

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
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-11-513628

13 **Plaintiff,**

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

14 **v.**

15 **NEWAYS, INC.**
16 **and DOES 1-100**

Date: December 19, 2011.
Time: 9:30 a.m.
Dept. 302

17 **Defendants.**
18
19
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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 Stipulated Consent Judgment and Statutory Findings
24 and Order Approving Settlement is attached hereto as Exhibit A.

25 Dated: December 19, 2011

26
27 By 

28 Michael Freund
Attorney for Plaintiff Environmental
Research Center

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 Email: freund1@aol.com

8 Attorneys for Plaintiff
9 ENVIRONMENTAL RESEARCH CENTER

10 Thomas M. Donnelly (SBN 136546)
11 JONES DAY
12 555 California Street, 26th Floor
13 San Francisco, CA 94104
14 Telephone: (415) 626-3939
15 Facsimile: (415) 875-5700
16 Email: tmdonnelly@jonesday.com

17 Attorneys for Defendant
18 NEWAYS, INC.

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA
20 COUNTY OF SAN FRANCISCO

21 ENVIRONMENTAL RESEARCH CENTER,
22 a California non-profit corporation,
23
24 Plaintiff,
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26 v.
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28 NEWAYS, INC., a Utah corporation; and
DOES 1-100;
Defendants.

CASE NO. CGC-11-513628

**[PROPOSED] STIPULATED CONSENT
JUDGMENT; [PROPOSED] ORDER**

Health & Safety Code § 25249.5 *et seq.*

ACTION FILED: August 24, 2011
TRIAL DATE: None Set

ENDORSED
FILED
San Francisco County Superior Court
DEC 19 2011
CLERK OF THE COURT
BY: GINA GONZALES
Deputy Clerk

1 **1. INTRODUCTION**

2 1.1 On August 24, 2011, Plaintiff Environmental Research Center ("ERC"), a non-
3 profit corporation, as a private enforcer and in the public interest, initiated this action by filing its
4 Complaint for civil penalties and injunctive relief pursuant to the provisions of Cal. Health &
5 Safety Code § 25249.5, *et seq.* ("Proposition 65"), against Defendants Neways, Inc. ("Neways"),
6 Neways International, Golden Gate Capital, L.P., and LTM Enterprises, Inc. On October 18,
7 2011, ERC voluntarily dismissed Neways International, Golden Gate Capital, L.P., and LTM
8 Enterprises, Inc. from the Complaint. ERC claims that certain Covered Products manufactured,
9 distributed and/or sold by Neways – specifically, Junior Max Liquid Vitamin Mineral Supplement,
10 Life Enhancer Dietary Supplement, Chitosorb, and Emperor's Formula (the "Covered Products")
11 – contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and
12 thus require a Proposition 65 warning. ERC and Neways shall sometimes be referred to
13 individually as a "Party" or collectively as the "Parties."

14 1.2 Neways employs ten or more persons. Neways arranges the manufacture,
15 distribution and sale of the Covered Products.

16 1.3 The Complaint is based on allegations contained in three Notices of Violation dated
17 September 24, 2010, October 12, 2010 and January 14, 2011, served on the California Attorney
18 General, other public enforcers, and Neways, by ERC. True and correct copies of the Notices of
19 Violation are attached hereto as Exhibit A. No public enforcer has filed suit against Neways with
20 regard to the Covered Products or the alleged violations.

21 1.4 ERC's Notices of Violation and the Complaint in this action allege that Neways
22 exposes persons in California to lead without first providing clear and reasonable warnings, in
23 violation of Cal. Health & Safety Code § 25249.6. Neways denies all material allegations of the
24 Notices of Violation and the Complaint, has asserted numerous affirmative defenses, and
25 specifically denies that the Covered Products require a Proposition 65 warning or otherwise cause
26 harm to any person.

