

1 Melvin B. Pearlston (SBN 54291)
2 Robert B. Hancock (SBN 179438)
3 PACIFIC JUSTICE CENTER
4 50 California Street, Suite 1500
5 San Francisco, California 94111
6 Tel: (415) 310-1940/Fax: (415) 354-3508
7 Email: rbh@lawyer.com

8 Attorneys for Plaintiff
9 ERIKA MCCARTNEY

10 Howard A. Slavitt (SBN 172840)
11 COBLENTZ PATCH DUFFY & BASS LLP
12 One Ferry Building, Suite 200
13 San Francisco, California 94111-4213
14 Tel: (415) 391-4800/Fax: (415) 989-1663
15 Email: hslavitt@cpdb.com

16 Attorneys for Defendant
17 NAVITAS LLC

ENDORSED
FILED
San Francisco County Superior Court

JUN 9 2015

CLERK OF THE COURT
BY: CYNTHIA S. HERBERT
Deputy Clerk

18 SUPERIOR COURT OF CALIFORNIA
19 COUNTY OF SAN FRANCISCO

20 ERIKA MCCARTNEY, in the public interest,)

21 Plaintiff,)

22 v.)

23 NAVITAS LLC, a California limited liability)
24 company; and DOES 1 through 500, inclusive,)

25 Defendants.)
26

CIVIL ACTION NO. CGC-14-541238

~~PROPOSED~~ STIPULATED CONSENT
JUDGMENT; PROPOSED ORDER

[Cal. Health and Safety Code
Sec. 25249.6, *et seq.*]

1 **1. INTRODUCTION**

2 **1.1** This Action arises out of the alleged violations of California's Safe Drinking Water
3 and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 et seq.
4 (also known as and hereinafter referred to as "Proposition 65") regarding the following product
5 (hereinafter collectively the "Covered Product": Navitas Naturals Cacao Powder.

6 **1.2** Plaintiff ERIKA MCCARTNEY ("MCCARTNEY") is a California resident acting
7 as a private enforcer of Proposition 65. MCCARTNEY brings this Action in the public interest
8 pursuant to California Health and Safety Code Section 25249. MCCARTNEY asserts that she is
9 dedicated to, among other causes, helping safeguard the public from health hazards by reducing the
10 use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and
11 employees, and encouraging corporate responsibility.

12 **1.3** Defendant Navitas, LLC is a California limited liability company, and is referred to
13 hereinafter as "NAVITAS."

14 **1.4** NAVITAS distributes and sells the Covered Product.

15 **1.5** MCCARTNEY and NAVITAS are hereinafter sometimes referred to individually as
16 a "Party" or collectively as the "Parties." □

17 **1.6** On or about June 11, 2014, pursuant to California Health and Safety Code Section
18 25249.7(d)(1), MCCARTNEY served a 60-Day Notice of Violations of Proposition 65 ("Notice of
19 Violations") on the California Attorney General, other public enforcers, and NAVITAS. A true
20 and correct copy of the Notice of Violations is attached hereto as Exhibit A.

21 **1.7** After more than sixty (60) days passed since service of the Notice of Violations, and
22 no designated governmental agency filed a complaint against NAVITAS with regard to the
23

1 Covered Product or the alleged violations, MCCARTNEY filed a complaint (the "Complaint") for
2 injunctive relief and civil penalties. The Complaint is based on the allegations in the Notice of
3 Violations.

4 1.8 The Complaint and the Notice of Violations each allege that NAVITAS
5 manufactured, distributed, and/or sold in California the Covered Product, which contains cadmium,
6 a chemical listed under Proposition 65 as a reproductive toxin, and exposed consumers at a level
7 requiring a Proposition 65 warning. Further, the Complaint and Notice of Violations allege that use
8 of the Covered Product exposes persons in California to cadmium without first providing clear and
9 reasonable warnings, in violation of California Health and Safety Code Section 25249.6.
10 NAVITAS generally denies all material and factual allegations of the Notice of Violation and the
11 Complaint, filed an answer asserting various affirmative defenses, and specifically denies that the
12 Plaintiff or California consumers have been harmed or damaged by its conduct. NAVITAS and
13 MCCARTNEY each reserve all rights to allege additional facts, claims, and affirmative defenses if
14 the Court does not approve this Consent Judgment.
15

