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FILED
ALAMEDA COUNTY

JUN 15 2021

CLERK OF THE SUPERIOR COURT
By Begonia Sandoval
Deputy

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ENVIRONMENTAL RESEARCH CENTER, INC.

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Attorney for Defendant
HERBALAND NATURALS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

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

Plaintiff,
vs.

**HERBALAND NATURALS, INC., a
Canadian corporation,**

Defendants.

CASE NO. RG20079818

**STIPULATED CONSENT
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: November 10, 2020
Trial Date: None set

1. INTRODUCTION

1.1 On November 10, 2020, Plaintiff Environmental Research Center, Inc. ("ERC"), a non-profit corporation, as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the

1 “Complaint”) pursuant to the provisions of California Health and Safety Code section 25249.5
2 *et seq.* (“Proposition 65”), against Herbaland Naturals, Inc. (“Herbaland”). In this action, ERC
3 alleges that a number of products manufactured, distributed, or sold by Herbaland contain lead,
4 a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose
5 consumers to this chemical at a level requiring a Proposition 65 warning. These products
6 (referred to hereinafter individually as a “Covered Product” or collectively as “Covered
7 Products”) are: (1) Herbaland Calcium & D3 Gummies for Kids Pineapple & Pomegranate
8 Flavors; (2) Herbaland Vegan Protein Gummies Kiwi and Friends; (3) Herbaland Vegan Protein
9 Gummies Wild Berry; (4) Herbaland Vegan Protein Gummies Papaya Paradise; (5) Herbaland
10 Vegan Protein Gummies for Kids Cookie Dough; (6) Herbaland Vegan Protein Gummies Organic
11 Banana; (7) Herbaland Vegan Protein Gummies Fantastic Fruit; (8) Herbaland Vegan Protein
12 Gummies for Kids Chocolate Brownie; (9) Herbaland Vegan Omega-3 Gummies for Kids Orange
13 Flavor; (10) Herbaland Good News Gummies Peach Passion; (11) Herbaland Good News
14 Gummies Blueberry Burst; (12) Herbaland Good News Gummies Rad Raspberry; (13) Herbaland
15 Pure Slim Gummies for Adults Caramel Flavor; (14) Herbaland Electrolyte Gummies Piña Colada
16 Flavor.

17 **1.2** ERC and Herbaland are hereinafter referred to individually as a “Party” or
18 collectively as the “Parties.”

19 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
20 causes, helping safeguard the public from health hazards by reducing the use and misuse of
21 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
22 and encouraging corporate responsibility.

23 **1.4** For purposes of this Consent Judgment, the Parties agree that defendant is a
24 business entity which has employed ten or more persons at all times relevant to this action, and
25 qualifies as a “person in the course of doing business” within the meaning of Proposition 65.
26 Herbaland manufactures, distributes, and/or sells the Covered Products.

27 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation
28 dated May 21, 2020, June 11, 2020 and July 16, 2020 that were served on the California

1 Attorney General, other public enforcers, and Herband ("Notices"). A true and correct copy
2 of the 60-Day Notices are attached hereto as *Exhibits A-C* and incorporated herein by
3 reference. More than 60 days have passed since the Notices were served on the Attorney
4 General, public enforcers, and Herband and no designated governmental entity has filed a
5 Complaint against Herband with regard to the Covered Products or the alleged violations.

6 **1.6** ERC's Notice and Complaint allege that use of the Covered Products by
7 California consumers exposes them to lead without first receiving clear and reasonable
8 warnings from Herband, which is in violation of California Health and Safety Code section
9 25249.6. Herband denies all allegations contained in the Notice and Complaint.

10 **1.7** The Parties have entered into this Consent Judgment in order to settle,
11 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
12 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute
13 or be construed as an admission by any of the Parties or by any of their respective officers,
14 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
15 franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact,
16 issue of law, or violation of law.

17 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
18 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
19 any current or future legal proceeding unrelated to these proceedings.

20 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered
21 as a Judgment by this Court.

