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ENDORSED
FILED
ALAMEDA COUNTY

OCT 15 2015

K. McCoy, Exec. Off./Clerk

6 Attorney for Plaintiff
7 ENVIRONMENTAL RESEARCH CENTER, INC.

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12 Attorneys for Defendant
13 CALIFORNIA NATURAL VITAMIN LABS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

16 ENVIRONMENTAL RESEARCH
17 CENTER, INC. a non-profit California
corporation,

18 Plaintiff,

19 v.

20 CALIFORNIA NATURAL VITAMIN
21 LABS, INC., a California Corporation,

22 Defendant.
23

CASE NO. RG14751537

ASSIGNED FOR ALL PURPOSES TO:
JUDGE WYNN CARVILL
DEPARTMENT 21

**STIPULATED CONSENT
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: December 16, 2014

Trial Date: None set

24
25 **1. INTRODUCTION**

26 **1.1** On December 16, 2014, Plaintiff Environmental Research Center, Inc. ("ERC"),
27 a non-profit corporation, as a private enforcer, and in the public interest, initiated this action by
28 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 CALIFORNIA NATURAL VITAMIN LABS, INC. (“CNVL”), a California
3 Corporation.

4 **1.2** In this action, ERC alleges that a number of products manufactured, distributed
5 or sold by CNVL contain lead, a chemical listed under Proposition 65 as a carcinogen and
6 reproductive toxin, and expose consumers to this chemical at a level requiring a Proposition 65
7 warning. These products (referred to hereinafter individually as a “Covered Product” or
8 collectively as “Covered Products”) are:

- 9 a. California Natural Vitamin Labs California Natural California Greens;
- 10 b. Holistic Fitness Inc. Super Vegan Protein +plus Delicious Vanilla;
- 11 c. California Natural Vitamin Labs California Natural Malibu Daily
12 Detox;
- 13 d. California Natural Vitamin Labs California Natural Triple Action
14 Advanced Joint Formula;
- 15 e. California Natural Vitamin Labs California Natural Special Formula
16 Wild Tibetan Natural Sun Dried Goji Berry;
- 17 f. California Natural Vitamin Labs Pure Garcinia Cambogia Extract;
- 18 g. California Natural Vitamin Labs Pure Maca.

19 **1.3** ERC and CNVL are hereinafter referred to individually as a “Party” or
20 collectively as the “Parties.”

21 **1.4** ERC is a California non-profit corporation dedicated to, among other causes,
22 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
23 and toxic chemicals, facilitating a safe environment for consumers and employees, and
24 encouraging corporate responsibility.

25 **1.5** For purposes of this Consent Judgment only, the Parties agree that CNVL is a
26 business entity that has employed ten or more persons at all times relevant to this action, and
27 qualifies as a “person in the course of business” within the meaning of Proposition 65. CNVL
28 manufactures, distributes and/or sells the Covered Products.

1 **1.6** The Complaint is based on allegations contained in ERC's Notice of Violation
2 dated October 3, 2014, that was served on the California Attorney General, other public
3 enforcers, and CNVL ("Notice"). A true and correct copy of the Notice is attached as
4 **Exhibit A** and is hereby incorporated by reference.

5 **1.7** More than 60 days have passed since service of the Notice, and no designated
6 governmental entity has filed a complaint against CNVL with regard to the Covered Products
7 or the alleged violations.

8 **1.8** ERC's Notice and Complaint allege that Defendant manufactured, distributed,
9 and/or sold in California the Covered Products, which contain lead, a chemical known to the
10 State of California to cause cancer and/or reproductive toxicity, and expose consumers at a
11 level requiring a Proposition 65 warning. ERC further alleges that use of the Covered Products
12 exposes persons in California to lead without first providing clear and reasonable warnings in
13 violation of California Health and Safety Code section 25249.6. Defendant denies all material
14 allegations contained in the Notice and Complaint.

15 **1.9** The Parties have entered into this Consent Judgment in order to settle,
16 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.
17 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of
18 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,
19 parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
20 distributors, wholesalers, or retailers. Except for the representations made above, nothing in
21 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of
22 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an
23 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any
24 purpose.