16 1.9 The Parties enter into this Consent Judgment in order to settle, compromise and
17 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent
18 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any of
19 the Parties, or by any of their respective officers, directors, shareholders, employees, agents, parent
20 companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,
21 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,
22 wrongdoing, or liability, including without limitation, any admission concerning any alleged
23 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent Judgment
24
25
26

1 shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
2 any other or future legal proceeding. Provided, however, nothing in this Section shall affect the
3 enforceability of this Consent Judgment.

4 **1.10** The "Effective Date" of this Consent Judgment shall be the date this Consent
5 Judgment is entered as a Judgment.
6

7 **2. JURISDICTION AND VENUE**

8 The Parties stipulate that this Court has jurisdiction over the subject matter of this Action
9 and personal jurisdiction over the Parties, that venue is proper in this Court, and that this Court has
10 jurisdiction to enter this Consent Judgment pursuant to the terms set forth herein.

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

12 **3.1** Beginning on the Effective Date, NAVITAS shall be permanently enjoined from
13 offering for sale to a consumer in California, directly selling to a consumer in California, or
14 "Distributing into California" any of the Covered Product for which the serving size suggested on
15 the label contains more than 4.1 micrograms of cadmium per day unless the label of the Covered
16 Product contains a Proposition 65 compliant warning, consistent with Section 3.4, below.
17 "Distributing into California" means to ship any of the Covered Product to California for sale or to
18 sell any of the Covered Product to a distributor that NAVITAS knows or has reason to know will
19 sell the Covered Product in California. Provided, however, that NAVITAS may manufacture or
20 package and sell Covered Product for which the maximum daily serving recommended on the label
21 contains more than 4.1 micrograms of cadmium per day without providing a Proposition 65
22 compliant warning so long as such products are only for sale to consumers located outside of
23 California and NAVITAS does not distribute them into California.
24
25
26

1 **3.2** All Covered Product that have been or will have been distributed, shipped, or sold,
2 or otherwise placed in the stream of commerce through and including the Effective Date of this
3 Consent Judgment are exempt from the provisions of Sections 3.1, and 3.3 through 3.4 and are
4 included within the release in Sections 8.1 through 8.4. On the Effective Date, NAVITAS shall
5 provide Plaintiff with the last lot number and expiration date for the Covered Product in the stream
6 of commerce through the Effective Date.
7

8 **3.3** For a period of three (3) years from the Effective Date, any batch or lot number of
9 the Covered Product offered for sale to any consumer in California without a Proposition 65-
10 compliant warning shall be tested for cadmium contamination utilizing inductively coupled plasma-
11 mass spectrometry. All tests shall be conducted at the expense of NAVITAS. NAVITAS shall
12 provide the verified results of all tests to counsel for MCCARTNEY, via regular U.S. Mail, within
13 five (5) days of receipt of such results by NAVITAS. All test results shall be provided to counsel
14 for MCCARTNEY prior to the Covered Product being offered for sale to any consumer in
15 California. For purposes of this Consent Judgment, daily cadmium exposure levels shall be
16 measured in micrograms and shall be calculated using the following formula: Micrograms of
17 cadmium per gram of product, multiplied by grams per serving of the product, multiplied by
18 servings of the product per day (using the largest number of servings in the appearing on the
19 product label), which equals micrograms of cadmium exposure per day. NAVITAS will determine
20 grams per serving of the product based on the largest serving size appearing on the product label;
21 provided, however, that, if the serving size is reduced to less than 5g, exposure will be based on a
22 5g serving size, unless NAVITAS first seeks Court modification of this Consent Judgment.
23
24

25 **3.4 Clear and Reasonable Warnings**
26

1 For the Covered Product that is subject to the warning requirement of Section 3.1,
2 NAVITAS shall provide the following warning ("Warning") as specified below:
3

4 **[California Proposition 65] WARNING:** This product contains [cadmium,] a chemical
5 known to the State of California to cause birth defects or other reproductive harm.
6

