code §25249.11 with an office at 17101 Armstrong Avenue, Suite 101,
5 Irvine, CA 92614-5738. “Parties” means ERC, VITATECH and BODY WISE. “Defendants”
6 means VITATECH and BODY WISE. The name of the Products covered under this Consent
7 Judgment are

8 Female Advantage® Balance

9 Joint Complete™

10 Workout Formula®

11 The above three products are referred to herein as the “Products.” Three other Body Wise
12 products tested by ERC are Right Choice® AM, AG Immune®, and OxyG2®, which products are
13 sometimes referred to herein collectively as “Non-Infringing Products.” Only the Products are
14 subject to the injunctive provisions herein. Only the Products and the Non-Infringing Products
15 are the subject of this Consent Decree;

16 C. On February 27, 1987, the State of California officially listed the chemical lead as a
17 chemical known to cause reproductive toxicity, pursuant to California Health and Safety Code §
18 25249.8;

19 D. On October 1, 1992, the State of California officially listed the chemicals lead and
20 lead compounds as chemicals known to cause cancer, pursuant to California Health and Safety
21 Code § 25249.8;

22 E. The Products have allegedly been manufactured and/or sold by VITATECH and/or
23 BODY WISE for use in California since at least October 2009.

24 F. On July 7, 2010 and January 14, 2011, ERC served VITATECH and then BODY
25 WISE and each of the appropriate public enforcement agencies with a document entitled “60-Day

26 [PROPOSED] STIPULATED CONSENT JUDGMENT

1 Notice" that provided notice that Defendants were in violation of Proposition 65 for failing to
2 warn purchasers and individuals that the use of the Products exposes them to lead, a chemical
3 known to the State of California to cause cancer and/or reproductive toxicity ("Prop. 65
4 Notices") (a copy of the 60-Day Notices are attached hereto as Exhibit B);

5 G. Thereafter, ERC determined that, based on the recommended dosages on the label
6 and testing of the Non-Infringing Products for lead, that the Non-Infringing Products did not
7 cause exposures of lead that violate Proposition 65;

8 H. The Action was brought by ERC in the public interest at least sixty (60) days after
9 ERC provided notice of the Proposition 65 violations to Defendants and the appropriate public
10 enforcement agencies and none of the public enforcement agencies had commenced and begun
11 diligently prosecuting an action against Defendants for such violations;

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

16 J. The Parties enter into this Consent Judgment to settle disputed claims between
17 them and to avoid prolonged litigation. By execution of this Consent Judgment, Defendants do
18 not admit any violations or the applicability of Proposition 65, do not admit that the Products are
19 unsafe, and do not admit that the exposure to lead from the dose recommended on the Products'
20 label exceeds 0.5 micrograms (mcg) after deduction for exposure caused solely by "naturally
21 occurring" lead. Except for the representations made above, nothing in this Consent Judgment
22 shall be construed as an admission by Defendants or Plaintiff of any fact, issue of law, or
23 violation of law, nor shall compliance with this Consent Judgment constitute or be construed as
24 an admission by Defendants or Plaintiff of any fact, issue of law, or violation of law;

25 K. Except as expressly provided herein, nothing in this Consent Judgment shall

26 [PROPOSED] STIPULATED CONSENT JUDGMENT

1 prejudice, waive or impair any right, remedy or defense the Parties may have in any other or
2 further legal proceeding. This paragraph shall not diminish or otherwise affect the obligations,
3 responsibilities, and duties of any Party to this Consent Judgment; and,

4 L. The "Effective Date" of this Consent Judgment shall be the date upon which this
5 Consent Judgment is entered by the Court.

