

February 3, 2017

VIA CERTIFIED MAIL

Brian D. Helman, President
Vitacost.com, Inc.
5400 Broken Sound Parkway NW, STE 500
Boca Raton, Florida 33487

(with a copy to Registered Agent for Service of Process):

Vitacost.com, Inc.
c/o Corporation Service Company
1201 Hays Street
Tallahassee, Florida 32301

General Partner/Principal
Kroger Limited Partnership II
1014 Vine Street
Cincinnati, Ohio 45202

(with a copy to Registered Agent for Service of Process):

Kroger Limited Partnership II
c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Jeffrey Bezos, Manager/Managing Member
Amazon.com, LLC
410 Terry Avenue North
Seattle, Washington 98109

(copy to its Registered Agent for Service of Process located at):

Amazon.com, LLC
c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

VIA U.S. MAIL

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

VIA ELECTRONIC FILING

State of California Department of Justice
Office of the Attorney General
Proposition 65 Enforcement Reporting
Filing link: oag.ca.gov/prop65

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

We represent The Chemical Toxin Working Group, Inc., a California non-profit corporation ("CTWG"), an organization dedicated to reducing the amount of chemical toxins in consumer products, the promotion of human health, environmental safety, and improvement of worker and consumer safety. David Steinman created CTWG to effectuate his commitments as an environmentalist, journalist, consumer health advocate,

publisher and author. His major books include "Diet for a Poisoned Planet" (1990, 2007); "The Safe Shopper's Bible" (1995); "Living Healthy in a Toxic World" (1996); and "Safe Trip to Eden: Ten Steps to Save the Planet Earth from Global Warming Meltdown" (2007), along with his many publications as the publisher of the "Healthy Living Magazine" and its associated websites and periodicals.

Through this Notice of Violation (this "Notice"), CTWG seeks to reduce and/or eliminate exposures to lead ingested by consumers from – *Vitacost Coral Calcium with Magnesium* - sold at Amazon.com in California, among other retailers. This Notice constitutes written notification that Vitacost.com, Inc., Kroger Limited Partnership II, and Amazon.com, LLC (collectively the "Noticed Parties") have violated the warning requirements of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (codified at California Health & Safety Code §25249.5, *et seq*). The product subject to this Notice of Violation (the "specified product") and the chemical in the specified product identified as exceeding allowable levels is:

Vitacost Coral Calcium with Magnesium – Lead

The Noticed Parties have manufactured, marketed, distributed and/or sold the specified product which has exposed and continues to expose numerous individuals within California to lead. This chemical was listed pursuant to Proposition 65 as a chemical known to the State of California to cause developmental toxicity and reproductive toxicity on February 27, 1987 and as a chemical known to cause cancer on October 1, 1992.

With respect to the specified product listed above, the violation: commenced on the latter of the date that the specified product was first offered for sale in California or the date upon which California law codified the allowable level of the relevant chemical surpassed by the specified product; has continued every day since the relevant date the violation commenced; and will continue every day henceforth until lead is removed from the specified product, reduced to allowable levels, or until a "clear and reasonable" warning is provided to consumers by the Noticed Parties in accordance with the law. The primary route of exposure has been through ingestion but may have also occurred through inhalation and/or dermal contact.

Proposition 65 requires that a "clear and reasonable" warning be provided prior to exposure to certain listed chemicals. The Noticed Parties are in violation of Proposition 65 because the Noticed Parties have failed to provide a warning to consumers that they are being exposed to lead. While in the course of doing business, the Noticed Parties are "knowingly and intentionally" exposing consumers to lead without first providing a "clear and reasonable" warning. See Cal. Health and Safety Code § 25249.6. The method of warning should be a warning that appears on the product's label. See Cal.

Code Regs. tit. 27, § 25603.1, subd. (a). The Noticed Parties have not provided any Proposition 65 warnings on the specified product's label or any other appropriate warnings that persons handling, ingesting and/or otherwise using the specified product are being exposed to lead.

