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17 Premium Supplements

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF ALAMEDA**

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

23 **Plaintiff,**

24 **vs.**

25 **NATURELO PREMIUM SUPPLEMENTS**
26 **LLC; NATURELO PREMIUM**
27 **SUPPLEMENTS INC.; ARCADIA**
28 **CONSUMER HEALTHCARE INC.,**
individually and dba NATURELO
PREMIUM SUPPLEMENTS; and DOES 1-
100

Defendants.

CASE NO. 21CV004515

STIPULATED CONSENT
JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Action Filed: December 22, 2021

Trial Date: None set

FILED

Superior Court of California
County of Alameda

09/02/2022

Clad Flake, Executive Officer / Clerk of the Court

By: Nicole Hall Deputy

N. Hall

1. INTRODUCTION

1.1 On December 22, 2021, Plaintiff Environmental Research Center, Inc. ("ERC"), a non-profit corporation, as a private enforcer and in the public interest, initiated this action by

1 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”)
2 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*
3 (“Proposition 65”), against Naturelo Premium Supplements LLC and Arcadia Consumer
4 Healthcare Inc., individually and dba Naturelo Premium Supplements (collectively “Arcadia”),
5 Naturelo Premium Supplements Inc., and Does 1-100. In this action, ERC alleges that a
6 number of products manufactured, distributed, or sold by Arcadia contain lead, a chemical
7 listed under Proposition 65 as a carcinogen and reproductive toxin, and expose consumers to
8 this chemical at a level requiring a Proposition 65 warning. These products (referred to
9 hereinafter individually as a “Covered Product” or collectively as “Covered Products”) are (1)
10 Naturelo Premium Supplements Whole Food Multivitamin For Men 50+, (2) Naturelo
11 Premium Supplements Whole Food Multivitamin For Women 50+, (3) Naturelo Premium
12 Supplements Whole Food Multivitamin For Men, (4) Naturelo Premium Supplements Whole
13 Food Multivitamin For Women, (5) Naturelo Premium Supplements Eye Health Areds 2
14 Formula With 20mg Lutein, (6) Naturelo Premium Supplements Raw Greens Whole Food
15 Powder Wild Berry Flavor, (7) Naturelo Premium Supplements Apple Cider Vinegar, (8)
16 Naturelo Premium Supplements Postnatal Multivitamin, (9) Naturelo Premium Supplements
17 Vegan Zinc Whole Food Complex, and (10) Naturelo Premium Supplements Garcinia
18 Cambogia+.

19 **1.2** ERC and Arcadia are hereinafter referred to individually as a “Party” or
20 collectively as the “Parties.”

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

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

1 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation
2 dated July 29, 2021 and August 12, 2021 that were served on the California Attorney General,
3 other public enforcers, and Arcadia (“Notices”). True and correct copies of the 60-Day Notices
4 dated July 29, 2021 and August 12, 2021 are attached hereto as *Exhibits A* and *B* and
5 incorporated herein by reference. More than 60 days have passed since the Notices were served
6 on the Attorney General, public enforcers, and Arcadia and no designated governmental entity
7 has filed a Complaint against Arcadia with regard to the Covered Products or the alleged
8 violations.

9 **1.6** ERC’s Notices and Complaint allege that use of the Covered Products by
10 California consumers exposes them to lead without first receiving clear and reasonable
11 warnings from Arcadia, which is in violation of California Health and Safety Code section
12 25249.6. Arcadia denies all material allegations contained in the Notices and Complaint.

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

20 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
21 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
22 any current or future legal proceeding unrelated to these proceedings.

23 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered
24 as a Judgment by this Court.

25 **2. JURISDICTION AND VENUE**

26 For purposes of this Consent Judgment and any further court action that may become
27 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
28 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction

1 over Arcadia as to the acts alleged in the Complaint, that venue is proper in Alameda County, and
2 that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all
3 claims up through and including the Effective Date that were or could have been asserted in this
4 action based on the facts alleged in the Notices and Complaint.

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

6 **3.1** Beginning on the Effective Date, Arcadia shall be permanently enjoined from
7 manufacturing for sale in the State of California, “Distributing into the State of California,” or
8 directly selling in the State of California, any Covered Product that exposes a person to a
9 “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day unless it meets the
10 warning requirements under Section 3.2.

11 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State
12 of California” shall mean to directly ship a Covered Product into California for sale in
13 California or to sell a Covered Product to a distributor that Arcadia knows or has reason to
14 know will sell the Covered Product in California.