27 1.5 The Parties have entered into this Consent Judgment in order to settle, compromise
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1 and resolve disputed claims and thus avoid prolonged and costly litigation. Nothing in this
2 Consent Judgment shall constitute or be construed as an admission by any of the Parties, or by any
3 of their respective officers, directors, shareholders, employees, agents, parent companies,
4 subsidiaries, divisions, affiliates, franchisees, licensees, customers, distributors, wholesalers, or
5 retailers, of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or
6 liability, including without limitation, any admission concerning any alleged violation of
7 Proposition 65 or any other statutory, regulatory, common law, or equitable doctrine, or the
8 meaning of the terms "knowingly and intentionally expose" or "clear and reasonable warning" as
9 used in Cal. Health & Safety Code § 25249.6, nor shall this Consent Judgment be offered or
10 admitted as evidence in any administrative or judicial proceeding or litigation in any court,
11 agency, or forum, except in an action seeking to enforce the terms of this Consent Judgment.

12 1.6 Except as expressly set forth herein, nothing in this Consent Judgment shall
13 prejudice, waive or impair any right, remedy, argument, or defense the Parties may have in any
14 other or future legal proceeding unrelated to these proceedings.

15 1.7 The Effective Date of this Consent Judgment shall be the date on which it is
16 entered as a judgment by this Court.

17 2. JURISDICTION AND VENUE

18 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
19 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
20 over Neways as to the acts alleged in the Complaint, that venue is proper in the County of San
21 Francisco, and that this Court has jurisdiction to enter this Consent Judgment as a full and final
22 resolution of all claims which were or could have been asserted in this action based on the facts
23 alleged in the Notices of Violation or the Complaint.

24 3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS

25 3.1 Neways has represented to ERC that it has discontinued shipping Junior Max
26 Liquid Vitamin Mineral Supplement, Chitosorb, and Emperor's Formula, to California, and has
27 reformulated Life Enhancer Dietary Supplement such that exposure to lead from the daily dose
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1 when taken as directed on the product label will not exceed 0.5 micrograms. Neways may re-
2 commence shipment of Junior Max Liquid Vitamin Mineral Supplement, Chitosorb, and/or
3 Emperor's Formula, to California or to a third party for distribution or sale in California,
4 provided that (1) these Covered Products do not expose any person to a daily dose of more than
5 0.5 micrograms of lead when taken as directed on the product label (with total lead content
6 determined by USEPA method 6020A); (2) these Covered Products contain a Proposition 65-
7 compliant warning (as set forth in Section 3.2 below); or (3) this Court or the California Office
8 of Environmental Health Hazard Assessment ("OEHHA") determines that no such warning for
9 these Covered Products is required.

10 3.2 The warning required by Section 3.1 above shall comply with the "safe harbor"
11 warning methods set out in 27 Cal. Code Regs. § 25601 *et seq.*

12 4. SETTLEMENT PAYMENT

13 In full and final satisfaction of all potential civil penalties, payment in lieu of civil
14 penalties, attorney's fees, and costs, Neways shall make a total payment of \$66,250.00, payable to
15 the Law Office of Michael Freund (counsel for ERC), within ten (10) business days of receiving
16 the Notice of Entry of this Consent Judgment. Michael Freund shall be responsible for allocating
17 and sending the payments to the other recipients as follows:

18 4.1 \$8,480.00 as civil penalties pursuant to Cal. Health & Safety Code § 25249.7(b)(1).
19 Of this amount, \$6,360.00 shall be payable to OEHHA, and \$2,120.00 shall be payable to ERC.
20 Cal. Health & Safety Code §§ 25249.12(c)(1) & (d). ERC's counsel shall forward the civil
21 penalty payment to OEHHA, and send a copy of the transmittal letter to counsel for Neways.

22 4.2 \$23,670.00 in lieu of further civil penalties, payable to ERC, for activities such as
23 (1) investigating, researching and testing consumer products that may contain Proposition 65 listed
24 chemicals; (2) awarding grants to California non-profit foundations/entities dedicated to public
25 health; (3) funding the ERC Eco Scholarship Fund for high school students in California interested
26 in pursuing an education in the field of environmental sciences; (4) funding ERC's Voluntary
27 Compliance Program to work with companies not subject to Proposition 65 to reformulate their
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1 products to reduce potential consumer exposures; (5) funding ERC's RxY Program to assist
2 various medical personnel to provide testing assistance to independent distributors of various
3 products; (6) funding ERC's Got Lead? Program to assist consumers in testing products for lead;
4 (7) post-settlement monitoring of past consent judgments; and (8) the continued enforcement of
5 Proposition 65.

