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18 MAINE NATURAL HEALTH CO., individually
19 and doing business as SFH (Stronger Faster
20 Healthier)

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **COUNTY OF ALAMEDA**

23 ENVIRONMENTAL RESEARCH CENTER,
24 INC., a non-profit California corporation,

25 Plaintiff,

26 vs.

27 THE MAINE NATURAL HEALTH CO.,
28 INC., individually and doing business as SFH
(Stronger Faster Healthier), a Delaware
corporation; MAINE NATURAL HEALTH
CO., individually and doing business as SFH
(Stronger Faster Healthier), a Maine
corporation; MAINE NATURAL HEALTH
CO. WHICH WILL DO BUSINESS in
CALIFORNIA as STRONGER FASTER
HEALTHIER, a Maine Corporation; and
DOES 1 – 25,

Defendants.

CASE NO. RG17859480

**STIPULATED CONSENT
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: May 8, 2017

Trial Date: None set

1 **1. INTRODUCTION**

2 **1.1** On May 8, 2017, Plaintiff Environmental Research Center, Inc. (“ERC”), a
3 non-profit corporation, as a private enforcer and in the public interest, initiated this action by
4 filing a Complaint for Permanent Injunction, Civil Penalties, and Other Relief (the
5 “Complaint”) pursuant to the provisions of California Health and Safety Code section 25249.5
6 *et seq.* (“Proposition 65”), against THE MAINE NATURAL HEALTH CO., INC., individually
7 and doing business as SFH (Stronger Faster Healthier); MAINE NATURAL HEALTH CO.,
8 individually and doing business as SFH (Stronger Faster Healthier) (hereinafter “MAINE
9 NAUTRAL HEALTH”); and MAINE NATURAL HEALTH CO. WHICH WILL DO
10 BUSINESS in CALIFORNIA as STRONGER FASTER HEALTHIER and DOES 1 – 25.
11 THE MAINE NATURAL HEALTH CO., INC., individually and doing business as SFH
12 (Stronger Faster Healthier) and MAINE NATURAL HEALTH CO. WHICH WILL DO
13 BUSINESS in CALIFORNIA as STRONGER FASTER HEALTHIER were thereafter
14 dismissed from the case. MAINE NATURAL HEALTH and DOES 1-25 will hereinafter
15 collectively be referred to as “Defendants.”

16 **1.2** In this action, ERC alleges that a number of products manufactured,
17 distributed, or sold by Defendants contain lead, a chemical listed under Proposition 65 as a
18 carcinogen and reproductive toxin, and expose consumers to this chemical at a level requiring a
19 Proposition 65 warning. These products (referred to hereinafter individually as a “Covered
20 Product” or collectively as “Covered Products”) are:

- 21 • sfh Fuel Whey Protein Coconut
- 22 • sfh Recovery Whey Protein Vanilla (now reformulated as sfh Recover Whey
23 Protein Vanilla)
- 24 • sfh Recovery Whey Protein Chocolate (now reformulated as sfh Recover
25 Whey Protein Chocolate)
- 26 • sfh Push Pre-Workout Lemon Lime
- 27 • sfh Pure Whey Protein Vanilla
- 28 • sfh Pure Whey Protein Chocolate

1 **1.3** ERC and Defendants are hereinafter referred to individually as a “Party” or
2 collectively as the “Parties.”

3 **1.4** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
4 causes, helping safeguard the public from health hazards by reducing the use and misuse of
5 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
6 and encouraging corporate responsibility.

7 **1.5** For purposes of this Consent Judgment, the Parties agree that MAINE NATURAL
8 HEALTH is a business entity which has employed ten or more persons at all times relevant to this
9 action, and qualifies as a “person in the course of business” within the meaning of Proposition 65.

10 **1.6** The Complaint is based on allegations contained in ERC’s Notice of Violation
11 dated February 24, 2017 that was served on the California Attorney General, other public
12 enforcers, and MAINE NATURAL HEALTH (“Notice”). A true and correct copy of the 60-
13 Day Notice dated February 24, 2017 is attached hereto as **Exhibit A** and is incorporated herein
14 by reference. More than 60 days have passed since the Notice was served on the Attorney
15 General, public enforcers, and MAINE NATURAL HEALTH and no designated governmental
16 entity has filed a complaint against MAINE NATURAL HEALTH with regard to the Covered
17 Products or the alleged violations.