15 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure
16 Level” shall be measured in micrograms, and shall be calculated using the following formula:
17 micrograms of lead per gram of product, multiplied by grams of product per serving of the
18 product (using the largest serving size appearing on the product label), multiplied by servings
19 of the product per day (using the largest number of recommended daily servings appearing on
20 the label), which equals micrograms of lead exposure per day, excluding, pursuant to Section
21 3.1.3, amounts of allowances of lead in the ingredients listed in **Table 1** below. If the label
22 contains no recommended daily servings, then the number of recommended daily servings
23 shall be one.

24 **3.1.3** In calculating the Daily Lead Exposure Level for a Covered Product,
25 Arcadia shall be allowed to deduct the amount of lead which is deemed “naturally occurring” in
26 any ingredient listed in **Table 1** that is contained in that Covered Product under the following
27 conditions: For each year that Arcadia claims entitlement to a “naturally occurring” allowance,
28 Arcadia shall provide ERC with the following information: (a) Arcadia must produce to ERC a

1 list of each ingredient in the Covered Product, and the amount, measured in grams, of each such
 2 ingredient contained therein, for which a “naturally occurring” allowance is claimed; (b) Arcadia
 3 must provide ERC with documentation of laboratory testing that complies with Sections 3.4.3
 4 and 3.4.4 and that shows the amount of lead, if any, contained in any ingredient listed in **Table 1**
 5 that is contained in the Covered Product and for which Arcadia intends to deduct “naturally
 6 occurring” lead; (c) If the laboratory testing reveals the presence of lead in any ingredient listed
 7 in **Table 1** that is contained in the Covered Product, Arcadia shall be entitled to deduct up to the
 8 full amount of the allowance for that ingredient, as listed in **Table 1**, but not to exceed the total
 9 amount of lead actually contained in that ingredient in the Covered Product; and (d) If the
 10 Covered Product does not contain an ingredient listed in **Table 1**, Arcadia shall not be entitled to
 11 a deduction for “naturally occurring” lead in the Covered Product for that ingredient. The
 12 information required by Sections 3.1.3 (a) and (b) shall be provided to ERC within thirty (30)
 13 days of the Effective Date, or anniversary thereof, for any year that Arcadia shall claim
 14 entitlement to the “naturally occurring” allowance.

15 **TABLE 1**

INGREDIENT	ALLOWANCES OF AMOUNT OF LEAD
Calcium (Elemental)	Up to 0.8 micrograms/gram
Ferrous Fumarate	Up to 0.4 micrograms/gram
Zinc Oxide	Up to 8.0 micrograms/gram
Magnesium Oxide	Up to 0.4 micrograms/gram
Magnesium Carbonate	Up to 0.332 micrograms/gram
Magnesium Hydroxide	Up to 0.4 micrograms/gram
Zinc Gluconate	Up to 0.8 micrograms/gram
Potassium Chloride	Up to 1.1 micrograms/gram
Cocoa-powder	Up to 1.0 micrograms/gram
Chocolate Liquor	Up to 1.0 micrograms/gram
Cocoa Butter	Up to 0.1 micrograms/gram

1 **3.2 Clear and Reasonable Warnings**

2 If Arcadia is required to provide a warning pursuant to Section 3.1, the following warning
3 must be utilized (“Warning”):

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

7 Arcadia shall use the phrase “cancer and” in the Warning if Arcadia has reason to believe
8 that the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined
9 pursuant to the quality control methodology set forth in Section 3.4 or if Arcadia has reason to
10 believe that another Proposition 65 chemical is present which may require a cancer warning. If
11 Arcadia has reason to believe that another chemical is present which would require a Proposition
12 65 warning, it may include the name of that chemical in addition to the word “lead” in the
13 Warning.

14 The Warning shall be (1) securely affixed to or printed upon the label of each Covered
15 Product, (2) provided via a leaflet or flier, containing only the Warning and identification of
16 the associated Covered Product(s) (a representation on a leaflet or flier that all products in a
17 shipment are associated with the Warning is compliant with this Consent Judgment so long as
18 there is a reasonable basis for a Warning on all productus in the shipment), with each online
19 order of Covered Product shipped into California, or (3) provided by shelf tag for the Covered
20 Product at each point of display of the Covered Product in brick and mortar locations. If the
21 Warning is provided on the label, it shall be securely affixed to or printed upon the label of
22 each Covered Product. The Warning on the label must be set off from other surrounding
23 information and enclosed in a box and must be either securely affixed using adhesives or
24 printed upon the label. In addition, for any Covered Product sold over the internet, the Warning
25 or a clearly marked hyperlink to the Warning shall appear on the Covered Product’s primary
26 display page or checkout page when a California delivery address is indicated for any purchase
27 of any Covered Product. An asterisk or other identifying method must be utilized to identify
28 which products on the checkout page are subject to the Warning. If the Warning is provided
via a clearly marked hyperlink, the hyperlink shall be prominently displayed, shall use only the

1 word “WARNING” in all capital and bold letters, and must go directly to a page prominently
2 displaying the Warning without content that detracts from the Warning. The Warning, or a
3 hyperlink to the Warning, is not prominently displayed if the purchaser must search for it in the
4 general content of the website.

