

COPY

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7 Attorneys for PLAINTIFF
8 Environmental Research Center, Inc.

REC'D

FEB 26 2013

FILING WINDOW FILED
Superior Court of California
County of Los Angeles

MAY 10 2013

John A. Clarke, Executive Officer/Clerk
By ~~K. Tollack~~, Deputy
KATHLEEN TOLLACK

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES

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

13 Plaintiff,)

14 v.)

15 NEW ENGLAND GREENS LLC; VIBRANT)
16 HEALTH; DOES 1 through 10,)

17 Defendant(s).)

Case No. BC476046

Assigned For All Purposes to
Judge Michael P. Linfield

~~[PROPOSED]~~ ORDER APPROVING
PROPOSITION 65 STIPULATED
CONSENT JUDGMENT

Date: 5/10/2013
Time: 1:30 p.m.
Dept.: 10

Complaint Filed: 12/29/2011

1 Plaintiff Environmental Research Center Inc.'s Motion for Court Approval of the
2 Stipulated Consent Judgment came on regularly for hearing before this Court on May 10, 2013,
3 the Honorable Michael P. Linfield, presiding, with attorneys for all parties in the case having
4 had the opportunity to be heard by this Court. After considering the Stipulated Consent
5 Judgment between Plaintiff and Defendant NEW ENGLAND GREENS LLC dba VIBRANT
6 HEALTH, 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 Stipulated Consent Judgment, and makes the following findings pursuant to California Health
10 & Safety Code section 25249.7(f) and 11 Cal. Code Regs. section 3201, *et seq.*:

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

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

20 IT IS SO ORDERED.

21 SUZANNE G. BRUGUERA

22 DATE: May 10, 2013

23 ~~Honorable Michael P. Linfield~~
24 Judge of the Superior Court
25
26

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14 v.)

15 NEW ENGLAND GREENS LLC; VIBRANT)
HEALTH; DOES 1 through 10,)

16 DEFENDANT(s).)

Case No. BC476046

Assigned For All Purposes to
Judge Michael P. Linfield

**[PROPOSED] STIPULATED CONSENT
JUDGMENT**

Health & Safety Code § 25249.6, et seq.

Dept: 10

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

21 WHEREAS:

22 A. ENVIRONMENTAL RESEARCH CENTER, INC. ("ERC" or "Plaintiff")

23 is a citizen enforcer of California Health and Safety Code § 25249.6 et seq.

24 ("Proposition 65");

25 B. Defendant NEW ENGLAND GREENS LLC dba VIBRANT HEALTH

26 ("NEG" or "Defendant") is a corporation organized under the laws of the State of

1 Connecticut. At times during the relevant time period, NEG has been a person doing
2 business within the meaning of Health & Safety Code § 25249.11. The name of the
3 products ("Covered Products") covered under this Consent Judgment are:

4 Green Vibrance

5 Green Vibrance Junior

6 Green Vibrance Original Meal Bar

7 Joint Vibrance

8 PureGreen Protein Vanilla

9 PureGreen Protein Mixed Berry

10 PureGreen Protein Chocolate

11 PureGreen Protein Natural

12 Glycemic Vibrance H

13 Raw Food Super Natural Calcium PurePlant Calcium from Hydrilla

14 Verticillata

15 The Convenient Organic Lemonade Diet Vibrant Cleanse

16 Field of Greens

17 Dr. Colin's Reproductive Health Ferti-boost Kit Male

18 Male Nourishing Formula

19 Male Stimulating Formula

20 Male Regulating Formula

21 Dr. Colin's Reproductive Health Ferti-boost Kit Female

22 Female Nourishing Formula

23 Female Stimulating Formula

24 Female Regulating Formula

25 Any other products are not subject to the injunctive provisions herein, and are not
26 covered by the release of liability herein;

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

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

7 E. The Covered Products have allegedly been manufactured and/or sold by
8 NEG for use in California;

9 F. On September 24, 2010, October 22, 2010, December 23, 2010 and
10 November 14, 2012, ERC served NEG and each of the appropriate public enforcement
11 agencies with a document entitled "60-Day Notice" that provided notice that Defendant
12 was in violation of Proposition 65 for failing to warn purchasers and individuals using the
13 Covered Products that the use of the Covered Products exposes them to lead, a chemical
14 known to the State of California to cause cancer and/or reproductive toxicity ("Prop. 65
15 Notices") (a copy of the 60-Day Notices are attached hereto as Exhibit A);

16 G. The Action was brought by ERC in the public interest at least sixty (60)
17 days after ERC provided notice of the Proposition 65 violations to Defendant and the
18 appropriate public enforcement agencies and none of the public enforcement agencies
19 had commenced and begun diligently prosecuting an action against Defendant for such
20 violations;

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

25 I. Except as expressly provided herein, nothing in this Consent Judgment
26 shall prejudice, waive or impair any right, remedy or defense the Parties may have in any

1 other or further legal proceeding. This paragraph shall not diminish or otherwise affect
2 the obligations, responsibilities, and duties of any Party to this Consent Judgment;

3 **J.** The “**Effective Date**” of this Consent Judgment shall be the date upon
4 which this Consent Judgment is entered by the Court.