25 **1.10** Except as expressly set forth herein, nothing in this Consent Judgment shall
26 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
27 other or future legal proceeding unrelated to these proceedings.
28

1 **1.11** The Effective Date of this Consent Judgment is the date that ERC serves and
2 files the Notice of Entry of the Consent Judgment.

3 **2. JURISDICTION AND VENUE**

4 For purposes of this Consent Judgment and any further court action that may become
5 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
6 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction
7 over CNVL as to the acts alleged in the Complaint, that venue is proper in Alameda County, and
8 that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all
9 claims up through and including the Effective Date which were or could have been asserted in this
10 action based on the facts alleged in the Notice and Complaint.

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

12 **3.1** Beginning on the Effective Date, CNVL shall be permanently enjoined from
13 manufacturing for sale in the State of California, "Distributing into the State of California", or
14 directly selling in the State of California, any Covered Product which exposes a person to a
15 "Daily Lead Exposure Level" of more than 0.5 micrograms per day of lead when the maximum
16 suggested dose is taken as directed on the Covered Product's label, unless it meets the warning
17 requirements under Section 3.2.

18 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State
19 of California" shall mean to directly ship a Covered Product into California for sale in
20 California or to sell a Covered Product to a distributor that CNVL knows will sell the Covered
21 Product in California.

22 **3.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure
23 Level" shall be measured in micrograms, and shall be calculated using the following formula:
24 micrograms of lead per gram of product, multiplied by grams of product per serving of the
25 product (using the largest serving size appearing on the product label), multiplied by servings
26 of the product per day (using the largest number of servings in a recommended dosage
27 appearing on the product label), which equals micrograms of lead exposure per day.

28 **3.2 Clear and Reasonable Warnings**

1 If CNVL is required to provide a warning pursuant to Section 3.1, the following warning
2 must be utilized:

3 **WARNING: This product contains substances known to the State of California to**
4 **cause [cancer and] birth defects or other reproductive harm.**

5 CNVL shall use the phrase “cancer and” in the warning only if the maximum daily dose
6 recommended on the label contains more than 15 micrograms of lead as determined pursuant to
7 the quality control methodology set forth in Section 3.4.

8 The warning shall be securely affixed to or printed upon the container or label of each
9 Covered Product. In addition, for Covered Products sold over CNVL’s website, the warning
10 shall appear on CNVL’s checkout page on its website for California consumers identifying any
11 Covered Product, and also appear prior to completing checkout on CNVL’s website when a
12 California delivery address is indicated for any purchase of any Covered Product.

13 The warning shall be at least the same size as the largest of any other health or safety
14 warnings also appearing on its website or on the label or container of CNVL’s product packaging
15 and the word “**WARNING**” shall be in all capital letters and in bold print. No other statements
16 about Proposition 65 or lead may accompany the warning.

17 CNVL must display the above warnings with such conspicuousness, as compared with
18 other words, statements, or design of the label or container, as applicable, to render the warning
19 likely to be read and understood by an ordinary individual under customary conditions of purchase
20 or use of the product.

21 **3.3 Reformulated Covered Products**

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

26 **3.4 Testing and Quality Control Methodology**

27 **3.4.1** Beginning within one year of the Effective Date, CNVL shall arrange for
28 lead testing of the Covered Products at least once a year for a minimum of five consecutive

1 years by arranging for testing of five randomly selected samples of each of the Covered
2 Products, in the form intended for sale to the end-user, which CNVL intends to sell or is
3 manufacturing for sale in California, directly selling to a consumer in California or
4 "Distributing into California." The testing requirement does not apply to any of the Covered
5 Products for which CNVL has provided the warning specified in Section 3.2. If tests conducted
6 pursuant to this Section demonstrate that no warning is required for a Covered Product during
7 each of five consecutive years, then the testing requirements of this Section will no longer be
8 required as to that Covered Product. However, if during or after the five-year testing period,
9 CNVL changes ingredient suppliers for any of the Covered Products and/or reformulates any of
10 the Covered Products, CNVL shall test that Covered Product annually for at least four (4)
11 consecutive years after such change is made. For purposes of measuring the "Daily Lead
12 Exposure Level," the highest and the lowest lead detection result of the five (5) randomly
13 selected samples of the Covered Products shall be disregarded and the second highest will be
14 controlling.