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

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

15 For purposes of this Consent Judgment, the term “label” means a display of written,
16 printed or graphic material that is printed on or affixed to a Covered Product or its immediate
17 container or wrapper.

18 The Parties agree that the specifications for Clear and Reasonable Warnings in this
19 Consent Judgment comply with Proposition 65 and its regulations as of the date of this Consent
20 Judgment. If modifications or amendments to the warning provisions of Proposition 65, or its
21 regulations, that are applicable to the Covered Products and are enacted after the Effective Date
22 require the use of warning language or a warning method different from the warning language or
23 warning method required by this Consent Judgment, Arcadia may comply by providing warnings
24 that conform to the modified or amended provisions of Proposition 65 or its regulations.

25 **3.3 Conforming Covered Products**

26 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure
27 Level” is no greater than 0.5 micrograms of lead per day as determined by the exposure
28 methodology set forth in Section 3.1.2 and the quality control methodology described in Section

1 3.4, and that is not known by Arcadia to contain other chemicals that violate Proposition 65's safe
2 harbor thresholds.

3 **3.4 Testing and Quality Control Methodology**

4 **3.4.1** Beginning within one year of the Effective Date, Arcadia shall arrange
5 for lead testing of the Covered Products at least once a year for a minimum of three
6 consecutive years by arranging for testing of three (3) randomly selected samples of each of
7 the Covered Products, in the form intended for sale to the end-user, which Arcadia intends to
8 sell or is manufacturing for sale in California, directly selling to a consumer in California or
9 "Distributing into the State of California." If tests conducted pursuant to this Section
10 demonstrate that no Warning is required for a Covered Product during each of three
11 consecutive years, then the testing requirements of this Section will no longer be required as to
12 that Covered Product. However, if during or after the three-year testing period, Arcadia
13 changes ingredient suppliers for any of the Covered Products and/or reformulates any of the
14 Covered Products, Arcadia shall test that Covered Product annually for at least three (3)
15 consecutive years after such change is made.

16 **3.4.2** For purposes of measuring the "Daily Lead Exposure Level," the highest
17 lead detection result of the three (3) randomly selected samples of the Covered Products will
18 be controlling.

19 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
20 laboratory method that complies with the performance and quality control factors appropriate
21 for the method used, including limit of detection and limit of quantification, sensitivity,
22 accuracy and precision that meets the following criteria: Inductively Coupled Plasma-Mass
23 Spectrometry ("ICP-MS") achieving a limit of quantification of less than or equal to 0.005
24 mg/kg.

25 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
26 independent third party laboratory certified by the California Environmental Laboratory
27 Accreditation Program or an independent third-party laboratory that is registered with the
28 United States Food & Drug Administration.

1 **3.4.5** Nothing in this Consent Judgment shall limit Arcadia’s ability to
2 conduct, or require that others conduct, additional testing of the Covered Products, including
3 the raw materials used in their manufacture.

4 **3.4.6** Within thirty (30) days of ERC’s written request, Arcadia shall deliver
5 lab reports obtained pursuant to Section 3.4 to ERC. Arcadia shall retain all test results and
6 documentation for a period of five years from the date of each test.

7 **3.4.7** The testing requirements of this Section 3.4 do not apply to any Covered
8 Product for which Arcadia has provided a Warning in compliance with Section 3.2
9 continuously and uninterrupted after the Effective Date; however, in the event Arcadia ceases
10 to provide the Warning in compliance with Section 3.2, Arcadia shall be required to comply
11 with the testing requirements of this Section beginning immediately after the date the Warning
12 ceases to be provided or one year after the Effective Date, whichever date is later, unless
13 Arcadia can show to the satisfaction of ERC that the cessation in providing the Warning was a
14 temporary error that was resolved when discovered.

15 **4. SETTLEMENT PAYMENT**

16 **4.1** In full satisfaction of all potential civil penalties, additional settlement
17 payments, attorney’s fees, and costs, Arcadia shall make a total payment of \$90,000.00 (“Total
18 Settlement Amount”) to ERC within 10 days of the Effective Date (“Due Date”). Arcadia shall
19 make this payment by wire transfer to ERC’s account, for which ERC will give Arcadia the
20 necessary account information. The Total Settlement Amount shall be apportioned as follows:

21 **4.2** \$31,375.00 shall be considered a civil penalty pursuant to California Health and
22 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$23,531.25) of the civil penalty to
23 the Office of Environmental Health Hazard Assessment (“OEHHA”) for deposit in the Safe
24 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
25 Code section 25249.12(c). ERC will retain the remaining 25% (\$7,843.75) of the civil penalty.