Proposition 65 requires that notice and intent to sue be provided to a violator 60-days before a suit is filed in connection therewith. With this Notice, CTWG gives written notice of the alleged violation to the noticed party and the appropriate governmental authorities. This Notice covers all violations of Proposition 65 that are currently known to the noticing party from information now available as related to *Vitacost Coral Calcium with Magnesium* sold through Amazon.com, and other retailers and/or distributors. CTWG is continuing its investigation that may reveal further violations.

Pursuant to Title 27, C.C.R. § 25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary" is attached hereto for reference by the noticed party, and is referenced as Appendix "A" (provided to noticed party only).

Pursuant to Title 11, C.C.R. § 3100, a "Certificate of Merit" is attached hereto.

CTWG is interested in a prompt resolution of this matter with an enforceable written agreement by the Noticed Parties to (1) eliminate or reduce lead to an allowable level in, or provide appropriate warning on the label of, the specified product; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures and expensive and time-consuming litigation.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, CTWG 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 my office on behalf of CTWG.

If you have any questions, please contact my office at your earliest convenience. Thank you for your time and consideration with respect to this urgent matter.

Sincerely,
KHANSARI LAW CORP., APC



Andre A. Khansari, Esq.
(Attachments)

Attachments:

1. Certificate of Merit;
2. Certificate of Service;
3. Additional Supporting Information for Certificate of Merit (to Attorney General only);
4. Appendix "A" – "The Safe Drinking Water and Toxic Enforcement act of 1986 (Proposition 65): A Summary" (to noticed party only)

Cc: The Chemical Toxin Working Group, Inc. (via email only)

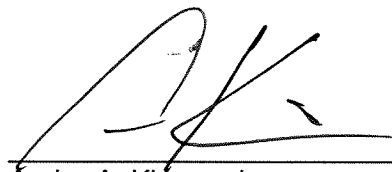
CERTIFICATE OF MERIT

**Re: The Chemical Toxin Working Group Inc.'s Notice of Proposition 65
Violations by Vitacost.com, Inc., Kroger Limited Partnership II, and
Amazon.com, LLC**

I, Andre A. Khansari, hereby declare:

1. This Certificate of Merit (this "Certificate") accompanies the attached Notice of Violation dated February 3, 2017 (the "NOV") in which it is alleged that the parties identified in the NOV ("alleged violators") 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 The Chemical Toxin Working Group, Inc. The NOV alleges that the alleged violators have exposed persons in California to the listed chemical that is the subject of this Certificate. Please refer to the NOV for additional details regarding the product name and alleged violations.
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 chemical that is the subject of this Certificate. I have reviewed the laboratory testing results for the chemical subject to the NOV and relied on these results. The testing was conducted by a reputable testing laboratory, and by experienced scientists. The facts, studies and other data derived through this investigation overwhelmingly demonstrate that the alleged violator exposes persons to the listed chemical that is the subject of this Certificate.
4. Based on the information obtained through these consultants and on other information in my possession, I believe there is sufficient evidence that the listed product in the NOV exposes people to unlawfully high levels of the specified chemical. Furthermore, 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 violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate served on the California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & 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: February 3, 2017



Andre A. Khansari
Attorney for The Chemical Toxin Working Group, Inc.

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Los Angeles. I am over the age of eighteen years and not a party to the within entitled action or process. My business address is **11845 W. Olympic Blvd., Suite 1000, Los Angeles, California 90064.**

On February 3, 2017, I served the following documents:

- (i) **Notice of Violation by Vitacost.com, Inc., Kroger Limited Partnership II, and Amazon.com, LLC, for Violation of California Health & Safety Code Section 25249.5 et seq.;**
- (ii) **Certificate of Merit; and**
- (iii) **"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 below, and depositing it at a United States Postal Service Office in Los Angeles, California for delivery by Certified Mail:

Brian D. Helman, President
Vitacost.com, Inc.
5400 Broken Sound Parkway NW, STE 500
Boca Raton, FL 33487

General Partner/Principal
Kroger Limited Partnership II
1014 Vine Street
Cincinnati, OH 45202

