

CALIFORNIA WOMEN'S LAW CENTER
3460 WILSHIRE BOULEVARD, SUITE 1102
LOS ANGELES, CALIFORNIA 90010

OCTOBER 5, 2005

NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT OF 1986
(California Health and Safety Code § 25249.5 *et seq.*)

Via First Class Mail – Proof of Service Attached

TO THE PARTIES LISTED ON THE
ATTACHED DISTRIBUTION LIST (See Page 5)

Re: Consumer Progesterone and Testosterone Creams, Gels and/or Lotion Products

Dear Sir or Madam:

The California Women's Law Center serves this Notice of Violation ("Notice") individually upon each company set forth above (hereinafter together "the Companies") pursuant to and in compliance with California Health and Safety Code ("H&S Code") § 25249.7(d) and 22 California Code of Regulations ("CCR") § 12903. This Notice satisfies a prerequisite for the Noticing Party to commence an action against the Companies to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986 (California H&S Code § 25249.5 *et seq.* On information and belief, the violations addressed by this Notice occur in every county and city in California. This Notice is being served upon each violator, the California Attorney General, the district attorney of every California county and the city attorney of every California city with a population (according to the most recent decennial census) of over 750,000. If the Companies have a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel, this Notice is being addressed to, and served upon, one of those persons.

Attached as Exhibit A to this Notice is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary." The attached Summary was prepared by the California Environmental Protection Agency and provides general information about the Safe Drinking Water and Toxic Enforcement Act of 1986. Copies of the Summary are not required to be, and are not being, provided to the public enforcement agencies.

A description of the Noticing Party, the Alleged Violator, and the Alleged Violations Addressed by this Notice follows:

- ◆ The California Women's Law Center provides this Notice. The California Women's Law Center (hereinafter "CWLC") is a California corporation and is acting in the public interest pursuant to California Health and Safety Code Section 25249.7(d). The CWLC's business address is 3460 Wilshire Boulevard, Suite 1102, Los Angeles, California 90010. Katie Buckland, Executive Director of the CWLC, is the responsible individual within the CWLC.

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- ◆ The violator names and addresses are:

Manufacturer	Corporate Address(es)
Angel Food Distributors, Inc.	2440 Cobb Parkway, Suite B, Smyrna, GA 30080
Daystar Television Network	PO Box 612066, Dallas, TX 75261-2066 - and - 3901 Highway 121 South, Bedford, TX 76021
General Nutrition Corporation / GNC	300 Sixth Avenue, Pittsburgh, PA 15222
Health Alternatives West, Inc.	161 Belleforest Circle, Suite 103, Nashville, TN 37221
Klein-Becker USA, LLC	5742 West Harold Gatty Drive, Salt Lake City, UT 84116
Sunrise Wholesale Direct / Sunrisewd.com	PO Box 13339, Port Isabel, TX 78578
Syringa, Inc.	1380Curtis Avenue, Idaho Falls, ID 83402 - and - PO Box 50078, Idaho Falls, ID 83405

- ◆ The violations addressed by this Notice began on or after January 1, 1989, have occurred on numerous occasions each and every day since January 1, 1989, and are ongoing and continuing.
- ◆ This Notice of Violation covers the “warning provision” of Proposition 65, which is found at H&S Code § 25249.6.
- ◆ The names of each chemical that is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 involved in the violations addressed by this Notice are Progesterone (listed as a carcinogen); Medroxyprogesterone acetate (listed as a carcinogen and reproductive toxin); Testosterone and its esters (listed as a carcinogen); Methyltestosterone (listed as a reproductive toxin); Testosterone cypionate (listed as a reproductive toxin); and Testosterone enanthate (listed as a reproductive toxin) (collectively the “Listed Chemicals”). The Listed Chemicals are listed (and have been so listed for more than twelve months) by the Governor of the State of California as being a chemical known to the State of California to cause cancer or reproductive toxicity, or both cancer and reproductive toxicity. See Exhibit B attached hereto.
- ◆ The routes of exposure for the violations addressed by this Notice are dermal contact during use of the Product(s).
- ◆ The type of consumer products causing the exposures addressed by this Notice are progesterone and testosterone consumer creams, gels and/or lotion products (“Products”), including but not limited to the following illustrative product(s):

