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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

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

14 Plaintiff,

15 v.

16 GENUINE HEALTH CORPORATION,)
17 GENUINE HEALTH, INC. and 1064510)
18 ONTARIO LIMITED,)

19 Defendants.
20

Case No.: **RG15759481**

NOTICE OF ENTRY OF JUDGMENT

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 NOTICE IS HEREBY GIVEN that the Court has entered Judgment and approved the
23 settlement by Stipulated Consent Judgment in the above-entitled matter. A true and correct copy
24 of the Stipulated Consent Judgment and Order is attached hereto as Exhibit 1.

25 Dated: February 16, 2016

WRAITH LAW

William F. Wraith

27 By: _____

WILLIAM F. WRAITH

28 Attorney for Plaintiff Environmental
Research Center

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EXHIBIT 1



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 8 ENVIRONMENTAL RESEARCH CENTER

9 GREG SPERLA, SBN 278062
 10 GREENBERG TRAUIG, LLP
 11 1201 K Street, Suite 1100
 12 Sacramento, CA 95814-3938
 13 Tel: (916) 442-1111
 14 Fax: (916) 448-1709
 15 Email: sperlag@gtlaw.com

16 Attorney for Defendants
 17 GENUINE HEALTH CORPORATION, GENUINE
 18 HEALTH, INC. and 1064510 ONTARIO LIMITED

FILED
ALAMEDA COUNTY

FEB 11 2016
 CLERK OF THE SUPERIOR COURT
 By [Signature] Deputy

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 COUNTY OF ALAMEDA

16 ENVIRONMENTAL RESEARCH
 17 CENTER, a California non-profit
 18 corporation,
 19
 20 Plaintiff,
 21
 22 v.
 23 GENUINE HEALTH CORPORATION,
 24 GENUINE HEALTH, INC. and 1064510
 25 ONTARIO LIMITED,
 26
 27 Defendants.

CASE NO. RG15759481
 STIPULATED CONSENT JUDGMENT;
~~PROPOSED~~ ORDER
 Health & Safety Code § 25249.5 *et seq.*
 Action Filed: February 23, 2015
 Trial Date: None set

28 1. INTRODUCTION

1.1 On February 23, 2015, Plaintiff Environmental Research Center ("ERC"), a non-profit corporation, as a private enforcer, and in the public interest, initiated this action by filing a Complaint for Injunctive Relief and Civil Penalties (the "Complaint") pursuant to the

1 provisions of California Health and Safety Code section 25249.5 *et seq.* ("Proposition 65"),
2 against GENUINE HEALTH CORPORATION, GENUINE HEALTH, INC. and 1064510
3 ONTARIO LIMITED (collectively, "GENUINE HEALTH"). In this action, ERC alleges that
4 a number of products manufactured, distributed or sold by GENUINE HEALTH contain lead, a
5 chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose
6 consumers to this chemical at a level requiring a Proposition 65 warning. These products
7 (referred to hereinafter individually as a "Notice of Violation I Product" or collectively as
8 "Notice of Violation I Products") are: (1) Genuine Health 6 Hour Extra Energy (also known as
9 Genuine Health extra energy); (2) Genuine Health Go4Trim; (3) Genuine Health Vegan Proteins+
10 Natural Vanilla; (4) Genuine Health ActivFuel+ Black Raspberry Lemonade; (5) Genuine Health
11 Proteins+ Instant Smoothie A Day Natural Orange Cream; (6) Genuine Health Vegan Proteins+
12 Natural Strawberry Vanilla Smoothie; (7) Genuine Health ActivRecover+ Sports Nutrition
13 Orange; (8) Genuine Health Vegan Proteins+ Double Chocolate (also known as Genuine Health
14 Vegan Proteins+ Natural Chocolate); (9) Genuine Health Healthy Skin Chocolate Soft Chews;
15 (10) Genuine Health Fast Back+ Care (also known as Genuine Health fast muscle+ care); (11)
16 Genuine Health Fermented Whole Body Nutrition Acai Mango Natural Flavor; and (12) Genuine
17 Health Fermented Whole Body Nutrition Natural Flavor.

