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richard@lozeaudrury.com

VIA CERTIFIED MAIL

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1105 North Market Street, Suite 1330
Wilmington, DE 19801

Current CEO or President
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3880 Jeffrey Boulevard
Buffalo, NY 14219

Current CEO or President
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381 North Service Road West
Oakville ON L6M 0H4
Canada

CT Corporation System (C0168406)
(Iovate Health Sciences U.S.A. Inc.'s
Registered Agent for Service of Process)
818 West Seventh Street, Suite 930
Los Angeles, CA 90017

The Corporation Trust Company
(Iovate Health Sciences U.S.A. Inc.'s
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Wilmington, DE 19801

CT Corporation System
(Iovate Health Sciences International Inc.'s
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301 Second Street
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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 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 names of the Companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

**Iovate Health Sciences U.S.A. Inc.
Iovate Health Sciences International Inc.**

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

- 1. Iovate Health Sciences U.S.A. Inc. MuscleTech Nitro Tech Crunch High-Performance Protein Energy Bar Chocolate Peanut Butter - Lead**
- 2. Iovate Health Sciences U.S.A. Inc. MuscleTech Nitro Tech Crunch High-Performance Protein Energy Bar Chocolate Chip Cookie Dough - Lead**
- 3. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Nitro Tech Power Strawberry - Lead**
- 4. Iovate Health Sciences U.S.A. Inc. MuscleTech EssentialSeries Platinum 100% Iso-Whey Peanut Butter Chocolate Twist - Lead**
- 5. Iovate Health Sciences U.S.A. Inc. MuscleTech EssentialSeries Platinum 100% Iso-Whey Strawberry Shortcake - Lead**
- 6. Iovate Health Sciences U.S.A. Inc. True Grit Protein Strawberry Cream - Lead**
- 7. Iovate Health Sciences U.S.A. Inc. MuscleTech Lab Series 100% Whey Protein Plus+ Isolate French Vanilla - Lead**
- 8. Iovate Health Sciences U.S.A. Inc. MuscleTech Lab Series 100% Whey Protein Plus+ Isolate Double Rich Chocolate - Lead**
- 9. Iovate Health Sciences U.S.A. Inc. MuscleTech Lab Series PRE Build Sugar Free Gummy Worm - Lead**
- 10. Iovate Health Sciences U.S.A. Inc. True Grit Protein Cookies & Cream - Lead**
- 11. Iovate Health Sciences U.S.A. Inc. True Grit Protein Vanilla Ice Cream - Lead**
- 12. Iovate Health Sciences U.S.A. Inc. Hydroxycut Platinum Weight Loss Plus Probiotics & Vitamins - Lead**
- 13. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Nitro Tech Ripped French Vanilla Swirl - Lead**

- 14. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Cell Tech Fruit Punch - Lead**
- 15. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Cell Tech Icy Rocket Freeze - Lead**
- 16. Iovate Health Sciences U.S.A. Inc. MuscleTech EssentialSeries Platinum 100% Whey Vanilla Cupcake - Lead**
- 17. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Amino Build Next Gen Ripped Peach Mango - Lead**
- 18. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Cell Tech Hyper-Build Blue Raspberry Blast - Lead**
- 19. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Next Gen Pre-Workout Explosive Energy Candy Watermelon - Lead**
- 20. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Ripped Explosive Energy Pre-Workout Advanced Weight Loss Icy Rocket Freeze - Lead**
- 21. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Ripped Explosive Energy Pre-Workout Advanced Weight Loss Strawberry Limeade - Lead**
- 22. Iovate Health Sciences U.S.A. Inc. MuscleTech VitaMax Sport SX-7 Black Onyx Elite Performance Multivitamin for Women - Lead**
- 23. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Cell Tech Grape - Lead**
- 24. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Nitro Tech Whey Plus+ Isolate Gold Double Rich Chocolate - Lead**
- 25. Iovate Health Sciences U.S.A. Inc. MuscleTech Garcinia 4X SX-7 Quad Sourced Stim-Free - Lead**
- 26. Iovate Health Sciences U.S.A. Inc. MuscleTech L-Arginine SX-7 Black Onyx Icy Rocket Freeze - Lead**
- 27. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Next Gen Pre-Workout Explosive Energy Fruit Punch Blast - Lead**
- 28. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Next Gen Pre-Workout Explosive Energy Icy Rocket Freeze - Lead**
- 29. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Next Gen Pre-Workout Explosive Energy Blue Raspberry Fusion - Lead**
- 30. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Neuro Pre-Workout Enhanced Mental Focus Blueberry Lemonade - Lead**
- 31. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries VaporX5 Neuro Pre-Workout Enhanced Mental Focus Peach Mango - Lead**
- 32. Iovate Health Sciences U.S.A. Inc. MuscleTech Nitro Tech Crunch High-Performance Protein Energy Bar Cookies & Cream - Lead**
- 33. Iovate Health Sciences U.S.A. Inc. MuscleTech VitaMax Energy & Metabolism SX-7 Black Onyx Advanced Daily Vitamin for Men - Lead**
- 34. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Nitro Tech Casein Gold Cookies and Cream - Lead**
- 35. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Nitro Tech Whey Isolate+ Lean MuscleBuilder Decadent Brownie Cheesecake - Lead**
- 36. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Nitro Tech Power Triple Chocolate Supreme - Lead**