6
7 **NOW, THEREFORE**, in consideration of the promises, covenants and agreements herein
8 contained, the sufficiency and adequacy of which is hereby acknowledged by the Parties:

9 1. **Injunctive Relief.** On and after the Effective Date of this Consent Judgment,
10 Defendants shall not manufacture for sale in the State of California, distribute into the State of
11 California, or directly sell in the State of California the Products unless each such unit of the
12 Products bears the following warning statement on its individual unit label packaging:

13 **WARNING: This product contains lead, a substance known to the State of**
14 **California to cause birth defects or other reproductive harm. DO NOT USE**
15 **DURING PREGNANCY.**

16 The warning statement shall be prominent and displayed on the unit packaging of the Products
17 with such conspicuousness, as compared with other words, statements, or designs so as to render
18 it likely to be read and understood by an ordinary individual purchasing or using the Products.

19 The advertising of one or more of the Products on a website accessible to both California and
20 non-California consumers shall not constitute a violation of this injunction so long as sales of the
21 Products are not made to California addresses.

22 2. Defendants reserve the right to manufacture, distribute or directly sell the Products
23 in the State of California without the warning set forth in Section 1 of this Consent Judgment
24 upon reformulating or relabeling the Products so that the daily dose recommended on the
25 Products' label contains less than 0.5 micrograms (mcg) of lead, excluding: a) the amounts of

26 [PROPOSED] STIPULATED CONSENT JUDGMENT

1 naturally occurring lead in the ingredients listed in accordance with the Attorney General's
2 Stipulation Modifying Consent Judgments in *People v. Warner Lambert et al.* (San. Fran. Sup.
3 Ct. Case No. 984503) or b) excess exposure caused solely by "naturally occurring" lead at the
4 "lowest level currently feasible," as set forth in 27 California Code of Regulations § 25501(a).
5 Should Defendants in the future manufacture, distribute or directly sell the Products in California
6 pursuant to this Section 2 of this Consent Judgment, at least 45 days beforehand and for the first
7 two years thereafter, Defendants shall provide any test results for the Products and related
8 documentation to ERC within 30 working days of completion of the testing; and shall retain all
9 such test results and related documentation for a period of at least two years.

10 3. All testing pursuant to this Consent Judgment shall be performed by a laboratory
11 certified by the California Environmental Laboratory Accreditation Program for the analysis of
12 heavy metals or a laboratory that is approved by, accredited by, or registered with the United
13 States Food & Drug Administration for the analysis of heavy metals. The method of selecting
14 samples for testing must comply with the regulations of the Food and Drug Administration as set
15 forth in Title 21, Part 111, Subpart E of the Code of Federal Regulations, including section
16 111.80(c). Testing for lead shall be performed using Inductively Coupled Plasma-Mass
17 Spectrometry (ICP-MS) and closed-vessel, microwave-assisted digestion employing high-purity
18 reagents¹ or any other testing method agreed upon in writing by the parties. Nothing in this
19 Consent Judgment shall limit Defendants' ability to conduct, or require that others conduct,
20 additional testing of the Products, including the raw materials used in their manufacture. This
21 Consent Judgment, including the testing and sampling methodology set forth in this paragraph, is
22 the product of negotiation and compromise, and is accepted by the parties for purposes of
23 settling, compromising, and resolving issues disputed in this action, including future compliance.

24 _____
25 ¹ See Mindak, W.R., Cheng, J., Canas, B.J., & Bolger, P.M. Lead in Women's and
26 Children's Vitamins, *J. Agric. Food Chem.* 2008, 56, 6892-96.

1 by Defendants with this Consent Judgment, and shall not be used for any other purpose, or in any
2 other matter and, except for the purpose of determining future compliance with this Consent
3 Judgment, shall not constitute an adoption or employment of a method of analysis for a listed
4 chemical in a specific medium as set forth in 27 California Code of Regulations § 25900(g).

5 4. **Civil Penalty Assessment.** Defendants agree to pay a civil penalty in the amount
6 of \$7,050.00 pursuant to Health & Safety Code §25249.7(b). Plaintiff ERC shall remit 75% of
7 this amount to the State of California pursuant to Health & Safety Code §25192.

8 5. **Payment In Lieu of Further Civil Penalties.** Defendants agree to make an
9 additional payment in lieu of further civil penalties in the amount of \$29,950.00 to ERC for
10 projects to reduce exposures to toxic chemicals, and to increase consumer, worker and
11 community awareness of the health hazards posed by toxic chemicals.