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

22 1.3 ERC and GENUINE HEALTH are referred to individually as a "Party" or
23 collectively as the "Parties."

24 1.4 For purposes of this Consent Judgment, the Parties agree that GENUINE
25 HEALTH is a business entity that has employed ten or more persons at all times relevant to this
26 action, and qualifies as a "person in the course of business" within the meaning of Proposition 65.
27 GENUINE HEALTH manufactures, distributes and sells the Covered Products.

28 1.5 The Complaint is based on allegations contained in ERC's Notice of Violation

1 dated May 23, 2014, that was served on the California Attorney General, other public
2 enforcers, and GENUINE HEALTH ("Notice"). A true and correct copy of the Notice is
3 attached as Exhibit A and is hereby incorporated by reference. More than sixty days have
4 passed since the Notice was mailed and uploaded to the Attorney General's website, and no
5 designated governmental entity has filed a complaint against GENUINE HEALTH with regard
6 to the Notice of Violation I Products or the alleged violations.

7 **1.6** ERC's Notice and Complaint allege that use of the Notice of Violation I
8 Products exposes persons in California to lead without first providing clear and reasonable
9 warnings in violation of California Health and Safety Code section 25249.6. GENUINE
10 HEALTH denies all material allegations contained in the Notice and Complaint:

11 **1.7** On or about September 21, 2015, ERC will issue a second Notice of Violation
12 regarding the following additional products: (1) Genuine Health fermented Vegan proteins+
13 Unsweetened and Unflavored; (2) Genuine Health fermented Vegan proteins+ Natural Vanilla; (3)
14 Genuine Health fermented Vegan proteins+ Natural Chocolate; (4) Genuine Health fermented
15 Vegan proteins+ bars Lemon Coconut; (5) Genuine Health fermented Vegan proteins+ bars Dark
16 Chocolate Almond; (6) Genuine Health abs+; (7) Genuine Health lean+ extra strength; (8) Genuine
17 Health perfect skin dry skin (also known as Genuine Health dermalipid); (9) Genuine Health
18 proteins+ Natural Vanilla; (10) Genuine Health proteins+ Natural Chocolate; (collectively the
19 "Notice of Violation II Products"). The Notice of Violation I products and Notice of Violation II
20 products are hereinafter referred to as "Covered Products."

21 **1.8** The Parties stipulate and agree that Plaintiff may have leave of Court to file an
22 Amended Complaint to include the Notice of Violation II Products once the sixty day notice
23 period has expired for the second Notice of Violation.

24 **1.9** The Parties have entered into this Consent Judgment in order to settle,
25 compromise and resolve disputed claims and thus avoid prolonged and costly litigation. Nothing
26 in this Consent Judgment shall constitute or be construed as an admission by any of the Parties,
27 or by any of their respective officers, directors, shareholders, employees, agents, parent
28 companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,

1 distributors, wholesalers, or retailers. Except for the representations made above, nothing in this
2 Consent Judgment shall be construed as an admission by the Parties of any fact, issue of law, or
3 violation of law, nor shall compliance with this Consent Judgment be construed as an admission
4 by the Parties of any fact, issue of law, or violation of law, at any time, for any purpose.

5 **1.10** 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 **1.11** The Effective Date of this Consent Judgment is the date on which it is entered as
9 a Judgment by this Court.

10 **2. JURISDICTION AND VENUE**

11 For purposes of this Consent Judgment and any further court action that may become
12 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
13 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction
14 over GENUINE HEALTH as to the acts alleged in the Complaint, that venue is proper in
15 Alameda County, and that this Court has jurisdiction to enter this Consent Judgment as a full and
16 final resolution of all claims up through and including the Effective Date which were or could
17 have been asserted in this action based on the facts alleged in the Notice and Complaint.