15 **3.4.2** All testing pursuant to this Consent Judgment shall be performed using a
16 laboratory method that complies with the performance and quality control factors appropriate
17 for the method used, including limit of detection, qualification, accuracy, and precision that
18 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry ("ICP-MS")
19 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing
20 method subsequently agreed to in writing by the Parties.

21 **3.4.3** All testing pursuant to this Consent Judgment shall be performed by an
22 independent third party laboratory certified by the California Environmental Laboratory
23 Accreditation Program or an independent third-party laboratory that is registered with the
24 United States Food & Drug Administration.

25 **3.4.4** Nothing in this Consent Judgment shall limit CNVL's ability to conduct,
26 or require that others conduct, additional testing of the Covered Products, including the raw
27 materials used in their manufacture.

1 **3.4.5** CNVL shall retain all test results and documentation for a period of five
2 years from the date of each test.

3 **4. SETTLEMENT PAYMENT**

4 **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil
5 penalties, attorney's fees, and costs, CNVL shall make a total payment of \$62,500 ("Total
6 Settlement Amount") to ERC within 5 days of the Effective Date. CNVL shall make this
7 payment by wire transfer to ERC's escrow account, for which ERC will give CNVL the
8 necessary account information. The Total Settlement Amount shall be apportioned as follows:

9 **4.2** \$12,483.00 shall be considered a civil penalty pursuant to California Health
10 and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$9,362.25) of the civil penalty to the
11 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
12 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
13 Code §25249.12(c). ERC will retain the remaining 25% (\$3,120.75) of the civil penalty.

14 **4.3** \$1,082.41 shall be distributed to ERC as reimbursement to ERC for
15 reasonable costs incurred in bringing this action.

16 **4.4** \$9,428.53 shall be distributed to ERC in lieu of further civil penalties, for the
17 day-to-day business activities such as (1) continued enforcement of Proposition 65, which
18 includes work, analyzing, researching and testing consumer products that may contain
19 Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are the
20 subject matter of the current action; (2) the continued monitoring of past consent judgments and
21 settlements to ensure companies are in compliance with Proposition 65; and (3) giving a
22 donation of \$470.00 to Global Community Monitor to address reducing toxic chemical
23 exposures in California.

24 **4.5** \$15,688.81 shall be distributed to the Law Office of Christina Caro and
25 \$10,450.00 shall be distributed to Adams Broadwell Joseph & Cardozo as reimbursement of
26 ERC's attorney's fees, while \$13,367.25 shall be distributed to ERC for its in-house legal fees.

1 **5. MODIFICATION OF CONSENT JUDGMENT**

2 **5.1** This Consent Judgment may be modified only (i) by written stipulation of the
3 Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent
4 judgment.

5 **5.2** If CNVL seeks to modify this Consent Judgment under Section 5.1, then CNVL
6 must provide written notice to ERC of its intent (“Notice of Intent”). If ERC seeks to meet and
7 confer regarding the proposed modification in the Notice of Intent, then ERC must provide
8 written notice to CNVL within thirty days of receiving the Notice of Intent. If ERC notifies
9 CNVL in a timely manner of ERC’s intent to meet and confer, then the Parties shall meet and
10 confer in good faith as required in this Section. The Parties shall meet in person or via
11 telephone within thirty (30) days of ERC’s notification of its intent to meet and confer. Within
12 thirty days of such meeting, if ERC disputes the proposed modification, ERC shall provide to
13 CNVL a written basis for its position. The Parties shall continue to meet and confer for an
14 additional thirty (30) days in an effort to resolve any remaining disputes. Should it become
15 necessary, the Parties may agree in writing to different deadlines for the meet-and-confer
16 period.

17 **5.3** In the event that CNVL initiates or otherwise requests a modification under
18 Section 5.1, and the meet and confer process leads to a joint motion or application of the
19 Consent Judgment, CNVL shall reimburse ERC its costs and reasonable attorney’s fees for the
20 time spent in the meet-and-confer process and filing and arguing the motion or application.

21 **5.4** Where the meet-and-confer process does not lead to a joint motion or
22 application in support of a modification of the Consent Judgment, then either Party may seek
23 judicial relief on its own. In such a situation, the prevailing Party may seek to recover costs
24 and reasonable attorney’s fees. As used in the preceding sentence, the term “prevailing party”
25 means a party who is successful in obtaining relief more favorable to it than the relief that the
26 other party was amenable to providing during the Parties’ good faith attempt to resolve the
27 dispute that is the subject of the modification.