6 4.3 \$10,038.00 payable to ERC, as reimbursement to ERC for reasonable investigation
7 costs associated with the enforcement of Proposition 65 and other costs incurred as a result of
8 investigating, bringing this matter to Neways' attention, litigating and negotiating this settlement
9 in the public interest.

10 4.4 \$20,062.00 payable to Michael Freund and \$4,000.00 payable to Karen Evans as
11 reimbursement of ERC's attorney's fees.

12 5 MODIFICATION OF CONSENT JUDGMENT

13 This Consent Judgment may be modified only by written agreement and stipulation of the
14 Parties, or upon noticed motion filed by any Party, followed by entry of a modified consent
15 judgment by the Court.

16 6 RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT 17 JUDGMENT

18 6.1 This Court shall retain jurisdiction of this matter to enforce, modify or terminate
19 this Consent Judgment.

20 6.2 Only after it complies with Section 10 below, any Party may, by motion or
21 application for an order to show cause filed with this Court, enforce the terms and conditions
22 contained in this Consent Judgment. The prevailing party may request that the Court award its
23 reasonable attorneys' fees and costs associated with such motion or application.

24 7. APPLICATION OF CONSENT JUDGMENT

25 This Consent Judgment shall apply to, be binding upon and benefit the Parties, and their
26 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
27 divisions, affiliates, franchisees, licensees, customers, distributors, wholesalers, retailers, and all
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1 other entities in the distribution chain down to the consumer of any Covered Product, the
2 predecessors, successors and assigns of any of them, and the general public.

3 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

4 8.1 This Consent Judgment is a full, final, and binding resolution between ERC, on
5 behalf of itself, the general public, and in the public interest, and Neways, of any alleged violation
6 of Proposition 65 or its implementing regulations, and fully and finally resolves all claims that
7 have been or could have been asserted in this action against Neways, for failure to provide
8 Proposition 65 warnings for the Covered Products regarding lead. ERC, on behalf of itself, the
9 general public, and in the public interest, hereby releases and discharges Neways, Neways
10 Worldwide, Inc. dba Neways International, Golden Gate Private Equity, Inc., Golden Gate Capital
11 Investment II, L.P., and LTM Enterprises, Inc., and each of their respective officers, directors,
12 shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, franchisees,
13 licensees, customers, distributors, wholesalers, retailers, and all other entities in the distribution
14 chain down to the consumer of any Covered Product, and the predecessors, successors and assigns
15 of any of them (collectively, "Released Parties"), from any and all claims asserted, or that could
16 have been asserted, in this action arising from or related to the alleged failure to provide
17 Proposition 65 warnings for the Covered Products regarding lead.

18 8.2 ERC, on behalf of itself only, hereby releases and discharges the Released Parties
19 from any and all known and unknown past, present, and future rights, claims, causes of action,
20 suits, damages, penalties, liabilities, injunctive relief, declaratory relief, and attorneys' fees, costs,
21 and expenses arising from or related to the claims asserted, or that could have been asserted, under
22 state or federal law, regarding the presence of lead in the Covered Products or the facts alleged in
23 the Notices of Violation or the Complaint, including without limitation any and all claims
24 concerning exposure of any person to lead in the Covered Products.

25 8.3 Compliance with the terms of this Consent Judgment shall constitute compliance
26 by the Released Parties with Proposition 65 with respect to alleged exposures to lead contained in
27 the Covered Products. This release does not limit or affect the obligations of any Party created
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1 under this Consent Judgment.

2 8.4 Unknown Claims. It is possible that other injuries, damages, liability, or claims not
3 now known to the Parties arising out of the facts alleged in the Notices of Violation or the
4 Complaint and relating to the Covered Products will develop or be discovered. ERC, on behalf of
5 itself only, acknowledges that this Consent Judgment is expressly intended to cover and include all
6 such injuries, damages, liability, and claims, including all rights of action therefor. ERC has full
7 knowledge of the contents of Cal. Civil Code § 1542. ERC, on behalf of itself only, acknowledges
8 that the claims released in Sections 8.1 and 8.2 above may include unknown claims, and
9 nevertheless waives Cal. Civil Code § 1542 as to any such unknown claims. Cal. Civil Code §
10 1542 reads as follows:

11
12 **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH**
13 **THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS**
14 **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."