22 **2. JURISDICTION AND VENUE**

23 For purposes of this Consent Judgment and any further court action that may become
24 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
25 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
26 over Herband as to the acts alleged in the Complaint, that venue is proper in Alameda County,
27 and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of
28 all claims up through and including the Effective Date that were or could have been asserted in

1 this action based on the facts alleged in the Notice and Complaint.

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

3 **3.1** Beginning on the Effective Date, Herbaland shall be permanently enjoined from
4 manufacturing for sale in the State of California, "Distributing into the State of California," or
5 directly selling in the State of California, any Covered Products that expose a person to a
6 "Daily Lead Exposure Level" of more than 0.5 micrograms of lead per day unless it meets the
7 warning requirements under Section 3.2.

8 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State
9 of California" shall mean to directly ship a Covered Product into California for sale in
10 California or to sell a Covered Product to a distributor that Herbaland knows or has reason to
11 know will sell the Covered Product in California.

12 **3.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure
13 Level" shall be measured in micrograms, and shall be calculated using the following formula:
14 micrograms of lead per gram of product, multiplied by grams of product per serving of the
15 product (using the largest serving size appearing on the product label), multiplied by servings
16 of the product per day (using the largest number of recommended daily servings appearing on
17 the label), which equals micrograms of lead exposure per day. If the label contains no
18 recommended daily servings, then the number of recommended daily servings shall be one.

19 **3.2 Clear and Reasonable Warnings**

20 If Herbaland is required to provide a warning pursuant to Section 3.1, the following
21 warning must be utilized ("Warning"):

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

24 Herbaland shall use the phrase "cancer and" in the Warning if Herbaland has reason to
25 believe that the the "Daily Lead Exposure Level" is greater than 15 micrograms of lead as
26 determined pursuant to the quality control methodology set forth in Section 3.4 or if Herbaland
27 has reason to believe that another Proposition 65 chemical is present which may require a cancer
28 warning.

1 The Warning shall be securely affixed to or printed upon the label of each Covered
2 Product and it must be set off from other surrounding information and enclosed in a box. In
3 addition, for any Covered Product sold over the internet, the Warning shall appear on the
4 checkout page when a California delivery address is indicated for any purchase of any Covered
5 Product. An asterisk or other identifying method must be utilized to identify which products on
6 the checkout page are subject to the Warning. In no event shall any internet or website
7 Warning be contained in or made through a link.

8 The Warning shall be at least the same size as the largest of any other health or safety
9 warnings also appearing on the website or on the label and the word "**WARNING**" shall be in all
10 capital letters and in bold print. No statements intended to or likely to have the effect of
11 diminishing the impact of the Warning on the average lay person shall accompany the Warning.
12 Further, no statements may accompany the Warning that state or imply that the source of the listed
13 chemical has an impact on or results in a less harmful effect of the listed chemical.

14 Herbaland must display the above Warning with such conspicuousness, as compared with
15 other words, statements or designs on the label, or on its website, if applicable, to render the
16 Warning likely to be read and understood by an ordinary individual under customary conditions
17 of purchase or use of the product.

18 For purposes of this Consent Judgment, the term "label" means a display of written,
19 printed or graphic material that is printed on or affixed to a Covered Product or its immediate
20 container or wrapper.

21 **3.3 Conforming Covered Products**

22 A Conforming Covered Product is a Covered Product for which the "Daily Lead Exposure
23 Level" is no greater than 0.5 micrograms of lead per day as determined by the quality control
24 methodology described in Section 3.4, and that is not known by Herbaland to contain other
25 chemicals that exceed Proposition 65's safe harbor thresholds.

26 **3.4 Testing and Quality Control Methodology**

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

1 consecutive years by arranging for testing of three (3) randomly selected samples of each of
2 the Covered Products, in the form intended for sale to the end-user, which Herband intends to
3 sell or is manufacturing for sale in California, directly selling to a consumer in California or
4 "Distributing into the State of California." If tests conducted pursuant to this Section
5 demonstrate that no Warning is required for a Covered Product during each of five consecutive
6 years, then the testing requirements of this Section will no longer be required as to that
7 Covered Product. However, if during or after the five-year testing period, Herband changes
8 ingredient suppliers for any of the Covered Products and/or reformulates any of the Covered
9 Products, Herband shall test that Covered Product annually for at least four (4) consecutive
10 years after such change is made.