5 **NOW, THEREFORE**, in consideration of the promises, covenants and
6 agreements herein contained, the sufficiency and adequacy of which is hereby
7 acknowledged by Plaintiff and Defendant (collectively, the “Parties”), the Parties agree to
8 the terms and conditions set forth below:

9 **1. Injunctive Relief.**

10 **1.1** After July 1, 2013, NEG shall not distribute into the State of California or
11 directly sell to a California consumer in California any of the Covered Products for which
12 the maximum daily dose recommended on the label contains lead in an amount in excess
13 of 0.5 ug/day, the level set forth in California Code of Regulations, title 27, section
14 25805, subdivision (b), unless each such unit of the Covered Products bears the following
15 warning statement securely affixed on its individual unit packaging or by securely affixed
16 warning stickers or hang tags:

17 [California Residents Proposition 65] **WARNING** [(California Proposition 65)]:
18 This product contains [lead,] [a] chemical[s] known to the State of California to
cause [cancer and] birth defects [,] or other reproductive harm.

19 [California Residents Proposition 65] **WARNING** [(California Proposition 65)]:
20 This product contains [lead,] [a] substance[s] known to the State of California to
cause [cancer and] birth defects [,] or other reproductive harm.

21 The text in brackets in the warnings above is optional, except that the term
22 “cancer” must be included only if the maximum daily dose recommended on the label
23 contains more than 15 micrograms of lead. The warning shall be at least the same size as
24 the largest of any other health or safety warnings on the product label, and the word
25 “WARNING” shall be in capital letters and in bold print.

26 The warning statement shall be displayed on the unit packaging of the Covered

1 Products with such conspicuousness, as compared with other words, statements, or
2 designs so as to render it likely to be read and understood by an ordinary individual
3 purchasing or using the Covered Products.

4 1.2 NEG's shipping invoices shall include the Proposition 65 warning set forth
5 under Section 1.1 above for any Covered Products requiring a warning that NEG
6 distributes into California, directly sells (including but not limited to internet or online
7 sales) to any consumer located in California, or supplies to a retailer or distributor that
8 NEG knows will sell the Covered Product in California.

9 1.3 NEG shall send a letter from NEG to each current distributor and/or retailer
10 supplying Covered Products that require a warning as set forth in Section 1.1, with a
11 signature acknowledgement block, apprising the distributor and/or retailer of how they
12 must comply with Proposition 65 for the Covered Products in order to continue doing
13 business with NEG. NEG will provide ERC with a copy of the original letter and signed
14 letters upon ERC's written request within 30 days of such request (copies of the letter and
15 follow-up letter are attached as Exhibits B and C, respectively).

16 1.4 NEG shall provide Proposition 65 warning stickers or hang tags set forth under
17 Section 1.1 above to NEG's distributors and retailers located outside of California who
18 ship the Covered Products, that require a warning as set forth in Section 1.1, for sale into
19 California.

20 1.5 Nothing in these injunctive provisions shall be construed to require NEG to (a)
21 continue to display the warning statement on the Covered Products; and (b) comply with
22 the requirements of Sections 1.2 through 1.4, inclusive, if NEG modifies or reformulates
23 the Covered Products such that the amount of lead contained in each product is below the
24 threshold requiring a warning under Proposition 65. For purposes of this Consent
25 Judgment, a Covered Product does not require a Proposition 65 warning when the
26 maximum recommended daily serving on the label contains no more than 0.5 micrograms

1 of lead per day.

2 **1.6** In the event that NEG under Section 1.5 above, distributes into the State of
3 California or directly sells to a California consumer in California any of the Covered
4 Products without a warning, NEG will provide written notice to ERC within ten (10) days
5 of such initial distribution or sale and shall comply with the following testing obligations:

6 **1.6.1** Once a year, on or before the anniversary of the entry of the Consent
7 Judgment, NEG shall test, or require its supplier to test, three (3) randomly selected
8 samples of each Covered Product (in the form intended for sale to the end-user) for lead
9 content. The concentration of lead for purposes of Section 1.5 above shall be calculated
10 by averaging the three (3) samples.

11 **1.6.2** Testing for lead shall be performed using Inductively Coupled
12 Plasma-Mass Spectrometry ("ICP-MS") and closed-vessel, microwave-assisted digestion
13 employing high-purity reagents or any other testing method subsequently agreed upon in
14 writing by the Parties.