26 **4.3** \$5,181.81 shall be distributed to ERC as reimbursement to ERC for reasonable
27 costs incurred in bringing this action.

28 **4.4** \$23,516.94 shall be distributed to ERC as an Additional Settlement Payment

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

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

1 that submitted the product).

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

7 **4.5** \$14,450.00 shall be distributed to Michael Freund as reimbursement of ERC's
8 attorney's fees, while \$15,476.25 shall be distributed to ERC for its in-house legal fees. Except
9 as explicitly provided herein, each Party shall bear its own fees and costs.

10 **4.6** In the event that Arcadia fails to remit the Total Settlement Amount owed under
11 Section 4 of this Consent Judgment on or before the Due Date, Arcadia shall be deemed to be
12 in material breach of its obligations under this Consent Judgment. ERC shall provide written
13 notice of the delinquency to Arcadia via electronic mail. If Arcadia fails to deliver the Total
14 Settlement Amount within five (5) days from the written notice, the Total Settlement Amount
15 shall accrue interest at the statutory judgment interest rate provided in the California Code of
16 Civil Procedure section 685.010. Additionally, Arcadia agrees to pay ERC's reasonable
17 attorney's fees and costs for any efforts to collect the payment due under this Consent
18 Judgment.

19 **5. MODIFICATION OF CONSENT JUDGMENT**

20 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
21 written stipulation of the Parties and upon entry by the Court of a modified consent judgment
22 or (ii) by motion of either Party pursuant to Section 5.3 and upon entry by the Court of a
23 modified consent judgment.

24 **5.2** If Arcadia seeks to modify this Consent Judgment under Section 5.1, then
25 Arcadia must provide written notice to ERC of its intent ("Notice of Intent"). If ERC seeks to
26 meet and confer regarding the proposed modification in the Notice of Intent, then ERC must
27 provide written notice to Arcadia within thirty (30) days of receiving the Notice of Intent. If
28 ERC notifies Arcadia in a timely manner of ERC's intent to meet and confer, then the Parties

1 shall meet and confer in good faith as required in this Section. The Parties shall meet in person
2 or via telephone within thirty (30) days of ERC's notification of its intent to meet and confer.
3 Within thirty (30) days of such meeting, if ERC disputes the proposed modification, ERC shall
4 provide to Arcadia a written basis for its position. The Parties shall continue to meet and
5 confer for an additional thirty (30) days in an effort to resolve any remaining disputes. Should
6 it become necessary, the Parties may agree in writing to different deadlines for the meet-and-
7 confer period.

8 **5.3** In the event that Arcadia initiates or otherwise requests a modification under
9 Section 5.1, and the meet and confer process leads to a joint motion or application for a
10 modification of the Consent Judgment, Arcadia shall reimburse ERC its costs and reasonable
11 attorney's fees for the time spent in the meet-and-confer process and filing and arguing the
12 motion or application.

13 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
14 **JUDGMENT**

15 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or
16 terminate this Consent Judgment.

17 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming
18 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall
19 inform Arcadia in a reasonably prompt manner of its test results, including information
20 sufficient to permit Arcadia to identify the Covered Products at issue. Arcadia shall, within
21 thirty (30) days following such notice, provide ERC with testing information, from an
22 independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4,
23 demonstrating Arcadia's compliance with the Consent Judgment. The Parties shall first attempt
24 to resolve the matter prior to ERC taking any further legal action.

25 **7. APPLICATION OF CONSENT JUDGMENT**

26 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
27 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
28 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,

1 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
2 application to any Covered Product that is distributed or sold exclusively outside the State of
3 California and that is not used by California consumers.

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

5 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC,
6 on behalf of itself and in the public interest, and Arcadia and its respective officers, directors,
7 shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,
8 franchisees, licensees, customers (not including private label customers of Arcadia),
9 distributors, wholesalers, retailers, and all other upstream and downstream entities in the
10 distribution chain of any Covered Product, and the predecessors, successors, and assigns of any
11 of them (collectively, "Released Parties").