18 **1.7** ERC’s Notice and Complaint allege that use of the Covered Products exposes
19 persons in California to lead without first providing clear and reasonable warnings in violation
20 of California Health and Safety Code section 25249.6. MAINE NATURAL HEALTH denies
21 all material allegations contained in the Notice and Complaint.

22 **1.8** The Parties have entered into this Consent Judgment in order to settle,
23 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
24 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute or
25 be construed as an admission by any of the Parties or by any of their respective officers,
26 directors, shareholders, employecs, agents, parent companies, subsidiaries, franchisees,
27 licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, issue of law, or
28 violation of law.

1 **1.9** Except as expressly set forth herein, nothing in this Consent Judgment shall
2 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
3 current or future legal proceeding unrelated to these proceedings.

4 **1.10** The Effective Date of this Consent Judgment is the date on which it is entered as
5 a Judgment by this Court.

6 **2. JURISDICTION AND VENUE**

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

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

15 **3.1** Beginning on the Effective Date, MAINE NATURAL HEALTH shall be
16 permanently enjoined from manufacturing for sale in the State of California, "Distributing into
17 the State of California," or directly selling in the State of California, any Covered Products
18 which exposes a person to a "Daily Lead Exposure Level" of more than 0.5 micrograms of lead
19 per day unless it meets the warning requirements under Section 3.2.

20 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State
21 of California" shall mean to directly ship a Covered Product into California for sale in
22 California or to sell a Covered Product to a distributor that MAINE NATURAL HEALTH
23 knows or has reason to know will sell the Covered Product in California.

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

1 appearing on the product label), which equals micrograms of lead exposure per day. If no
2 recommended daily serving size is provided on the label, then the daily serving size shall equal
3 one.

4 3.2 Clear and Reasonable Warnings

5 If MAINE NATURAL HEALTH is required to provide a warning pursuant to Section 3.1,
6 the following warning must be utilized (“Warning”):

7 **WARNING:** Consuming this product can expose you to chemicals including lead which is
8 known to the State of California to cause [cancer and] birth defects or other reproductive
9 harm. For more information go to www.P65Warnings.ca.gov/food.

10 MAINE NATURAL HEALTH shall use the phrase “cancer and” in the Warning if the “Daily
11 Lead Exposure Level” is greater than 15 micrograms of lead as determined pursuant to the quality
12 control methodology set forth in Section 3.4 or if MAINE NATURAL HEALTH has reason to
13 believe another Proposition 65 chemical is present at levels requiring a cancer warning.

14 The Warning shall be securely affixed to or printed upon the container or label of each
15 Covered Product. In addition, for any Covered Product sold over the internet, the Warning shall
16 appear on the checkout page when a California delivery address is indicated for any purchase of
17 any Covered Product. An asterisk or other identifying method must be utilized to identify which
18 products on the checkout page are subject to the Warning.

19 The Warning shall be at least the same size as the largest of any other health or safety
20 warnings also appearing on its website or on the label or container of MAINE NATURAL
21 HEALTH’s product packaging and the word “**WARNING**” shall be in all capital letters and in
22 bold print. No statements intended to or likely to have the effect of diminishing the impact of, or
23 reducing the clarity of, the Warning on the average lay person shall accompany the Warning.
24 Further, no statements may accompany the Warning that state or imply that the source of the listed
25 chemical has an impact on or results in a less harmful effect of the listed chemical.

26 MAINE NATURAL HEALTH must display the above Warning with such
27 conspicuousness, as compared with other words, statements, design of the label, container, or on
28 its website, as applicable, to render the Warning likely to be read and understood by an ordinary
individual under customary conditions of purchase or use of the product.

1 **3.3 Reformulated Covered Products**

2 A Reformulated Covered Product is one for which the “Daily Lead Exposure Level” is no
3 greater than 0.5 micrograms of lead per day as determined by the quality control methodology
4 described in Section 3.4.

5 **3.4 Testing and Quality Control Methodology**

6 If a Warning is provided on the Covered Product, then the Testing And Quality Control
7 Methodology in Sections 3.4.1 through and including Section 3.4.6 is not required. However, if
8 a Warning is not provided on the Covered Product, then the Testing and Quality Control
9 Methodology must be employed as stated in Sections 3.4.1 through and including Section 3.4.6.