15 **1.6.3** All testing pursuant to this Consent Judgment shall be performed by
16 a laboratory certified by the California Environmental Laboratory Accreditation Program
17 or a laboratory that is registered with the United States Food & Drug Administration.

18 **1.6.4** NEG shall retain all test results and documentation for a period of
19 four years from the date of the test.

20 **1.6.5** When testing is required pursuant to this Section 1.6, NEG shall test
21 the Covered Products for a minimum of three (3) years. If tests conducted pursuant to
22 this Consent Judgment demonstrate that no warning is required for a Covered Product
23 during each of the three (3) consecutive years, then the testing requirements of this
24 Section 3.3 are no longer required as to that Covered Product. However, if after the three
25 (3) year period NEG changes ingredient suppliers for any of the Covered Products and/or
26 reformulates any of the Covered Products, NEG shall test that Covered Product at least

1 once after such change is made.

2 **1.6.6** Nothing in this Consent Judgment shall limit NEG's ability to
3 conduct, or require that others conduct, additional testing of the Covered Products,
4 including the raw materials used in their manufacture. This Consent Judgment, including
5 the testing and sampling methodology set forth in this Section 1.6, is the product of
6 negotiation and compromise, and is accepted by the Parties for purposes of settling,
7 compromising, and resolving issues disputed in this action, including future compliance
8 by NEG with this Consent Judgment, and shall not be used for any other purpose, or in
9 any other matter and, except for the purpose of determining future compliance with this
10 Consent Judgment.

11 **1.7** This injunctive relief shall not apply to any Covered Products that
12 Defendant puts in the stream of commerce before July 1, 2013.

13 **2. Civil Penalty, Payments in Lieu of Further Civil Penalties, Attorney's**
14 **Fees, and Costs Assessment.** Defendant agrees to pay the total amount of \$120,000.00
15 inclusive of all civil penalties, payments in lieu of penalties, and attorneys' fees and
16 costs, subject to review by California's Attorney General and the Superior Court, as
17 follows:

18 **(a)** Defendant agrees to pay ERC a civil penalty in the amount of \$14,410.00
19 pursuant to Health & Safety Code § 25249.7(b). Plaintiff ERC shall remit 75% of this
20 amount to the State of California pursuant to Health & Safety Code § 25192.

21 **(b)** Defendant agrees to pay ERC a payment in lieu of further civil penalties in
22 the amount of \$43,233.00 to cover activities such as (1) continued enforcement of
23 Proposition 65, which includes work, analysis, researching and testing of numerous
24 consumer products that may contain Proposition 65 chemicals which addresses the same
25 or similar type of ingestible products that are the subject matter of the current action; (2)
26 the continued monitoring of past consent judgments and settlements to ensure companies

1 are in compliance with Proposition 65; and (3) awarding a donation to a California not-
2 for-profit organization in which their activities include the reduction or elimination of
3 hazardous and toxic chemicals similar to ERC's mission.

4 (c) Defendant agrees to reimburse Plaintiff \$62,357.00, which is the total
5 amount of costs and attorneys' fees Plaintiff incurred on this matter, which amount
6 includes Plaintiff's investigative, expert and attorneys' fees and costs incurred as a result
7 of work and bringing this matter to the attention of Defendant, and negotiating a
8 settlement in the public interest.

9 **3. Payment Schedule.** Pursuant to Section 2 herein, Defendant agrees to remit
10 the total amount of \$120,000.00 to Plaintiff, payable to the "Law Offices of Gideon
11 Kracov Client Trust Account" in six equal payments of \$20,000.00 by check and remitted
12 to the Law Office of Gideon Kracov at the law firm's address noted in the Notice
13 provision below. The schedule for the payment of these funds shall be a first payment of
14 \$20,000.00 received within 10 business days of the Effective Date of this Consent
15 Judgment, and a \$20,000.00 payment to be received each month for five consecutive
16 months thereafter. In the event that any of the payments owed under this Consent
17 Judgment is not remitted on or before its due date, Defendant shall be deemed to be in
18 default of its obligations under this Consent Judgment. Plaintiff shall provide written
19 notice to Defendant of any default; if Defendant fails to remedy the default within three
20 business days of such notice, then all future payments due hereunder shall become
21 immediately due and payable, with interest accruing on the unpaid balance due hereunder
22 at the prevailing federal funds rate as of the date of default and beginning on the due date
23 of the funds in default.