Jeffrey Bezos, Manager/Managing Member
Amazon.com, LLC
410 Terry Avenue North
Seattle, WA 98109

(with a copy to Registered Agent for Service of Process):

Vitacost.com, Inc.
c/o Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

(with a copy to Registered Agent for Service of Process):

Kroger Limited Partnership II
c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

(copy to its Registered Agent for Service of Process located at):

Amazon.com, LLC
c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

On February 3, 2017, I served the following documents:

- (i) **Notice of Violation by Vitacost.com, Inc., Kroger Limited Partnership II, and Amazon.com, LLC, for Violation of California Health & Safety Code Section 25249.5 et seq.,**
- (ii) **Certificate of Merit, and**
- (iii) **Additional Information and Supporting Documentation Required by Title 11, C.C.R. §3102**

on the following party by filing electronically a true and correct copy thereof as permitted through the website of the California Office of the Attorney General via link at oag.ca.gov/prop65:

State of California Department of Justice
Office of the Attorney General

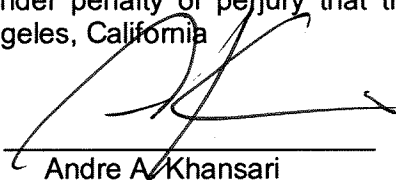
On February 3, 2017 I served the following documents:

- (i) **Notice of Violation by Vitacost.com, Inc., Kroger Limited Partnership II, and Amazon.com, LLC, for Violation of California Health & Safety Code Section 25249.5 et seq.; and**
- (ii) **Certificate of Merit**

on each of the parties on the service list attached hereto (see attached "**Service List**") by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney offices listed on the attached service list, and depositing it at a United States Postal Service mail box for delivery by First Class Mail, except for the Contra Costa County District Attorney, Lassen County District

Attorney, Riverside County District Attorney, Sacramento County District Attorney, San Francisco County District Attorney, Napa County District Attorney, San Joaquin County District Attorney, San Luis Obispo County District Attorney, Santa Clara County District Attorney, Sonoma County District Attorney, Tulare County District Attorney, Ventura County District Attorney, Monterey County District Attorney, and Yolo County District Attorney, which have requested electronic service only via the following email addresses, respectively (as listed on the Service List): sgrassini@contracostada.org; mlatimer@co.lassen.ca.us; prop65@rivcoda.org; prop65@sacda.org; Gregory.alker@sfgov.org; cepd@countyofnapa.org; daconsumer.environmental@sjcda.org; edobroth@co.slo.ca.us; epu@da.sccgov.org; jbarnes@sonoma-county.org; prop65@co.tulare.ca.us; daspecialops@ventura.org; Prop65DA@co.monterey.ca.us; and cfepd@yolocounty.org.

I, Andre A. Khansari, declare under penalty of perjury that the foregoing is true and correct.
Executed on February 3, 2017 at Los Angeles, California



