



Matthew Maclear  
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415-568-5200

Anthony Barnes  
[amb@atalawgroup.com](mailto:amb@atalawgroup.com)  
415-326-3173

February 22, 2019

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

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 Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

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

- Ancient Brands, LLC, formerly known as Get Real Nutrition, LLC and formerly known as Ancient Nutrition, LLC, individually and dba Ancient Nutrition**
- Ancient Nutrition Holdings, LLC, formerly known as Get Real Holdings, LLC, individually and dba Ancient Nutrition**
- Ancient Nutrition, LLC, individually and dba Ancient Nutrition**
- Ancient Brands, LLC, individually and dba Ancient Nutrition**
- Get Real Nutrition, LLC, individually and dba Ancient Nutrition**



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**Ancient Nutrition Holdings, LLC, individually and dba Ancient Nutrition  
Get Real Holdings, LLC, individually and dba Ancient Nutrition  
Beyond Organic, LLC**

**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. **Ancient Nutrition Organic Bone Broth Protein Meal Dark Chocolate – Lead, Cadmium**
2. **Ancient Nutrition Bone Broth Protein Meal Vanilla Crème – Lead, Cadmium**
3. **Ancient Nutrition Organic Bone Broth Protein Meal Peanut Butter – Lead, Cadmium**
4. **Ancient Nutrition Organic Bone Broth Protein Meal French Vanilla – Lead, Cadmium**
5. **Ancient Nutrition Keto Feast Chocolate - Lead**
6. **Ancient Nutrition Keto Protein Vanilla - Lead**
7. **Ancient Nutrition Keto Broth Chocolate - Lead**
8. **Ancient Nutrition Keto Protein Coffee - Lead**
9. **Ancient Nutrition Multi Collagen Protein Cold Brew Collagen - 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 recommended use of these products. Consequently, the 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 February 22, 2016, 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 ingesting these products with appropriate warnings that they are being exposed to these chemicals.



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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 ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in black ink that reads "Matthew Maclear". The signature is written in a cursive style with a large, stylized initial "M".

---

Matthew Maclear  
**AQUA TERRA AERIS LAW GROUP**

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Ancient Brands, LLC, formerly known as Get Real Nutrition, LLC and formerly known as Ancient Nutrition, LLC, individually and dba Ancient Nutrition; Ancient Nutrition Holdings, LLC, formerly known as Get Real Holdings, LLC, individually and dba Ancient Nutrition; Ancient Nutrition, LLC, individually and dba Ancient Nutrition; Ancient Brands, LLC, individually and dba Ancient Nutrition; Get Real Nutrition, LLC, individually and dba Ancient Nutrition; Ancient Nutrition Holdings, LLC, individually and dba Ancient Nutrition; Get Real Holdings, LLC, individually and dba Ancient Nutrition; Beyond Organic, LLC and their Registered Agents for Service of Process only)

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



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**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Ancient Brands, LLC, formerly known as Get Real Nutrition, LLC and formerly known as Ancient Nutrition, LLC, individually and dba Ancient Nutrition; Ancient Nutrition Holdings, LLC, formerly known as Get Real Holdings, LLC, individually and dba Ancient Nutrition; Ancient Nutrition, LLC, individually and dba Ancient Nutrition; Ancient Brands, LLC, individually and dba Ancient Nutrition; Get Real Nutrition, LLC, individually and dba Ancient Nutrition; Ancient Nutrition Holdings, LLC, individually and dba Ancient Nutrition; Get Real Holdings, LLC, individually and dba Ancient Nutrition and Beyond Organic, LLC**

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that 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: February 22, 2019

Matthew Maclear



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**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 February 22, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Ancient Brands, LLC, individually and dba  
Ancient Nutrition  
2000 Mallory Lane, Ste 130-307  
Franklin, TN 37067

Current President or CEO  
Get Real Holdings, LLC, individually and dba  
Ancient Nutrition  
2000 Mallory Lane, Ste 130-307  
Franklin, TN 37067

Current President or CEO  
Ancient Nutrition, LLC, individually and dba  
Ancient Nutrition  
2000 Mallory Lane, Ste 130-307  
Franklin, TN 37067

Current President or CEO  
Beyond Organic, LLC  
1651 California St, Suite A  
Redlands, CA 92374