24 **4. Binding Effect, Claims Covered And Released.**

25 **4.1 Final Binding Resolution.** This Consent Judgment is a full, final, and
26 binding resolution between ERC, on behalf of itself and in the public interest, and NEG,

1 of any alleged violations of Proposition 65 or its implementing regulations, and fully and
2 finally resolves all claims that have been or could have been asserted in this action
3 against NEG for failure to provide Proposition 65 warnings for the Covered Products
4 regarding lead.

5 **4.2 Plaintiff's Release of Defendant.** Plaintiff, and its officers, directors,
6 employees, agents, attorneys, representatives, shareholders, parents, subsidiaries,
7 affiliates (including those companies that are under common ownership and/or common
8 control), divisions, predecessors, successors, and subdivisions, acting on behalf of itself
9 and in the public interest, hereby permanently and fully release and discharge NEG,
10 (including its limited and general partners), and its officers, directors, members,
11 employees, agents, attorneys, representatives, shareholders, parents, subsidiaries,
12 affiliates (including those companies that are under common ownership and/or common
13 control), divisions, predecessors, successors, subdivisions, downstream distributors,
14 downstream retailers, downstream customers, and upstream suppliers, and each entity to
15 whom each of them directly or indirectly distributed or sold the Covered Products,
16 including but not limited to distributors, wholesalers, customers, retailers, franchisees,
17 and any other person or entity in the course of doing business who distributed, marketed
18 or sold the Covered Products, and excluding private label customers of Defendant
19 (collectively "**Released Parties**"), from all claims of any nature up through the Effective
20 Date based on exposure to lead from the Covered Products as set forth in the Proposition
21 65 Notices and/or the Second Amended Complaint.

22 **4.3** ERC, on behalf of itself only, hereby releases and discharges the Released
23 Parties from any and all known and unknown past, present, and future rights, claims,
24 causes of action, suits, damages, penalties, liabilities, injunctive relief, declaratory relief,
25 and attorneys' fees, costs, and expenses arising from or related to the claims asserted, or
26 could have been asserted, under state or federal law, regarding the presence of lead in the

1 Covered Products or the facts alleged in the Proposition 65 Notices or the Second
2 Amended Complaint.

3 4.4 Compliance with the terms of this Consent Judgment shall constitute
4 compliance by the Released Parties with Proposition 65 with respect to alleged exposures
5 to lead contained in the Covered Products.

6 4.5 **Unknown Claims.** It is possible that other injuries, damages, liability, or claims
7 not now known to the Parties arising out of the facts alleged in the Notices or the Second
8 Amended Complaint and relating to the Covered Products will develop or be discovered.
9 ERC, on behalf of itself only, acknowledges that this Consent Judgment is expressly intended
10 to cover and include all such injuries, damages, liability, and claims, including all rights of
11 action therefor. ERC has full knowledge of the contents of California Civil Code section
12 1542. ERC, on behalf of itself only, acknowledges that the claims released in this Section 4
13 may include unknown claims, and nevertheless waives California Civil Code section 1542 as
14 to any such unknown claims. California Civil Code section 1542 reads as follows:

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

21 ERC, on behalf of itself only, acknowledges and understands the significance and
22 consequences of this specific waiver of California Civil Code section 1542.

23 5. **Limits of Release.** Nothing in this release is intended to apply to any
24 occupational or environmental exposures arising under Proposition 65, except as
25 otherwise provided in this Agreement, nor shall it apply to any NEG products other than
26 the Covered Products.

6. **Release of Environmental Research Center.** NEG, by this Consent
Judgment, waives all rights to institute any form of legal action against ERC for all

1 actions or statements made or undertaken by ERC at or before the Effective Date in the
2 course of seeking enforcement of Proposition 65 against Defendant by means of the
3 Proposition 65 Notices.

4 **7. Motion for Approval of Consent Judgment/Notice to the California**

5 **Attorney General's Office.** Upon execution of this Consent Judgment by the Parties,
6 Plaintiff shall file a Motion for Approval & Entry of Consent Judgment in the Los
7 Angeles Superior Court pursuant to 11 California Code of Regulations § 3000, *et seq.*

8 This motion shall be served upon all of the Parties to the Action and upon the California
9 Attorney General's Office. In the event that the Court fails to approve and order entry of
10 the judgment, this Consent Judgment shall become null and void upon the election of any
11 Party as to them and upon written notice to all of the Parties to the Action pursuant to the
12 notice provisions herein. The Parties shall use their best efforts to support entry of this
13 Consent Judgment in the form submitted to the Office of the Attorney General. If the
14 Attorney General objects in writing to any term in this Consent Judgment, the Parties
15 shall use their best efforts to resolve the concern in a timely manner and prior to the
16 hearing on the motion to approve this Consent Judgment.

17 **8. Severability.** In the event that any of the provisions of this Consent Judgment
18 is held by a court to be unenforceable, the validity of the enforceable provisions shall not be
19 adversely affected.