12 6. **Reimbursement of Plaintiff's Fees and Costs.** Defendants agree to reimburse
13 Plaintiff's reasonable investigative, expert and attorneys' fees and costs incurred as a result of
14 investigating and bringing this matter to the attention of Defendants, of bringing and pursuing
15 this action, and of negotiating a settlement in the public interest, in the total amount of
16 \$33,500.00.

17 7. **Payment Schedule.** Pursuant to Sections 4 , 5 and 6 herein, Defendants agree to
18 remit the total amount of \$70,500.00 to Plaintiff, payable to: the "Law Offices of Gideon Kracov
19 Client Trust Account" and remitted to the Law Office of Gideon Kracov at the law firm's address
20 noted in the Notice provision below. The schedule for the payment of these funds shall be as
21 follows: (a) an initial payment of \$30,000.00 on or before September 23, 2011 (to be held in trust
22 by ERC's counsel until approval of this Consent Judgment, or if not approved within 45 days of
23 submission to the Court, then promptly returned to Defendants); and, if this Consent Judgment is
24 approved, (b) \$13,500.00 payment on or before the 23rd day for each of the three consecutive
25 months thereafter (to be held in trust by ERC until approval of this Consent Judgment, or if not

1 approved within 45 days of submission to the Court, then promptly returned to Defendants). In
2 the event that the payment due on or before September 23, 2011 is timely remitted, but thereafter
3 any other subsequent payments owed under this Consent Judgment is/are not remitted on or
4 before its due date, Defendant BODY WISE shall be deemed to be in default of its obligations
5 under this Consent Judgment. Plaintiff shall provide written notice to Defendants of any default;
6 if Defendant BODY WISE fails to remedy the default within five (5) business days of such
7 notice, then all future payments due hereunder shall become immediately due and payable from
8 BODY WISE, with the prevailing federal funds rate applying to all interest accruing on unpaid
9 balances due hereunder, beginning on the due date of the funds in default.

10 8. **Plaintiff's Release of Defendants; includes A "Downstream Release."** Except
11 for Defendants' obligations under this Consent Judgment, Plaintiff, acting on behalf of itself and
12 acting on behalf of the general public, permanently and fully releases VITATECH and BODY
13 WISE, their parents, subsidiaries, affiliates (including those companies that are under common
14 ownership and/or common control), suppliers, manufacturers, shareholders, directors, members,
15 officers, employees, and attorneys, all DOES, and each entity to whom each of them directly or
16 indirectly distributed or sold the Products or the Non-Infringing Products, including but not
17 limited to distributors, wholesalers, customers, retailers, franchisees, and any other person or
18 entity in the course of doing business who distributed, marketed or sold the Products or the Non-
19 Infringing Products, from all claims of any nature asserted in the Prop. 65 Notices.

20 9. **Limits of Release.** Nothing in this release is intended to apply to any
21 occupational or environmental exposures arising under Proposition 65 nor shall it apply to any of
22 Defendants' products other than the Products and the Non-Infringing Products.

23 10. **Release of Environmental Research Center.** VITATECH and BODY WISE, by
24 this Consent Judgment, waive all rights to institute any form of legal action against ERC for all
25 actions or statements made or undertaken by ERC in the course of seeking enforcement of