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

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

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

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

27 **3.4.6** Within thirty (30) days of ERC's written request, Herband shall
28 deliver lab reports obtained pursuant to Section 3.4 to ERC. Herband shall retain all test

1 results and documentation for a period of five years from the date of each test.

2 **4. SETTLEMENT PAYMENT**

3 **4.1** In full satisfaction of all potential civil penalties, additional settlement
4 payments, attorney's fees, and costs, Herbaland shall make a total payment of \$28,250.00
5 ("Total Settlement Amount") to ERC within 5 days of the Effective Date ("Due Date").
6 Herbaland shall make this payment by wire transfer to ERC's account, for which ERC will
7 give Herbaland the necessary account information. The Total Settlement Amount shall be
8 apportioned as follows:

9 **4.2** \$4,000.00 shall be considered a civil penalty pursuant to California Health and
10 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$3,000.00) 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 section 25249.12(c). ERC will retain the remaining 25% (\$1,000.00) of the civil penalty.

14 **4.3** \$6,076.61 shall be distributed to ERC as reimbursement to ERC for reasonable
15 costs incurred in bringing this action.

16 **4.4** \$6,000.00 shall be distributed to Richard M. Franco as reimbursement of ERC's
17 attorney's fees, while \$12,173.39 shall be distributed to ERC for its in-house legal fees. Except
18 as explicitly provided herein, each Party shall bear its own fees and costs.

19 **4.5** In the event that Herbaland fails to remit the Total Settlement Amount owed
20 under Section 4 of this Consent Judgment on or before the Due Date, Herbaland shall be
21 deemed to be in material breach of its obligations under this Consent Judgment. ERC shall
22 provide written notice of the delinquency to Herbaland via electronic mail. If Herbaland fails
23 to deliver the Total Settlement Amount within five (5) days from the written notice, the Total
24 Settlement Amount shall accrue interest at the statutory judgment interest rate provided in the
25 California Code of Civil Procedure section 685.010. Additionally, Herbaland agrees to pay
26 ERC's reasonable attorney's fees and costs for any efforts to collect the payment due under
27 this Consent Judgment.

28 ///

1 **5. MODIFICATION OF CONSENT JUDGMENT**

2 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by written
3 stipulation of the Parties and upon entry by the Court of a modified consent judgment or (ii) by
4 motion of either Party pursuant to Section 5.3 and upon entry by the Court of a modified
5 consent judgment.

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

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

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

25 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or
26 terminate this Consent Judgment.

27 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming
28 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall

1 inform Herbaland in a reasonably prompt manner of its test results, including information
2 sufficient to permit Herbaland to identify the Covered Products at issue. Herbaland shall, within
3 thirty (30) days following such notice, provide ERC with testing information, from an
4 independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4,
5 demonstrating Herbaland's compliance with the Consent Judgment. Alternatively, if, after
6 receiving such notice from ERC, Herbaland determines that its failure to provide a Warning
7 was inadvertent, Herbaland shall, within thirty (30) days following such notice, provide ERC
8 with information and documentation, where necessary, to establish that the failure to warn was
9 an inadvertent error that has been resolved. The Parties shall first attempt to resolve the matter
10 prior to ERC taking any further legal action.

11 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

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

1 Covered Products, as to any alleged violation of Proposition 65 or its implementing regulations
2 arising from the failure to provide Proposition 65 warnings on the Covered Products regarding
3 lead up to and including the Effective Date.

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

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

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

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

25 **8.4** Compliance with the terms of this Consent Judgment shall be deemed to
26 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead
27 in the Covered Products as set forth in the Notice and Complaint.

28 **8.5** Nothing in this Consent Judgment is intended to apply to any occupational or

1 environmental exposures arising under Proposition 65, nor shall it apply to any of Herbaland's
2 products other than the Covered Products.