12 **8.2** ERC, acting in the public interest, releases the Released Parties from any
13 and all claims for violations of Proposition 65 up through the Effective Date based on exposure
14 to lead from the Covered Products as set forth in the Notices of Violation. ERC, on behalf of
15 itself only, hereby fully releases and discharges the Released Parties from any and all claims,
16 actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and
17 expenses asserted, or that could have been asserted from the handling, use, or consumption of
18 the Covered Products, as to any alleged violation of Proposition 65 or its implementing
19 regulations arising from the failure to provide Proposition 65 warnings on the Covered
20 Products regarding lead up to and including the Effective Date.

21 **8.3** ERC on its own behalf only, and Arcadia on its own behalf only, further
22 waive and release any and all claims they may have against each other for all actions or
23 statements made or undertaken in the course of seeking or opposing enforcement of
24 Proposition 65 in connection with the Notices and Complaint up through and including the
25 Effective Date, provided, however, that nothing in Section 8 shall affect or limit any Party's
26 right to seek to enforce the terms of this Consent Judgment.

27 **8.4** It is possible that other claims not known to the Parties, arising out of the facts
28 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be

1 discovered. ERC on behalf of itself only, and Arcadia on behalf of itself only, acknowledge
2 that this Consent Judgment is expressly intended to cover and include all such claims up
3 through and including the Effective Date, including all rights of action therefore. ERC and
4 Arcadia acknowledge that the claims released in Sections 8.2 and 8.3 above may include
5 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
6 unknown claims. California Civil Code section 1542 reads as follows:

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

11 ERC on behalf of itself only, and Arcadia on behalf of itself only, acknowledge and understand
12 the significance and consequences of this specific waiver of California Civil Code section
13 1542.

14 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to
15 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged
16 exposures to lead in the Covered Products as set forth in the Notices and Complaint.

17 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
18 environmental exposures arising under Proposition 65, nor shall it apply to any of Arcadia's
19 products other than the Covered Products.

20 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

24 **10. GOVERNING LAW**

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

27 **11. PROVISION OF NOTICE**

28 All notices required to be given to either Party to this Consent Judgment by the other shall

1 be in writing and sent to the following agents listed below via first-class mail or via electronic
2 mail where required. Courtesy copies via email may also be sent.

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

4 Chris Heptinstall, Executive Director, Environmental Research Center
5 3111 Camino Del Rio North, Suite 400
6 San Diego, CA 92108
7 Ph: (619) 500-3090
8 Email: chris.heptinstall@erc501c3.org

9 With a copy to:

10 Michael Freund
11 Michael Freund & Associates
12 1919 Addison Street, Suite 105
13 Berkeley, CA 94704
14 Telephone: (510) 540-1992
15 Email: freund1@aol.com

16 **FOR NATURELO PREMIUM SUPPLEMENTS LLC; ARCADIA CONSUMER
17 HEALTHCARE INC., individually and dba NATURELO PREMIUM SUPPLEMENTS:**

18 Michael DeBiasi
19 CEO, Arcadia Consumer Healthcare
20 440 US Highway 22 – Suite 210
21 Bridgewater, NJ 08807
22 Ph.: +1 732-907-9119
23 mdebiasi@arcadiach.com

24 With a copy to:

25 Joseph J. Green
26 Kelley Drye & Warren LLP
27 Suite 400, 3050 K Street NW
28 Washington, DC 20007
Telephone: (202) 342-8849
Email: jgreen@kelleydrye.com

12. COURT APPROVAL

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

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

1 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
2 prior to the hearing on the motion.

3 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
4 void and have no force or effect.

5 **13. EXECUTION AND COUNTERPARTS**

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

9 **14. DRAFTING**

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

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

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

23 **16. ENFORCEMENT**

24 ERC may, by motion or order to show cause before the Superior Court of Alameda
25 County, enforce the terms and conditions contained in this Consent Judgment. In any action
26 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
27 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
28 To the extent the failure to comply with the Consent Judgment constitutes a violation of

1 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent
2 Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are
3 provided by law for failure to comply with Proposition 65 or other laws.

4 **17. ENTIRE AGREEMENT, AUTHORIZATION**

5 **17.1** This Consent Judgment contains the sole and entire agreement and
6 understanding of the Parties with respect to the entire subject matter herein, including any and
7 all prior discussions, negotiations, commitments, and understandings related thereto. No
8 representations, oral or otherwise, express or implied, other than those contained herein have
9 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
10 herein, shall be deemed to exist or to bind any Party.

11 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
12 authorized by the Party he or she represents to stipulate to this Consent Judgment.

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

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

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

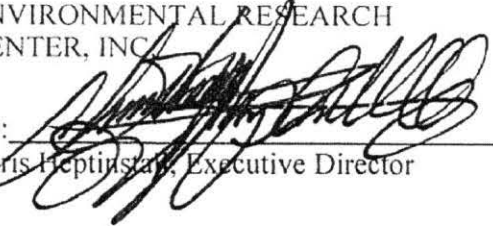
21 (2) Make the findings pursuant to California Health and Safety Code section
22 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 **IT IS SO STIPULATED:**

2 Dated: 1/27/, 2022

ENVIRONMENTAL RESEARCH
CENTER, INC.

