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20 Attorneys for Defendant
21 Genesis Pure, LLC

22 SUPERIOR COURT OF THE STATE OF CALIFORNIA
23 COUNTY OF MARIN

24 ENVIRONMENTAL RESEARCH CENTER,
25 a California non-profit corporation,

26 Plaintiff,

27 v.

28 GENESIS PURE, LLC; and
DOES 1-100,

Defendants.

FILED

FEB 27 2013

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Dale, Deputy

CASE NO. CIV1105277

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

Health & Safety Code § 25249.5 et seq.

Action Filed: October 24, 2011

Trial Date: Not Set

1 **1. INTRODUCTION**

2 1.1 On October 24, 2011, Plaintiff Environmental Research Center ("ERC"), a non-
3 profit corporation, as a private enforcer, and in the public interest, initiated this action by filing a
4 Complaint for Injunctive and Declaratory relief and Civil Penalties pursuant to the provisions of
5 California Health and Safety Code section 25249.5 et seq. ("Proposition 65"), against GENESIS
6 PURE, LLC and DOES 1-100. On October 10, 2012, ERC filed a First Amended Complaint. In
7 this action, ERC alleges that the products manufactured, distributed or sold by Genesis, as more
8 fully described below, contain lead, a chemical listed under Proposition 65 as a carcinogen and
9 reproductive toxin, and that such products expose consumers at a level requiring a Proposition 65
10 warning. These products are: Health Trim Natural Weight Loss Ionic Blend; Health Trim
11 Metabolic Boost; Cardio Clean; Genesis Pure Fusion; Genesis Pure Health Trim Natural Weight
12 Loss Fruit & Fiber mix; Genesis Pure Health Trim Natural Weight Loss Cacao; Genesis Pure GPS
13 Moomiyo Edge; Genesis Pure Energy with Wheat Grass Tropical Blast; Genesis Pure Complete
14 Shake Vanilla; Genesis Pure Health Trim Natural Cleanse, Genesis Pure Nutrition; and Genesis
15 Pure GPS Recovery Chocolate (collectively "Covered Products").

16 1.2 ERC is a California non-profit corporation dedicated to, among other causes,
17 helping safeguard the public from health hazards by bringing about a reduction in the use and
18 misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and
19 employees and encouraging corporate responsibility.

20 1.3 Genesis Pure, LLC was a business entity that employed ten or more persons and
21 Genesis Pure, Inc. is a business entity that employs ten or more persons and as of March 12, 2011
22 is the successor in interest to Genesis Pure, LLC. Currently, Genesis Pure, Inc. arranges the
23 manufacture, distribution and sale of the Covered Products. As successor in interest, Genesis
24 Pure, Inc. shall be bound by and receive benefits from the provisions set forth in this Stipulated
25 Consent Judgment. Genesis Pure, LLC and Genesis Pure, Inc. shall be referred to as "Genesis"
26 and ERC and Genesis shall sometimes be referred to individually as a "Party" or collectively as
27 the "Parties."
28

1 wholesalers, or retailers, or any fact, conclusion of law, issue of law, violation of law, fault,
2 wrongdoing, or liability, including without limitation, any admission concerning any alleged
3 violation of Proposition 65; provided, however, nothing in this Section shall affect the
4 enforceability of this Consent Judgment.

5 1.7 Except as expressly set forth herein, nothing in this Consent Judgment shall
6 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
7 other or future legal proceeding unrelated to these proceedings.

8 1.8 The Effective Date of this Consent Judgment shall be the date on which it is
9 entered as a Judgment by this Court.

10 1.9 Since receiving ERC's Notice of Violation, Genesis has engaged in efforts to
11 attempt to reformulate its products, has conducted additional testing on its products, and has
12 created a position with the company for a full-time internal employee to oversee compliance with
13 Proposition 65 and related product safety and quality control requirements.

14 2. JURISDICTION AND VENUE

15 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
16 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
17 over Genesis as to the acts alleged in the Complaint, that venue is proper in Marin County, and
18 that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all
19 claim which were or could have been asserted in his action based on the facts alleged in the
20 Notices of Violation and the Complaint.

21 3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS

22 3.1 On or after the Effective Date, any Covered Products manufactured after the
23 Effective Date that Genesis thereafter sells in California, markets or distributes¹ for sale into
24 California, or offers for sale to a third party for retail sale to California must either: (1) qualify as
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26
27 ¹ As used in this Consent Judgment, the term "distributes for sale into California" shall mean to
28 directly ship a Covered Product into California for sale in California or to sell a Covered Product
to a distributor that Genesis knows will sell the Covered Product in California.

