



As You Sow

Planting Seeds for Social Change

June 24, 2008

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**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.**

Dear Public Enforcement Agencies:

As You Sow ("AYS") is a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education.

AYS has documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986 ("Proposition 65"), codified at Health & Safety Code §25249.5 *et seq.* This letter serves to provide AYS' notification of these violations to the public enforcement agencies and to the violator. Pursuant to §25249.7(d) of the statute, AYS intends to bring an enforcement action sixty (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.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

Alleged violator. The name of the violator covered by this notice is **WHOLISTIC BOTANICALS, LLC** doing business as **CHRISTOPHER'S ORIGINAL FORMULAS** ("WB").

Chemicals. These violations involve exposures to lead and lead compounds from the products listed below. On February 27, 1987, the State of California officially listed lead as a chemical known to cause reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

Consumer products. The products that are the subject of this notice are herbs and herbal products, traditional patent medicines, bulk herbs, infusions, extracted powders, tea pills, traditional pills, patent formulas, bulk teas, liquid extracts and/or capsules that are imported, exported, manufactured, packaged, distributed, marketed and/or sold by WB. The phrase "traditional patent medicines" above is used herein as defined by the California Department of Health Services: "herbal and patent medicines consisting of single or multiple herbal ingredients, including botanical, mineral and animal products, formulated into tablets, pills, powders and



liquids.” The following products are the subject of this notice:

<u>Product</u>	Listed Substance
Finished Goods:81040 Gas-Eze Capsule	lead and lead compounds
Finished Goods:81050 Slumber Capsules	lead and lead compounds
Finished Goods:81060 Stop-Ache Capsule	lead and lead compounds
Finished Goods:86700 Alfalfa Leaf Capsule	lead and lead compounds
Finished Goods:86704 Astragalus Root Capsule	lead and lead compounds
Finished Goods:86708 Bee Pollen Capsule	lead and lead compounds
Finished Goods:86710 Black Cohosh Root Capsule	lead and lead compounds
Finished Goods:86712 Burdock Root Capsule	lead and lead compounds
Finished Goods:86713 Butcher's Broom Root Capsule	lead and lead compounds
Finished Goods:86714 Cascara Sagrada Bark Capsule	lead and lead compounds
Finished Goods:86716 Cat's Claw Bark Capsule	lead and lead compounds
Finished Goods:86717 Cinnamon Bark Capsule	lead and lead compounds
Finished Goods:86720 Cayenne Pepper Capsule	lead and lead compounds
Finished Goods:86723 Chaste Tree Berry Capsule	lead and lead compounds
Finished Goods:86726 Dandelion Root Capsule	lead and lead compounds
Finished Goods:86728 Dong Quai Capsule	lead and lead compounds
Finished Goods:86729 Echinacea Angustifolia Root Capsule	lead and lead compounds
Finished Goods:86733 Eyebright Herb Capsule	lead and lead compounds
Finished Goods:86735 Fenugreek Seed Capsule	lead and lead compounds
Finished Goods:86738 Garlic Bulb Capsule	lead and lead compounds
Finished Goods:86741 Ginger Root Capsule	lead and lead compounds
Finished Goods:86743 Eleuthero Root Capsule	lead and lead compounds
Finished Goods:86744 Hawthorn Berry Capsule	lead and lead compounds
Finished Goods:86746 Goldenseal Root Capsule	lead and lead compounds
Finished Goods:86748 Horsetail Herb Capsule	lead and lead compounds
Finished Goods:86756 Kelp Plant Capsule	lead and lead compounds
Finished Goods:86760 Mullein Leaf Capsule	lead and lead compounds
Finished Goods:86762 Nettle Leaf Capsule	lead and lead compounds
Finished Goods:86764 Pau D' Arco Bark Capsule	lead and lead compounds
Finished Goods:86766 Red Clover Blossom Capsule	lead and lead compounds
Finished Goods:86768 Red Raspberry Leaf Capsule	lead and lead compounds
Finished Goods:86770 Saw Palmetto Berry Capsule	lead and lead compounds
Finished Goods:86776 Slippery Elm Bark Capsule	lead and lead compounds
Finished Goods:86780 Spirulina Capsule	lead and lead compounds
Finished Goods:86782 St. John's Wort Herb Capsule	lead and lead compounds
Finished Goods:86783 Valerian Root Capsule	lead and lead compounds
Finished Goods:89101 Lower Bowel Capsule	lead and lead compounds
Finished Goods:89102 Blood Stream Capsule	lead and lead compounds
Finished Goods:89103 Liver & Gall Bladder Capsule	lead and lead compounds
Finished Goods:89104 Kidney Formula Capsule	lead and lead compounds
Finished Goods:89105 Bladder Formula Capsule	lead and lead compounds
Finished Goods:89106 Bilberry Eye Capsule	lead and lead compounds
Finished Goods:89107 Pancreas Formula Capsule	lead and lead compounds