7 The text in brackets in the warnings above is optional.

8 The Warning shall be permanently affixed to or printed on (at the point of manufacture,
9 prior to shipment to California, or prior to distribution within California) the outside packaging or
10 container of each unit of the Covered Product. The Warning shall be displayed with such
11 conspicuousness, as compared with other words, statements designs or devices on the outside
12 packaging or labeling, as to render it likely to be read and understood by an ordinary individual
13 prior to use. If the Warning is displayed on the product container or labeling, the Warning shall be
14 at least the same size as the largest of any other health or safety warnings on the product container
15 or labeling, and the word "WARNING" shall be in all capital letters and in bold print. If printed on
16 the labeling itself, the Warning shall be contained in the same section of the labeling that states
17 other safety warnings concerning the use of the Covered Product, if any.

18 Displaying the Warning that is in Exhibit B hereto on the outside packaging or container of
19 each unit of the Covered Product is deemed to be a clear and reasonable warning under, and to fully
20 comply with, Health & Safety Section 25249.6 and the implementing regulations at Title 27
21 California Code of Regulations Sections 25601 through 25605.2.

22 **4. SETTLEMENT PAYMENT**

23 **4.1** NAVITAS shall make a total payment of \$80,000 within ten days of the Effective
24 Date, which shall be in full and final satisfaction of any and all civil penalties, payment in lieu of
25 civil penalties, and attorneys' fees and costs.
26

1 4.2 The payment will be in the form of separate checks sent to counsel for
2 MCCARTNEY, Robert B. Hancock, Pacific Justice Center, 50 California Street, San Francisco,
3 California 94111. The checks shall be payable to the following parties and the payment shall be
4 apportioned as follows:

5 4.3 \$20,000 (twenty thousand dollars) as civil penalties pursuant to California Health
6 and Safety Code Section 25249.7(b)(1). Of this amount, \$15,000 (fifteen thousand dollars) shall be
7 payable to the Office of Environmental Health Hazard Assessment ("OEHHA"), and \$5,000 (five
8 thousand dollars) shall be payable to MCCARTNEY. (Cal. Health & Safety Code §
9 25249.12(c)(1) & (d)). MCCARTNEY's counsel will forward the civil penalty to OEHHA.

10 4.4 \$60,000 (sixty thousand dollars) payable to Pacific Justice Center as reimbursement
11 of MCCARTNEY's attorneys' fees, costs, investigation and litigation expenses ("Attorney's Fees
12 and Costs").

13 4.5 Any failure by NAVITAS to remit payment on or before its due date shall be
14 deemed a material breach of this Agreement.

15 **5. MODIFICATION OF CONSENT JUDGMENT**

16 5.1 This Consent Judgment may be modified only by: (i) Written agreement and
17 stipulation of the Parties and upon having such stipulation entered as a modified Consent Judgment
18 by the Court; or (ii) Upon entry of a modified Judgment by the Court pursuant to a motion by one
19 of the Parties after exhausting the meet and confer process set forth as follows. If either Party
20 requests or initiates a modification, then it shall meet and confer with the other Party in good faith
21 before filing a motion with the Court seeking to modify it. MCCARTNEY is entitled to
22 reimbursement of all reasonable attorneys' fees and costs regarding the Parties' meet and confer
23
24
25
26

1 efforts for any modification requested or initiated by NAVITAS. Similarly, NAVITAS is entitled
2 to reimbursement of all reasonable attorney's fees and costs regarding the Parties' meet and confer
3 efforts for any modification requested or initiated by MCCARTNEY. If, despite their meet and
4 confer efforts, the Parties are unable to reach agreement on any proposed modification the party
5 seeking the modification may file the appropriate motion and the prevailing party on such motion
6 shall be entitled recover its reasonable fees and costs associated with such motion. One basis, but
7 not the exclusive basis, for NAVITAS to seek a modification of this Consent Judgment is if
8 Proposition 65 is changed, narrowed, limited, or otherwise rendered inapplicable in whole or in part
9 to the Covered Product or cadmium due to legislative change, a change in the implementing
10 regulations, court decisions, or other legal basis.

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

13 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate this
14 Consent Judgment.