1 a "reformulated Covered Product" under Section 3.3 below, or (2) meet the warning requirements
2 set out in Section 3.2.

3 **3.2 Clear and Reasonable Warnings**

4 If Genesis shall provide a warning pursuant to Section 3.1, Genesis shall provide the
5 following warning for Covered Products:

6 [California Proposition 65] WARNING: This product contains
7 lead, a chemical known to the State of California to cause [cancer
8 and] birth defects or other reproductive harm.

9 The term "cancer and" shall be used in the warning only if the maximum daily dose
10 recommended on the label contains more than 15 micrograms of lead as determined pursuant to
11 Section 3.4. The words "California Proposition 65" shall be included at Genesis's option.

12 The warning shall be securely affixed to or printed upon the container or the label of the
13 Covered Product. The warning shall be displayed with such conspicuousness, as compared with
14 other words, statements, or design of the label or container, as applicable, to render the warning
15 likely to be read and understood by an ordinary individual under customary conditions of
16 purchase or use of the product. The warning appearing on the label or container shall be at least
17 the same size as the largest of any other health or safety warnings correspondingly appearing on
18 the label or container, as applicable, of such product, and the words "warning" shall be in all
19 capital letters and in bold print.

20 **3.3 Reformulated Covered Products**

21 A Reformulated Covered Product is one for which the maximum recommended daily
22 serving on the label contains no more than 0.5 micrograms of lead per day as determined by the
23 quality control methodology described in Section 3.4. As used in this Consent Judgment, "no
24 more than 0.5 micrograms of lead per day" means that the samples tested under Section 3.4
25 collectively yield an average daily exposure of no more than 0.5 micrograms of lead.

26 **3.4 Testing and Quality Control Methodology**

27 **3.4.1** For purposes of this Consent Judgment, daily lead exposure levels shall be
28 measured in micrograms, and shall be calculated using the following formula: micrograms of

1 lead per gram of product, multiplied by grams of product per serving of the product (using the
2 largest serving size appearing on the product label), multiplied by servings of the product per day
3 (using the largest number of servings in a recommended dosage appearing on the product label),
4 which equals micrograms of lead exposure per day.

5 3.4.2 All testing pursuant to this Consent Judgment shall be performed using a
6 laboratory method that complies with the performance and quality control factors appropriate for
7 the method used including limit of detection, limit of qualification, accuracy, and precision and
8 meets the following criteria: Closed-vessel, microwave-assisted digestion employing high-purity
9 reagents followed by Inductively Coupled Plasma-Mass Spectrometry (ICP-MS) achieving a limit
10 of quantification of less than or equal to 0.010 mg/kg or any other testing method subsequently
11 agreed upon in writing by the Parties.

12 3.4.3 All testing pursuant to this Consent Judgment shall be performed by a
13 laboratory certified by the California Environmental Laboratory Accreditation Program for the
14 analysis of heavy metals or a laboratory that is approved by, accredited by, or registered with the
15 United States Food & Drug Administration for the analysis of heavy metals. Genesis may test the
16 Covered Products if they are a qualified laboratory as described above. Nothing in this Consent
17 Judgment shall limit Genesis's ability to conduct, or require that others conduct, additional testing
18 of the Covered Products, including the raw materials used in their manufacture.

19 3.4.4 Genesis shall arrange for the lead testing of five (5) randomly selected
20 samples of each Covered Product in the form intended for sale to the end-user to be distributed or
21 sold to California for at least four (4) years at least once every year. The testing shall continue so
22 long as the Covered Products are sold in California or sold to a third party for retail sale in
23 California. If tests conducted pursuant to this Section demonstrate that no warning is required for
24 a Covered Product during each of four consecutive years, then the testing requirements of this
25 Section are no longer required as to that Covered Product. However, if after the four-year period,
26 Genesis changes ingredient suppliers for any of the Covered Products and/or reformulates any of
27 the Covered Products, Genesis shall test that Covered Product at least once after such test is
28

1 made. The testing requirements discussed in Section 3.4 are not applicable to any Covered
2 Product for which Genesis has provided the warning as specified in Section 3.2.