1 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
2 **JUDGMENT**

3 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
4 this Consent Judgment.

5 **6.2** If ERC alleges that any Covered Product fails to qualify as a Reformulated
6 Covered Product (for which ERC alleges that no warning has been provided), then ERC shall
7 inform CNVL in a reasonably prompt manner of its test results, including information sufficient
8 to permit CNVL to identify the Covered Products at issue. CNVL shall, within thirty days
9 following such notice, provide ERC with testing information, from an independent third-party
10 laboratory meeting the requirements of Sections 3.4.1 and 3.4.2, demonstrating CNVL's
11 compliance with the Consent Judgment, if warranted. The Parties shall first attempt to resolve
12 the matter prior to ERC taking any further legal action.

13 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

21 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
22 behalf of itself and in the public interest, and CNVL, of any alleged violation of Proposition 65
23 or its implementing regulations for failure to provide Proposition 65 warnings of exposure to
24 lead from the handling, use, or consumption of the Covered Products and fully resolves all
25 claims that have been or could have been asserted in this action up to and including the
26 Effective Date for failure to provide Proposition 65 warnings for the Covered Products. ERC,
27 on behalf of itself and in the public interest, hereby discharges CNVL and its respective
28 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,

1 affiliates, suppliers, franchisees, licensees, customers (not including private label customers of
2 CNVL), distributors, wholesalers, retailers, and all other upstream and downstream entities in
3 the distribution chain of any Covered Product, and the predecessors, successors and assigns of
4 any of them (collectively, "Released Parties"), from any and all claims, actions, causes of
5 action, suits, demands, liabilities, damages, penalties, fees, costs and expenses asserted, or that
6 could have been asserted, as to any alleged violation of Proposition 65 arising from the failure
7 to provide Proposition 65 warnings on the Covered Products regarding lead.

8 **8.2** ERC, on behalf of itself only, and CNVL on behalf of itself only, hereby
9 releases and discharges the Released Parties from any and all known and unknown claims,
10 causes of action, suits, damages, penalties, liabilities, injunctive relief, declaratory relief,
11 attorney's fees, costs, and expenses arising from or related to the claims asserted or that could
12 have been asserted, under state or federal law, regarding the presence of lead in the Covered
13 Products or the facts alleged in the Notice or the Complaint up to, and including the Effective
14 Date, including without limitation any and all claims concerning exposure to any person to lead
15 in the Covered Products.

16 **8.3** It is possible that other claims not known to the Parties arising out of the facts
17 alleged in the Notice or the Complaint and relating to the Covered Products will develop or be
18 discovered. ERC on behalf of itself only on the one hand, and CNVL, on the other
19 hand, acknowledges that this Consent Judgment is expressly intended to cover and include all
20 such claims up through the Effective Date, including all rights of action therefore. ERC and
21 CNVL acknowledge that the claims released in Sections 8.1 and 8.2 above may include
22 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
23 unknown claims. California Civil Code section 1542 reads as follows:

24 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
25 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
26 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
27 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS
28 OR HER SETTLEMENT WITH THE DEBTOR.

1 ERC on behalf of itself only, on the one hand, and CNVL, on the other hand, acknowledge and
2 understand the significance and consequences of this specific waiver of California Civil Code
3 section 1542.

4 **8.4** Compliance with the terms of this Consent Judgment shall be deemed to
5 constitute compliance with Proposition 65 by any Released Party regarding alleged exposures
6 to lead in the Covered Products as set forth in the Notice and the Complaint.

7 **8.5** Nothing in this Consent Judgment is intended to apply to any occupational or
8 environmental exposures arising under Proposition 65, nor shall it apply to any of CNVL's
9 products other than the Covered Products.