26 [PROPOSED] STIPULATED CONSENT JUDGMENT

1 Proposition 65 against the Defendants by means of the Prop. 65 Notices.

2 11. **Motion for Approval of Consent Judgment/Notice to the California Attorney**
3 **General's Office.** Upon execution of this Consent Judgment by the Parties, Plaintiff shall notice
4 a Motion for Approval & Entry of Consent Judgment in the Los Angeles Superior Court pursuant
5 to 11 California Code of Regulations §3000, *et seq.* This motion shall be served upon all of the
6 Parties to the Action and upon the California Attorney General's Office. In the event that the
7 Court fails to approve and order entry of the judgment, this Consent Judgment shall become null
8 and void upon the election of any Party as to them and upon written notice to all of the Parties to
9 the Action pursuant to the notice provisions herein. Defendants and ERC shall use good faith,
10 reasonable efforts to support entry of this Consent Judgment in the form submitted to the Office
11 of the Attorney General. If the Attorney General objects in writing to any term in this Consent
12 Judgment, the Parties shall use good faith, reasonable efforts to resolve the concern in a timely
13 manner and prior to the hearing on the motion to approve this Consent Judgment. If the Attorney
14 General elects to file papers with the Court stating that the People shall appear at the hearing for
15 entry of this Consent Judgment so as to oppose entry of the Consent Judgment, then a party may
16 withdraw from this Consent Judgment prior to the date of the hearing, with notice to all Parties
17 and the Attorney General, and upon such notice this Consent Judgment shall be null and void and
18 any payments made pursuant to Section 7 of this Consent Judgment shall be promptly returned to
19 ERC.

20 12. **Severability.** In the event that any of the provisions of this Consent Judgment
21 are held by a court to be unenforceable, the validity of the enforceable provisions shall not be
22 adversely affected.

23 13. **Enforcement.** In the event that a dispute arises with respect to any of the
24 provisions of this Consent Judgment, this Consent Judgment may be enforced pursuant to Code
25 of Civil Procedure § 664.6 or any other valid provision of law. The prevailing party in any such

26 [PROPOSED] STIPULATED CONSENT JUDGMENT

1 dispute shall be awarded all reasonable fees and costs incurred.

2 14. **Governing Law.** The terms of this Consent Judgment shall be governed by the
3 laws of the State of California.

4 15. **Notices.** All correspondence and notices required to be provided under this
5 Consent Judgment shall be in writing and shall be sent by first class registered or certified mail
6 addressed as follows. All correspondence to ERC shall be mailed to:

7 Environmental Research Center
8 5694 Mission Center Road, #199
9 San Diego, CA 92108

10 And to:

11 Gideon Kracov
12 801 S. Grand Ave., 11th Fl.
13 Los Angeles, CA 90017

14 All correspondence to BODY WISE shall be mailed to:

15 Body Wise International, LLC
16 17101 Armstrong Avenue, Suite 10
17 Irvine, CA 92614-5738
18 Attention: Marty Pajor

19 And to:

20 Michael T. Hornak
21 Rutan & Tucker, LLC
22 611 Anton Blvd., Suite 1400
23 Costa Mesa, CA 92626

24 All correspondence to Defendants shall be mailed to:

25 VitaTech, International, Inc.
26 2802 Dow Ave.
Tustin, CA 92780
Attention: Thomas T. Tierney

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And to:

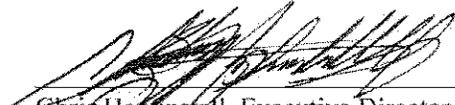
Michael J. Steponovich, Jr.
Steponovich & Associates
A Professional Law Corporation
701 South Parker Street, Suite 7500
Orange, CA 92868

16. **Integration & Modification.** This Consent Judgment, together with the Exhibits hereto which are specifically incorporated herein by this reference, constitutes the entire agreement between the Parties relating to the rights and obligations herein granted and assumed, and supersedes all prior agreements and understandings between the Parties. This Consent Judgment may be modified only upon the written agreement of the Parties.

17. **Counterparts.** This Consent Judgment may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

18. **Authorization.** The undersigned are authorized to execute this Consent Judgment on behalf of their respective Parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

DATED: 9/14/11

By: 
Chris Heptingfall, Executive Director
ENVIRONMENTAL RESEARCH CENTER

DATED: _____

By: _____
Thomas T. Tierney, President
VITATECH INTERNATIONAL, INC.