3 3.4.5 Upon written request by ERC, Genesis shall provide to ERC any test
4 results and documentation of testing undertaken by Genesis within ten working days of receipt by
5 Genesis of ERC's request. Genesis shall retain all test results and documentation for a period of
6 four years from the date of each test.

7 **4. SETTLEMENT PAYMENT**

8 4.1 In full satisfaction of all potential civil penalties, payment in lieu of civil penalties,
9 attorney's fees and costs (which includes, but is not limited to, filing fees and costs of attorneys,
10 experts and investigators and testing nutritional health supplements), Genesis shall make a total
11 payment of \$85,000 within ten business days of receiving the Notice of Entry of Judgment. Said
12 payment shall be for the following:

13 4.2 \$8,450.00 shall be payable as civil penalties pursuant to California Health and
14 Safety Code section 25249.7(b)(1). Of this amount, \$6,337.50 shall be payable to the Office of
15 Environmental Health Hazard Assessment ("OEHHHA") and \$2,112.50 shall be payable to
16 Environmental Research Center. California Health and Safety Code section 25249.12(c)(1) &
17 (d). Genesis shall send both civil penalty payments to ERC's counsel who shall be responsible to
18 forward the civil penalty.

19 4.3 \$24,835.00 payable to Environmental Research Center as reimbursement to ERC
20 for (A) reasonable costs associated with the enforcement of Proposition 65 and other costs
21 incurred as a result of work in bringing this action; and (B) \$25,336.00 payable to Environmental
22 Research Center in lieu of further civil penalties, for activities such; (1) as continued enforcement
23 of Proposition 65, which includes analysis, researching and testing consumer products that may
24 contain Proposition 65 chemicals which addresses the same or similar type of ingestible products
25 that are the subject matter of the current action; (2) the continued monitoring of past consent
26 judgments and settlements to ensure companies are in compliance with Proposition 65; and
27 (3) ERC will make a donation of \$1,270 to the Ecological Rights Foundation, Inc.
28

1 4.4 \$22,275.00 payable to Michael Freund as reimbursement of ERC's attorney's fees
2 and \$2,000.00 payable to Karen Evans as reimbursement of ERC's attorney's fees and \$2,104.00
3 to Ryan Hoffman as reimbursement of ERC's attorney's fees.

4 4.5 Genesis's payments shall be mailed or delivered to the Law Office of Michael
5 Freund. Genesis shall be provided with taxpayer identification information to enable Defendants
6 to process the payments.

7 **5. MODIFICATION OF CONSENT JUDGMENT**

8 5.1 This Consent Judgment may be modified only by: (i) written agreement and
9 stipulation of the Parties; (ii) upon entry of a modified Consent Judgment by the Court; or (iii) as
10 provided in Section 5.3.

11 5.2 If Genesis seeks to modify this Consent Judgment under Section 5.1, then Genesis
12 shall provide written notice to ERC of its intent ("Notice of Intent"). If ERC seeks to meet and
13 confer regarding the proposed modification in the Notice of Intent, then ERC shall provide
14 written notice to Genesis within thirty days of receiving the Notice of Intent. If ERC notifies
15 Genesis in a timely manner of ERC's intent to meet and confer, then the Parties shall meet and
16 confer in good faith as required in this Section. The Parties shall meet in person within thirty
17 days of ERC's notification of its intent to meet and confer. Within thirty days of such meeting, if
18 ERC disputes the proposed modification, ERC shall provide to Genesis a written factual basis for
19 its position. The Parties shall continue to meet and confer for an additional thirty days in an effort
20 to resolve any remaining disputes. The Parties may agree in writing to different deadlines for the
21 meet and confer period.

22 5.3 In the event of a modification under Section 5.1, that is initiated or otherwise
23 requested by Genesis, Genesis shall reimburse ERC its reasonable attorney's fees for the time
24 spent in the meet and confer process and filing and arguing a joint motion or application in
25 support of a modification of the Consent judgment as well as ERC's reasonable costs; provided
26 however, that these fees and costs shall not exceed \$8,000 (eight thousand dollars) total without
27 the prior written consent of Genesis.

28

1 **5.4** Where the meet and confer process does not lead to a joint motion or application in
2 support of a modification of the Consent Judgment, then either Party may seek judicial relief on
3 its own. In such a situation, the prevailing party may seek to recover costs and reasonable
4 attorney's fees. As used in the preceding sentence, the term "prevailing party" means a party who
5 is successful in obtaining relief more favorable to it than the relief that the other party was
6 amenable to providing during the Parties' good faith attempt to resolve the dispute that is the
7 subject of the modification.