10 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

13 **10. GOVERNING LAW**

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

16 **11. PROVISION OF NOTICE**

17 All notices required to be given to either Party to this Consent Judgment by the other shall
18 be in writing and sent to the following agents listed below by: (a) first-class, registered, or certified
19 mail; (b) overnight courier; or (c) personal delivery. Courtesy copies via email may also be sent.
20

21 **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

22 Chris Heptinstall, Executive Director, Environmental Research Center
23 3111 Camino Del Rio North, Suite 400
24 San Diego, CA 92108
25 Tel: (619) 500-3090
26 Email: chris_erc501c3@yahoo.com
27
28

1 With a copy to:

2 TANYA A. GULESSERIAN (CBN 198640)
3 CHRISTINA M. CARO (CBN 250797)
4 ADAMS BROADWELL JOSEPH & CARDOZO
5 A Professional Corporation
6 601 Gateway Boulevard, Suite 1000
7 South San Francisco, CA 94080-7037
8 Telephone: (650) 589-1660
9 Facsimile: (650) 589-5062
10 Email: tgulesserian@adamsbroadwell.com
11 ccaro@adamsbroadwell.com
12

13 **CALIFORNIA NATURAL VITAMIN LABS, INC.:**

14 Gene Arnold
15 California Natural Vitamin Labs, Inc.
16 9044 Independence Ave.
17 Canoga Park, CA 91304
18

19 With a copy to:

20 Margaret Carew Toledo
21 TOLEDO DON LLP
22 3001 Douglas Blvd., Suite 340
23 Roseville, CA 95661-3853
24 Telephone: (916) 462-8950
25 Facsimile: (916) 791-0175
26

27 **12. COURT APPROVAL**

28 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this Consent Judgment.

12.2 If the California Attorney General objects to any term in this Consent Judgment, 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.

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

///

1 **13. EXECUTION AND COUNTERPARTS**

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

5 **14. DRAFTING**

6 The terms of this Consent Judgment have been reviewed by the respective counsel for each
7 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and
8 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
9 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
10 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
11 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
12 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated
13 equally in the preparation and drafting of this Consent Judgment.

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

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

24 **16. ENTIRE AGREEMENT, AUTHORIZATION**

25 **16.1** This Consent Judgment contains the sole and entire agreement and
26 understanding of the Parties with respect to the entire subject matter herein, and any and all
27 prior discussions, negotiations, commitments and understandings related hereto. No
28 representations, oral or otherwise, express or implied, other than those contained herein have

1 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
2 herein, shall be deemed to exist or to bind any Party.

3 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully
4 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as
5 explicitly provided herein, each Party shall bear its own fees and costs.

6 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
7 **CONSENT JUDGMENT**

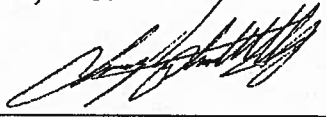
8 This Consent Judgment has come before the Court upon the request of the Parties. The Parties
9 request the Court to fully review this Consent Judgment and, being fully informed regarding the
10 matters which are the subject of this action, to:

11 make the findings pursuant to California Health and Safety Code section 25249.7(f)(4), approve
12 the Settlement, and approve this Consent Judgment.

13
14 **IT IS SO STIPULATED:**

15
16 Dated: 7/30, 2015

17 ENVIRONMENTAL RESEARCH
18 CENTER, INC.

19 By: 
20 Chris Heptinstall, Executive Director

21 Dated: _____, 2015

22 CALIFORNIA NATURAL VITAMIN
23 LABS, INC.

24 By: Gene Arnold
25 Its: President

1 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
2 herein, shall be deemed to exist or to bind any Party.

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4 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as
5 explicitly provided herein, each Party shall bear its own fees and costs.

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7 **CONSENT JUDGMENT**

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

11 make the findings pursuant to California Health and Safety Code section 25249.7(f)(4), approve
12 the Settlement, and approve this Consent Judgment.

13
14 **IT IS SO STIPULATED:**


15
16 Dated: _____, 2015

ENVIRONMENTAL RESEARCH
CENTER, INC.

17
18
19 By: _____
Chris Heptinstall, Executive Director

20
21 Dated: 7/29, 2015

CALIFORNIA NATURAL VITAMIN
LABS, INC.

22
23 


24 By: Gene Arnold
25 Its: President

26
27
28

1 **APPROVED AS TO FORM:**

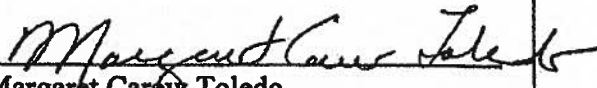
2 Dated: July 30, 2015

ADAMS BROADWELL JOSEPH & CARDOZO

3
4
5 By: 
6 TANYA A. GULESSERIAN
7 CHRISTINA M. CARO
8 Attorneys for Plaintiff Environmental
9 Research Center, Inc.