18 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

19 **3.1** Beginning six months from the Effective Date ("Compliance Date"),
20 GENUINE HEALTH shall be permanently enjoined from manufacturing for sale in the State of
21 California, "Distributing into the State of California," or directly selling in the State of
22 California, any Covered Product which exposes a person to a "Daily Exposure Level" of more
23 than 0.5 micrograms of lead per day when the maximum suggested dose is taken as directed on
24 the Covered Product's label, unless the requirements of Section 3.2 are met.

25 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State
26 of California" shall mean to directly ship a Covered Product into California for sale in
27 California or to sell a Covered Product to a distributor that GENUINE HEALTH knows will
28 sell the Covered Product in California.

1 3.1.2 For purposes of this Consent Judgment, the "Daily Lead Exposure
2 Level" shall be measured in micrograms, and shall be calculated using the following formula:
3 micrograms of lead per gram of product, multiplied by grams of product per serving of the
4 product (using the largest serving size appearing on the product label), multiplied by servings
5 of the product per day (using the largest number of servings in a recommended dosage
6 appearing on the product label), which equals micrograms of lead exposure per day, excluding
7 amounts of naturally occurring lead in the ingredients listed in the table below.

INGREDIENT	NATURALLY OCCURRING AMOUNT OF LEAD
Calcium	0.8 micrograms/1000 milligrams
Ferrous Fumarate	0.4 micrograms/gram
Zinc Oxide	8.0 micrograms/gram
Magnesium Oxide	0.4 micrograms/gram
Magnesium Carbonate	0.332 micrograms/gram
Magnesium Hydroxide	0.4 micrograms/gram
Zinc Gluconate	0.8 micrograms/gram
Potassium Chloride	1.1 micrograms/gram
Cocoa-powder	1.0 micrograms/gram

19 **3.2 Clear and Reasonable Warnings**

20 If GENUINE HEALTH is required to provide a warning pursuant to Section 3.1, the
21 following warning must be utilized:

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

24 GENUINE HEALTH shall use the phrase "cancer and" in the warning only if the maximum
25 daily dose recommended on the label contains more than 15 micrograms of lead as determined
26 pursuant to the quality control methodology set forth in Section 3.4.

27 If after the Compliance Date, OEHHA modifies its Article 6 regulations for "Clear and
28 Reasonable Warnings", 27 C.C.R. sections 25601 *et seq.*, such that new safe harbor warning

1 language is provided GENUINE HEALTH, its retailers, or distributors may use the warnings in
2 compliance with the new regulations, notwithstanding the terms of this Consent Judgment. Before
3 providing modified warnings under this section, Genuine Health shall notify ERC in writing of its
4 proposed changes and permit ERC an opportunity to meet and confer.

5 **3.2.1.** If GENUINE HEALTH, its distributors, or its retailers are required to provide a
6 warning pursuant to Section 3.1, one of the following warning methods must be utilized, subject to
7 the limitations below, by GENUINE HEALTH or its distributors and retailers:

8 (A) Packaging Warning: The warning shall be securely affixed to or printed upon the
9 container or label of each Covered Product. The warning shall be at least the same
10 size as the smallest of any other health or safety warnings also appearing on the label
11 or container of GENUINE HEALTH's product packaging.

12 (B) Shelf Warning: The warning shall be product-specific and securely affixed to or
13 printed upon a shelf, shelf-tag, post, or railing at each point of display displayed prior
14 to the point-of-sale at the retail outlet with such conspicuousness, as compared with
15 other words, statements, designs, or devices in the label, labeling or display as to
16 render it likely to be read and understood by an ordinary individual under customary
17 conditions of purchase or use.

18 (C) Internet Warning: The warning must appear prior to completing checkout on the
19 retailer's website when a California delivery address is indicated and with such
20 conspicuousness, as compared with other words, statements, designs, or devices on
21 the website as to render it likely to be read and understood by an ordinary individual
22 under customary conditions of purchase or use.