3 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

4 In the event that any of the provisions of this Consent Judgment are held by a court to be
5 unenforceable, the validity of the remaining enforceable provisions shall not be adversely
6 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 or via electronic
13 mail where required. Courtesy copies via 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 Ph: (619) 500-3090
Email: chris.heptinstall@erc501c3.org

19 With a copy to:

20 Richard M. Franco
LAW OFFICE OF RICHARD M. FRANCO
21 6500 Estates Drive
Oakland, CA 94611
22 Ph: (510) 684-1022
23 Email: rick@francolaw.com

24 **FOR HERBALAND NATURALS, INC.:**

25 Musharaf Syed, CEO
Herbaland Naturals, Inc.
26 13330 Maycrest Way
27 Richmond, BC
Canada V6V 2J7
28 Ph: (604) 284-5050

1 With a copy to:
2 Garth N. Ward
3 LEWIS BRISBOIS
4 550 West C Street, Suite 1700
5 San Diego, CA. 921012
6 Email: Garth.Ward@lewisbrisbois.com

7 **12. COURT APPROVAL**

8 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
9 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
10 Consent Judgment.

11 **12.2** If the California Attorney General objects to any term in this Consent Judgment,
12 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
13 prior to the hearing on the motion.

14 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
15 void and have no force or effect.

16 **13. EXECUTION AND COUNTERPARTS**

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

20 **14. DRAFTING**

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

15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

If a dispute arises with respect to either Party's compliance with the terms of this Consent

Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the absence of such a good faith attempt to resolve the dispute beforehand.

16. ENFORCEMENT

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

17. ENTIRE AGREEMENT, AUTHORIZATION

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

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

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

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

(1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable settlement of all matters raised by the allegations of the Complaint that the matter has

1 been diligently prosecuted, and that the public interest is served by such settlement; and
2 (2) Make the findings pursuant to California Health and Safety Code section
3 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

4 IT IS SO STIPULATED:

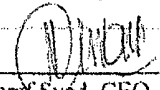
5 Dated: 3/11, 2021

ENVIRONMENTAL RESEARCH
CENTER, INC.

By: 
Chris Hepburn, Executive Director

9 Dated: Mar 09, 2021

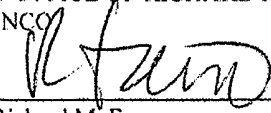
HERBALAND NATURALS, INC.

11 By: 
Musharraf Syed, CEO

15 APPROVED AS TO FORM:

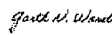
17 Dated: March 10, 2021

LAW OFFICE OF RICHARD M.
FRANCO

19 By: 
Richard M. Franco

21 Dated: March 9th, 2021

LEWIS BRISBOIS

23 By: 
Garth N. Ward
Attorney for Herbaland Naturals, 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: JUN 15 2021, 2021

 ^{SV}

Judge of the Superior Court

JUDGE DELBERT C. GEE

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EXHIBIT A

LAW OFFICE OF RICHARD M. FRANCO

**6500 ESTATES DRIVE
OAKLAND, CA 94611
510.684.1022
RICK@RFRANCOLAW.COM**

VIA CERTIFIED MAIL

Current President or CEO
Herbaland Naturals Inc.
13330 Maycrest Way
Richmond, BC V6V 2J7
Canada

Current President or CEO
Herbaland Naturals Inc.
12280 Horseshoe Way
Richmond, BC V7A 4Z1
Canada

VIA ELECTRONIC MAIL

Nancy O'Malley, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

VIA ELECTRONIC MAIL

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney
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Sacramento, CA 95814
Prop65@sacda.org

Summer Stephan, District Attorney
San Diego County
330 West Broadway
San Diego, CA 92101
SanDiegoDAProp65@sdcca.org

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

May 21, 2020

Page 2

VIA ELECTRONIC MAIL

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CityAttyProp65@sandiego.gov

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Bud Porter, Supervising Deputy District
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VIA ELECTRONIC MAIL

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800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA FIRST CLASS MAIL

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
May 21, 2020
Page 3

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

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:

Herbaland Naturals Inc.