8 **5.5** Should Genesis seek to exclude naturally occurring lead in its calculation of
9 overall lead content for any of the Covered Products, during the meet and confer process, Genesis
10 shall provide to ERC a complete list of all ingredients, corresponding percentages of each
11 ingredient with each product, including test results and other data that independently confirm the
12 percentage of such ingredient being used in each Covered Product, and any other data that
13 independently supports Genesis's contention that the lead it seeks to exclude is naturally
14 occurring. Genesis is entitled to submit to ERC documentation pursuant to this Section which
15 shall be held in confidence and kept confidential by ERC.

16 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

17 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
18 this Consent Judgment.

19 **6.2** Only after it complies with Section 15 below, any Party may, by motion or
20 application for an order to show cause filed with this Court, enforce the terms and conditions
21 contained in this Consent Judgment.

22 **6.3** In the event that ERC alleges that any Covered Product fails to qualify as a
23 Reformulated Covered Product (and for which ERC alleges that no warning has been provided),
24 then ERC shall inform Genesis in a reasonably prompt manner of its test results, including
25 information sufficient to permit Genesis to identify the Covered Products at issue. Genesis shall,
26 within thirty days following such notice, provide ERC with testing information demonstrating
27 Genesis's compliance with the Consent Judgment, if warranted. The Parties shall first attempt to
28 resolve the matter prior to ERC taking any further legal action pursuant to Paragraph 13.

1 **7. APPLICATION OF CONSENT JUDGMENT**

2 This Consent Judgment may apply to, be binding upon and benefit the Parties, and their
3 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
4 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,
5 wholesalers, retailers, and all predecessors, successors and assigns of any of them and ERC on its
6 own behalf and in the public interest as set forth in Section 8. This Consent Judgment shall have
7 no application to Covered Products which are manufactured, distributed or sold outside the State
8 of California and which are not used by California consumers. This Consent Judgment shall
9 terminate without further action by any Party when Genesis no longer manufacture, distributes or
10 sells all of the Covered Products and all of such Covered Products previously "distributed for sale
11 in California have reached their expiration dates and are no longer sold.

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

13 8.1 This Consent Judgment is a full, final, and binding resolution between ERC, on
14 behalf of itself, and in the public interest, and Genesis, of any alleged violation of Proposition 65
15 or its implementing regulations for failure to provide Proposition 65 warnings of exposure to lead
16 from the handling, use or consumption of the Covered Products and fully and finally resolves all
17 claims that have been or could have been asserted in this action up to and including the date of
18 entry of Judgment for failure to provide Proposition 65 warnings for the Covered Products. ERC,
19 on behalf of itself, and in the public interest, hereby discharges Genesis and each of their
20 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
21 divisions, affiliates, suppliers, franchisees, licensees, customers, (not including private label
22 customers of Genesis), distributors, wholesalers, retailers, and all other upstream and downstream
23 entities in the distribution chain down of any Covered Product, and the predecessors, successors
24 and assigns of any of them (collectively, "Released Parties"), from any and all claims, actions,
25 causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses asserted,
26 or that could have been asserted, as to any alleged violation of Proposition 65 arising from or
27 related to the failure to provide Proposition 65 warnings on the Covered Products regarding lead.
28

1 8.2 ERC, on behalf of itself only, hereby releases and discharges the Released Parties
2 from any and all known and unknown Claims for alleged violations of Proposition 65, or for any
3 other statutory or common law, arising from or relating to alleged exposures to lead and lead
4 compounds in the Covered Products as set forth in the Notices. It is possible that other Claims
5 not known to the Parties arising out of the facts alleged in the Notices of Violation or the
6 Complaint and relating to the Covered Products will develop or be discovered. ERC, on behalf of
7 itself only, acknowledges that this Consent Judgment is expressly intended to cover and include
8 all such Claims, including all rights of action therefor. ERC has full knowledge of the contents of
9 California Civil Code section 1542. ERC, on behalf of itself only, acknowledges that the Claims
10 released in Section 8.1 and 8.2 above may include unknown Claims, and nevertheless waives
11 California Civil Code section 1542 as to any such unknown claims. California Civil Code section
12 1542 reads as follows:

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

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

21 8.3 Compliance with the terms of this Consent Judgment shall be deemed to constitute
22 compliance by any Released Party with Proposition 65 regarding alleged exposures to lead in the
23 Covered Products.