23 **3.3 Reformulated Covered Products**

24 A "Reformulated Covered Product" is one for which the Daily Exposure Level when the
25 maximum suggested dose is taken as directed on the Reformulated Covered Product's label,
26 contains no more than 0.5 micrograms of lead per day as determined by the quality control
27 methodology described in Section 3.4.

1 **3.4 Testing and Quality Control Methodology**

2 **3.4.1** Beginning within one year of the Effective Date, GENUINE HEALTH
3 shall arrange for lead testing of the active (i.e. not discontinued for sale) Covered Products at
4 least once a year for a minimum of three consecutive years by arranging for testing of three
5 randomly selected samples of from any new lots (i.e. not tested previously) of each of the
6 Covered Products, in the form intended for sale to the end-user, which GENUINE HEALTH
7 intends to sell or is manufacturing for sale in California, directly selling to a consumer in
8 California or "Distributing into California." The testing requirement does not apply to any of
9 the Covered Products for which a warning is provided as specified in Section 3.2.

10 **3.4.2** For purposes of measuring the "Daily Lead Exposure Level", the highest
11 lead detection result of the three (3) randomly selected samples of the Covered Products will be
12 controlling.

13 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
14 laboratory method that complies with the performance and quality control factors appropriate
15 for the method used, including limit of detection, qualification, accuracy, and precision that
16 meets the following criteria: Inductively-Coupled Plasma-Mass Spectrometry ("ICP-MS")
17 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing
18 method subsequently agreed to in writing by the Parties.

19 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
20 independent third party laboratory certified by the California Environmental Laboratory
21 Accreditation Program or an independent third-party laboratory that is registered with the
22 United States Food & Drug Administration.

23 **3.4.5** Nothing in this Consent Judgment shall limit GENUINE HEALTH's
24 ability to conduct, or require that others conduct, additional testing of the Covered Products,
25 including the raw materials used in their manufacture.

26 **3.4.6** If at any time after the Compliance Date, ERC tests a Covered Product
27 and the test results indicate that the daily exposure level for lead is greater than 0.5 micrograms
28 per gram, GENUINE HEALTH agrees to confidentially supply to ERC within thirty (30) days

1 a list of ingredients, including the percentage of each ingredient ("Ingredient List"), of that
2 particular Covered Product so that ERC may be able to calculate the daily exposure, including
3 the amounts of lead deemed naturally occurring in the ingredients contained in the table in
4 Section 3.1.2. If at any time GENUINE HEALTH refuses to provide said Ingredient List to
5 ERC following a test result for lead of greater than 0.5 micrograms per gram, then GENUINE
6 HEALTH's forfeits the amounts of lead deemed naturally occurring in the ingredients
7 contained in the table in Section 3.1.2 for that particular Covered Product.

8 3.4.7 GENUINE HEALTH shall retain all test results and documentation for a
9 period of three years from the date of each test.

10 **4. SETTLEMENT PAYMENT**

11 4.1 In full satisfaction of all potential civil penalties, payment in lieu of civil
12 penalties, attorney's fees, and costs, GENUINE HEALTH shall make a total payment of
13 \$90,000.00 (ninety thousand USD) ("Total Settlement Amount") to ERC paid in five
14 consecutive monthly payments. The first payment of \$18,000.00 shall be due and owing within
15 5 days of the Effective Date. The following four monthly payments of \$18,000.00 shall be due
16 and owing on the same day of the month that the first payment was due. GENUINE HEALTH
17 shall make these payments by wire transfer to ERC's escrow account, for which ERC will give
18 GENUINE HEALTH the necessary account information. The Total Settlement Amount shall
19 be apportioned as follows:

20 4.2 \$33,480.00 shall be considered a civil penalty pursuant to California Health and
21 Safety Code §25249.7(b)(1). ERC shall remit 75% (\$25,110.00) of the civil penalty to the
22 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
23 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
24 Code §25249.12(c). ERC will retain the remaining 25% (\$8,370.00) of the civil penalty.

25 4.3 \$3,034.70 shall be distributed to ERC as reimbursement to ERC for reasonable
26 costs incurred in bringing this action.