TABEL A
ANGEL FOOD DISTRIBUTORS
Classic Angel Progesterone Cream
DAYSTAR TELEVISION NETWORK
Menopause Relief Crème with Red Clover Extract
ProHELP Moisture Treatment Crème

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GENERAL NUTRITION CORPORATION / GNC
GNC Women's Progesterone Cream
HEALTH ALTERNATIVES WEST, INC.
SupraGest™ Natural Progesterone Cream
KLEIN-BECKER USA, LLC
Testrogel
SUNRISE WHOLESALE DIRECT / SUNRISEWD.COM
Male Rescue
Prostate Rescue Natural Progesterone Gel For Men
Female Rescue
NPC Rescue Natural Progesterone Cream For Women
Essential Plus Rescue
SYRINGA, INC.
Resolve Wild Yam Emollient
Balance Wild Yam Roll-On Emollient
Pro-Gain Saw Palmetto Cream

- ◆ There are numerous sources of the exposures addressed in this Notice. On information and belief, these exposures occur in homes, the workplace and everywhere else in California where these products are used. These exposures occur principally off the property of the Noticed Company.
- ◆ In the course of doing business, the Companies knowingly and intentionally have exposed, and continues to expose, individuals (especially women) to the Listed Chemicals in the Products. No clear and reasonable warning is or has been provided by the Companies to individuals regarding exposure to the Listed Chemicals or regarding the fact that the Listed Chemicals are known to the State of California to be a carcinogen and/or reproductive toxin.
- ◆ These exposures are ongoing and continuing, with some continuing from 1989. The CWLC believes and so alleges that each Company has tolled any applicable statute of limitations by failing at any time in the past to disclose the presence of the Listed Chemicals in their Products to those persons that required a warning when they purchased the Products in the stores or over the internet where the Companies' Products are sold for consumer use in California. The labels on these Products do not include any warning that would meet the definition set forth at 22 CCR § 12601(b)(1)(A) or comply with 22 CCR § 12601(b)(3) and (b)(4)(B).
- ◆ The chemicals contained in the ingredients of the Products, and subject to the warning requirements of H&S Code § 25249.6 and more specifically 22 CCR § 12601(b) *et seq.*, are listed below:
 1. Progesterone (listed as a carcinogen)
 2. Medroxyprogesterone acetate (listed as a carcinogen and reproductive toxin)
 3. Testosterone and its esters (listed as a carcinogen)
 4. Methyltestosterone (listed as a reproductive toxin)
 5. Testosterone cypionate (listed as a reproductive toxin)
 6. Testosterone enanthate (listed as a reproductive toxin)

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- ◆ The aforementioned carcinogen and reproductive toxins are on the Governor's list ("Prop 65 List") as set forth at 22 CCR § 12000. These chemicals are known to the State of California to cause carcinogenic and/or reproductive toxicity harm to humans requiring special warning labels and care in handling and use. The concentrations of these toxins in the Products require a warning of the existence of this chemical danger by the Product's manufacturer, distributor and retailer.
- ◆ The principal route of exposure is through a "consumer products exposure" via dermal contact. These exposures have gone on since January 1, 1989, and are ongoing and continuing at every place in California that the Products listed in TABLE A are offered for sale and use. All references to "exposure" in this notice shall be understood to be exposures to the Products, including but not limited to the specific Product brands in said TABLE and the ingredients of those Products. The sale of these Products constitutes a transfer of a known reproductive and/or carcinogenic chemical to the purchaser as well as the ultimate consuming individual from the normal use of the Products, causing the exposure to occur without a clear and reasonable warning regarding the Listed Chemicals.
- ◆ The location of these alleged exposures are many and varied, and on information and belief occur within the 58 counties of the state of California, as evidenced by the District Attorneys addressed in the enclosed distribution list. The CWLC believes and so alleges that at least one of each Companies' Products were sold within each county by the Companies' wholesale or retail distributor, and that sale caused the utilization of the Products and consumption and subsequent exposure. This purchase and consumption caused exposures in that jurisdiction to the Listed Chemicals in the Products as identified herein, and those exposures by the Companies were allowed to take place without the prerequisite warnings as delineated by the applicable statutes specified in this notice.