10 **3.4.1** Beginning within one year of the Effective Date, MAINE NATURAL
11 HEALTH shall arrange for lead testing of the Covered Products at least once a year for a
12 minimum of five consecutive years by arranging for testing of five randomly selected samples
13 of each of the Covered Products, in the form intended for sale to the end-user, which MAINE
14 NATURAL HEALTH intends to sell or is manufacturing for sale in California, directly selling
15 to a consumer in California or “Distributing into the State of California.” If tests conducted
16 pursuant to this Section demonstrate that no Warning is required for a Covered Product during
17 each of five consecutive years, then the testing requirements of this Section will no longer be
18 required as to that Covered Product. However, if during or after the five-year testing period,
19 MAINE NATURAL HEALTH changes ingredient suppliers for any of the Covered Products
20 and/or reformulates any of the Covered Products, MAINE NATURAL HEALTH shall test that
21 Covered Product annually for at least four (4) consecutive years after such change is made.

22 **3.4.2** For purposes of measuring the “Daily Lead Exposure Level,” the
23 arithmetic mean lead detection result of the five (5) randomly selected samples of the Covered
24 Products will be controlling.

25 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
26 laboratory method that complies with the performance and quality control factors appropriate
27 for the method used, including limit of detection, qualification, accuracy, and precision that
28

1 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (“ICP-MS”)
2 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing
3 method subsequently agreed to in writing by the Parties and approved by the Court through
4 entry of a modified consent judgment.

5 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
6 independent third party laboratory certified by the California Environmental Laboratory
7 Accreditation Program or an independent third-party laboratory that is registered with the
8 United States Food & Drug Administration.

9 **3.4.5** Nothing in this Consent Judgment shall limit MAINE NATURAL
10 HEALTH’s ability to conduct, or require that others conduct, additional testing of the Covered
11 Products, including the raw materials used in their manufacture.

12 **3.4.6** Within thirty (30) days of ERC’s written request, MAINE NATURAL
13 HEALTH shall deliver lab reports obtained pursuant to Section 3.4 to ERC. MAINE
14 NATURAL HEALTH shall retain all test results and documentation for a period of five years
15 from the date of each test.

16 **4. SETTLEMENT PAYMENT**

17 **4.1** In full satisfaction of all potential civil penalties, additional settlement payments,
18 attorney’s fees, and costs, MAINE NATURAL HEALTH shall make a total payment of
19 \$90,000.00 (“Total Settlement Amount”) to ERC, with 50 percent within 7 days of the
20 Effective Date (“First Due Date”) and the remaining 50 percent within 60 days of the First Due
21 Date (“Second Due Date”). MAINE NATURAL HEALTH shall make this payment by wire
22 transfer to ERC’s escrow account, for which ERC will give MAINE NATURAL HEALTH the
23 necessary account information. The Total Settlement Amount shall be apportioned as follows:

24 **4.2** \$23,105.94 shall be considered a civil penalty pursuant to California Health and
25 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$17,329.46) of the civil penalty to
26 the Office of Environmental Health Hazard Assessment (“OEHHA”) for deposit in the Safe
27 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
28 Code section 25249.12(c). ERC will retain the remaining 25% (\$5,776.48) of the civil penalty.

1 **4.3** \$3,521.04 shall be distributed to ERC as reimbursement to ERC for reasonable
2 costs incurred in bringing this action.

3 **4.4** \$17,329.42 shall be distributed to ERC as an Additional Settlement Payment
4 (“ASP”), pursuant to California Code of Regulations, title 11, sections 3203, subdivision (d) and
5 3204. ERC will utilize the ASP for activities that address the same public harm as allegedly
6 caused by MAINE NATURAL HEALTH in this matter. These activities are detailed below and
7 support ERC’s overarching goal of reducing and/or eliminating hazardous and toxic chemicals in
8 dietary supplement products in California. ERC’s activities have had, and will continue to have,
9 a direct and primary effect within the State of California because California consumers will be
10 benefitted by the reduction and/or elimination of exposure to lead in dietary supplements and/or
11 by providing clear and reasonable warnings to California consumers prior to ingestion of the
12 products.