27 4.4 \$25,269.27 shall be distributed to ERC in lieu of further civil penalties, for the
28 day-to-day business activities such as (1) continued enforcement of Proposition 65, which

1 includes work, analyzing, researching and testing consumer products that may contain
2 Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are
3 the subject matter of the current action; and (2) the continued monitoring of past consent
4 judgments and settlements to ensure companies are in compliance with Proposition 65; and
5 (3) giving a donation of \$1,263.00 to the Center For Environmental Health to address reducing
6 toxic chemical exposures in California.

7 4.5 \$14,210.00 shall be distributed to Attorney William F. Wraith as reimbursement
8 of ERC's attorney's fees, while \$14,006.03 shall be distributed to ERC for its in-house legal
9 fees.

10 5. **MODIFICATION OF CONSENT JUDGMENT**

11 5.1 This Consent Judgment may be modified only (i) by written stipulation of the
12 Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent
13 judgment.

14 5.2 If GENUINE HEALTH seeks to modify this Consent Judgment under Section
15 5.1, then GENUINE HEALTH must provide written notice to ERC of its intent ("Notice of
16 Intent"). If ERC seeks to meet and confer regarding the proposed modification in the Notice of
17 Intent, then ERC must provide written notice to GENUINE HEALTH within thirty (30) days of
18 receiving the Notice of Intent. If ERC notifies GENUINE HEALTH in a timely manner of
19 ERC's intent to meet and confer, then the Parties shall meet and confer in good faith as
20 required in this Section. The Parties shall meet in person or via telephone within thirty (30)
21 days of ERC's notification of its intent to meet and confer. Within thirty (30) days of such
22 meeting, if ERC disputes the proposed modification, ERC shall provide to GENUINE
23 HEALTH a written basis for its position. The Parties shall continue to meet and confer for an
24 additional thirty (30) days in an effort to resolve any remaining disputes. Should it become
25 necessary, the Parties may agree in writing to different deadlines under this provision.

26 5.3 Where the meet-and-confer process does not lead to a joint motion or
27 application in support of a modification of the Consent Judgment, then either Party may seek
28 judicial relief on its own. In such a situation, the prevailing party may seek to recover costs and

1 reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"
2 means a party who is successful in obtaining relief more favorable to it than the relief that the
3 other party was amenable to providing during the Parties' good faith attempt to resolve the
4 dispute that is the subject of the modification.

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

7 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
8 this Consent Judgment.

9 **6.2** If ERC alleges that any Covered Product fails to qualify as a Reformulated
10 Covered Product (for which ERC alleges that no warning has been provided), then ERC shall
11 inform GENUINE HEALTH in a reasonably prompt manner of its test results, including
12 information sufficient to permit GENUINE HEALTH to identify the Covered Products at issue.
13 GENUINE HEALTH shall, within forty-five (45) days following such notice, provide ERC
14 with testing information, from an independent third-party laboratory meeting the requirements
15 of Sections 3.4.1 and 3.4.2, demonstrating GENUINE HEALTH's compliance with the
16 Consent Judgment, if warranted. The Parties shall first attempt to resolve the matter prior to
17 ERC taking any further legal action.

18 **7. APPLICATION OF CONSENT JUDGMENT**

19 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
20 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
21 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,
22 wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
23 application to Covered Products which are distributed or sold outside the State of California and
24 which are not shipped to California consumers.

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

26 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
27 behalf of itself and in the public interest, and GENUINE HEALTH, of any alleged violation of
28 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of

1 exposure to lead from the handling, use, or consumption of the Covered Products and fully
2 resolves all claims that have been or could have been asserted in this action up to and including
3 the Effective Date for failure to provide Proposition 65 warnings for the Covered Products.
4 ERC, on behalf of itself and in the public interest, hereby discharges GENUINE HEALTH and
5 its respective officers, directors, shareholders, employees, agents, parent companies,
6 subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, customers (not including
7 private label customers of GENUINE HEALTH), distributors, wholesalers, retailers, and all
8 other upstream and downstream entities in the distribution chain of any Covered Product, and
9 the predecessors, successors and assigns of any of them (collectively, "Released Parties"), from
10 any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties,
11 fees, costs and expenses asserted, or that could have been asserted, as to any alleged violation
12 of Proposition 65 arising from the failure to provide Proposition 65 warnings on the Covered
13 Products regarding lead.