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

- 1. HerbaLand Calcium & D3 Gummies for Kids Pineapple & Pomegranate Flavors - Lead**
- 2. HerbaLand Vegan Protein Gummies Kiwi And Friends - Lead**
- 3. HerbaLand Vegan Protein Gummies Wild Berry - Lead**
- 4. HerbaLand Vegan Protein Gummies Papaya Paradise - Lead**
- 5. HerbaLand Vegan Protein Gummies For Kids Cookie Dough - 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 has exposed and continues to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead has been

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

May 21, 2020

Page 4

through ingestion. 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 ingesting these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since May 21, 2017, 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 chemical; (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 chemical 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,


Rick Franco

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Herband Naturals Inc.)

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
May 21, 2020
Page 5

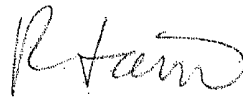
CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by
Herbaland Naturals Inc.**

I, Rick Franco, 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: May 21, 2020



Rick Franco

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

May 21, 2020

Page 6

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On May 21, 2020 between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Herbaland Naturals Inc.
13330 Maycrest Way
Richmond, BC V6V 2J7
Canada

Current President or CEO
Herbaland Naturals Inc.
12280 Horseshoe Way
Richmond, BC V7A 4Z1
Canada

On May 21, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified 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)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On May 21, 2020 between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Nancy O'Malley, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

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

May 21, 2020

Page 7

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
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mlatimer@co.lassen.ca.us

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Gary Lieberstein, District Attorney
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Paul E. Zellerbach, District Attorney
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Riverside, CA 92501
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Anne Marie Schubert, District Attorney
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Summer Stephan, District Attorney
San Diego County
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San Diego, CA 92101
SanDiegoDAProp65@sdcda.org

Mark Ankorn, Deputy City Attorney
San Diego City Attorney
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San Diego, CA 92101
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San Francisco, CA 94102
Valerie.Lopez@sfcityattys.org

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DAConsumer.Environmental@sjcda.org

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Santa Barbara, CA 93101
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Bud Porter, Supervising Deputy District Attorney
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Prop65DA@santacruzcounty.us

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Prop65@co.tulare.ca.us

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Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
May 21, 2020
Page 8

On May 21, 2020 between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 May 21, 2020, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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

May 21, 2020

Page 9

Service List

District Attorney, Alpine
County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador
County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte
County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney, Colusa
County
346 Fifth Street Suite 101
Colusa, CA 95932

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

District Attorney, El Dorado
County
778 Pacific St
Placerville, CA 95667

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

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

District Attorney, Humboldt
County
825 5th Street 4th Floor
Eureka, CA 95501

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

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

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

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

District Attorney, Los
Angeles County
Hall of Justice
211 West Temple St., Ste
1200
Los Angeles, CA 90012

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

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

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

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

District Attorney, Merced
County
550 W. Main Street
Merced, CA 95340

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

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

District Attorney, Nevada
County
201 Commercial Street
Nevada City, CA 95959

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

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

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

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

District Attorney, San
Bernardino County
303 West Third Street
San Bernardino, CA 92415

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

District Attorney, Shasta
County
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Redding, CA 96001

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100 Courthouse Square, 2nd
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County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus
County
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Modesto, CA 95354

District Attorney, Sutter
County
463 2nd Street
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District Attorney, Tehama
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Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity
County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne
County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba
County
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Marysville, CA 95901

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City Hall East
200 N. Main Street, Suite
800
Los Angeles, CA 90012

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

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EXHIBIT B

LAW OFFICE OF RICHARD M. FRANCO

**6500 ESTATES DRIVE
OAKLAND, CA 94611
510.684.1022
RICK@RFRANCOLAW.COM**

VIA CERTIFIED MAIL

Current President or CEO
Herbaland Naturals Inc.
13330 Maycrest Way
Richmond, BC V6V 2J7
Canada

Current President or CEO
Herbaland Naturals Inc.
12280 Horseshoe Way
Richmond, BC V7A 4Z1
Canada

VIA ELECTRONIC MAIL

Nancy O'Malley, District Attorney
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7677 Oakport Street, Suite 650
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Lassen County
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mlatimer@co.lassen.ca.us

Jeannine M. Pacioni, District Attorney
Monterey County
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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

June 11, 2020

Page 2

VIA ELECTRONIC MAIL

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San Diego City Attorney
1200 Third Avenue
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Gregory Alker, Assistant District Attorney
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VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA FIRST CLASS MAIL

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
June 11, 2020
Page 3

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

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:

Herbaland Naturals Inc.