10 Dated: July 29, 2015

TOLEDO DON LLP

11 By: 
12 Margaret Carey Toledo
13 Attorneys for Defendant California Natural
14 Vitamin Labs, Inc.

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: Oct. 15, 2015



Judge of the Superior Court

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EXHIBIT A

LAW OFFICE OF CHRISTINA M. CARO

2506 Haste St.
Berkeley, CA 94704

Tel: (510) 387-8597
Fax: (510) 295-2649

christina@ccarolaw.com
www.ccarolaw.com

VIA CERTIFIED MAIL

Current CEO or President
California Natural Vitamin Labs, Inc.
23823 Malibu Road, Ste 600
Malibu, CA 90265

VIA PRIORITY MAIL

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

Current CEO or President
California Natural Vitamin Labs, Inc.
23374 Sandalwood Street
West Hills, CA 91307

Current CEO or President
California Natural Vitamin Labs, Inc.
9044 Independence Avenue
Canoga Park, CA 91304

Current CEO or President
California Natural Vitamin Labs, Inc.
21636 Marilla Street
Chatsworth, CA 91311

Current CEO or President
California Natural Vitamin Labs, Inc.
22236 Craggy View Street
Chatsworth, CA 91311

Gene George Arnold
(California Natural Vitamin Labs, Inc.'s
Registered Agent for Service of Process)
22236 Craggy View Street
Chatsworth, CA 91311

VIA ONLINE SUBMISSION

Office of the California Attorney General

Re: Notice of Violations of California Health & Safety Code Section 25249.5 et seq.

October 3, 2014

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Dear Addressees:

I represent the Environmental Research Center, Inc. ("ERC") in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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

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

California Natural Vitamin Labs, Inc.

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

- 1. California Natural Vitamin Labs California Natural California Greens - Lead**
- 2. Holistic Fitness Inc. Super Vegan Protein +plus Delicious Vanilla - Lead**
- 3. California Natural Vitamin Labs California Natural Malibu Daily Detox - Lead**
- 4. California Natural Vitamin Labs California Natural Triple Action Advanced Joint Formula - Lead**
- 5. California Natural Vitamin Labs California Natural Special Formula Wild Tibetan Natural Sun Dried Goji Berry - Lead**
- 6. California Natural Vitamin Labs Pure Garcinia Cambogia Extract - Lead**
- 7. California Natural Vitamin Labs Pure Maca - 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.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from

October 3, 2014

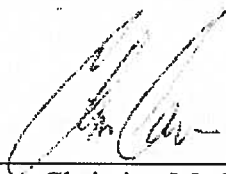
Page 3

the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to lead has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since October 3, 2011, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



Christina M. Caro

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to California Natural Vitamin Labs, Inc. and its Registered Agent for Service of Process only)

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

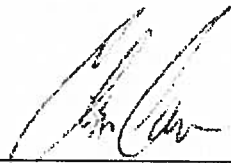
CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations
by California Natural Vitamin Labs, Inc.**

I, Christina Caro, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: October 3, 2014



Christina M. Caro

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 October 3, 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 U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
California Natural Vitamin Labs, Inc.
23823 Malibu Road, Ste 600
Malibu, CA 90265

Current CEO or President
California Natural Vitamin Labs, Inc.
21636 Marilla Street
Chatsworth, CA 91311

Current CEO or President
California Natural Vitamin Labs, Inc.
23374 Sandalwood Street
West Hills, CA 91307

Current CEO or President
California Natural Vitamin Labs, Inc.
22236 Craggy View Street
Chatsworth, CA 91311

Current CEO or President
California Natural Vitamin Labs, Inc.
9044 Independence Avenue
Canoga Park, CA 91304


Gene George Arnold
(California Natural Vitamin Labs, Inc.'s
Registered Agent for Service of Process)
22236 Craggy View Street
Chatsworth, CA 91311

On October 3, 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 October 3, 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 with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on October 3, 2014, in Fort Oglethorpe, Georgia.


Tiffany Capehart

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

October 3, 2014

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Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street 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 Post Office Box 720 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	