20 **9. Notice and Cure**

21 **9.1** No motion to enforce this Consent Judgment or application to show cause
22 may be filed by ERC, unless ERC notifies NEG of the specific acts alleged to breach this
23 Consent Judgment at least thirty (30) days before filing and serving any such motion or
24 application. Any notice to NEG must contain (1) the name of the product; (2) the lead
25 content of the product, with a copy of the analytical results and description of the testing
26 methodology; (3) specific dates when the product was sold in California; (4) the store or

1 other place at which the product was purchased; and (5) any other evidence or other
2 support for the allegations in the notice.

3 **9.2** Within thirty (30) days of receiving the notice described in Section 9.1,
4 NEG shall either (1) withdraw the product from sale in California, (2) provide the
5 warning described in Section 1.1 for the product, or (3) refute the information provided
6 under Section 9.1. Should the Parties be unable to resolve the dispute, any Party may, by
7 motion or application for an order to show cause filed with this Court, enforce the terms
8 and conditions contained in this Consent Judgment under Section 10 of this Consent
9 Judgment.

10 **10.** This Court shall retain jurisdiction of this matter to enforce, modify or
11 terminate this Consent Judgment. Only after it complies with Section 9 above, any party
12 may, by motion or application for an order to show cause filed with this Court to enforce
13 the terms and conditions contained in this Consent Judgment. The prevailing party may
14 request that the Court award reasonable attorneys' fees and costs associated with such
15 motion or application.

16 **11. Governing Law.** The terms of this Consent Judgment shall be governed by
17 the laws of the State of California, regardless of the physical locations of the individuals
18 executing this Consent Judgment at the time of execution.

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

22 Environmental Research Center
23 3111 Camino Del Rio North, Suite 400
24 San Diego, CA 92108

25 And to:

26 Gideon Kracov
 801 S. Grand Ave., 11th Floor
 Los Angeles, CA 90017

 All correspondence to Defendant shall be mailed to:

1 New England Greens LLC
2 ATTN: Gina Clark
3 99 Railroad St.
4 Canaan, CT 06018

5 And to:

6 Peg Carew Toledo
7 MENNEMEIER, GLASSMAN & STROUD LLP
8 980 9th Street, Suite 1700
9 Sacramento, CA 95814

10 **13. Integration & Modification.** This Consent Judgment, together with the
11 Exhibits A through C attached hereto which are specifically incorporated herein by this
12 reference, constitutes the entire agreement between the Parties relating to the rights and
13 obligations herein granted and assumed, and supersedes all prior agreements and
14 understandings between the Parties. This Consent Judgment may be modified only upon
15 the written agreement of the Parties and court approval of the Parties' modification.

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

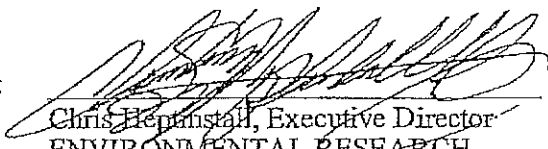
19 **15. Authorization.** The undersigned are authorized to execute this Consent
20 Judgment on behalf of their respective Parties and have read, understood, and agree to all
21 of the terms and conditions of this Consent Judgment.

22 **16. No Admissions.** The Parties enter into this Consent Judgment to settle
23 disputed claims between them and to avoid prolonged litigation. By execution of this
24 Consent Judgment, Defendant does not admit any violations of Proposition 65 or any
25 other law or standard applicable to warning or disclosure concerning the manufacture,
26 distribution, and/or sale of the Covered Products. Nothing in this Consent Judgment shall
be construed as an admission by Defendant of any fact, issue of law, or violation of law;
nor shall compliance with this Consent Judgment constitute or be construed as an
admission by Defendant of any fact, issue of law, or violation of law. Nothing in this

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

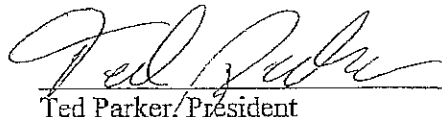
5
6 DATED: 2/18/, 2013

By:


Chris Heppinstall, Executive Director
ENVIRONMENTAL RESEARCH
CENTER, Inc.

7
8
9 DATED: 2/20, 2013

By:


Ted Parker, President
NEW ENGLAND GREENS LLC

10
11 IT IS SO ORDERED.

12
13
14 Dated: May 10, 2013

SUZANNE G. BRUGUERA

~~HON. MICHAEL J. FIELD~~
Judge, Superior Court

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18
19
20 **EXHIBITS A-C attached-**

EXHIBIT A - Notices of Violation

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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
New England Greens, LLC
403 Ashley Falls Rd
Canaan, CT 06018

Mark Timon
(New England Greens, LLC's Registered
Agent for Service of Process)
403 Ashley Falls Rd
Canaan, CT 06018

Current CEO or President
Vibrant Health
99 Railroad Street
Canaan, CT 06018

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 New England Greens, LLC and Vibrant Health 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 and arsenic that is contained in the named products manufactured and distributed by New England Greens, LLC and Vibrant Health.