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Finished Goods:89108	Herbal Calcium Capsule	lead and lead compounds
Finished Goods:89109	Sinus Plus Capsule	lead and lead compounds
Finished Goods:89110	Blood Circulation Capsule	lead and lead compounds
Finished Goods:89111	Appetite Formula Capsule	lead and lead compounds
Finished Goods:89112	Glandular System Capsule	lead and lead compounds
Finished Goods:89113	Relax-Eze Capsule	lead and lead compounds
Finished Goods:89114	Female Tonic Capsule	lead and lead compounds
Finished Goods:89115	Lung & Bronchial Capsule	lead and lead compounds
Finished Goods:89116	Cold Season Capsule	lead and lead compounds
Finished Goods:89117	Immucalm Capsule	lead and lead compounds
Finished Goods:89118	Immune System Capsule	lead and lead compounds
Finished Goods:89119	Chest Formula Capsule	lead and lead compounds
Finished Goods:89120	Herbal Eyebright Capsule	lead and lead compounds
Finished Goods:89121	Female Reproductive Capsule	lead and lead compounds
Finished Goods:89122	Male Urinary Tract Capsule	lead and lead compounds
Finished Goods:89123	Hormonal Changease Capsule	lead and lead compounds
Finished Goods:89124	Liver Transition Capsule	lead and lead compounds
Finished Goods:89125	Herbal Iron Capsule	lead and lead compounds
Finished Goods:89126	False Unicorn & Lobelia Capsule	lead and lead compounds
Finished Goods:89127	Pre-Natal Capsule	lead and lead compounds
Finished Goods:89128	Complete Tissue & Bone Capsule	lead and lead compounds
Finished Goods:89129	Herbal Libido Capsule	lead and lead compounds
Finished Goods:89130	Joint Formula Capsule	lead and lead compounds
Finished Goods:89131	Infection Formula Capsule	lead and lead compounds
Finished Goods:89132	Thyroid Maintenance Capsule	lead and lead compounds
Finished Goods:89133	Master Gland Capsule	lead and lead compounds
Finished Goods:89134	MindTrac Capsule	lead and lead compounds
Finished Goods:89134s	MindTrac Sample	lead and lead compounds
Finished Goods:89135	Prostate Plus Capsule	lead and lead compounds
Finished Goods:89136	Quick Colon #1 Capsule	lead and lead compounds
Finished Goods:89138	Vitalerbs Capsule	lead and lead compounds
Finished Goods:89139	Herbal Thyroid Capsule	lead and lead compounds
Finished Goods:89140	Echinacea & Goldenseal Capsule	lead and lead compounds
Finished Goods:89141	Male Tonic Capsule	lead and lead compounds
Finished Goods:89142	Soothing Digestion Capsule	lead and lead compounds
Finished Goods:89146	Heavy Mineral Bugleweed Capsule	lead and lead compounds
Finished Goods:89147	Adrenal Formula Capsule	lead and lead compounds
Finished Goods:89156	Memory Plus Capsule	lead and lead compounds
Finished Goods:89170	Bee Power Energy Capsule	lead and lead compounds
Finished Goods:89171	Jurassic Green Capsule	lead and lead compounds
Finished Goods:89173	Metaburn Herbal Weight Capsule	lead and lead compounds

Route of exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and use of these products as recommended by the manufacturer. Accordingly, the consumer exposures have occurred and continue to occur primarily through the ingestion exposure route, but also may occur through inhalation and/or and dermal contact.

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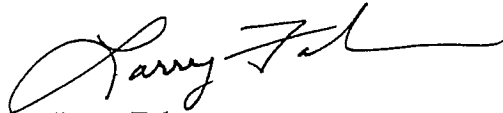
Duration of violations. Each of these ongoing violations has occurred on every day since at least June 24, 2007, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

This notice of violation supplements the previous notice of violation issued by AYS against WB on August 17, 2007, regarding nine products. Pursuant to Title 11, C.C.R. § 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to AYS' counsel in this matter:

Andrew L. Packard, Esq.
Law Offices of Andrew L. Packard
319 Pleasant Street
Petaluma, CA 94952
Tel: 707-763-7227 Fax: 707-763-9227

Very truly yours,

A handwritten signature in black ink, appearing to read "Larry Fahn", with a long horizontal flourish extending to the right.

Larry Fahn
Executive Director

Enclosures

CERTIFICATE OF MERIT

(Notice of Proposition 65 Violation on Wholistic Botanicals, LLC doing
business as Christopher's Original Formulas)

I, Andrew L. Packard, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party in the notice has violated Health & Safety Code §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 has reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the action.

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

5. 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 §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 24, 2008



Andrew L. Packard

Attachment(s): (for Attorney General Copy only)

CERTIFICATE OF SERVICE

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, over the age of 18 years, and not a party to the within action; my business address is: 311 California Street, Suite 510, San Francisco, CA 94104.

On June 24, 2008, 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 the parties listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Robert Scott, President
Wholistic Botanicals, L.L.C.
dba Christopher's Original Formulas
155 W. 2050 N
Spanish Fork, UT 84660

On June 24, 2008, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

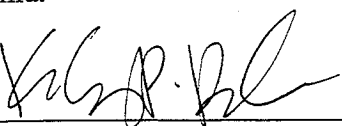
Attn: Ed Weil, Deputy Attorney General
California Department of Justice
P.O. Box 70550
Oakland, CA 94612-0550

On June 24, 2008, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq., including Exhibit A
- 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 United States Postal Service mail box for delivery by First Class Mail.

Executed on June 24, 2008, at San Francisco, California.



Karalyn P. Buchner

PUBLIC ENFORCEMENT AGENCY SERVICE LIST

THE HONORABLE THOMAS J ORLOFF
ALAMEDA COUNTY DISTRICT ATTORNEY
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