DATED: _____

By: _____
William Farley, Managing Member
BODY WISE INTERNATIONAL, LLC

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And to:

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Steponovich & Associates
A Professional Law Corporation
701 South Parker Street, Suite 7500
Orange, CA 92868

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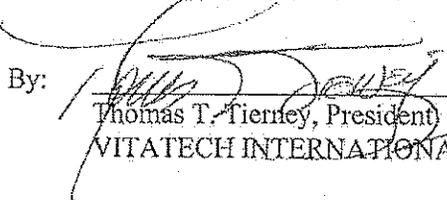
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DATED: _____

By: _____

Chris Heptinstall, Executive Director
ENVIRONMENTAL RESEARCH CENTER

DATED: 9-13-11

By:  _____

Thomas T. Tierney, President
VITATECH INTERNATIONAL, INC.

DATED: _____

By: _____

William Farley, Managing Member
BODY WISE INTERNATIONAL, LLC

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Steponovich & Associates
A Professional Law Corporation
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Orange, CA 92868

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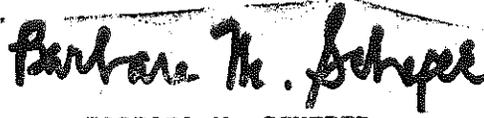
DATED: _____ By: _____
Chris Heptinstall, Executive Director
ENVIRONMENTAL RESEARCH CENTER

DATED: _____ By: _____
Thomas T. Tierney, President
VITATECH INTERNATIONAL, INC.

DATED: 9/15/11 By: W. Farley
William Farley, Managing Member
BODY WISE INTERNATIONAL, LLC

1 IT IS SO ORDERED.

2 Dated: NOV 07 2011



BARBARA M. SCHEPER
Judge of the Superior Court

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6 EXHIBIT A - July 7, 2010 and January 14, 2011 Prop. 65 Notices
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26 [PROPOSED] STIPULATED CONSENT JUDGMENT

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EXHIBIT A

Prop 65. Notices



Environmental Research Center

5694 Mission Center Road #199
San Diego, CA 92108
619.309.4194

July 07, 2010

VIA CERTIFIED MAIL
Current President or CEO
VitaTech International, Inc.
2802 Dow Ave
Tustin, CA 92780

Re: Notice of Violation against VitaTech International, Inc. for Violation of California Health & Safety Code Section 25249.6

Dear Prosecutors:

The Environmental Research Center ("ERC"), the noticing entity is 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. Tel. (619) 309-4194. 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 VitaTech International, Inc.

This letter constitutes notification that VitaTech International, Inc., located at 2802 Dow Avenue, Tustin, CA 92780 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 that 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.

VitaTech International, Inc. is exposing people to lead from the following products:

- Right Choice AM Essential Nutrition
- AG Immune
- Workout Formula Performance Nutrition
- Oxy G2 Performance Nutrition
- Joint Complete Anti-Aging
- Balance

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. VitaTech International, 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 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. ERC remains open to discussing the possibility of resolving its grievances short of formal litigation. Such resolution will avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation.

Please direct all questions concerning this notice to ERC's attorney, Karen A. Evans, 4218 Biona Pl., San Diego, CA 92116, telephone no.: 619-640-8100, e-mail: kaevans1@cox.net.

Sincerely,



Chris Heptinstall
Executive Director, Environmental Research Center

cc: Karen A. Evans

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
July 7, 2010
Page 3

Attachments
OEHHA Summary
Certificate of Merit (w/o AG attachments)
Certificate of Service
List of Service

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

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, 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 its implementing regulations (see citations below) for further information. Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. 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 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those 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. 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. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

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. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

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.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business 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 for more than 250 listed carcinogens. Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business 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 (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect. Discharges that do not result in a "significant amount" of the listed chemical entering into 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 enter any drinking water source, 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" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

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 (those in cities with a population exceeding 750,000). 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. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an 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 of law to stop committing the violation.