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

- 1. HerbaLand Vegan Protein Gummies Organic Banana - Lead**
- 2. HerbaLand Vegan Protein Gummies Fantastic Fruit - Lead**
- 3. HerbaLand Vegan Protein Gummies For Kids Chocolate Brownie - Lead**
- 4. HerbaLand Vegan Omega-3 Gummies for Kids Orange Flavor - Lead**

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

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 has exposed and continues to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead has been through ingestion. 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

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

June 11, 2020

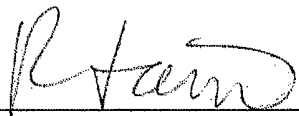
Page 4

to persons ingesting these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since June 11, 2017, 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 chemical; (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 chemical 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,



Rick Franco

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Herbaland Naturals Inc.)

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
June 11, 2020
Page 5

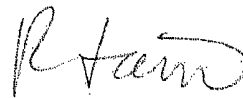
CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by
Herbaland Naturals Inc.**

I, Rick Franco, 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: June 11, 2020



Rick Franco

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

June 11, 2020

Page 6

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 and over the age of 18 years of age. 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 June 11, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Herbaland Naturals Inc.
13330 Maycrest Way
Richmond, BC V6V 2J7
Canada

Current President or CEO
Herbaland Naturals Inc.
12280 Horseshoe Way
Richmond, BC V7A 4Z1
Canada

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

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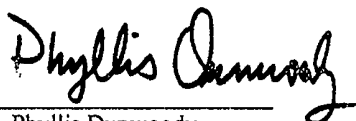
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Executed on June 11, 2020, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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

June 11, 2020

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Los Angeles, CA 90012

San Jose City Attorney's
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EXHIBIT C

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LAW OFFICE OF RICHARD M. FRANCO

**6500 ESTATES DRIVE
OAKLAND, CA 94611
510.684.1022
RICK@RFRANCOLAW.COM**

VIA CERTIFIED MAIL

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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
 July 16, 2020
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 Yolo County
 301 Second Street
 Woodland, CA 95695
 cfepe@yolocounty.org

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA FIRST CLASS MAIL

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
July 16, 2020
Page 3

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

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:

Herbaland Naturals Inc.

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

- 1. HerbaLand Good News Gummies Peach Passion - Lead**
- 2. HerbaLand Good News Gummies Blueberry Burst - Lead**
- 3. HerbaLand Good News Gummies Rad Raspberry - Lead**
- 4. HerbaLand Pure Slim Gummies for Adults Caramel Flavor - Lead**
- 5. HerbaLand Electrolyte Gummies Piña Colada Flavor - Lead**

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

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 has exposed and continues to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead has been through ingestion. 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

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

July 16, 2020

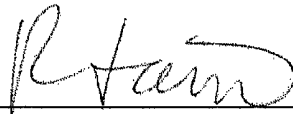
Page 4

label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons ingesting these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since July 16, 2017, 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 chemical; (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 chemical 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,



Rick Franco

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Herbaland Naturals Inc.)

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
July 16, 2020
Page 5

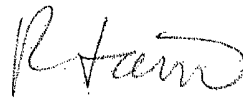
CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Herbaland Naturals Inc.

I, Rick Franco, 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: July 16, 2020



Rick Franco

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
July 16, 2020
Page 6

CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903

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 and over the age of 18 years of age. 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.

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Case Title: Enviromental Research Center V Herbaland Naturals
Case No. RG20079818

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct:

I am a Deputy Clerk employed by the Alameda County Superior Court. I am over the age of 18 years. My business address is 24405 Amador Street, Hayward, California. I served the *STIPUALTED CONSENT JUDGMENT CIVIL* by placing copies in envelopes addressed as shown below and 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.

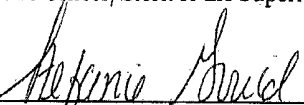
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Ward, Garth N.
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San Diego, CA 92101

Dated: 06/15/2021

Chad Finke
Executive Officer/Clerk of the Superior Court

By:


Stefanie Gould, Deputy Clerk