Andre A. Khansari

SERVICE LIST

Page 1 of 3

DISTRICT ATTORNEY ALAMEDA COUNTY 1225 FALLON STREET, SUITE 900 OAKLAND, CA 94612	DISTRICT ATTORNEY KERN COUNTY 1215 TRUXTUN AVENUE BAKERSFIELD, CA 93301	DISTRICT ATTORNEY NEVADA COUNTY 201 COMMERCIAL STREET NEVADA CITY, CA 95959
DISTRICT ATTORNEY ALPINE COUNTY P.O. BOX 248 MARKLEEVILLE, CA 96120	DISTRICT ATTORNEY KINGS COUNTY 400 WEST LACEY BLVD. HANFORD, CA 93230	DISTRICT ATTORNEY ORANGE COUNTY 401 WEST CIVIC CENTER DR. SANTA ANA, CA 92701
DISTRICT ATTORNEY AMADOR COUNTY 708 COURT STREET, SUITE 202 JACKSON, CA 95642	DISTRICT ATTORNEY LAKE COUNTY 255 N. FORBES STREET LAKEPORT, CA 95453	DISTRICT ATTORNEY PLACER COUNTY 10810 JUSTICE CENTER DRIVE, STE. 240 ROSEVILLE, CA 95678
DISTRICT ATTORNEY BUTTE COUNTY 25 COUNTY CENTER DRIVE, STE 245 OROVILLE, CA 95965	DISTRICT ATTORNEY LASSEN COUNTY 220 SOUTH LASSEN STREET, SUITE 8 SUSANVILLE, CA 96130 mlatimer@co.lassen.ca.us	DISTRICT ATTORNEY PLUMAS COUNTY 520 MAIN STREET, ROOM 404 QUINCY, CA 95911
DISTRICT ATTORNEY CALAVERAS COUNTY 891 MOUNTAIN RANCH ROAD SAN ANDREAS, CA 95249	DISTRICT ATTORNEY LOS ANGELES COUNTY 210 WEST TEMPLE STREET, STE 18000 LOS ANGELES, CA 90012	DISTRICT ATTORNEY RIVERSIDE COUNTY 3072 ORANGE STREET RIVERSIDE, CA 92501 Prop65@rivcoda.org
DISTRICT ATTORNEY COLUSA COUNTY 346 FIFTH STREET SUITE 101 COLUSA, CA 95932	DISTRICT ATTORNEY MADERA COUNTY 209 WEST YOSEMITE AVENUE MADERA, CA 93637	DISTRICT ATTORNEY SACRAMENTO COUNTY 901 "G" STREET SACRAMENTO, CA 95814 Prop65@sacda.org
DISTRICT ATTORNEY CONTRA COSTA COUNTY 900 WARD STREET. MARTINEZ, CA 94553 sgrassini@contracostada.org	DISTRICT ATTORNEY MARIN COUNTY 350 CIVIC CENTER DRIVE, RM. 130 SAN RAFAEL, CA 94903	DISTRICT ATTORNEY SAN BENITO COUNTY 419 4TH STREET HOLLISTER, CA 95023
DISTRICT ATTORNEY DEL NORTE COUNTY 450 H STREET SUITE 171 CRESCENT CITY, CA 95531	DISTRICT ATTORNEY MARIPOSA COUNTY POST OFFICE BOX 730 MARIPOSA, CA 95338	DISTRICT ATTORNEY SAN BERNARDINO COUNTY 316 N. MOUNTAIN VIEW AVENUE SAN BERNARDINO, CA 92415
DISTRICT ATTORNEY EL DORADO COUNTY 515 MAIN STREET PLACERVILLE, CA 95667	DISTRICT ATTORNEY MENDOCINO COUNTY P. O. BOX 1000 UKIAH, CA 95482	DISTRICT ATTORNEY SAN DIEGO COUNTY 330 WEST BROADWAY, SUITE 1300 SAN DIEGO, CA 92101
DISTRICT ATTORNEY FRESNO COUNTY 2220 TULARE STREET, SUITE 1000 FRESNO, CA 93721	DISTRICT ATTORNEY MERCED COUNTY 550 W. MAIN STREET MERCED, CA 95340	DISTRICT ATTORNEY SAN FRANCISCO COUNTY 732 BRANNAN STREET SAN FRANCISCO, CA 94103 Gregory.alker@sfgov.org