3
4 By: 
5 Chris Heptinstall, Executive Director

6 Dated: 1/26, 2022

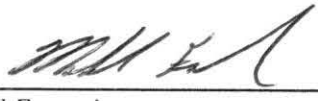
7 NATURELO PREMIUM SUPPLEMENTS
8 LLC; ARCADIA CONSUMER
9 HEALTHCARE INC., individually and dba
10 NATURELO PREMIUM SUPPLEMENTS

11 By: 
12 Michael DeBiasi, Chief Executive Officer

13 **APPROVED AS TO FORM:**


14
15 Dated: 1/27/, 2022

MICHAEL FREUND & ASSOCIATES

16
17 By: 
18 Michael Freund
19 Attorney for Plaintiff Environmental
20 Research Center, Inc.

21 Dated: 1/27, 2022

KELLEY DRYE & WARREN LLP

22
23 By: 
24 Andrew W. Homer
25 Attorney for Naturelo Premium
26 Supplements LLC and Arcadia Consumer
27 Healthcare Inc., individually and dba
28 Naturelo Premium Supplements

1 **ORDER AND JUDGMENT**

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

4 IT IS SO ORDERED, ADJUDGED AND DECREED.

5
6 Dated: 07/26/2022, 2022



7 _____
8 Judge of the Superior Court

9 **Stephen Kaus / Judge**

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EXHIBIT A

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice: 510.540.1992 • Fax: 510.371.0885

Michael Freund, Esq.

July 29, 2021

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.
(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators identified below.

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

Naturelo Premium Supplements LLC

Naturelo Premium Supplements Inc.

Arcadia Consumer Healthcare Inc., individually and dba Naturelo Premium Supplements

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

- 1. Naturelo Premium Supplements Whole Food Multivitamin For Men 50+ - Lead**
- 2. Naturelo Premium Supplements Whole Food Multivitamin For Women 50+ - Lead**
- 3. Naturelo Premium Supplements Whole Food Multivitamin For Men - Lead**
- 4. Naturelo Premium Supplements Whole Food Multivitamin For Women - Lead**
- 5. Naturelo Premium Supplements Eye Health Areds 2 Formula With 20mg Lutein - Lead**

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

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least July 29, 2018, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (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. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Naturelo Premium Supplements LLC, Naturelo Premium Supplements Inc., and Arcadia Consumer Healthcare Inc., individually and dba Naturelo Premium Supplements and their Registered Agents for Service of Process only)

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

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Naturelo Premium Supplements LLC, Naturelo Premium Supplements Inc., and Arcadia Consumer Healthcare Inc., individually and dba Naturelo Premium Supplements

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed 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 Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: July 29, 2021

Michael Freund

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 July 29, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Naturelo Premium Supplements LLC
440 US Hwy 22, Ste 210
Bridgewater, NJ 08807

Current President or CEO
Arcadia Consumer Healthcare Inc., individually
and dba Naturelo Premium Supplements
440 US Hwy 22, Ste 210
Bridgewater, NJ 08807

Current President or CEO
Naturelo Premium Supplements Inc.
440 US Hwy 22, Ste 210
Bridgewater, NJ 08807

Current President or CEO
Arcadia Consumer Healthcare Inc., individually
and dba Naturelo Premium Supplements
113 Cherry St
Seattle, WA 98104

Current President or CEO
Naturelo Premium Supplements LLC
113 Cherry St
Seattle, WA 98104

Current President or CEO
Arcadia Consumer Healthcare Inc., individually
and dba Naturelo Premium Supplements
308 East 5th Avenue
Vancouver, BC V5T 1H4
Canada

Current President or CEO
Naturelo Premium Supplements Inc.
113 Cherry St
Seattle, WA 98104

Corporation Service Company
(Registered Agent for Naturelo Premium
Supplements LLC)
251 Little Falls Dr
Wilmington, DE 19808

Current President or CEO
Naturelo Premium Supplements LLC
308 East 5th Avenue
Vancouver, BC V5T 1H4
Canada

Corporation Service Company
(Registered Agent for Naturelo Premium
Supplements LLC)
Princeton South Corporate Center, Ste 160
100 Charles Ewing Blvd
Ewing, NJ 08628

Current President or CEO
Naturelo Premium Supplements Inc.
308 East 5th Avenue
Vancouver, BC V5T 1H4
Canada