This letter constitutes notification that New England Greens, LLC located at 403 Ashley Falls Rd Canaan, CT 06018 and Vibrant Health, located at 99 Railroad Street, Canaan, CT 06018 have 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, these Companies have manufactured and distributed products that have exposed and continue to expose numerous individuals within California to lead and/or arsenic. 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. On February 27, 1987, the State of California officially listed arsenic (inorganic arsenic compounds) as a chemical known to cause cancer. On May 1, 1997, the State of California officially listed arsenic (inorganic oxides) as a chemical known to cause reproductive toxicity. The time period of these violations commenced one year after the listed dates above, at least since September 24, 2007, 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.

New England Greens, LLC and Vibrant Health are exposing people to lead and arsenic from the following product:

Vibrant Health GREEN VIBRANCE

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. New England Greens, LLC and Vibrant Health are 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 and/or arsenic. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to lead and/or arsenic 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).

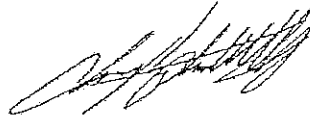
Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently 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 New England Greens, LLC and Vibrant Health 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.

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
September 24, 2010
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Heptinstall", written in a cursive style.

Chris Heptinstall
Executive Director, Environmental Research Center

cc: Karen A. Evans

Attachments
Certificate of Merit
Certificate of Service
OEHHA Summary (to New England Greens, LLC its Registered Agent for Service of Process, and Vibrant Health 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 New England Greens, LLC and Vibrant Health

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: September 24, 2010

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 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
New England Greens, LLC
403 Ashley Falls Rd
Canaan, CT 06018

Current CEO or President
Vibrant Health
99 Railroad Street
Canaan, CT 06018

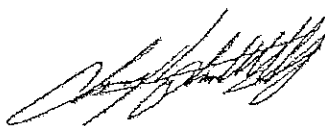
Mark Timon
(New England Greens, LLC's Registered
Agent for Service of Process)
403 Ashley Falls Rd
Canaan, CT 06018

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:

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 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
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

October 22, 2010

VIA CERTIFIED MAIL

Current CEO or President
New England Greens, LLC
403 Ashley Falls Rd
Canaan, CT 06018

Mark Timon
(New England Greens, LLC's Registered
Agent for Service of Process)
403 Ashley Falls Rd
Canaan, CT 06018

Current CEO or President
Vibrant Health
99 Railroad Street
Canaan, CT 06018

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 New England Greens, LLC and Vibrant Health 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 New England Greens, LLC and Vibrant Health.

This letter constitutes notification that New England Greens, LLC located at 403 Ashley Falls Rd Canaan, CT 06018 and Vibrant Health, located at 99 Railroad Street, Canaan, CT 06018 have 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).

October 22, 2010

Page 2

In particular, these Companies have 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 October 22, 2007, 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.

New England Greens, LLC and Vibrant Health are exposing people to lead from the following products:

Vibrant Health GREEN VIBRANCE JUNIOR + 3D – Apple
Vibrant Health - GREEN VIBRANCE
Vibrant Health - Joint Vibrance
Vibrant Health - Pure Green Protein Vanilla
Vibrant Health - Green Vibrance Original Meal Bar

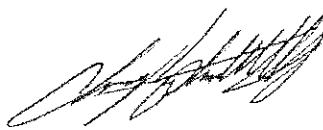
Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. New England Greens, LLC and Vibrant Health are in violation of Proposition 65 because the Company failed to provide a warning to persons using their products that they are being exposed 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 New England Greens, LLC and Vibrant Health unless it agrees in an enforceable written 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.*

October 22, 2010

Page 3

cc: Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to New England Greens, LLC its Registered Agent for Service of Process, and Vibrant Health 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 New England Greens, LLC and Vibrant Health

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: October 22, 2010

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 October 22, 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
New England Greens, LLC
403 Ashley Falls Rd
Canaan, CT 06018

Current CEO or President
Vibrant Health
99 Railroad Street
Canaan, CT 06018

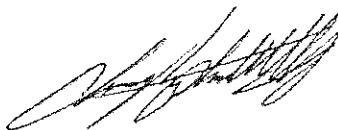
Mark Timon
(New England Greens, LLC's Registered
Agent for Service of Process)
403 Ashley Falls Rd
Canaan, CT 06018

On October 22, 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 22, 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 22, 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.*

October 22, 2010

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
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

December 23, 2010

VIA CERTIFIED MAIL

Current CEO or President
New England Greens, LLC
403 Ashley Falls Rd
Canaan, CT 06018

Mark Timon
(New England Greens, LLC's Registered
Agent for Service of Process)
403 Ashley Falls Rd
Canaan, CT 06018

Current CEO or President
Vibrant Health
99 Railroad Street
Canaan, CT 06018

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 New England Greens, LLC and Vibrant Health 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 New England Greens, LLC and Vibrant Health.

