The Carrick Law Group P.C.
350 South Grand Avenue, Suite 2930
Los Angeles, California 90071

MARCH 29, 2007

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

To
• VITAMIN SHOPPE INDUSTRIES, INC.

Thomas Tolworthy
President
VITAMIN SHOPPE INDUSTRIES, INC.
2101 - 91st Street
North Bergen, NJ 07047

Re: Red Yeast Rice Dietary Supplement Products

Dear Mr. Tolworthy:

Lawrence Switzer (the "Noticing Party") serves this Notice of Violation ("Notice") upon VITAMIN SHOPPE INDUSTRIES, INC. ("Noticed Company") 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 Noticing Party to commence an action against the Companies to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986. 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 EPA 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.

Description of the Noticing Party, the Alleged Violator, and the Alleged Violations Addressed by this Notice:

- This Notice is provided by Lawrence Switzer. Mr. Switzer is an individual who resides in Santa Rosa, CA. Mr. Switzer is acting in the public interest pursuant to H&S Code § 25249.7(d), and is acting to protect the environment, improve human health and support environmentally sound practices.

- The violator's name and address is:

  - VITAMIN SHOPPE INDUSTRIES, INC.
    2101 - 91st Street
    North Bergen, NJ 07047

- The violations addressed by this Notice began on or after October 1, 1992, have occurred on numerous occasions each and every day since October 1, 1992, 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 name 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 is Lovastatin (also known as mevinolin, Lovastatin is listed as a Proposition 65 reproductive toxin - the "Listed Chemical"). The Listed Chemical is 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 reproductive toxicity. See Exhibit B attached hereto.

- The route of exposure for the violations addressed by this Notice is ingestion.

- The type of consumer products causing the exposures addressed by this Notice are Red Yeast Rice Dietary Supplement Products:

TABLE A
REPRESENTATIVE PRODUCT LIST
Action Labs Super Red Yeast Rice with CqQ10 & Oyster Mushrooms, 600 mg; Kal Beyond Red Yeast Rice; Kal Red Yeast Rice Once Daily 1200 mg; Nature's Plus® Red Yeast Rice Extended Released, 600 mg; Nature's Plus Red Yeast Rice Gugulipid, 450 mg; Nature's Plus Red Yeast Rice, 600 mg; Solaray GarliCare Plus Red Yeast Rice; Solaray Guggul & Red Yeast Rice; Solaray Red Yeast Rice Plus CoQ10 with Flush-Free Niacin; Solaray Red Yeast Rice Plus Squalene Enhanced Combination; VegLife 100% Vegan Red Yeast Rice, 600 mg

- There are numerous sources of the exposures addressed in this Notice. These exposures occur in homes, the workplace and everywhere else in California where these Products are consumed. These exposures occur principally off the property of the Noticed Company.

- In the course of doing business, the Noticed Company knowingly and intentionally have exposed, and continues to expose, individuals (especially pregnant and post-partum women) to the Listed Chemicals in these Products. No clear and reasonable warning is or has been provided by the Noticed Company to individuals regarding this 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 have gone on from 1992 and are ongoing and continuing as Mr. Switzer believes and so alleges that the Noticed Company has tolled the statute of limitations by fraudulent concealment of the constituents of the ingredients in its Products from those persons that required a warning in the stores where the Company's Products are sold for consumer use in California. The labels on these Products are further absent any warning that would meet the definition delineated at Title 22 CCR § 12601(b)(1)(A), nor do they comply with section (b)(3) and (b)(4)(B) of that regulation.

- The reproductive toxin, 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.*, is listed below:

    1. Lovastatin

- The aforementioned reproductive toxin is on the Governor's list (Prop 65 List) as expressed at 22 CCR § 12000. This chemical is known to the State of California to cause reproductive harm to humans requiring special warning labels and care in handling and use.

- The principal route of exposure is through a "consumer products exposure" via ingestion during use of the Products. These exposures have gone on since October 1, 1992, 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 lines 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 into the populous and the normal use of the Products by the purchaser or others will cause the exposure without a clear and reasonable warning.

- The location of these alleged exposures are many and varied while occurring within the 58 counties of the state of California as evidenced by the District Attorneys addressed in the enclosed distribution list. Mr. Switzer believes and so alleges that at least one of the jurisdictions identified had the Noticed Company's Products sold within that county by the Noticed Company wholesale or retail distributor and that sale caused the utilization of the Products and subsequent exposure. Further that usage caused exposures in that jurisdiction to the constituents of the Products as identified herein, and those exposures by the Noticed Company 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 or any communication for the noticing party, Lawrence Switzer to:

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

cc w/att.: Trenton H. Norris, Esq.
Mark P. Pifko, Esq.

