

LAW OFFICE OF
PHILIP T. EMMONS
1990 N. California Blvd., 8th Floor
Walnut Creek, CA 94596
Tel: (925) 287-6436

March 30, 2016

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

VIA CERTIFIED MAIL

Current President or CEO
IQ Formulations, LLC.
10151 NW 67th Street
Tamarac, FL 33321

Current President or CEO
IQ Formulations, LLC. dba
Metabolic Nutrition
10151 NW 67th Street
Tamarac, FL 33321

Current President or CEO
IQ Formulations, LLC.
523 Sawgrass Corporate Parkway
Fort Lauderdale, FL 33325

Current President or CEO
IQ Formulations, LLC. dba
Metabolic Nutrition
523 Sawgrass Corporate Parkway
Fort Lauderdale, FL 33325

Current President or CEO
IQ Formulations, LLC.
3737 Condor Court
Weston, FL 33331

Current President or CEO
IQ Formulations, LLC. dba
Metabolic Nutrition
3737 Condor Court
Weston, FL 33331

VIA CERTIFIED MAIL

Alan S. Rosenberg, Esquire
(IQ Formulations, LLC.'s Registered
Agent for Service of Process)
Koleos Rosenberg P.A.
Amtrust Bank Building
8211 West Broward Boulevard, PH4
Plantation, FL 33324

Samyr Paredes
(IQ Formulations, LLC.'s Registered
Agent for Service of Process)
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VIA ELECTRONIC MAIL

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cfepd@yolocounty.org

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA PRIORITY MAIL

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

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 Section 25249.7(d) of the statute, 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 an attachment with the copy of this letter served on the alleged Violators identified below.

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

**IQ Formulations, LLC.
IQ Formulations, LLC. dba Metabolic Nutrition**

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

- 1. Metabolic Nutrition P.S.P. Pre-Workout Blue Raspberry - Lead**
- 2. Metabolic Nutrition P.S.P. Pre-Workout Watermelon - Lead**
- 3. Metabolic Nutrition P.S.P. Pre-Workout Fruit Punch - Lead**
- 4. Metabolic Nutrition ProtiZyme Butter Pecan Cookie - Lead**
- 5. Metabolic Nutrition ProtiZyme Banana Creme - Lead**
- 6. Metabolic Nutrition ProtiZyme Peanut Butter Cookie - Lead**
- 7. Metabolic Nutrition ProtiZyme Chocolate Cake – Lead, Cadmium**
- 8. Metabolic Nutrition ProtiZyme Strawberry Creme - Lead**
- 9. Metabolic Nutrition MuscLean Chocolate Milkshake – Lead, Cadmium**
- 10. Metabolic Nutrition MuscLean Strawberry Milkshake - Lead**
- 11. Metabolic Nutrition MuscLean Peanut Butter Milkshake - Lead**
- 12. Metabolic Nutrition MuscLean Vanilla Milkshake – 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.

Cadmium was officially listed as a chemical known to cause developmental toxicity and male reproductive toxicity on May 1, 1997 while cadmium and cadmium compounds were listed as chemicals known to the State of California to cause cancer on October 1, 1987.

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 purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least March 30, 2013, 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 these known toxic chemicals are 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 chemicals. 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 handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

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 chemicals, 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 chemicals, 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 Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,


Philip T. Emmons, Esq.

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to IQ Formulations, LLC., IQ Formulations, LLC. dba Metabolic Nutrition, and their Registered Agents for Service of Process only)

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


Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations IQ Formulations, LLC. and IQ Formulations, LLC. dba Metabolic Nutrition

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Philip T. Emmons, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated 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 have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemicals that are the subject of the action.
4. Based on the information obtained through those consultants, 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 plaintiff's case can be established and 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. 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 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: March 30, 2016


Philip T. Emmons

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 of age, and am not a party to the within entitled action. 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 March 30, 2016, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
IQ Formulations, LLC.
10151 NW 67th Street
Tamarac, FL 33321

Current President or CEO
IQ Formulations, LLC.
3737 Condor Court
Weston, FL 33331

Current President or CEO
IQ Formulations, LLC. dba
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523 Sawgrass Corporate Parkway
Fort Lauderdale, FL 33325

Samyr Paredes
(IQ Formulations, LLC.’s Registered Agent for Service of Process)
10151 NW 67th Street
Tamarac, FL 33321

On March 30, 2016, 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 March 30, 2016, 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 the party listed below:

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

March 30, 2016

Page 7

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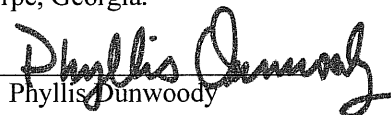
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Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

On March 30, 2016, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail.

Executed on March 30, 2016, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

Service List

District Attorney, Alameda County
1225 Fallon Street, Suite 900
Oakland, CA 94612

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

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

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

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

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
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Placerville, CA 95667

District Attorney, Fresno County
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Fresno, CA 93721

District Attorney, Glenn County
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District Attorney, Inyo County
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District Attorney, Kings County
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District Attorney, Lake County
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District Attorney, Madera County
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