15 **6.2** Subject to Section 6.3, any Party may, by motion or application for an order to show
16 cause filed with this Court, enforce the terms and conditions contained in this Consent Judgment.
17 The prevailing party in any such motion or application may request that the Court award its
18 reasonable attorneys' fees and costs associated with such motion or application.

19 **6.3** Before filing a motion or application for an order to show cause, MCCARTNEY
20 shall provide NAVITAS with 30 (thirty) days written notice of any alleged violations of the terms
21 and conditions contained in this Consent Judgment. As long as NAVITAS cures any such alleged
22 violations within the 30 (thirty) day period (or if any such violation cannot practicably be cured
23 within 30 days, it expeditiously initiates a cure within 30 days and completes it as soon as
24 within 30 days, it expeditiously initiates a cure within 30 days and completes it as soon as
25
26

1 practicable) and NAVITAS provides proof to McCartney that the alleged violation(s) was the result
2 of good faith mistake or accident, then NAVITAS shall not be in violation of the Consent
3 Judgment. NAVITAS shall have the ability to avail itself of the benefits of this Section two (2)
4 times per three year period following the Effective Date.

5
6 **7. APPLICATION OF CONSENT JUDGMENT**

7 This Consent Judgment shall apply to and be binding upon the Parties and their respective
8 officers, directors, successors and assigns, and it shall benefit the Parties and their respective
9 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
10 affiliates, franchisees, licensees, customers (including "Co-Brand" customers; excluding only
11 "Private Labeler" customers), distributors, wholesalers, retailers, predecessors, successors, and
12 assigns. "Private Labelers" excluded from the benefits of this Consent Judgment are companies
13 who rebrand and offer NAVITAS manufactured or distributed products under their own brand, not
14 under the NAVITAS brand. "Co-Brand" customers who shall benefit from this Consent Judgment
15 are companies who offer NAVITAS manufactured or distributed products with their own brand and
16 the NAVITAS brand both displayed on the product packaging.

17
18 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

19 **8.1** This Consent Judgment is a full, final, and binding resolution between
20 MCCARTNEY, on behalf of herself and in the public interest, and NAVITAS, of any and all direct
21 or derivative violations (or claimed violations) of Proposition 65 or its implementing regulations
22 for failure to provide Proposition 65 warnings of exposure to cadmium from the handling, use, or
23 consumption of the Covered Product and fully resolves all claims that have been or could have
24 been asserted in this Action up to and including the Effective Date for failure to provide
25
26

1 Proposition 65 warnings for the Covered Product regarding cadmium. MCCARTNEY, on behalf
2 of herself and in the public interest, hereby forever releases and discharges, NAVITAS and its past
3 and present officers, directors, owners, shareholders, employees, agents, attorneys, parent
4 companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, customers (including
5 "Co-Brand" customers; excluding only "Private Labeler" customers), distributors, wholesalers,
6 retailers, and all other upstream and downstream entities and persons in the distribution chain of
7 any Covered Product, and the predecessors, successors and assigns of any of them (collectively,
8 "Released Parties"), from any and all claims and causes of action and obligations to pay damages,
9 restitution, fines, civil penalties, payment in lieu of civil penalties and expenses (including but not
10 limited to expert analysis fees, expert fees, attorney's fees and costs) (collectively, "Claims")
11 arising under, based on, or derivative of Proposition 65 or its implementing regulations up through
12 the Effective Date based on exposure to cadmium from the Covered Product and/or failure to warn
13 about cadmium, as set forth in the Notice of Violations and the Complaint.
14
15

16 **8.2** Compliance with the terms of this Consent Judgment shall be deemed to constitute
17 compliance by any Released Party with Proposition 65 regarding alleged exposures to cadmium
18 from the Covered Product as set forth in the Notice of Violations and the Complaint.

19 **8.3** It is possible that other Claims not known to MCCARTNEY arising out of the facts
20 alleged in the Notice of Violations or the Complaint and relating to cadmium in the Covered
21 Product that were manufactured, sold or Distributed into California before the Effective Date will
22 develop or be discovered. MCCARTNEY, on behalf of herself only, acknowledges that the Claims
23 released herein include all known and unknown Claims and waives California Civil Code Section
24 1542 as to any such unknown Claims. California Civil Code Section 1542 reads as follows:
25
26

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 MCCARTNEY, on behalf of herself only, acknowledges and understands the significance and
7 consequences of this specific waiver of California Civil Code section 1542.