14 8.2 ERC on its own behalf only, on one hand, and GENUINE HEALTH on its own
15 behalf only, on the other, further waive and release any and all claims they may have against
16 each other for all actions or statements made or undertaken in the course of seeking or opposing
17 enforcement of Proposition 65 in connection with the Notice or Complaint up through and
18 including the Effective Date, provided, however, that nothing in Section 8 shall affect or limit
19 any Party's right to seek to enforce the terms of this Consent Judgment.

20 8.3 It is possible that other claims not known to the Parties arising out of the facts
21 alleged in the Notice or the Complaint and relating to the Covered Products will develop or be
22 discovered. ERC on behalf of itself only, on one hand, and GENUINE HEALTH, on the other
23 hand, acknowledge that this Consent Judgment is expressly intended to cover and include all
24 such claims up through the Effective Date, including all rights of action therefore. ERC and
25 GENUINE HEALTH acknowledge that the claims released in Sections 8.1 and 8.2 above may
26 include unknown claims, and nevertheless waive California Civil Code section 1542 as to any
27 such unknown claims. California Civil Code section 1542 reads as follows:
28

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

6 ERC on behalf of itself only, on the one hand, and GENUINE HEALTH, on the other hand,
7 acknowledge and understand the significance and consequences of this specific waiver of
8 California Civil Code section 1542.

9 8.4 Compliance with the terms of this Consent Judgment shall be deemed to
10 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead
11 in the Covered Products as set forth in the Notice and the Complaint.

12 8.5 Nothing in this Consent Judgment is intended to apply to any occupational or
13 environmental exposures arising under Proposition 65, nor shall it apply to any of GENUINE
14 HEALTH's products other than the Covered Products.

14 9. SEVERABILITY OF UNENFORCEABLE PROVISIONS

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

17 10. GOVERNING LAW

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

20 11. PROVISION OF NOTICE

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

24 FOR ENVIRONMENTAL RESEARCH CENTER, INC.:

25 Chris Heptinstall, Executive Director, Environmental Research Center
26 3111 Camino Del Rio North, Suite 400
27 San Diego, CA 92108
28 Tel: (619) 500-3090
Email: chris_erc501c3@yahoo.com

1 With a copy to:

2 WILLIAM F. WRAITH
3 WRAITH LAW
4 24422 Avenida de la Carlota, Suite 400
5 Laguna Hills, CA 92653
6 Tel: (949) 452-1234
7 Fax: (949) 452-1102

8 **GENUINE HEALTH CORPORATION, GENUINE HEALTH, INC.**
9 **and 1064510 ONTARIO LIMITED**

10 Tara Stubensey, Executive Vice President, Genuine Health
11 317 Adelaide Street West, Suite 501
12 Toronto, ON M5V 1P9
13 Tel: (416) 646-1061
14 Email: taras@genuinehealth.com

15 With a copy to:

16 GREG SPERLA
17 GREENBERG TRAUIG, LLP
18 1201 K Street, Suite 1100
19 Sacramento, CA 95814-3938
20 Tel: (916) 442-1111
21 Fax: (916) 448-1709
22 Email: sperlag@gtlaw.com

23 12. COURT APPROVAL

24 12.1 Upon execution of this Consent Judgment by the Parties, ERC shall notice a
25 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
26 Consent Judgment.

27 12.2 If the California Attorney General objects to any term in this Consent Judgment,
28 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible,
prior to the hearing on the Motion for Court Approval.

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

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

1 the original signature.