This letter constitutes notification that New England Greens, LLC located at 403 Ashley Falls Rd Canaan, CT 06018 and Vibrant Health, located at 99 Railroad Street, Canaan, CT 06018 have 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, these Companies have 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 December 23, 2007, 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.

New England Greens, LLC and Vibrant Health are exposing people to lead from the following products:

Vibrant Health PureGreen Protein Mixed Berry Single Serving Pack
Vibrant Health PureGreen Protein Chocolate Single Serving Pack
Vibrant Health PureGreen Protein Mixed Berry 447 Grams
Vibrant Health Green Vibrance 15 Day Supply 180 Grams
Vibrant Health PureGreen Protein Chocolate Version 2.0 488.4 Grams
Vibrant Health PureGreen Protein Natural Version 2.0 431 Grams

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. New England Greens, LLC and Vibrant Health are 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).

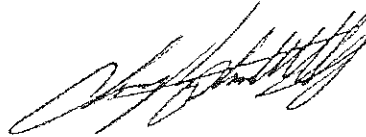
Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently 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 New England Greens, LLC and Vibrant Health 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.

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
December 23, 2010
Page 3

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

cc: Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to New England Greens, LLC its Registered Agent for Service of Process, and Vibrant Health 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 New England Greens, LLC and Vibrant Health

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: December 23, 2010

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 December 23, 2010, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”**

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

Current CEO or President
New England Greens, LLC
403 Ashley Falls Rd
Canaan, CT 06018

Current CEO or President
Vibrant Health
99 Railroad Street
Canaan, CT 06018

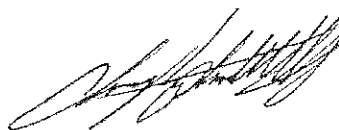
Mark Timon
(New England Greens, LLC’s Registered
Agent for Service of Process)
403 Ashley Falls Rd
Canaan, CT 06018

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

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

On December 23, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

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



Chris Heptinstall

Service List

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

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

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

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

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

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

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

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

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

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

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

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

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

District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514

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

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

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

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney, Los Angeles County
210 West Temple Street, Rm 345
Los Angeles, CA 90012

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 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.*

December 23, 2010

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
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

3111 Camino Del Rio North, Suite 400
San Diego, CA 92108
619-500-3090

November 14, 2012

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I am the Executive Director of the Environmental Research Center (“ERC”). ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

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

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

**New England Greens, LLC
Vibrant Health**

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

Vibrant Health Glycemic Vibrance H – Lead

Vibrant Health Raw Food Super Natural Calcium PurePlant Calcium from Hydrilla Verticillata - Lead

Vibrant Health The Convenient Organic Lemonade Diet Vibrant Cleanse - Lead

Vibrant Health Field of Greens Version 1.0 - Gluten Free - Lead

New England Greens LLC dba Vibrant Health Dr. Colin's Reproductive Health Ferti-boost Kit - Lead
(*products included in kit listed below*)

- Male Nourishing Formula
- Male Stimulating Formula
- Male Regulating Formula

New England Greens LLC dba Vibrant Health Dr. Colin's Reproductive Health Ferti-boost Kit - Lead
(*products included in kit listed below*)

- Female Nourishing Formula
- Female Stimulating Formula
- Female Regulating Formula

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

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

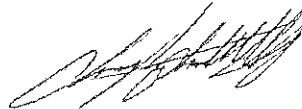
Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least November 14, 2009, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

My contact information is listed above; however, please direct all questions concerning this notice to ERC's counsel, Gideon Kracov, Esq., at 801 S. Grand Ave., 11th Floor, Los Angeles, CA 90017, phone number 213-629-2071.

Sincerely,



Chris Heptinstall
Executive Director
Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Vibrant Health, New England Greens, LLC and its Registered Agent for Service 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 Vibrant Health and New England Greens, LLC

I, Chris Heptinstall, declare:

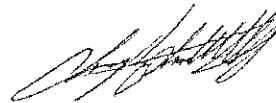
1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the Executive Director for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: November 14, 2012

Chris Heptinstall

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. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On November 14, 2012, 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 with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
New England Greens, LLC
403 Ashley Falls Road
Canaan, CT 06018

Current President or CEO
Vibrant Health
99 Railroad Street
Canaan, CT 06018

Mark Timon
(Registered Agent for New England
Greens, LLC)
403 Ashley Falls Road
Canaan, CT 06018

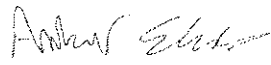
On November 14, 2012, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by 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 with the postage fully prepaid 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 November 14, 2012, 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 with the postage fully prepaid for delivery by Priority Mail.