July 29, 2021

Page 5

Corporation Service Company Which
Will Do Business in California as CSC-Lawyers
Incorporating Service
(Registered Agent for Naturelo Premium
Supplements LLC)
2710 Gateway Oaks Dr, Ste 150N
Sacramento, CA 95833

CT Corporation System
(Registered Agent for Arcadia Consumer
Healthcare Inc., individually and
dba Naturelo Premium Supplements)
701 South Carson St, Ste 200
Carson City, NV 89701

Corporation Service Company
(Registered Agent for Naturelo Premium
Supplements LLC)
300 Deschutes Way SW, Ste 208
MC-CSC1
Tumwater, WA 98501

On July 29, 2021, 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 July 29, 2021, 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

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

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

Walter W. Wall, District Attorney
Mariposa County
P.O. Box 730
Mariposa, CA 95338
mcda@mariposacounty.org

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

Kimberly Lewis, District Attorney
Merced County
550 West Main St
Merced, CA 95340
Prop65@countyofmerced.com

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

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

Allison Haley, District Attorney
Napa County
1127 First Street, Ste C
Napa, CA 94559
CEPD@countyofnapa.org

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

Clifford H. Newell, District Attorney
Nevada County
201 Commercial St
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Morgan Briggs Gire, District Attorney
Placer County
10810 Justice Center Drive
Roseville, CA 95678
Prop65@placer.ca.gov

David Hollister, District Attorney
Plumas County
520 Main St
Quincy, CA 95971
davidhollister@countyofplumas.com

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

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

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Alethea Sargent, Assistant District Attorney
White Collar Division
San Francisco District Attorney's Office
350 Rhode Island Street
North Building, Suite 400N
San Francisco, CA 94103
alethea.sargent@sfgov.org

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

Tori Verber Salazar, District Attorney
San Joaquin County
222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney
Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Bud Porter, Supervising Deputy District Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Jeffrey S. Rosell, District Attorney
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr
Sonoma, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

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

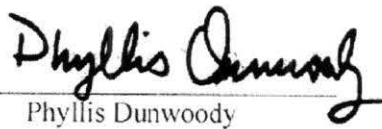
July 29, 2021

Page 7

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

On July 29, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on July 29, 2021, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

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, Mendocino
County
Post Office Box 1000
Ukiah, CA 95482

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, Orange
County
300 N Flower St
Santa Ana, CA 92703

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

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

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

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

District Attorney, Sierra
County
Post Office Box 457
100 Courthouse Square, 2nd
Floor
Downieville, CA 95936

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

District Attorney, Solano
County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus
County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter
County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama
County
Post Office Box 519
Red Bluff, CA 96080

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

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

District Attorney, Yuba
County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's
Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012

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

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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EXHIBIT B

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice: 510.540.1992 • Fax: 510.371.0885

Michael Freund, Esq.

August 12, 2021

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.
(PROPOSITION 65)**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators identified below.

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

Naturelo Premium Supplements LLC

Naturelo Premium Supplements Inc.

Arcadia Consumer Healthcare Inc., individually and dba Naturelo Premium Supplements

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

- 1. Naturelo Premium Supplements Raw Greens Whole Food Powder Wild Berry Flavor - Lead**
- 2. Naturelo Premium Supplements Apple Cider Vinegar - Lead**
- 3. Naturelo Premium Supplements Postnatal Multivitamin - Lead**
- 4. Naturelo Premium Supplements Vegan Zinc Whole Food Complex - Lead**
- 5. Naturelo Premium Supplements Garcinia Cambogia+ - Lead**

August 12, 2021

Page 2

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

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least August 12, 2018, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (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. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Naturelo Premium Supplements LLC, Naturelo Premium Supplements Inc., and Arcadia Consumer Healthcare Inc., individually and dba Naturelo Premium Supplements and their Registered Agents for Service of Process only)

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

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Naturelo Premium Supplements LLC, Naturelo Premium Supplements Inc., and Arcadia Consumer Healthcare Inc., individually and dba Naturelo Premium Supplements

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed 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 Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: August 12, 2021

Michael Freund

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 August 12, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Naturelo Premium Supplements LLC
440 US Hwy 22, Ste 210
Bridgewater, NJ 08807

Current President or CEO
Arcadia Consumer Healthcare Inc., individually
and dba Naturelo Premium Supplements
440 US Hwy 22, Ste 210
Bridgewater, NJ 08807

Current President or CEO
Naturelo Premium Supplements Inc.
440 US Hwy 22, Ste 210
Bridgewater, NJ 08807

Current President or CEO
Arcadia Consumer Healthcare Inc., individually
and dba Naturelo Premium Supplements
113 Cherry St
Seattle, WA 98104