2 **14. DRAFTING**

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

7 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

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

17 **16. ENTIRE AGREEMENT, AUTHORIZATION**

18 **16.1** This Consent Judgment contains the sole and entire agreement and
19 understanding of the Parties with respect to the entire subject matter herein, and any and all
20 prior discussions, negotiations, commitments and understandings related hereto. No
21 representations, oral or otherwise, express or implied, other than those contained herein have
22 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
23 herein, shall be deemed to exist or to bind any Party.

24 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully
25 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as
26 explicitly provided herein, each Party shall bear its own fees and costs.

1 17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF
2 CONSENT JUDGMENT

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

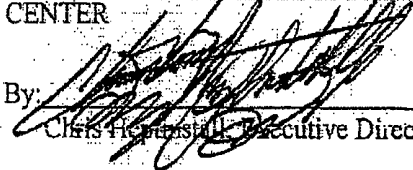
6 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
7 equitable settlement of all matters raised by the allegations of the Complaint, that the matter has
8 been diligently prosecuted, and that the public interest is served by such settlement; and

9 (2) Make the findings pursuant to California Health and Safety Code section
10 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

11 IT IS SO STIPULATED:

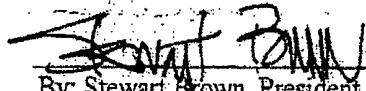
12 Dated: 9/18/, 2015

ENVIRONMENTAL RESEARCH
CENTER

13
14 By: 
Chris Hennessy, Executive Director

15
16 Dated: Sept. 18, 2015

GENUINE HEALTH CORPORATION

17
18 By: 
Stewart Brown, President

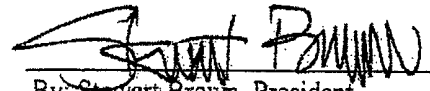
19
20 Dated: Sept. 18, 2015

GENUINE HEALTH, INC.

21
22 By: 
Stewart Brown, President

23
24 Dated: Sept. 18, 2015

1064510 ONTARIO LIMITED

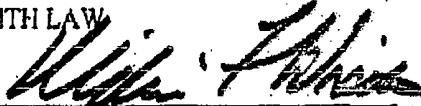
25
26 By: 
Stewart Brown, President

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28 APPROVED AS TO FORM:

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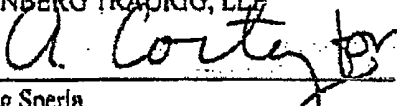
Dated: September 22, 2015

WRAITH LAW

By: 
William F. Wraith
Attorney for Plaintiff
Environmental Research Center

Dated: September 21, 2015

GREENBERG TRAURIG, LLP

By: 
Greg Sperla
Attorney for Defendants Genuine Health
Corporation, Genuine Health, Inc., and
1064510 Ontario Limited

e

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.

IT IS SO ORDERED, ADJUDGED AND DECREED:

Dated: 2/11, 2015

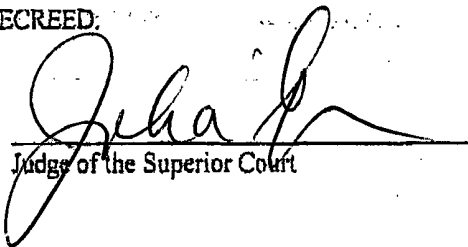

Judge of the Superior Court

EXHIBIT “A”

WRAITH LAW

16485 LAGUNA CANYON ROAD
SUITE 250
IRVINE, CALIFORNIA 92618
Tel (949) 251-9977
Fax (949) 251-9978

May 23, 2014

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 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 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 attached with the copy of this letter served to the alleged Violators identified below.