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
November 14, 2012
Page 6

Executed on November 14, 2012, in Fort Oglethorpe, Georgia.



Amber Schaub

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

November 14, 2012

Page 7

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3 rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5 th Street 4 th Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	

1 **EXHIBIT B: Letter to Retailers and Distributors**

2 (For use if New England Greens provides sticker and/or hang tag warnings pursuant
3 to Section 1.1)

4 **THIS COMMUNICATION APPLIES ONLY TO**
5 **RETAIL LOCATIONS IN CALIFORNIA**

6
7 New England Greens / Vibrant Health (NEG) has entered into a Consent
8 Judgment with Environmental Research Center, Inc. (ERC) for the State of California
regarding the presence of lead in specified dietary supplements sold in California.

9 Under the terms of this Consent Judgment, NEG is providing the enclosed
10 warning stickers and/or hang tags to you so that they can be affixed to any of the
specified dietary supplements identified below.

11 If you are a retailer, we require that you affix the warning stickers and/or hang
12 tags where the identified products are sold to California consumers. If you are a
13 distributor, we require that you provide these warning stickers and/or hang tags to whom
14 you distribute the identified products and instruct them to affix the warning stickers
and/or hang tags when the identified products are sold to California customers.

15 Please sign and return the written acknowledgment below within 30 days of receiving
16 this letter to acknowledge that you have received the warnings and that you will use them
in accordance with these specifications until you receive written instruction from NEG to
the contrary.

17 Thank you for your cooperation. If you need more stickers and/or hang tags or
18 have any questions, such as the appropriate warning locations on the product (s), please
19 contact [Contact Information].

20 Acknowledged by:

21 _____ (Signature)

22 _____ (Print Name)

23 _____ (Company/Store Location)

24 _____ (Date)

1
2 **EXHIBIT C: Follow-Up Letter to Retailers and Distributors**

3 (For use if New England Greens provides sticker and/or hang tag warnings pursuant to
4 Section 1.1)

5 **THIS COMMUNICATION APPLIES ONLY TO**
6 **RETAIL LOCATIONS IN CALIFORNIA**

7 On [Date], New England Greens (NEG) sent you a letter enclosing stickers and/or
8 hang tag warnings to affix to NEG products to which you distribute its dietary
9 supplements, pursuant to a Consent Judgment entered into between NEG and
10 Environmental Research Center, Inc. (ERC) regarding the presence of lead in specified
11 dietary supplements sold in California.

12 Warning stickers and/or hang tags are to be affixed to any of the specified dietary
13 supplements identified below that are sold in your stores in California or stores in
14 California to which you distribute these supplements. The stickers and/or hang tags may
15 not be covered or obscured, and should be placed and displayed in such a way that they
16 are likely to be read and understood by customers.

17 We have not received your written acknowledgment that you have received the
18 stickers and/or hang tags and that your stores will affix them to the products, or, if you
19 are a distributor, that you will provide the stickers and/or hang tags and instructions to
20 California retailers to whom you distribute the identified products. Please sign and return
21 the written acknowledgment below as soon as possible to acknowledge that you have
22 received the stickers and/or hang tags and that they will be used or provided in
23 accordance with these specifications until you receive written instructions from NEG to
24 the contrary.

25 Thank you for your cooperation. If you need more signs or have any questions,
26 such as the appropriate warning locations on the product(s), please contact [Contact
Information].

Acknowledged by:

(Signature)

(Print Name)

(Company/Store Location)

(Date)

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 2/26, 2013, the person identified below was served with the following documents:

PROPOSED STIPULATED CONSENT JUDGMENT; MOTION TO APPROVE INCLUDING HEPTINSTALL AND KRACOV DECLS.; PROPOSED ORDER

The documents were served on:

Peg Carew Toledo
Mennemeier, Glassman & Stroud LLP
980 9th St., Suite 1700
Sacramento, CA 95814

X 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 2/26, 2013 at Los Angeles, California.



Gideon Kracov

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 5/10, 2013, the person identified below was served with the following documents:

SIGNED CONSENT JUDGMENT; ORDER RE SAME

The documents were served on:

Peg Carew Toledo
Mennemeier, Glassman & Stroud LLP
980 9th St., Suite 1700
Sacramento, CA 95814

X 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 5/10, 2013 at Los Angeles, California.



Gideon Kracov