8 **8.4** MCCARTNEY, on one hand, and NAVITAS, on the other hand, each release and
9 waive all Claims they may have against each other for any statements or actions made or
10 undertaken by them in connection with the Notice of Violations or the Complaint. However, this
11 shall not affect or limit any Party’s right to seek to enforce the terms of this Consent Judgment.

12 **9. CONSTRUCTION AND SEVERABILITY**

13 **9.1** The terms and conditions of this Consent Judgment have been reviewed by the
14 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully
15 discuss the terms and conditions with its counsel. In any subsequent interpretation or construction
16 of this Consent Judgment, the terms and conditions shall not be construed against any Party.

17 **9.2** In the event that any of the provisions of this Consent Judgment is held by a court to
18 be unenforceable, the validity of the remaining enforceable provisions shall not be adversely
19 affected.

20 **9.3** The terms and conditions of this Consent Judgment shall be governed by and
21 construed in accordance with the laws of the State of California.

22 **10. PROVISION OF NOTICE**

23
24
25
26

1 All notices required to be given to either Party to this Consent Judgment by the other shall
2 be in writing and sent to the following agents listed below by: (a) first-class, registered, (b) certified
3 mail, (b) overnight courier, or (c) personal delivery to the following:

4 **For Erika McCartney:**

5 Melvin B. Pearlston
6 Robert B. Hancock
7 PACIFIC JUSTICE CENTER
8 50 California Street, Suite 1500
9 San Francisco, California 94111

10 **For Navitas, LLC:**

11 Howard Slavitt
12 Coblenz Patch Duffy & Bass LLP
13 One Ferry Building, Suite 200
14 San Francisco, CA 94111-4213

15 **11. COURT APPROVAL**

16 **11.1** Upon execution of this Consent Judgment by the Parties, MCCARTNEY shall
17 notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this
18 Consent Judgment.

19 **11.2** If the California Attorney General objects to any term in this Consent Judgment, the
20 Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to
21 the hearing on the motion.

22 **11.3** If, despite the Parties' best efforts, the Court does not approve this Stipulated
23 Consent Judgment, it shall be null and void and have no force or effect.

24 **12. EXECUTION AND COUNTERPARTS**

1 This Stipulated Consent Judgment may be executed in counterparts, which taken together
2 shall be deemed one document. A facsimile or .pdf signature shall be construed as valid and as the
3 original signature.

4 **13. ENTIRE AGREEMENT, AUTHORIZATION**

5 **13.1** This Consent Judgment contains the sole and entire agreement and understanding of
6 the Parties with respect to the entire subject matter herein, and any and all prior discussions,
7 negotiations, commitments and understandings related hereto. No representations, oral or
8 otherwise, express or implied, other than those contained herein have been made by any Party. No
9 other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist
10 or to bind any Party.

11 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
12 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly
13 provided herein, each Party shall bear its own fees and costs.

14 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

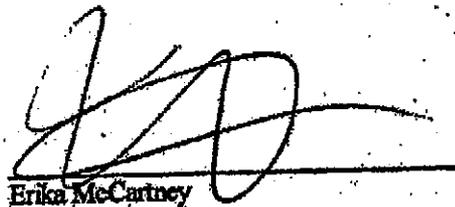
15 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.
16 The parties request the Court to fully review this Consent Judgment and, being fully informed
17 regarding the matters which are the subject of this action, to:
18

19 (a) Find that the terms and provisions of this Consent Judgment represent a good
20 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been
21 diligently prosecuted, and that the public interest is served by such settlement; and
22

23 (b) Make the findings pursuant to California Health and Safety Code Section
24 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.
25
26

1 IT IS SO STIPULATED.

2
3 Dated: 4/8/15

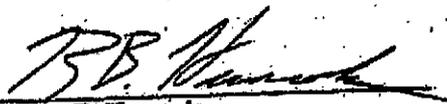

Erika McCartney

4
5
6 Dated: _____

Navitas LLC
Name: _____
Title: _____

7
8
9
10
11
12
13 APPROVED AS TO FORM:

14
15 Dated: 4/18/15, 2015

PACIFIC JUSTICE CENTER
By: 
Robert B. Hancock
Attorneys for Plaintiff
ERIKA MCCARTNEY

16
17
18
19
20 Dated: _____, 2015

COBLENTZ, PATCH, DUFFY & BASS, LLP
By: _____
Howard Slavitt
Attorneys for Defendant
NAVITAS, LLC

1 IT IS SO STIPULATED.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Dated: _____

Erika McCartney

Dated: 4/9/15

Navitas LLC
Name: ZACH ADELMAN
Title: CEO

APPROVED AS TO FORM:

Dated: _____, 2015

PACIFIC JUSTICE CENTER

By: _____
Robert B. Hancock
Attorneys for Plaintiff
ERIKA MCCARTNEY

Dated: 4/9, 2015

COBLENTZ, PATCH, DUFFY & BASS, LLP

By: _____
Howard Slavitt
Attorneys for Defendant
NAVITAS, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ORDER AND JUDGMENT

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

Given Navitas LLC's conversion from being a California limited liability company to a Delaware limited liability company effective April 27, 2015, the Consent Judgment shall equally apply to, be binding upon, and benefit both Navitas LLC (California) and Navitas LLC (Delaware).

IT IS SO ORDERED, ADJUDGED AND DECREED.

JUN - 9 2015

ERNEST H. GOLDSMITH

Dated: _____, 2014.

Judge of the Superior Court

Melvin B. Pearlston
Senior Counsel



Of Counsel
Robert B. Hancock

June 11, 2014

**60- DAY 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 Erika McCartney in this matter. Ms. McCartney 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 the identified 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, Ms. McCartney intends to file a private enforcement action in the public interest 60 days after effective service of the is 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:

Navitas LLC

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

Navitas Naturals Cacao Powder – Cadmium

On May 1, 1997, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male reproductive toxicity.

It should be noted that Ms. McCartney 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, and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least June 11, 2013, 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 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, Ms. McCartney is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) 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 (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement may satisfy the claims alleged herein, such agreement may not be satisfactory to public prosecutors.

Ms. McCartney has retained me as legal counsel in connection with this matter. Her address is 2124 Lincoln Avenue, #B, Alameda, California, 94501. Her telephone number is 707.502.8635. 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,



Robert B. Hancock

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Navitas LLC only)
- Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Notice of Proposition 65 Violations by Navitas Naturals, Inc.

Robert B. Hancock declares:

1. This Certificate of Merit accompanies the attached sixty-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.

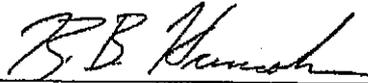
2. I am an attorney for the noticing party.

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 exposures to the listed chemicals that are the subject of the action.

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: June 11, 2014



Robert B. Hancock

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 action.

On June 11, 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 in a US Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

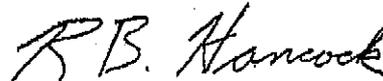
Current Manager or Managing Member
Navitas LLC
15 Pamaron Way, Suite A
Novato, CA 94949

On June 11, 2014, 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)(I)** 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 Federal Express drop-off box for overnight delivery to:

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 7 2014, I served the following documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the **Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail.

Executed under penalty of perjury pursuant to the laws of the State of California this 11th day of June 2014.



Robert B. Hancock

Service List

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

District Attorney, Alpine County
P.O. Box 348
Markleville, CA 95120

District Attorney, Amador County
708 Court Street, #202
Jackson, CA 95842

District Attorney, Butte County
25 County Center Drive
Orville, CA 95963

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
Creason City, CA 95531

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

District Attorney, Fresno County
2220 Tule 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
940 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 Truston Avenue
Bakersfield, CA 93301

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

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

District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96120

District Attorney, Los Angeles County
110 West Temple Street, Suite 18000
Los Angeles, CA 90012