13 Based on a review of past years’ actual budgets, ERC is providing the following list of
14 activities ERC engages in to protect California consumers through Proposition 65 citizen
15 enforcement, along with a breakdown of how ASP funds will be utilized to facilitate those
16 activities: (1) ENFORCEMENT (65-80%): obtaining, shipping, analyzing, and testing dietary
17 supplement products that may contain lead and are sold to California consumers. This work
18 includes continued monitoring and enforcement of past consent judgments and settlements to
19 ensure companies are in compliance with their obligations thereunder, with a specific focus on
20 those judgments and settlements concerning lead. This work also includes investigation of new
21 companies that ERC does not obtain any recovery through settlement or judgment; (2)
22 VOLUNTARY COMPLIANCE PROGRAM (10-20%): maintaining ERC’s Voluntary
23 Compliance Program by acquiring products from companies, developing and maintaining a case
24 file, testing products from these companies, providing the test results and supporting
25 documentation to the companies, and offering guidance in warning or implementing a self-
26 testing program for lead in dietary supplement products; and (3) “GOT LEAD” PROGRAM (up
27 to 5%): maintaining ERC’s “Got Lead?” Program which reduces the numbers of contaminated
28 products that reach California consumers by providing access to free testing for lead in dietary

1 supplement products (Products submitted to the program are screened for ingredients which are
2 suspected to be contaminated, and then may be purchased by ERC, cataloged, sent to a
3 qualified laboratory for testing, and the results shared with the consumer that submitted the
4 product).

5 ERC shall be fully accountable in that it will maintain adequate records to document and
6 will be able to demonstrate how the ASP funds will be spent and can assure that the funds are
7 being spent only for the proper, designated purposes described in this Consent Judgment. ERC
8 shall provide the Attorney General, within thirty days of any request, copies of documentation
9 demonstrating how such funds have been spent.

10 **4.5** \$21,961.50 shall be distributed to Aqua Terra Acris Law Group as
11 reimbursement of ERC's attorney's fees, while \$24,082.10 shall be distributed to ERC for its
12 in-house legal fees. Except as explicitly provided herein, each Party shall bear its own fees and
13 costs.

14 **4.6** In the event that MAINE NATURAL HEALTH fails to remit the any payment
15 owed under Section 4 of this Consent Judgment on or before its respective Due Date, MAINE
16 NATURAL HEALTH shall be deemed to be in material breach of its obligations under this
17 Consent Judgment. ERC shall provide written notice of the delinquency to MAINE
18 NATURAL HEALTH via electronic mail. If MAINE NATURAL HEALTH fails to deliver
19 the delinquent payment within five (5) days from the written notice, the Total Settlement
20 Amount shall become immediately due and owing and shall accrue interest at the statutory
21 judgment interest rate provided in the California Code of Civil Procedure section 685.010.
22 Additionally, MAINE NATURAL HEALTH agrees to pay ERC's reasonable attorney's fees
23 and costs for any efforts to collect the payment due under this Consent Judgment.

24 **5. MODIFICATION OF CONSENT JUDGMENT**

25 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
26 written stipulation of the Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a
27 modified consent judgment.
28

1 5.2 If MAINE NATURAL HEALTH seeks to modify this Consent Judgment under
2 Section 5.1, then MAINE NATURAL HEALTH must provide written notice to ERC of its
3 intent (“Notice of Intent”). If ERC seeks to meet and confer regarding the proposed
4 modification in the Notice of Intent, then ERC must provide written notice to MAINE
5 NATURAL HEALTH within thirty (30) days of receiving the Notice of Intent. If ERC notifies
6 MAINE NATURAL HEALTH in a timely manner of ERC’s intent to meet and confer, then the
7 Parties shall meet and confer in good faith as required in this Section. The Parties shall meet in
8 person or via telephone within thirty (30) days of ERC’s notification of its intent to meet and
9 confer. Within thirty (30) days of such meeting, if ERC disputes the proposed modification,
10 ERC shall provide to MAINE NATURAL HEALTH a written basis for its position. The Parties
11 shall continue to meet and confer for an additional thirty (30) days in an effort to resolve any
12 remaining disputes. Should it become necessary, the Parties may agree in writing to different
13 deadlines for the meet-and-confer period.

14 5.3 In the event that MAINE NATURAL HEALTH initiates or otherwise requests a
15 modification under Section 5.1, and the meet and confer process leads to a joint motion or
16 application of the Consent Judgment, MAINE NATURAL HEALTH shall reimburse ERC its
17 costs and reasonable attorney’s fees for the time spent in the meet-and-confer process and filing
18 and arguing the motion or application.

19 5.4 Where the meet-and-confer process does not lead to a joint motion or
20 application in support of a modification of the Consent Judgment, then either Party may seek
21 judicial relief on its own. In any such contested court proceeding, ERC may seek any costs and
22 attorney’s fees incurred in opposing the motion pursuant to California Code of Civil Procedure
23 section 1021.5.

24 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
25 **JUDGMENT**

26 6.1 This Court shall retain jurisdiction of this matter to enforce, modify, or terminate
27 this Consent Judgment.

