

Melvin B. Pearlston
Senior Counsel



Of Counsel
Robert B. Hancock

May 30, 2018

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Erika McCartney in this matter. Ms. McCartney has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health and Safety Code § 25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with the identified products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, Ms. McCartney 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 attached with the copy of this letter served to the alleged Violator identified below.

Alleged Violator. The names of the company covered by this notice that violated Proposition 65 (hereinafter "the Violator") is:

Amazon.com, Inc.
Bio-Engineered Supplements & Nutrition, Inc.
Bodybuilding.com, LLC
GNC Corporation
GNC, Inc.
iHerb, Inc.
Jet.com, Inc.
Nutra Health Supply, LLC
Vitalize, LLC d/b/a Bodybuilding.com
Vitamin Shoppe, Inc.

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

True Mass Protein—Chocolate Milkshake – Cadmium

On May 1, 1997, the State of California officially listed cadmium as a chemical known to cause developmental toxicity and male reproductive toxicity.

It should be noted that Ms. McCartney 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, and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least May 30, 2017, 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 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 Violator violated Proposition 65 because it failed to provide persons 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, Ms. McCartney is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provide to those who have received such products; (2) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement may satisfy the claims alleged herein, such agreement may not be satisfactory to public prosecutors.

Ms. McCartney has retained me as legal counsel in connection with this matter. Her address is 1341 58th Ave. # 11, Oakland, California, 94621. Her telephone number is 707.502.8635. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

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

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Sincerely,

A handwritten signature in blue ink, appearing to read "R.B. Hancock", is written over a horizontal line.

Robert B. Hancock

Attachments:

Certificate of Merit

Certificate of Service

OEHHA Summary (to Violators only)

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

CERTIFICATE OF MERIT

Re: Notice of Proposition 65 Violations

Robert B. Hancock declares:

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 exposures to the listed chemicals and the subject of the action.

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 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: May 30, 2018



Robert B. Hancock

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 action.

On May 30, 2018, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE 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 US Postal Service Office with the postage fully prepaid and delivery by Certified Mail:

Current CEO or President
Amazon.com, Inc.
410 Terry Avenue North
Seattle, WA 98109-5210

Current President or CEO
iHerb, Inc.
17825 Indian Street
Moreno Valley, CA 92551

Current President or CEO
Bio-Engineered Supplements & Nutrition,
Inc.
5901 Broken Sound Pkwy NW, 6th Floor
Boca Raton, FL 33478

Current CEO or President
Jet.com, Inc.
221 River Street
Hoboken, NJ 07030

Current Manager or Managing Member
Bodybuilding.com, LLC
5777 North Meeker Avenue
Boise, ID 83713

Current Manager or Managing Member
Nutra Health Supply, LLC
1228 Midas Cv
Cordova, TN 38018-0306

Current President or CEO
GNC Corporation
300 6th Avenue
Pittsburg, PA 15222

Current Manager or Managing Member
Vitalize, LLC
d/b/a Bodybuilding.com, LLC
12300 Liberty Blvd.
Englewood CO 80112

Current President or CEO
GNC, Inc.
300 6th Avenue
Pittsburg, PA 15222

Current CEO or President
Vitamin Shoppe, Inc.
300 Harmon Meadow Boulevard
Seacaucus, NJ 07094

On May 30, 2018, I served the following documents: **NOTICE OF VIOLATION 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)** on the following parties by uploading the foregoing documents at the webpage listed below:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550
<https://oag.ca.gov/prop65/add-60-day-notice>

On May 30, 2018, I served the following Documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto. As to those parties listed by mailing address only, I effected service 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 postage fully prepaid for delivery by Priority Mail. As to those parties having an e-mail address listed, I effected service by transmitting the document via electronic transmission to the email address listed.

Executed under penalty of perjury pursuant to the laws of the State of California on May 30, 2018.



Robert B. Hancock

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

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Service List

District Attorney, Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Humboldt County 825 5th Street Eureka, CA 95501	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338
District Attorney, Amador County 708 Court Street, #202 Jackson, CA 95642	District Attorney, Imperial County 940 West Main Street, Ste 102 El Centre, CA 92243	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482
District Attorney, Butte County 25 County Center Drive Oroville, CA 95965	District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Merced County 2222 M Street Merced, CA 95340
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020
District Attorney, Colusa County 547 Market Street Colusa, CA 95932	District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553 grassin@contracosta.ca.gov	District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902 Prop65DA@monterey.ca.us
District Attorney, Del Norte County 450 H Street, Ste. 171 Crescent City, CA 95531	District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130 mlatimer@co.lassen.ca.us	District Attorney, Napa County 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Los Angeles County 210 West Temple Street, Suite 1800 Los Angeles, CA 90012	District Attorney, Nevada County 201 Commercial St. Nevada City, CA 95959
District Attorney, Fresno County 2220 Tulare Street, #1000 Fresno, CA 93721	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, Orange County 401 Civic Center Drive West Santa Ana, CA 92701
District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	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, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080
District Attorney, Riverside County 3960 Orange Street Riverside, CA 92502 Prop65@rivcoda.org	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110 sdobrot@co.slo.ca.us	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093
District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814 Prop65@sacda.org	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060 Prop65DA@countysacramento.us	District Attorney, Tulare County 221 S. Mooney Avenue, Room 224 Visalia, CA 93291 Prop65@co.tulare.ca.us
District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	District Attorney, Shasta County 1355 West Street Redding, CA 96001	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	District Attorney, Ventura County 800 South Victoria Avenue Ventura, CA 93009 Prop65@co.ventura.ca.us
District Attorney, San Diego County 330 West Broadway, Room 1300 San Diego, CA 92101	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	District Attorney, Yolo County 301 2nd Street Woodland, CA 95695
District Attorney, San Francisco County 850 Bryant Street, Room 322 San Francisco, CA 94103 Gregory.Elkin@sf.gov	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 Post Office Box 990 Stockton, CA 95201 DACoordinator.Environmental@sjcda.org	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403 james@sonoma-county.org	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm 800 Los Angeles, CA 90012
District Attorney, San Luis Obispo County 1035 Palm St. Room 450 San Luis Obispo, CA 93408 sdobrot@co.slo.ca.us	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95353	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101 CityAtt@CrimProp65@san-diego.gov
San Francisco City Attorney's Office City Hall, Room 234 1 Drive Carlton B Goodlett Place San Francisco, CA 94102	San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113	Office of the City Attorney City of Sacramento 915 I Street, 4th Floor Sacramento, CA 95814