15 ERC, on behalf of itself only, acknowledges and understands the significance and consequences
16 of this specific waiver of Cal. Civil Code § 1542.

17 8.5 ERC, on the one hand, and Neways, on the other hand, release and waive all
18 claims they may have against each other for any statements or actions made or undertaken by
19 them in connection with the Notices of Violation or this action.

20 **9. CONSTRUCTION OF CONSENT JUDGMENT, SEVERABILITY**

21 9.1 The terms and conditions of this Consent Judgment have been reviewed by the
22 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to
23 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or
24 construction of this Consent Judgment, the terms and conditions shall not be construed against any
25 Party.

26 9.2 In the event that any of the provisions of this Consent Judgment are held by a court
27 to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.
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1 **10. NOTICE AND CURE**

2 10.1 No motion to enforce this Consent Judgment or application to show cause may be
3 filed by ERC, unless ERC notifies Neways of the specific acts alleged to breach this Consent
4 Judgment at least forty-five (45) days before filing and serving any such motion or application.
5 Any notice to Neways must contain (1) the name of the product; (2) the lead content of the
6 product, with a copy of the analytical results and description of the testing methodology; (3)
7 specific dates when the product was sold in California; (4) the store or other place at which the
8 product was available for sale to California consumers; and (5) any other evidence or other
9 support for the allegations in the notice.

10 10.2 Within 30 days of receiving the notice described in Section 10.1, Neways shall
11 either (1) withdraw the product from sales in California, (2) provide the warning described in
12 Section 3.2 for the product, or (3) refute the information provided under Section 10.1. Should the
13 Parties be unable to resolve the dispute, any Party may seek relief under Section 6 of this Consent
14 Judgment.

15 **11. GOVERNING LAW**

16 The terms and conditions of this Consent Judgment shall be governed by and construed in
17 accordance with the laws of the State of California.

18 **12. PROVISION OF NOTICE**

19 All notices required by this Consent Judgment shall be sent by first-class, registered, or
20 certified mail, or overnight delivery, to the following.

21 **For Environmental Research Center:**

22 Chris Heptinstall, Executive Director
23 Environmental Research Center
24 5694 Mission Center Road, # 199
25 San Diego, CA 92108

26 Michael Bruce Freund
27 Law Offices of Michael Freund
28 1915 Addison Street
Berkeley, CA 94704

1 Karen Evans
2 Coordinating Counsel
3 Environmental Research Center
4 4218 Biona Place
5 San Diego, CA 92116

6 **For Neways:**
7 Thomas M. Donnelly
8 Jones Day
9 555 California Street, 26th Floor
10 San Francisco, CA 94104

11 **13. COURT APPROVAL**

12 13.1 If this Stipulated Consent Judgment is not approved by the Court, it shall be void
13 and have no force or effect.

14 13.2 ERC shall comply with Calif. Health & Safety Code § 25249.7(f) and with 11
15 Calif. Code Regs. § 3003.

16 **14. EXECUTION AND COUNTERPARTS**

17 This Stipulated Consent Judgment may be executed in counterparts, which taken together
18 shall be deemed to constitute one document. A facsimile of .pdf signatures shall be construed as
19 valid as the original signatures.

20 **15. ENTIRE AGREEMENT, AUTHORIZATION**

21 15.1 This Consent Judgment contains the sole and entire agreement and understanding
22 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
23 negotiations, commitments and understandings related hereto. No representations, oral or
24 otherwise, express or implied, other than those contained herein have been made by any Party. No
25 other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or
26 to bind any of the Parties.