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Karen A. Evans 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 reviewed the resulting data from 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 persons of appropriate experience, 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: July 07, 2010



Karen A. Evans
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 July 07, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT; "SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986: 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
VitaTech International, Inc.
2802 Dow Ave
Tustin, CA 92780

On July 07, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT (including supporting documentation required by Title 11 CCR §3102)** 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 July 07, 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 July 07, 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
Post Office Drawer D
Independence, CA 93526

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 93637

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

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95336

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.*

July 7, 2010

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District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95603

District Attorney, Plumas County
520 Main Street, Room 401
Quincy, CA 95971

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

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

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 92112

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 95202

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
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, 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
416 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
125 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 Jrd Avenue, Ste 1620
San Diego, CA 92101

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

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



Environmental Research Center

5694 Mission Center Road #199

San Diego, CA 92108

619.309.4194

January 14, 2011

VIA CERTIFIED MAIL

Current President or CEO
Body Wise International, LLC
17101 Armstrong Ave Suite 101
Irvine, CA 92614

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 Violation against Body Wise International, LLC for Violation of California Health & Safety Code Section 25249.6

Dear Prosecutors:

The Environmental Research Center ("ERC"), the noticing entity is a 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. Tel. (619) 309-4194, Executive Director: Chris Heptinstall. 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 Body Wise International, LLC.

This letter constitutes notification that Body Wise International, LLC, located at 17101 Armstrong Ave, Suite 101, Irvine, CA 92614, 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 that 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, at least since January 14, 2008, 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 purchasers and users.

The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products by consumers. Accordingly, the primary route of exposure for consumers has been oral through ingestion, but may also occur through the inhalation and/or dermal contact route of exposure.

Body Wise International, LLC is exposing people to lead from the following products:

BodyWise International Oxy G2 Performance Nutrition
BodyWise International Joint Complete Anti-Aging
BodyWise International Workout Formula
BodyWise International Female Advantage Balance

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. Body Wise International, LLC 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 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 Body Wise International, LLC unless it agrees in an enforceable written instrument to: instrument to: (1) recall or reformulate the listed products so as to eliminate further unwarned exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65, 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, Gideon Kracov, 801 S. Grand Ave., 11th Fl., Los Angeles, CA 90017, 213-629-2071, gk@gideonlaw.net.

Sincerely,



Chris Heptinstall
Executive Director
Environmental Research Center

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

January 14, 2011

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cc: Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Body Wise International, LLC 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 Body Wise International, LLC

I, Gideon Kracov, 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: January 14, 2011

Gideon Kracov, Attorney At Law

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 January 14, 2011, 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
Body Wise International, LLC
17101 Armstrong Ave Suite 101
Irvine, CA 92614

On January 14, 2011, 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 January 14, 2011, 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 January 14, 2011, 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 93637

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.*

January 14, 2011

Page 7

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 325
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 Ctr., 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
I Drive Carlton B Goodlett Place
San Francisco, CA 94102

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

PROOF OF SERVICE

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I, Gideon Kracov, being duly sworn, deposes and says:

I am a citizen of the United States and work in Los Angeles County, California. I am over the age of eighteen years and am not a party to the within entitled action. My business address is: 801 S. Grand Ave., 11th Fl., LA, CA 90017. On 9/21, 2011, I served this list of persons with the following documents: **[PROPOSED] CONSENT JUDGMENT; MOTION TO APPROVE; DECLS. OF KRACOV AND HEPTINSTALL**

The documents were served on:

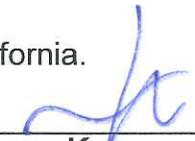
Mike Hornak
Rutan & Tucker, LLP
611 Anton Boulevard, 14th Floor
Costa Mesa, CA 92626

Michael J. Steponovich, Jr.
STEPONOVICH & ASSOCIATES
701 South Parker Street, Suite 7500
Orangé, California 92868

by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States Post Office mail box at 801 S. Grand Ave., Los Angeles, California, addressed as set forth above. I am readily familiar with my firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date of postage meter date is more than 1 day after date of deposit for mailing in affidavit.

I declare under penalty of perjury, according to the laws of the State of California, that the foregoing is true and correct.

Executed this 9/21, 2011 at Los Angeles, California.



Gideon Kracov