24 8.4 ERC, on one hand, and Defendants, on the other hand, release and waive all claims
25 they may have against each other for any statements of actions made or undertaken by them in
26 connection with the Notices of Violation or the Complaint. Provided however, nothing in Section
27 8 shall affect or limit any Party's right to seek to enforce the terms of this Consent Judgment.
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1 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

2 In the event that any of the provisions of this Consent Judgment are held by a court to be
3 unenforceable, the validity of the enforceable provisions shall not be adversely affected.

4 **10. GOVERNING LAW**

5 The terms and conditions of this Consent Judgment shall be governed by and construed in
6 accordance with the laws of the state of California.

7 **11. PROVISION OF NOTICE**

8 All notices required to be given to either Party to this Consent Judgment by the other shall
9 be in writing and sent to the following agents listed below by: (a) first-class, registered, or
10 certified mail; (b) overnight courier; or (c) personal delivery. Courtesy copies via email may also
11 be sent.

12 **FOR ENVIRONMENTAL RESEARCH CENTER:**

13 Chris Heptinstall, Executive Director
14 Environmental Research Center
15 3111 Camino del Rio North, Suite 400
San Diego, CA 92108

16 Michael Bruce Freund
17 Law Offices of Michael Freund
18 1919 Addison Street, Suite 105
Berkeley, CA 94704
19 Telephone: (510) 540-1992
Facsimile: (510) 540-5543

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

24 **FOR GENESIS PURE, LLC**

25 Reggie Rapple
26 Genesis Pure, LLC
27 Chief Financial Officer
13961 S. Minuteman Drive, Suite 200
28 Draper, UT 84020

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With a copy to:

Melissa A. Jones
STOEL RIVES LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
Telephone: (916) 447-0700
Facsimile: (916) 447-4781

12. COURT APPROVAL

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

12.2 ERC shall comply with California Health and Safety Code section 25249.7(f) and with Title II of the California Code Regulations, Section 3003.

13. EXECUTION AND COUNTERPARTS

This Consent Judgment may be executed in counterparts, which taken together shall be deemed to constitute one document. A facsimile or pdf signature shall be construed as valid as the original signature.

14. DRAFTING

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

15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

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

1 was amenable to providing during the parties' good faith attempt to resolve the dispute that is the
2 subject of such enforcement action.

3 **16. ENTIRE AGREEMENT, AUTHORIZATION**

4 16.1 This Consent Judgment contains the sole and entire agreement and understanding
5 of the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
6 negotiations, commitments and understandings related hereto. No representations, oral or
7 otherwise, express or implied, other than those contained herein have been made by any Party.
8 No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist
9 or to bind any of the Parties.

10 16.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized
11 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly
12 provided herein, each Party shall bear its own fees and costs.

13 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
14 **CONSENT JUDGMENT**

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

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

21 (2) Make the findings pursuant to California Health and Safety Code section
22 25249.7(f)(4), approve the Settlement and approve this Consent Judgment.
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IT IS SO STIPULATED:

Dated: December __, 2012

ENVIRONMENTAL RESEARCH CENTER

By: _____
Chris Hepstinstall, Executive Director

Dated: December 28, 2012

GENESIS PURE, LLC

By: Reggie Rappleye
Reggie Rappleye

APPROVED AS TO FORM:

Dated: December __, 2012

LAW OFFICE OF MICHAEL FREUND

By: _____
Michael Freund
Attorney for Plaintiff
Environmental Research Center

Dated: December __, 2012

STOEL RIVES LLP

By: _____
Melissa A. Jones
Carissa M. Beecham
Attorneys for Defendant
Genesis Pure, LLC

ORDER AND JUDGMENT

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

Dated: 2/27, 2012

ROY CHERNUS

Judge of the Superior Court
Marin County Superior Court

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IT IS SO STIPULATED:

Dated: December 28, 2012

ENVIRONMENTAL RESEARCH CENTER

By: [Signature]
Chris Heppinstall, Executive Director

Dated: December __, 2012

GENESIS PURE, LLC

By: _____
Reggie Rappleye

APPROVED AS TO FORM:

Dated: ~~December~~ January 7, 2013

LAW OFFICE OF MICHAEL FREUND

By: [Signature]
Michael Freund
Attorney for Plaintiff
Environmental Research Center

Dated: December 24, 2012

STOEL RIVES LLP

By: [Signature]
Melissa A. Jones
Carissa M. Beecham
Attorneys for Defendant
Genesis Pure, LLC

ORDER AND JUDGMENT

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

Dated: _____, 2012

Judge of the Superior Court
Marin County Superior Court

MICHAEL FREUND
ATTORNEY AT LAW
1915 ADDISON STREET
BERKELEY, CALIFORNIA 94704-101

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

June 3, 2011

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center ("ERC"), 5694 Mission Center Road #199, San Diego, CA 92108; Tel. (619) 309-4194. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator 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 Violator 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 Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Genesis Pure, LLC

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

Health Trim Natural Weight Loss Ionic Blend - Lead
Health Trim Metabolic Boost - Lead
CardioClean - Lead
Genesis Pure LLC fusion - Lead

EXHIBIT A

Genesis Pure LLC - HealthTrim Natural Weight Loss Fruit & Fiber mix - Lead
Genesis Pure LLC - HealthTrim Natural Weight Loss Cacao - Lead

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

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the 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 June 3, 2008, 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 Violator 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 Violator 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.

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

Sincerely,



Michael Freund

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

June 3, 2011

Page 3

cc: Karen Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Genesis Pure, LLC and its Registered Agent for Service of Process
only)

Additional Supporting Information for Certificate of Merit (to AG only)

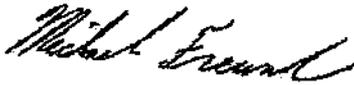
CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Genesis Pure, LLC

I, Michael Freund, 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 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 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: June 3, 2011



Michael Freund
Attorney for Environmental Research Center

CERTIFICATE OF SERVICE

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

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

On June 3, 2011, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current President or CEO
Genesis Pure, LLC
772 E Utah Valley Dr Suite 388
American Fork, UT 84003

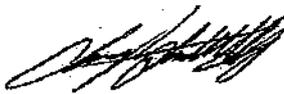
Tim Hough
(Genesis Pure, LLC's Registered Agent
for Service of Process)
772 E Utah Valley Dr Suite 388
American Fork, UT 84003

On June 3, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

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

On June 3, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

Executed on June 3, 2011, in Fort Oglethorpe, Georgia.



Chris Heptinstall

Service List

- District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612
- District Attorney, Alpine County
P.O. Box 248
Markleeville, CA 96120
- District Attorney, Amador County
708 Court Street, #202
Jackson, CA 95642
- District Attorney, Butte County
25 County Center Drive
Oroville, CA 95965
- District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
- District Attorney, Colusa County
547 Market Street
Colusa, CA 95932
- District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553
- District Attorney, Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531
- District Attorney, El Dorado County
515 Main Street
Placerville, CA 95667
- District Attorney, Fresno County
2220 Tulare Street, #1000
Fresno, CA 93721
- District Attorney, Glenn County
Post Office Box 430
Willows, CA 95988
- District Attorney, Humboldt County
825 5th Street
Eureka, CA 95501
- District Attorney, Imperial County
939 West Main Street, Ste 102
El Centro, CA 92243
- District Attorney, Inyo County
230 W. Line Street
Bishop, CA 93514
- District Attorney, Kern County
1215 Truxton Avenue
Bakersfield, CA 93301
- District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93230
- District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453
- District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130
- District Attorney, Los Angeles County
210 West Temple Street, Rm 345
Los Angeles, CA 90012
- District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637
- District Attorney, Marin County
3501 Civic Center, Room 130
San Rafael, CA 94903
- District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338
- District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482
- District Attorney, Merced County
2222 M Street
Merced, CA 95340
- District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020
- District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517
- District Attorney, Monterey County
230 Church Street, Bldg 2
Salinas, CA 93901
- District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559
- District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959
- District Attorney, Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

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

June 3, 2011

Page 7

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

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

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

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

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

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

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

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

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

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

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

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

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

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

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

District Attorney, Sierra County
PO Box 457
Downieville, CA 95936

District Attorney, Siskiyou County
Post Office Box 986
Yreka, CA 96097

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

District Attorney, Sonoma County
600 Administration Drive, Room 2121
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