SERVICE LIST

Page 2 of 3

DISTRICT ATTORNEY GLENN COUNTY POST OFFICE BOX 430 WILLOWS, CA 95988	DISTRICT ATTORNEY SAN MATEO COUNTY 400 COUNTY CTR., 3RD FLOOR REDWOOD CITY, CA 94063	DISTRICT ATTORNEY SUTTER COUNTY 446 SECOND STREET YUBA CITY, CA 95991
DISTRICT ATTORNEY HUMBOLDT COUNTY 525 5TH STREET 4TH FLOOR EUREKA, CA 95501	DISTRICT ATTORNEY SANTA BARBARA COUNTY 1112 SANTA BARBARA STREET SANTA BARBARA, CA 93101	DISTRICT ATTORNEY TEHAMA COUNTY P.O. BOX 519 RED BLUFF CA 96080
DISTRICT ATTORNEY IMPERIAL COUNTY 940 WEST MAIN STREET, STE 102 EL CENTRO, CA 92243	DISTRICT ATTORNEY SANTA CLARA COUNTY 70 WEST HEDDING STREET SAN JOSE, CA 95110 EPU@da.sccgov.org	DISTRICT ATTORNEY TRINITY COUNTY P. O. BOX 310 WEAVERVILLE, CA 96093
DISTRICT ATTORNEY INYO COUNTY 230 W. LINE STREET BISHOP, CA 93514	DISTRICT ATTORNEY SANTA CRUZ COUNTY 701 OCEAN STREET. ROOM 200 SANTA CRUZ, CA 95060	DISTRICT ATTORNEY TULARE COUNTY 221 S. MOONEY BLVD. VISALIA, CA 95370 Prop65@co.tulare.ca.us
DISTRICT ATTORNEY MODOC COUNTY 204 S. CONN STREET, ROOM 202 ALTURAS, CA 96101	DISTRICT ATTORNEY SHASTA COUNTY 1355 WEST STREET REDDING, CA 96001	DISTRICT ATTORNEY TUOLUMNE COUNTY 423 N. WASHINGTON ST. SONORA, CA 95370
DISTRICT ATTORNEY MONO COUNTY P. O. BOX 617 BRIDGEPORT, CA 93517	DISTRICT ATTORNEY SIERRA COUNTY P.O. BOX 457 DOWNIEVILLE, CA 95936	DISTRICT ATTORNEY VENTURA COUNTY 800 SOUTH VICTORIA AVE, STE 314 VENTURA, CA 93009 daspecialops@ventura.org
SAN FRANCISCO, CITY ATTORNEY CITY HALL, ROOM 234 1 DR. CARLTON B GOODLETT PLACE SAN FRANCISCO, CA 94102	DISTRICT ATTORNEY SISKIYOU COUNTY P. O. BOX 986 YREKA, CA 96097	BERKELEY CITY ATTORNEY'S OFFICE 2180 MILVIA STREET, 4TH FLOOR BERKELEY, CA 94704
DISTRICT ATTORNEY NAPA COUNTY 931 PARKWAY MALL NAPA, CA 94559 CEPD@countyofnapa.org	DISTRICT ATTORNEY SOLANO COUNTY 675 TEXAS STREET, STE 4500 FAIRFIELD, CA 94533	DISTRICT ATTORNEY YUBA COUNTY 215 FIFTH STREET, SUITE 152 MARYSVILLE, CA 95901
DISTRICT ATTORNEY SAN JOAQUIN COUNTY 222 E. WEBER AVE., RM. 202 STOCKTON, CA 95202 DAConsumer.Environmental@sjcda.org	DISTRICT ATTORNEY SONOMA COUNTY 600 ADMINISTRATIVE DRIVE SONOMA, CA 95403 jbarnes@sonoma-county.org	LOS ANGELES CITY ATTORNEY'S OFFICE CITY HALL EAST 200 N. MAIN STREET, SUITE 800 LOS ANGELES, CA 90012
DISTRICT ATTORNEY SAN LUIS OBISPO COUNTY COUNTY GOVERNMENT CENTER ANNEX SAN LUIS OBISPO, CA 93408 edobroth@co.slo.ca.us	DISTRICT ATTORNEY STANISLAUS COUNTY 83212 STREET, SUITE 300 MODESTO, CA 95354	SAN DIEGO CITY ATTORNEY'S OFFICE 1200 3RD AVENUE, SUITE 1620 SAN DIEGO, CA 92101

SERVICE LIST

Page 3 of 3

DISTRICT ATTORNEY
MONTEREY COUNTY
1200 AGUAJITO ROAD
MONTEREY, CA 93940
Prop65DA@co.monterey.ca.us

DISTRICT ATTORNEY
YOLO COUNTY
301 Second Street
WOODLAND, CA 95695
cfepd@yolocounty.org

OAKLAND CITY ATTORNEY
CITY HALL, 6TH FLOOR
1 FRANK OGAWA PLAZA
OAKLAND, CA 94612