27 15.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized
28 by the Party he or she represents to stipulate to the terms and conditions of this Consent Judgment,
to enter into and execute this Consent Judgment on behalf of the Party represented, and legally to
bind that Party to this Consent Judgment. The undersigned have read, understand and agree to all
of the terms and conditions of this Consent Judgment. Except as explicitly provided herein, each

1 Party shall bear its own fees and costs.

2 **IT IS SO STIPULATED:**

3 ENVIRONMENTAL RESEARCH CENTER
4

5
6 Chris Heptinstall, Executive

Dated: _____

7 NEWAYS, INC.
8

9
10 Bruce R. Murdock, President

Dated: _____

11 **APPROVED AS TO FORM:**

12
13 LAW OFFICE OF MICHAEL FREUND
14

15
16 Michael Freund, Counsel for ERC

Dated: _____

17 JONES DAY
18

19
20 Thomas M. Donnelly, Counsel for Neways
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Dated: Oct. 17, 2011

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Party shall bear its own fees and costs.

IT IS SO STIPULATED:

ENVIRONMENTAL RESEARCH CENTER

Chris Heptinstall, Executive

Dated: _____

NEWAYS, INC.

Bruce R. Murdock

Bruce R. Murdock, President

Dated: Oct. 18, 2011

APPROVED AS TO FORM:

LAW OFFICE OF MICHAEL FREUND

Michael Freund, Counsel for ERC

Dated: _____

JONES DAY

Thomas M. Donnelly

Thomas M. Donnelly, Counsel for Neways

Dated: Oct. 17, 2011

1 Party shall bear its own fees and costs.

2 **IT IS SO STIPULATED:**

3 ENVIRONMENTAL RESEARCH CENTER
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5 
6 Chris Heptinstall, Executive

Dated: 10/18/11

7 NEWAYS, INC.
8

9
10 Bruce R. Murdock, President

Dated: _____

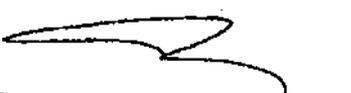
11 **APPROVED AS TO FORM:**

12
13 LAW OFFICE OF MICHAEL FREUND

14 
15 Michael Freund, Counsel for ERC

Dated: 10/24/11

17 JONES DAY

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19 Thomas M. Donnelly, Counsel for Neways
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Dated: Oct. 17, 2011

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ORDER AND JUDGMENT

Based upon the Parties' stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: DEC 19 2011 ~~2011~~

MARLA J. MILLER
Judge, Superior Court of the State of California

SFI-714355v1



Environmental Research Center

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

September 24, 2010

VIA CERTIFIED MAIL

Current CEO or President
Golden Gate Capital, L.P.
One Embarcadero Center Floor 39
San Francisco, CA 94111

Harold O. Shattuck
(Golden Gate Capital, L.P.'s Agent for
Service of Process)
431 Florence St. Suite 210
Palo Alto, CA 94301

Current CEO or President
LTM Enterprises, Inc.
3643 W. 1987 S
Salt Lake City, UT 84104

Matthew J. Lyman
(LTM Enterprises, Inc.'s Agent for
Service of Process)
3643 W. 1987 S
Salt Lake City, UT 84104

Current CEO or President
Neways International
2089 Neways Drive
Springville, UT 84663

Christopher S. Crump
(Neways International's Agent for
Service of Process)
2089 Neways Drive
Springville, UT 84663

Current CEO or President
Neways, Inc.
2089 Neways Drive
Springville, UT 84663

VIA PRIORITY MAIL

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

EXHIBIT A

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
September 24, 2010
Page 2

National Registered Agents, Inc.
(Neways, Inc.'s Agent for Service of Process)
2875 Michelle Drive, Suite 100
Irvine, CA 92606

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 names of the Companies covered by this Notice that violated Proposition 65 are:

Golden Gate Capital, L.P.
LTM Enterprises, Inc
Neways International
Neways, Inc.

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

Junior Max Citrus Berry Children's Liquid Vitamin Mineral Supplement - Lead
Rejuvenate Life Enhancer Dietary Supplement Supports Anti-Aging Processes - Lead

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

This letter is a Notice to Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, Neways, Inc. and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This Notice covers all violations of Proposition 65 involving Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, 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 Companies with a copy of this letter.

Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. 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. Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc. have violated Proposition 65 because the Companies have 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 Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc. agree 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

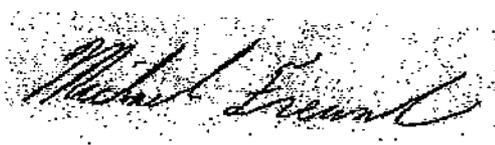
- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, Neways, Inc., and their Registered Agents of Process Only)
- Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, 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.



Michael Freund
Attorney for Environmental Research Center

Dated: September 24, 2010

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 September 24, 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 CEO or President
Golden Gate Capital, L.P.
One Embarcadero Center Floor 39
San Francisco, CA 94111

Harold O. Shattuck
(Golden Gate Capital, L.P.'s
Registered Agent for Service of Process)
431 Florence St. Suite 210
Palo Alto, CA 94301

Current CEO or President
LTM Enterprises, Inc.
3643 W. 1987 S
Salt Lake City, UT 84104

Matthew J. Lyman
(LTM Enterprises, Inc.'s Registered Agent
for Service of Process)
3643 W. 1987 S
Salt Lake City, UT 84104

Current CEO or President
Neways International
2089 Neways Drive
Springville, UT 84663

Christopher S. Crump
(Neways International's Registered Agent
For Service of Process)
2089 Neways Drive
Springville, UT 84663

Current CEO or President
Neways, Inc.
2089 Neways Drive
Springville, UT 84663

National Registered Agents, Inc.
(Neways, Inc.'s Registered Agent for
Service of Process)
2875 Michelle Drive, Suite 100
Irvine, CA 92606

On September 24, 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:

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
September 24, 2010

Page 6

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

On September 24, 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 September 24, 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 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.

September 24, 2010

Page 8

- 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
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

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 names of the Companies covered by this Notice that violated Proposition 65 are:

Golden Gate Capital, L.P.
LTM Enterprises, Inc
Neways International
Neways, Inc.

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

Junior Max Citrus Berry Children's Liquid Vitamin Mineral Supplement - Lead
Rejuvenate Life Enhancer Dietary Supplement Supports Anti-Aging Processes - Lead

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

This letter is a Notice to Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, Neways, Inc. and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This Notice covers all violations of Proposition 65 involving Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, 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 Companies with a copy of this letter.

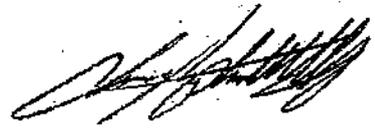
Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The primary route of exposure 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. Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc. have violated Proposition 65 because the Companies have 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 Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc. agree 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, Berkley, 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 Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, Neways, Inc., and their Registered Agents of Process Only)
- Additional Supporting Information for Certificate of Merit (to AG only)

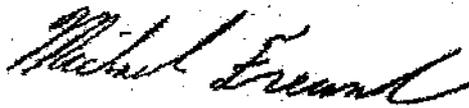
CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, 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: October 12, 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 October 12, 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 CEO or President
Golden Gate Capital, L.P.
One Embarcadero Center Floor 39
San Francisco, CA 94111

Harold O. Shattuck
(Golden Gate Capital, L.P.'s
Registered Agent for Service of Process)
431 Florence St. Suite 210
Palo Alto, CA 94301

Current CEO or President
LTM Enterprises, Inc.
2089 Neways Drive
Springville, UT 84663

Current CEO or President
Neways International
2089 Neways Drive
Springville, UT 84663

Christopher S. Crump
(Neways International's Registered Agent
For Service of Process)
2089 Neways Drive
Springville, UT 84663

Current CEO or President
Neways, Inc.
2089 Neways Drive
Springville, UT 84663

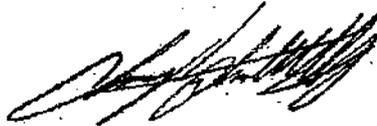
National Registered Agents, Inc.
(Neways, Inc.'s Registered Agent for
Service of Process)
2875 Michelle Drive, Suite 100
Irvine, CA 92606

On October 12, 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 October 12, 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 October 12, 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 Truxton 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.
October 12, 2010

Page 8

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 "C" 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
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