Current President or CEO
Naturelo Premium Supplements LLC
113 Cherry St
Seattle, WA 98104

Current President or CEO
Arcadia Consumer Healthcare Inc., individually
and dba Naturelo Premium Supplements
308 East 5th Avenue
Vancouver, BC V5T 1H4
Canada

Current President or CEO
Naturelo Premium Supplements Inc.
113 Cherry St
Seattle, WA 98104

Current President or CEO
Naturelo Premium Supplements LLC
308 East 5th Avenue
Vancouver, BC V5T 1H4
Canada

Corporation Service Company
(Registered Agent for Naturelo Premium
Supplements LLC)
251 Little Falls Dr
Wilmington, DE 19808

Current President or CEO
Naturelo Premium Supplements Inc.
308 East 5th Avenue
Vancouver, BC V5T 1H4
Canada

Corporation Service Company
(Registered Agent for Naturelo Premium
Supplements LLC)
Princeton South Corporate Center, Ste 160
100 Charles Ewing Blvd
Ewing, NJ 08628

Corporation Service Company Which
Will Do Business in California as CSC-Lawyers
Incorporating Service
(Registered Agent for Naturelo Premium
Supplements LLC)
2710 Gateway Oaks Dr, Ste 150N
Sacramento, CA 95833

CT Corporation System
(Registered Agent for Arcadia Consumer
Healthcare Inc., individually and
dba Naturelo Premium Supplements)
701 South Carson St, Ste 200
Carson City, NV 89701

Corporation Service Company
(Registered Agent for Naturelo Premium
Supplements LLC)
300 Deschutes Way SW, Ste 208
MC-CSC1
Tumwater, WA 98501

On August 12, 2021, 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 August 12, 2021, 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

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

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

Walter W. Wall, District Attorney
Mariposa County
P.O. Box 730
Mariposa, CA 95338
mcda@mariposacounty.org

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

Kimberly Lewis, District Attorney
Merced County
550 West Main St
Merced, CA 95340
Prop65@countyofmerced.com

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

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

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

August 12, 2021

Page 6

Allison Haley, District Attorney
Napa County
1127 First Street, Ste C
Napa, CA 94559
CEPD@countyofnapa.org

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

Clifford H. Newell, District Attorney
Nevada County
201 Commercial St
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Morgan Briggs Gire, District Attorney
Placer County
10810 Justice Center Drive
Roseville, CA 95678
Prop65@placer.ca.gov

David Hollister, District Attorney
Plumas County
520 Main St
Quincy, CA 95971
davidhollister@countyofplumas.com

Anne Marie Schubert, District Attorney
Sacramento County
901 G Street
Sacramento, CA 95814
Prop65@sacda.org

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

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Alethea Sargent, Assistant District Attorney
White Collar Division
San Francisco District Attorney's Office
350 Rhode Island Street
North Building, Suite 400N
San Francisco, CA 94103
alethea.sargent@sfgov.org

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

Tori Verber Salazar, District Attorney
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222 E. Weber Avenue, Room 202
Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney
Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Bud Porter, Supervising Deputy District Attorney
Santa Clara County
70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Jeffrey S. Rosell, District Attorney
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Dr
Sonoma, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

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

August 12, 2021

Page 7

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

On August 12, 2021, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on August 12, 2021, in Fort Oglethorpe, Georgia.

Phyllis Dunwoody

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

August 12, 2021

Page 8

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, Mendocino
County
Post Office Box 1000
Ukiah, CA 95482

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, Orange
County
300 N Flower St
Santa Ana, CA 92703

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

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

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

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

District Attorney, Sierra
County
Post Office Box 457
100 Courthouse Square, 2nd
Floor
Downieville, CA 95936

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

District Attorney, Solano
County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus
County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter
County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama
County
Post Office Box 519
Red Bluff, CA 96080

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

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

District Attorney, Yuba
County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's
Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012

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

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 09/02/2022
PLAINTIFF/PETITIONER: ENVIRONMENTAL RESEARCH CENTER, INC. a California non-profit corporation	Chad Finke, Executive Officer / Clerk of the Court By: <u>Nicole Hall</u> Deputy N. Hall
DEFENDANT/RESPONDENT: NATURELO PREMIUM SUPPLEMENTS LLC et al	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: 21CV004515

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Judgment entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Andrew W Homer
KELLEY DRYE & WARREN LLP
ahomer@kelleydrye.com

Michael Bruce Freund
Michael Freund & Associates
freund1@aol.com

Dated: 09/02/2022

Chad Finke, Executive Officer / Clerk of the Court

By:

Nicole Hall

N. Hall, Deputy Clerk