EXHIBIT B

NOTICED PARTY:

• VITAMIN SHOPPE INDUSTRIES, INC.

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 Reproductive Toxicity

REPRODUCTIVE TOXINS

Chemical	CAS No.	Date Added to List
Lovastatin	75330755	October 1, 1992

CERTIFICATE OF MERIT

HEALTH AND SAFETY CODE SECTION 25249.7(d)

- **LOVASTATIN**

NOTICED PARTY:

• VITAMIN SHOPPE INDUSTRIES, INC.

I, Roger Lane Carrick, on behalf of Lawrence Switzer 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: March 29, 2007

ROGER LANE CARRICK
THE CARRICK LAW GROUP, P.C.
ATTORNEYS FOR
LAWRENCE SWITZER

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 350 S. Grand Avenue, Suite 2930, Los Angeles, CA 90071-3406.

On March 29, 2007, I served copies of the documents listed immediately hereafter by first class mail by placing same in sealed envelopes, fully preparing postage thereon, and depositing said envelopes in the U.S. Mail at Los Angeles, California. Said envelopes were addressed as follows:

SEE ATTACHED DISTRIBUTION LIST
(sent via certified mail with applicable postage to those parties listed with an asterisk)

Documents mailed:

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

   NOTICED PARTIES:
   - **VITAMIN SHOPPE INDUSTRIES, INC.**

2. **Exhibit A - THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those parties listed with an asterisk)**
3. **Exhibit B - Details of Relevant Proposition 65 Chemical Listing**
4. **CERTIFICATE OF MERIT – (attachments only sent to California Attorney General's Office)**

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed on March 29, 2007, at Los Angeles, California.

Kimberly A.K. Burgo

DISTRIBUTION LIST – NOTICED PARTIES
***By Certified Mail – Return Receipt Requested**
60-Day Notice of Violation; Exhibit A - Summary of Prop. 65;
Exhibit B - Details of Relevant Proposition 65 Chemical Listing;
Certificate of Merit; and Certificate of Service

Thomas Tolworthy
President
VITAMIN SHOPPE INDUSTRIES, INC.
2101 - 91st Street
North Bergen, NJ 07047

By Certified Mail – Return Receipt Requested

*Corporation Service Company d/b/a
CSC - Lawyers Incorporating Service
PO Box 526036
Sacramento, CA 95852

By Certified Mail – Return Receipt Requested

On behalf of: VITAMIN SHOPPE INDUSTRIES, INC.

Trenton H. Norris, Esq.
Bingham McCutchen LLP
Three Embarcadero Center, Suite 1800
San Francisco, CA 94111

COURTESY COPY
On behalf of: VITAMIN SHOPPE INDUSTRIES, INC.

Mark P. Pifko, Esq.
Bingham McCutchen LLP
355 South Grand Avenue, Suite 4400
Los Angeles, CA 90071-3106

COURTESY COPY
On behalf of: VITAMIN SHOPPE INDUSTRIES, INC.

DISTRIBUTION LIST – GOVERNMENT ENTITIES

60-Day Notice of Violation; Exhibit B - Details of Relevant Proposition 65 Chemical Listing; Certificate of Merit (w/atts. AG's office only); and Certificate of Service

CALIFORNIA ATTORNEY GENERAL
CA Department of Justice
PROP. 65 ENFORCEMENT REPORTING
Attn: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

Los Angeles City Attorney's Office
1800 City Hall East
200 N. Main Street
Los Angeles, CA 90012

San Diego City Attorney's Office
Civic Center Plaza
1200 Third Avenue, 3rd Floor
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

San Jose City Attorney's Office
151 West Mission Street
San Jose, CA 95110

Office of the District Attorney of
Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

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

Office of the District Attorney of
Amador County
708 Court Street, Room 202
Jackson, CA 95642

Office of the District Attorney of
Butte County
Administration Building
25 County Center Drive
Oroville, CA 95965

Office of the District Attorney of
Calaveras County
County Government Center
891 Mountain Ranch Road
San Andreas, CA 95249

Office of the District Attorney of
Colusa County
547 Market Street
Colusa, CA 95932

Office of the District Attorney of
Contra Costa County
PO Box 670
Martinez, CA 94553

Office of the District Attorney of
Del Norte County
County Courthouse
450 H Street, Suite 171
Crescent City, CA 95531

Office of the District Attorney of
El Dorado County
515 Main Street
Placerville, CA 95667

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

Office of the District Attorney of
Glenn County
P.O. Box 430
Willows, CA 95988

Office of the District Attorney of
Humboldt County
825 Fifth Street
Eureka, CA 95501