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

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

District Attorney, Mariposa County
Post Office Box 730
Mariposa, CA 95331

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
Altura, CA 95101-4020

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

District Attorney, Multnomah County
Post Office Box 1131
Salem, CA 97302

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

District Attorney, Placer County
10910 Justice Center Drive, Ste 240
Roseville, CA 95678

District Attorney, Plumas County
520 Main Street, Room 404
Quincy, CA 95711

District Attorney, Riverside County
3082 Orange Street
Riverside, CA 92502

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

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

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

District Attorney, San Diego County
330 West Broadway, Room 1500
San Diego, CA 92101

District Attorney, San Francisco County
850 Bryant Street, Room 322
San Francisco, CA 94103

District Attorney, San Joaquin County
Post Office Box 590
Stockton, CA 95201

District Attorney, San Luis Obispo County
1015 Palm St. Room 450
San Luis Obispo, CA 93408

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

District Attorney, Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101

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

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

District Attorney, Shasta County
1355 West Street
Redding, CA 96001

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

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

District Attorney, Solano County
675 Texas Street, Ste 4500
Fairfield, CA 94512

District Attorney, Sonoma County
600 Administration Drive,
Room 212J
Santa Rosa, CA 95403

District Attorney, Stanislaus County
833 12th Street, Ste 300
Modesto, CA 95355

District Attorney, Butte 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. Mummy Avenue, Room 214
Visalia, CA 93259

District Attorney, Tuolumne County
413 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, Suite 152
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 224
1 Drive Carlton B. Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

PULL TAB: RESEALABLE PACKAGE

THE POWER OF SUPERFOODS™

FOR MORE INFORMATION AND RECIPES VISIT: WWW.NAVITASNATURALS.COM

ORGANIC CACAO POWDER

Cacao has been enjoyed for its healthful and invigorating properties in South American cultures for thousands of years. This bag contains premium cacao powder that is certified organic, kosher, non-gmo and gluten-free.

The bean of the cacao plant is the nutritional and flavorful source for all chocolate and cocoa products. Cacao is known to contain a rich supply of magnesium, dietary fiber and antioxidants including flavanols and polyphenols.

At Navitas Naturals®, The Superfood Company™, we provide the most nutrient dense foods to nourish your modern life. These whole foods are natural treasures with health benefits that have been celebrated for generations. Our products are of the highest quality and handled with purpose and care to preserve their vital superfood nutrients.

SUGGESTED USES:

ADD TO SMOOTHIES

**USE IN DESSERTS
AND BAKING**

**FLAVOR SAUCES
AND SPREADS**

BENEFITS:

MAGNESIUM

POLYPHENOLS

100% CACAO



DISTRIBUTED BY
NAVITAS NATURALS
NOVATO, CA, USA 94949
CERTIFIED ORGANIC BY CONTROL UNION
CERTIFICATIONS CU 802080

Nutrition Facts

Serving Size: 1 Tbsp (5g)
Servings Per Container:
about 45

Calories 20
Calories from Fat 5

Amount/Serving	% Daily Value*
Total Fat 0.5g	1%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 0mg	0%
Vitamin A 0%	Vitamin C 0%

Amount/Serving	% Daily Value*
Magnesium 34g	9%
Potassium 87g	2%
Total Carbohydrate 3g	1%
Dietary Fiber 1g	4%
Sugars 0g	
Protein 1g	
Calcium 0%	Iron 4%

INGREDIENTS: CERTIFIED ORGANIC CACAO (THEOBROMA CACAO) - PRODUCT OF PERU
ALLERGEN INFORMATION: PACKAGED IN A FACILITY THAT ALSO HANDLES TREE NUTS (CASHEWS & COCONUT).
STORAGE INFORMATION: REFRIGERATION NOT REQUIRED. STORE IN A COOL, DARK, DRY PLACE.
SERVING SUGGESTION: 1 SERVING PER DAY

*PERCENTAGE DAILY VALUES BASED ON A 2,000 CALORIE DIET. YOUR DAILY VALUES MAY BE HIGHER OR LOWER DEPENDING ON YOUR CALORIE NEEDS.



SCAN THIS QR CODE TO FIND OUT MORE ABOUT CACAO.

WARNING: THIS PRODUCT CONTAINS A CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.



EAT YOUR WAY
TO HEALTH!