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

**Genuine Health Corporation
Genuine Health Inc.
1064510 Ontario Limited**

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:

1. Genuine Health 6 Hour Extra Energy – Lead

2. **Genuine Health Go4Trim - Lead**
3. **Genuine Health Vegan Proteins+ Natural Vanilla - Lead**
4. **Genuine Health ActivFuel+ Black Raspberry Lemonade - Lead**
5. **Genuine Health Proteins+ Instant Smoothie A Day Natural Orange Cream – Lead**
6. **Genuine Health Vegan Proteins+ Natural Strawberry Vanilla Smoothie – Lead**
7. **Genuine Health ActivRecover+ Sports Nutrition Orange – Lead**
8. **Genuine Health Vegan Proteins+ Double Chocolate – Lead**
9. **Genuine Health Healthy Skin Chocolate Soft Chews – Lead**
10. **Genuine Health Fast Back + Care – Lead**
11. **Genuine Health Fermented Whole Body Nutrition Acai Mango Natural Flavor - Lead**
12. **Genuine Health Fermented Whole Body Nutrition Natural Flavor – 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 May 23, 2011, 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 they 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.

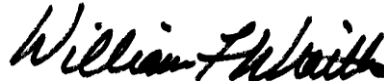
Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

May 23, 2014

Page 3

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,

A handwritten signature in black ink that reads "William F. Wraith". The signature is written in a cursive, flowing style.

William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Genuine Health Corporation, Genuine Health Inc., and 1064510 Ontario Limited 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 Genuine Health Corporation, Genuine Health Inc., and 1064510 Ontario Limited

I, William F. Wraith, 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: May 23, 2014



William F. Wraith

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 May 23, 2014, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Genuine Health Corporation
317 Adelaide St. W, Suite 501
Toronto ON M5V 1P9
Canada

Current President or CEO
1064510 Ontario Limited
317 Adelaide St. W, Suite 501
Toronto ON M5V 1P9
Canada

Current President or CEO
Genuine Health Inc.
317 Adelaide St. W, Suite 501
Toronto ON M5V 1P9
Canada

Current President or CEO
Genuine Health Corporation
775 East Blithedale Ave., #364
Mill Valley, CA 94941

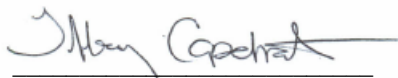
Current President or CEO
Genuine Health Inc.
775 East Blithedale Ave., #364
Mill Valley, CA 94941

On May 23, 2014, I electronically served the following documents: **NOTICE OF VIOLATIONS, 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 party by uploading a true and correct copy thereof on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

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

On May 23, 2014, I served the following documents: **NOTICE OF VIOLATIONS, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on May 23, 2014, in Fort Oglethorpe, Georgia.



Tiffany Capehart

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

May 23, 2014

Page 6

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 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 3rd 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 201 Commercial 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	

1 I, William F. Wraith, am an active member of the State Bar of California and not a party to this
2 action. I am a resident or employed in the county where the mailing took place. My business
address is 24422 Avenida de la Carlota, Suite 400, Laguna Hills, CA 92653.


3 On February 16, 2016, I served the foregoing documents described as: **NOTICE OF ENTRY OF**
4 **JUDGMENT** on the following interested parties in this action in the manner identified below:

5 James M. Mattesich, Esq.
6 Anthony J. Cortez, Esq.
7 Gregory Sperla, Esq.
8 Greenberg Traurig, LLP
9 1201 K Street, Suite 1100
10 Sacramento, CA 95814-3938
11 Tel: (916) 442-1111 / Fax: (916) 448-1709
12 Attorneys for Defendants Genuine Health Corporation and Genuine Health, Inc.

13 California Dept. of Justice, Office of the Attorney General
14 Proposition 65 Enforcement Reporting
15 Attention: Prop 65 Coordinator
16 1515 Clay Street, Suite 2000
17 Post Office Box 70550
18 Oakland, California 94612-0550

19 **BY MAIL – COLLECTION:** I placed the envelope for collection and mailing following
20 this business's ordinary business practices. I am readily familiar with this business's
21 practice for collecting and processing correspondence for mailing. On the same day that
22 correspondence is placed for collection and mailing, it is deposited in the ordinary course
23 of business with the United States Postal Service in a sealed envelope with postage fully
24 prepaid.

25 I declare under penalty of perjury under the laws of the State of California that the above is true
26 and correct. Executed on February 16, 2016, at Laguna Hills, California.

27 

28 _____
William Wraith