28 6.2 If ERC alleges that any Covered Product fails to qualify as a Reformulated

1 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall
2 inform MAINE NATURAL HEALTH in a reasonably prompt manner of its test results,
3 including information sufficient to permit MAINE NATURAL HEALTH to identify the
4 Covered Products at issue. MAINE NATURAL HEALTH shall, within thirty (30) days
5 following such notice, provide ERC with testing information, from an independent third-party
6 laboratory meeting the requirements of Sections 3.4.3 and 3.4.4, demonstrating MAINE
7 NATURAL HEALTH's compliance with the Consent Judgment, if warranted. The Parties
8 shall first attempt to resolve the matter prior to ERC taking any further legal action.

9 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

17 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC,
18 on behalf of itself and in the public interest, and MAINE NATURAL HEALTH and its
19 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
20 divisions, suppliers, franchisees, licensees, customers (not including private label customers of
21 MAINE NATURAL HEALTH), distributors, wholesalers, retailers, and all other upstream and
22 downstream entities in the distribution chain of any Covered Product, and the predecessors,
23 successors, and assigns of any of them (collectively, "Released Parties"). ERC, on behalf of
24 itself and in the public interest, hereby fully releases and discharges the Released Parties from
25 any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties,
26 fees, costs, and expenses asserted, or that could have been asserted from the handling, use, or
27 consumption of the Covered Products, as to any alleged violation of Proposition 65 or its
28

1 implementing regulations arising from the failure to provide Proposition 65 warnings on the
2 Covered Products regarding lead up to and including the Effective Date.

3 **8.2** ERC on its own behalf only, and MAINE NATURAL HEALTH on its own
4 behalf only, further waive and release any and all claims they may have against each other for
5 all actions or statements made or undertaken in the course of seeking or opposing enforcement
6 of Proposition 65 in connection with the Notice and Complaint up through and including the
7 Effective Date, provided, however, that nothing in Section 8 shall affect or limit any Party's
8 right to seek to enforce the terms of this Consent Judgment.

9 **8.3** It is possible that other claims not known to the Parties, arising out of the facts
10 alleged in the Notice and Complaint, and relating to the Covered Products, will develop or be
11 discovered. ERC on behalf of itself only, and MAINE NATURAL HEALTH on behalf of
12 itself only, acknowledge that this Consent Judgment is expressly intended to cover and include
13 all such claims up through and including the Effective Date, including all rights of action
14 therefore. ERC and MAINE NATURAL HEALTH acknowledge that the claims released in
15 Sections 8.1 and 8.2 above may include unknown claims, and nevertheless waive California
16 Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542
17 reads as follows:

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

23 ERC on behalf of itself only, and MAINE NATURAL HEALTH on behalf of itself only,
24 acknowledge and understand the significance and consequences of this specific waiver of
25 California Civil Code section 1542.

26 **8.4** Compliance with the terms of this Consent Judgment shall be deemed to
27 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead
28 in the Covered Products as set forth in the Notice and Complaint.

1 **8.5** Nothing in this Consent Judgment is intended to apply to any occupational or
2 environmental exposures arising under Proposition 65, nor shall it apply to any of MAINE
3 NATURAL HEALTH's products other than the Covered Products.

4 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

7 **10. GOVERNING LAW**

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

10 **11. PROVISION OF NOTICE**

11 All notices required to be given to either Party to this Consent Judgment by the other shall
12 be in writing and sent to the following agents listed below via first-class mail. Courtesy copies via
13 email may also be sent.

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

15 Chris Heptinstall, Executive Director, Environmental Research Center
16 3111 Camino Del Rio North, Suite 400
17 San Diego, CA 92108
18 Tel: (619) 500-3090
19 Email: chris_erc501c3@yahoo.com

20 With a copy to:

21 **MATTHEW C. MACLEAR**
22 **ANTHONY M. BARNES**
23 **AQUA TERRA AERIS LAW GROUP**
24 828 San Pablo Ave, Suite 115B Albany, CA 94706 Ph: 415-568-5200
25 Email: mcm@atalawgroup.com

26 **MAINE NATURAL HEALTH CO.,** individually and doing
27 business as SFH (Stronger Faster Healthier); and

28 Patricia Leighton
29 Chief Operating Officer
30 Maine Natural Health Co.
31 5855 Green Valley Circle Suite 110. Culver City, CA 90230
32 Tel: (310) 342-0041
33 Email: patricia@sfh.com

1 With a copy to:
2 DANA P. PALMER
3 MCGUIREWOODS LLP
4 1800 Century Park East, 8th Floor
5 Los Angeles, CA 90067
6 Telephone: (310) 315-8200
7 Facsimile: (310) 315-8210
8 Email: dpalmer@mcguirewoods.com

9 12. COURT APPROVAL

10 12.1 Upon execution of this Consent Judgment by the Parties, ERC shall notice a
11 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
12 Consent Judgment.