Office of the District Attorney of
Imperial County
County Courthouse, Rm. 202
939 W. Main Street
El Centro, CA 92243

Office of the District Attorney of
Inyo County
168 N. Edwards Street
P.O. Drawer D
Independence, CA 93526

Office of the District Attorney of
Kern County
1215 Truxtun Avenue, 4th Floor
Bakersfield, CA 93301

Office of the District Attorney of
Kings County
Government Center
1400 West Lacey Boulevard
Hanford, CA 93230

Office of the District Attorney of
Lake County
255 N. Forbes Street, Ste. 424
Lakeport, CA 95453

Office of the District Attorney of
Lassen County
County Courthouse
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

Office of the District Attorney of
Los Angeles County
18000 Criminal Courts Building
210 W. Temple Street
Los Angeles, CA 90012

Office of the District Attorney of
Madera County
209 W. Yosemite Avenue
Madera, CA 93637

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

Office of the District Attorney of
Merced County
2222 "M" Street
Merced, CA 95340

Office of the District Attorney of
Monterey County
240 Church Street, Room 101
Salinas, CA 93902

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

Office of the District Attorney of
Riverside County
4075 Main Street, 1st Floor
Riverside, CA 92501

Office of the District Attorney of
San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

Office of the District Attorney of
San Joaquin County
222 E. Weber, Room 202
P.O. Box 990
Stockton, CA 95201

Office of the District Attorney of
Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

Office of the District Attorney of
Shasta County
1525 Court Street, Third Floor
P.O. Box 1320
Redding, CA 96001-1632

Office of the District Attorney of
Solano County
600 Union Avenue
Fairfield, CA 94533

Office of the District Attorney of
Mariposa County
5089 Bullion Street
P.O. Box 730
Mariposa, CA 95338

Office of the District Attorney of
Modoc County
County Courthouse
204 S. Court Street, Room 202
Alturas, CA 96101

Office of the District Attorney of
Napa County
931 Parkway Mall
Napa, CA 94559

Office of the District Attorney of
Placer County
11562 "B" Avenue, DeWitt Center
Auburn, CA 95603

Office of the District Attorney of
Sacramento County
901 "G" Street
P.O. Box 749
Sacramento, CA 95814

Office of the District Attorney of
San Diego County
330 West Broadway, Ste. 1320
San Diego, CA 92101

Office of the District Attorney of
San Luis Obispo County
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

Office of the District Attorney of
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110

Office of the District Attorney of
Sierra County
County Courthouse
P.O. Box 457
Downieville, CA 95936

Office of the District Attorney of
Sonoma County
Hall of Justice
600 Administration Drive, Room 212-J
Santa Rosa, CA 95403

Office of the District Attorney of
Mendocino County
County Courthouse
P.O. Box 1000
Ukiah, CA 95482

Office of the District Attorney of
Mono County
County Courthouse
P.O. Box 617
Bridgeport, CA 93517

Office of the District Attorney of
Nevada County
Courthouse Annex
201 Church Street, Suite 8
Nevada City, CA 95959-2504

Office of the District Attorney of
Plumas County
520 Main Street, Room 404
P.O. Box 10716
Quincy, CA 95971

Office of the District Attorney of
San Benito County
419 4th Street, 2nd Floor
Hollister, CA 95023-3801

Office of the District Attorney of
San Francisco County
Hall of Justice
880 Bryant Street, Room 325
San Francisco, CA 94103

Office of the District Attorney of
San Mateo County
400 County Center, 3rd Floor
Redwood City, CA 94063

Office of the District Attorney of
Santa Cruz County
701 Ocean Street, Ste. 200
Santa Cruz, CA 95060

Office of the District Attorney of
Siskiyou County
P.O. Box 986
Yreka, CA 96097

Office of the District Attorney of
Stanislaus County
800 11th Street, Room 200
P.O. Box 442
Modesto, CA 95354

Office of the District Attorney of
Sutter County
Courthouse Annex Box 1555
446 Second Street
Yuba City, CA 95991

Office of the District Attorney of
Tehama County
County Courthouse
P.O. Box 519
Red Bluff, CA 96080-0519

Office of the District Attorney of
Trinity County
P.O. Box 1310
Weaverville, CA 96093

Office of the District Attorney of
Tulare County
County Civic Center
221 S. Mooney Boulevard, Room 224
Visalia, CA 93291

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

Office of the District Attorney of
Ventura County
800 South Victoria Avenue, Rm. 314
Ventura, CA 93009

Office of the District Attorney of
Yolo County
301 Second Street
Woodland, CA 95695

Office of the District Attorney of
Yuba County
County Courthouse
215 Fifth Street
Marysville, CA 95901

2001 APR -2 P 3:36