MICHAEL FREUND
ATTORNEY AT LAW
1915 ADDISON STREET
BERKELEY, CALIFORNIA 94704-101

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

January 6, 2012

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center ("ERC"), 5694 Mission Center Road #199, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator 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 Violator 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 Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Genesis Pure, LLC

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

Genesis Pure GPS Moomiyo Edge - Lead
Genesis Pure Energy with Wheat Grass Tropical Blast - Lead
Genesis Pure Complete Shake Vanilla - Lead
Genesis Pure Health Trim Natural Cleanse - Lead

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

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

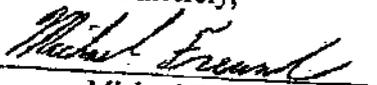
Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred 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 January 6, 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 Violator 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 Violator 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.

ERC has retained me as legal counsel in connection with this matter. Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead. Please note that my address will be changing as of January 16, 2012 to: 1919 Addison Street, Suite 105, Berkeley, California 94704.

Sincerely,



Michael Freund

Attachments: Certificate of Merit, Certificate of Service, OEHHA Summary (to Genesis Pure, LLC and its Registered Agent for Service of Process only), Additional Supporting Information for Certificate of Merit (to AG only)

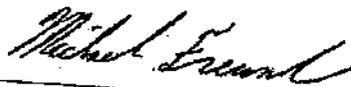
CERTIFICATE OF MERIT

Re: **Environmental Research Center's Notice of Proposition 65 Violations by Genesis Pure, LLC**

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

Dated: January 6, 2012



Michael Freund

CERTIFICATE OF SERVICE

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

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

On January 6, 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 for delivery by Certified Mail:

Current President or CEO
Genesis Pure, LLC
772 E Utah Valley Dr Suite 388
American Fork, UT 84003

Tim Hough
(Genesis Pure, LLC's Registered Agent
for Service of Process)
772 E Utah Valley Dr Suite 388
American Fork, UT 84003

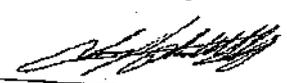
Genesis Pure, LLC
13961 S. Minuteman Drive, Suite 200
Draper, UT 84020

On January 6, 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 for delivery by Certified Mail:

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

On January 6, 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 for delivery by Priority Mail.

Executed on January 6, 2012, 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
Markleville, CA 96120

District Attorney, Amador County
708 Court Street, #202
Jackson, CA 95542

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

District Attorney, Madera County
209 West Yosemite Avenue
Madera, CA 93637

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

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino County
Post Office Box 1000
Ukiah, CA 95482

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

District Attorney, Modoc County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Monterey County
230 Church Street, Bldg 2
Salinas, CA 93901

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

District Attorney, Nevada County
110 Union Street
Nevada City, CA 95959

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

Notice of Violations of California Health & Safety Code §25249.5 et seq.
January 6, 2012

Page 6

District Attorney, Placer County
10810 Justice Center Drive, Ste 240
Roseville, CA 95678

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

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

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

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

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

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

District Attorney, San Francisco County
850 Bryant Street, Room 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

MICHAEL FREUND
ATTORNEY AT LAW
1919 Addison Street, Suite 105
BERKELEY, CALIFORNIA 94704-101

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

December 4, 2012

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator 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 Violator 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 Violator identified below.

Alleged Violator. The name of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Genesis Pure, Inc.

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

Genesis Pure LLC Nutrition - Lead
Genesis Pure Inc. GPS Recovery Chocolate - Lead

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

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

December 4, 2012

Page 2

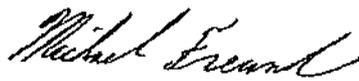
Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred 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 December 4, 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 Violator 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 Violator 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.

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

Sincerely,



Michael Freund

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Genesis Pure, LLC and it's 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 Genesis Pure, LLC

I, Michael Freund, 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 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 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 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 4, 2012



Michael Freund

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 December 4, 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
Genesis Pure, Inc.
13961 S. Minuteman Drive, Suite 200
Draper, UT 84020-8077

Curtis Call
(Genesis Pure, Inc's Registered Agent
for Service of Process)
13961 S. Minuteman Drive, Suite 200
Draper, UT 84020-8077

Genesis Pure, Inc.
13961 S. Minuteman Drive, Suite 200
Draper, UT 84020-8077

On December 4, 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 December 4, 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 First Class Mail.

Executed on December 4, 2012, in Fort Oglethorpe, Georgia.



Amber Schaub

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

December 4, 2012

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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 5th 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	