Environmental Research Center

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

January 14, 2011

VIA CERTIFIED MAIL

Current CEO or President
Golden Gate Capital, L.P.
One Embarcadero Center Floor 39
San Francisco, CA 94111

Harold O. Shattuck
(Golden Gate Capital, L.P.'s Agent for
Service of Process)
431 Florence St. Suite 210
Palo Alto, CA 94301

Current CEO or President
LTM Enterprises, Inc.
2089 Neways Drive
Springville, UT 84663

Current CEO or President
Neways International
2089 Neways Drive
Springville, UT 84663

Christopher S. Crump
(Neways International's Agent for
Service of Process)
2089 Neways Drive
Springville, UT 84663

Current CEO or President
Neways, Inc.
2089 Neways Drive
Springville, UT 84663

National Registered Agents, Inc.
(Neways, Inc.'s Agent for Service of Process)
2875 Michelle Drive, Suite 100
Irvine, CA 92606

VIA PRIORITY MAIL

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
January 14, 2011
Page 2

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 names of the Companies covered by this Notice that violated Proposition 65 are:

**Golden Gate Capital, L.P.
LTM Enterprises, Inc
Neways International
Neways, Inc.**

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

**Neways Inc. Pro thin Chitosorb 120 tablets - Lead
Neways Inc. Emperor's Formula 240 Tablets - Lead**

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

This letter is a Notice to Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, Neways, Inc. and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This Notice covers all violations of Proposition 65 involving Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, 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 Companies with a copy of this letter.

Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc. have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The primary route of exposure to

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

January 14, 2011

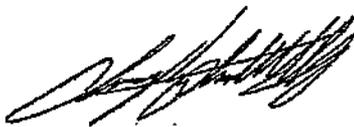
Page 3

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. Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc. have violated Proposition 65 because the Companies have 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 Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, Inc. agree 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

OBHHA Summary (to Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, Neways, Inc., and their Registered Agents of Process 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 Golden Gate Capital, L.P., LTM Enterprises, Inc, Neways International, and Neways, 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: January 14, 2011



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 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 CEO or President
Golden Gate Capital, L.P.
One Embarcadero Center Floor 39
San Francisco, CA 94111

Current CEO or President
Neways International
2089 Neways Drive
Springville, UT 84663

Harold O. Shattuck
(Golden Gate Capital, L.P.'s Agent for
Service of Process)
431 Florence St. Suite 210
Palo Alto, CA 94301

Christopher S. Crump
(Neways International's Agent
for Service of Process)
2089 Neways Drive
Springville, UT 84663

Current CEO or President
LTM Enterprises, Inc.
2089 Neways Drive
Springville, UT 84663

Current CEO or President
Neways, Inc.
2089 Neways Drive
Springville, UT 84663

National Registered Agents, Inc.
(Neways, Inc.'s Agent for Service of Process)
2875 Michelle Drive, Suite 100
Irvine, CA 92606

On January 14, 2011, I served the following documents:

NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 / CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d) following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the 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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
January 14, 2011
Page 6

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

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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 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

ENDORSED
FILED
San Francisco County Superior Court

DEC 19 2011

CLERK OF THE COURT
BY: GINA GONZALES
Deputy Clerk

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

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

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

Case No. CGC-11-513628

14 **Plaintiff,**

**[PROPOSED] STATUTORY
FINDINGS AND ORDER
APPROVING SETTLEMENT**

15 v.

16 **NEWAYS, INC., a Utah corporation and
DOES 1-100**

Date: December 19, 2011

Time: 9:30 a.m.

Dept.: 302

17 **Defendants.**

18
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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

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: DEC 19 2011

6 MARLA J. MILLER
7 Judge of the Superior Court
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CERTIFICATE OF SERVICE

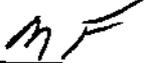
I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1915 Addison Street, Berkeley, California 94704. On December 19, 2011 I served the within:

Notice of Entry of Judgment and Statutory Findings and Order Approving Settlement on the parties in said action, by facsimile 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:

Thomas M. Donnelly
Jones Day
555 California Street, 26th Floor
San Francisco, CA 94104

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

Executed on December 19, 2011 at Berkeley, California.



Michael Freund