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**VIA CERTIFIED MAIL**

Current CEO or President  
Maximum Human Performance, LLC  
dba MuscleMeds, MuscleMeds  
Performance Technologies, and  
MuscleMeds, Inc.  
165 Clinton Road  
West Caldwell, NJ 07006

Corporation Service Company  
(Maximum Human Performance, LLC  
dba MuscleMeds, MuscleMeds  
Performance Technologies, and  
MuscleMeds, Inc.'s Registered  
Agent for Service of Process)  
251 Little Falls Drive  
Wilmington, DE 19808

Corporation Service Company  
(Maximum Human Performance, LLC  
dba MuscleMeds, MuscleMeds  
Performance Technologies, and  
MuscleMeds, Inc.'s Registered  
Agent for Service of Process)  
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Jeff W. Reisig, District Attorney  
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Woodland, CA 95695  
cfepd@yolocounty.org

**VIA ONLINE SUBMISSION**

Office of the California Attorney General

**VIA FIRST CLASS MAIL**

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

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

Dear Addressees:

I represent the Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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.

The name of the Company covered by this notice that violated Proposition 65 (hereinafter the “Violator”) is:

**Maximum Human Performance, LLC dba MuscleMeds, MuscleMeds Performance Technologies, and MuscleMeds, Inc.**

The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

- 1. MHP Maximum Human Performance Super Premium Whey Protein+ Chocolate - Lead**
- 2. MHP Maximum Human Performance Ultrabuild Chocolate – Lead**
- 3. MHP Maximum Human Performance IsoPrime 100% Beef Pure Beef Protein Isolate Chocolate - Lead**
- 4. MHP Maximum Human Performance Power Pak Pudding Delicious Natural Vanilla Creme Flavor - Lead**
- 5. Fit&Lean Fat Burning Meal Replacement Vanilla Ice Cream - Lead**
- 6. Fit&Lean Fat Burning Meal Replacement Chocolate Milkshake - Lead, Cadmium**

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.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which has exposed and continues to expose numerous individuals within California to the identified chemicals, lead and cadmium. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead and cadmium has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead and cadmium. The method of warning should be a warning that appears on the product’s label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead and cadmium. Each of these ongoing violations has occurred on every day since October 20, 2014, as well as every day since the products were

October 20, 2017

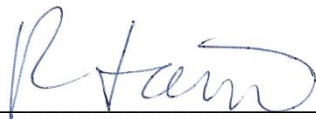
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introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; (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. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rick Franco", written over a horizontal line.

Rick Franco

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Maximum Human Performance, LLC dba MuscleMeds, MuscleMeds Performance Technologies, and MuscleMeds, Inc. and its Registered Agents for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Maximum Human Performance, LLC dba MuscleMeds, MuscleMeds Performance Technologies, and MuscleMeds, Inc.**

I, Rick Franco, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 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 have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.
4. Based on the information obtained through those consultants, and on 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 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. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & 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: October 20, 2017



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Rick Franco

**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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 and over the age of 18 years of age. 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 October 20, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President  
Maximum Human Performance, LLC  
dba MuscleMeds, MuscleMeds  
Performance Technologies, and  
MuscleMeds, Inc.  
165 Clinton Road  
West Caldwell, NJ 07006

Corporation Service Company  
(Maximum Human Performance, LLC  
dba MuscleMeds, MuscleMeds  
Performance Technologies, and  
MuscleMeds, Inc.’s Registered  
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Princeton South Corporate Center  
100 Charles Ewing Boulevard, Ste 160  
Ewing, NJ 08628

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Performance Technologies, and  
MuscleMeds, Inc.’s Registered  
Agent for Service of Process)  
251 Little Falls Drive  
Wilmington, DE 19808

On October 20, 2017, between 10:00 a.m. and 4:30 p.m. Eastern Time, 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 October 20, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, 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 each of the parties listed below:

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
October 20, 2017  
Page 7

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
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Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
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Dije Ndreu, Deputy District Attorney  
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1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney  
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Tori Verber Salazar, District Attorney  
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Stockton, CA 95202  
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Stephan R. Passalacqua, District Attorney  
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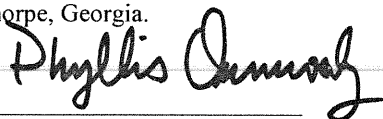
Phillip J. Cline, District Attorney  
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Gregory D. Totten, District Attorney  
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Ventura, CA 93009  
daspecialops@ventura.org

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

On October 20, 2017 between 10:00 a.m. and 4:30 p.m. Eastern Time, 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 First Class Mail.

Executed on October 20, 2017, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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

October 20, 2017

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**Service List**

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

District Attorney, Alpine  
County  
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District Attorney, Amador  
County  
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Jackson, CA 95642

District Attorney, Butte  
County  
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Suite 245  
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District Attorney, Calaveras  
County  
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County  
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County  
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District Attorney, Fresno  
County  
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District Attorney, Glenn  
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