13 12.2 If the California Attorney General objects to any term in this Consent Judgment,
14 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
15 prior to the hearing on the motion.

16 12.3 If this Stipulated Consent Judgment is not approved by the Court, it shall be
17 void and have no force or effect.

18 13. EXECUTION AND COUNTERPARTS

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

22 14. DRAFTING

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

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

2 If a dispute arises with respect to either Party's compliance with the terms of this Consent
3 Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in
4 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be
5 filed in the absence of such a good faith attempt to resolve the dispute beforehand.

6 **16. ENFORCEMENT**

7 ERC may, by motion or order to show cause before the Superior Court of Alameda
8 County, enforce the terms and conditions contained in this Consent Judgment. In any action
9 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
10 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
11 To the extent the failure to comply with the Consent Judgment constitutes a violation of
12 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent Judgment,
13 but may seek in another action whatever fines, costs, penalties, or remedies as are provided by
14 law for failure to comply with Proposition 65 or other laws.

15 **17. ENTIRE AGREEMENT, AUTHORIZATION**

16 **17.1** This Consent Judgment contains the sole and entire agreement and
17 understanding of the Parties with respect to the entire subject matter herein, and any and all
18 prior discussions, negotiations, commitments, and understandings related hereto. No
19 representations, oral or otherwise, express or implied, other than those contained herein have
20 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
21 herein, shall be deemed to exist or to bind any Party.

22 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
23 authorized by the Party he or she represents to stipulate to this Consent Judgment.

24 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
25 **CONSENT JUDGMENT**

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

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

4 (2) Make the findings pursuant to California Health and Safety Code section
5 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

6 **IT IS SO STIPULATED:**

7 Dated: 11/17/, 2017

ENVIRONMENTAL RESEARCH
CENTER, INC.

By: [Signature]
Chris Heppner, Executive Director

11 Dated: 11.17, 2017

MAINE NATURAL HEALTH CO.,
individually and doing business as SFH
(Stronger Faster Healthier)

By: [Signature]
H. Jeff Leighton
Its: Founder & Director

16 **APPROVED AS TO FORM:**

17 Dated: 11/17, 2017

AQUA TERRA AERIS LAW GROUP

By: [Signature]
Matthew C. Maclear
Anthony M. Barnes
Attorneys for Plaintiff Environmental
Research Center, Inc.

22 Dated: 11/20/17, 2017

MCGUIREWOODS LLP

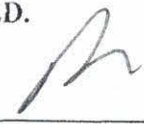
By: [Signature]
Dana P. Palmer
Attorney for Defendant Maine Natural
Health Co. individually and doing business
as SFH (Stronger Faster Healthier)

28 **ORDER AND JUDGMENT**

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

3 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

4 Dated: 4/20, 2018

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6 _____
7 Judge of the Superior Court
8 Robert D. McGuinness

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CLERK'S CERTIFICATE OF SERVICE BY MAIL
CCP 1013a(3)

CASE NAME: **Environmental Research Center, Inc. vs. The Maine
Natural Health Co., Inc.**

ACTION NO.: **RG17859480**

I certify that the following is true and correct: I am the clerk in Dept. 21 of the Superior Court of California, County of Alameda and not a party to this cause. I served the **STIPULATED CONSENT JUDGMENT** by placing copies in envelopes addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

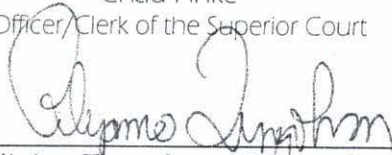
Matthew C. MaClear
Aqua Terra Aeris Law Group
828 San Pablo Ave., Suite 115B
Albany, CA 94706

Dana P. Palmer
McGuireWoods LLP
1800 Century Park East, 8th Floor
Los Angeles, CA 90067

I declare under penalty of perjury that the following is true and correct
Executed on April 20, 2018 at Oakland, California.

Chad Finke
Executive Officer/Clerk of the Superior Court

By _____


Pilipino Tungohan - Deputy Clerk