- 37. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Nitro Tech Whey Isolate+ Lean MuscleBuilder Cookies and Cream - Lead**
- 38. Iovate Health Sciences U.S.A. Inc. MuscleTech EssentialSeries Platinum Garcinia Plus Triple Dose Garcinia Formula - Lead**
- 39. Iovate Health Sciences U.S.A. Inc. True Grit Protein Chocolate Milk Shake - Lead**
- 40. Iovate Health Sciences U.S.A. Inc. MuscleTech EssentialSeries Platinum BCAA 8:1:1 - Lead**
- 41. Iovate Health Sciences U.S.A. Inc. Clear Muscle SX-7 Revolution - Lead**
- 42. Iovate Health Sciences U.S.A. Inc. MuscleTech PerformanceSeries Phase8 Milk Chocolate - 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 Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators 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 Violators.

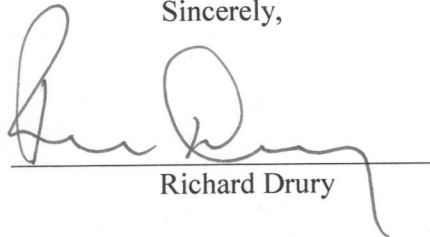
The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals, lead and/or cadmium. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The route of exposure to lead and/or cadmium has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead and/or cadmium. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead and/or cadmium. Each of these ongoing violations has occurred on every day since November 9, 2014, 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.

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 Violators agree 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 dark ink, appearing to read 'Richard Drury', is written over a horizontal line. The signature is fluid and cursive.

Attachments

Certificate of Merit
Certificate of Service
OEHHA Summary (to Iovate Health Sciences U.S.A. Inc., Iovate Health Sciences International Inc. and their Registered Agents for Service of Process only)
Additional Supporting Information for Certificate of Merit (to AG only)

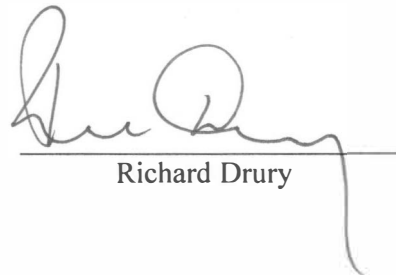
CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations
by Iovate Health Sciences U.S.A. Inc. and Iovate Health Sciences
International Inc.**

I, Richard Drury, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties 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 Violators 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: November 9, 2017



Richard Drury

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 November 9, 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
Iovate Health Sciences U.S.A. Inc.
1105 North Market Street, Suite 1330
Wilmington, DE 19801

Current CEO or President
Iovate Health Sciences U.S.A. Inc.
3880 Jeffrey Boulevard
Buffalo, NY 14219

Current CEO or President
Iovate Health Sciences International Inc.
381 North Service Road West
Oakville ON L6M 0H4
Canada

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(Iovate Health Sciences U.S.A. Inc.’s
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818 West Seventh Street, Suite 930
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111 Eighth Avenue
New York, NY 10011

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(Iovate Health Sciences U.S.A. Inc.’s
Registered Agent for Service of Process)
111 Eighth Avenue
New York, NY 10011

On November 9, 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

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

November 9, 2017

Page 9

On November 9, 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:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
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sgrassini@contracostada.org

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Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
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Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
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DAConsumer.Environmental@sjcda.org

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daspecialops@ventura.org

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

On November 9, 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 November 9, 2017, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink, reading "Phyllis Dunwoody". The signature is written in a cursive, flowing style with a large initial "P".

Phyllis Dunwoody

Service List

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District Attorney, Amador
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Jackson, CA 95642

District Attorney, Butte
County
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District Attorney, Calaveras
County
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San Andreas, CA 95249

District Attorney, Colusa
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Colusa, CA 95932

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Crescent City, CA 95531

District Attorney, El Dorado
County
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Placerville, CA 95667

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Fresno, CA 93721

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Madera, CA 93637

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Redwood City, CA 94063

District Attorney, Santa
Barbara County
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Santa Barbara, CA 93101

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Santa Cruz, CA 95060

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