Please direct any inquiries regarding this notice to counsel for the California Women's Law Center:

Roger Lane Carrick, Esq.
The Carrick Law Group, P.C.
350 S. Grand Avenue, Suite 2930
Los Angeles, CA 90071
Tel.: (213) 346-7930
Fax: (213) 346-7931
E-mail: roger@carricklawgroup.com

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NOTICED PARTIES DISTRIBUTION LIST:

- ◆ **ANGEL FOOD DISTRIBUTORS**
- ◆ **GENERAL NUTRITION CORPORATION / GNC**
- ◆ **KLEIN-BECKER USA, LLC**
- ◆ **SYRINGA, INC.**
- ◆ **DAYSTAR TELEVISION NETWORK**
- ◆ **HEALTH ALTERNATIVES WEST, INC.**
- ◆ **SUNRISE WHOLESALE DIRECT /
SUNRISEWD.COM**

EXHIBIT B NOTICED PARTIES:

- ◆ ANGEL FOOD DISTRIBUTORS
- ◆ GENERAL NUTRITION CORPORATION / GNC
- ◆ KLEIN-BECKER USA, LLC
- ◆ SYRINGA, INC.
- ◆ DAYSTAR TELEVISION NETWORK
- ◆ HEALTH ALTERNATIVES WEST, INC.
- ◆ SUNRISE WHOLESALE DIRECT /
SUNRISEWD.COM

List Of Chemicals Contained In The Attached 60-Day Notice of Violation That Are Listed By The Governor Of The State Of California As Being Known To The State Of California To Cause Cancer Or Reproductive Toxicity

CARCINOGENS

<u>Chemical</u>	<u>CAS No.</u>	<u>Date Added to List</u>
Progesterone	57830	January 1, 1988
Medroxyprogesterone acetate	71589	January 1, 1990
Testosterone and its esters	58220	April 1, 1988

REPRODUCTIVE TOXINS

<u>Chemical</u>	<u>CAS No.</u>	<u>Date Added to List</u>
Medroxyprogesterone acetate	71589	April 1, 1990
Methyltestosterone	58184	April 1, 1990
Testosterone cypionate	58208	October 1, 1991
Testosterone enanthate	315377	April 1, 1990

CERTIFICATE OF MERIT
HEALTH AND SAFETY CODE SECTION 25249.7(d)

NOTICED PARTIES:

- ◆ ANGEL FOOD DISTRIBUTORS
- ◆ GENERAL NUTRITION CORPORATION / GNC
- ◆ KLEIN-BECKER USA, LLC
- ◆ SYRINGA, INC.
- ◆ DAYSTAR TELEVISION NETWORK
- ◆ HEALTH ALTERNATIVES WEST, INC.
- ◆ SUNRISE WHOLESALE DIRECT /
SUNRISEWD.COM

I, Roger Lane Carrick, on behalf of the California Women's Law Center hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged that the parties identified in the notices have violated California Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

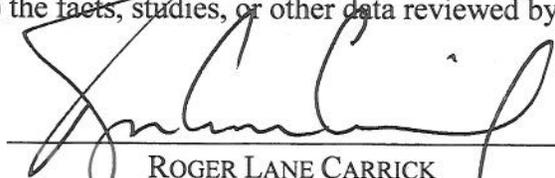
2. I am the attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical(s) that is the subject of this action.

4. Based upon the information obtained through those consultations, and all 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 private action" means that the information provides a credible basis that all the elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and safety Code section 24249.7(h)(2), *i.e.*, (1) the identity of the person consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: October 5, 2005



ROGER LANE CARRICK
THE CARRICK LAW GROUP, P.C.
ATTORNEYS FOR
CALIFORNIA WOMEN'S LAW CENTER