Current President or CEO  
Ancient Nutrition Holdings, LLC, individually and dba  
Ancient Nutrition  
2000 Mallory Lane, Ste 130-307  
Franklin, TN 37067

Current President or CEO  
Ancient Brands, LLC, individually and dba Ancient Nutrition  
1651 California St, Suite A  
Redlands, CA 92374

Current President or CEO  
Beyond Organic, LLC  
2000 Mallory Lane, Ste 130-307  
Franklin, TN 37067

Current President or CEO  
Ancient Nutrition, LLC, individually and dba Ancient Nutrition  
1651 California St, Suite A  
Redlands, CA 92374

Current President or CEO  
Get Real Nutrition, LLC, individually and dba  
Ancient Nutrition  
2000 Mallory Lane, Ste 130-307  
Franklin, TN 37067

Current President or CEO  
Ancient Nutrition Holdings, LLC, individually and dba  
Ancient Nutrition  
1651 California St, Suite A  
Redlands, CA 92374



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Current President or CEO  
Get Real Nutrition, LLC, individually and dba  
Ancient Nutrition  
1651 California St, Suite A  
Redlands, CA 92374

Current President or CEO  
Get Real Holdings, LLC, individually and dba  
Ancient Nutrition  
1651 California St, Suite A  
Redlands, CA 92374

Current President or CEO  
Beyond Organic, LLC  
700 Indian Springs Drive  
Lancaster, PA 17601

Current President or CEO  
Ancient Brands, LLC, individually and dba Ancient Nutrition  
700 Indian Springs Drive  
Lancaster, PA 17601

Current President or CEO  
Ancient Nutrition, LLC, individually and dba Ancient Nutrition  
700 Indian Springs Drive  
Lancaster, PA 17601

Current President or CEO  
Ancient Nutrition Holdings, LLC, individually and dba  
Ancient Nutrition  
700 Indian Springs Drive  
Lancaster, PA 17601

Current President or CEO  
Get Real Nutrition, LLC, individually and dba  
Ancient Nutrition  
700 Indian Springs Drive  
Lancaster, PA 17601

Current President or CEO  
Get Real Holdings, LLC, individually and dba  
Ancient Nutrition  
700 Indian Springs Drive  
Lancaster, PA 17601

Current President or CEO  
Beyond Organic, LLC  
415 Duke Dr, Ste 380  
Franklin, TN 37067

Current President or CEO  
Ancient Brands, LLC, individually and dba Ancient Nutrition  
415 Duke Dr, Ste 380  
Franklin, TN 37067

Current President or CEO  
Ancient Nutrition, LLC, individually and dba Ancient Nutrition  
415 Duke Dr, Ste 380  
Franklin, TN 37067

Current President or CEO  
Ancient Nutrition Holdings, LLC, individually and dba  
Ancient Nutrition  
415 Duke Dr, Ste 380  
Franklin, TN 37067

Current President or CEO  
Get Real Nutrition, LLC, individually and dba  
Ancient Nutrition  
415 Duke Dr, Ste 380  
Franklin, TN 37067

Current President or CEO  
Get Real Holdings, LLC, individually and dba  
Ancient Nutrition  
415 Duke Dr, Ste 380  
Franklin, TN 37067

Current President or CEO  
Beyond Organic, LLC  
5490 County Road 333  
Koshkonong, MO 65692

Current President or CEO  
Ancient Nutrition Holdings, LLC, individually and dba  
Ancient Nutrition  
5490 County Road 333  
Koshkonong, MO 65692



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Kenneth A. Duke, Jr.  
(Registered Agent for Beyond Organic, LLC)  
924 Pompano Dr  
Jupiter, FL 33458

Corporate Creations Network  
(Registered Agent for Get Real Nutrition, LLC, individually and dba  
Ancient Nutrition)  
12747 Olive Blvd, Ste 300  
St. Louis, MO 63141

CT Corporation System  
Registered Agent for Ancient Brands, LLC, individually and dba  
Ancient Nutrition)  
818 W 7<sup>th</sup> St, Ste 930  
Los Angeles, CA 90017

CT Corporation System  
(Registered Agent for Ancient Brands, LLC, individually and dba  
Ancient Nutrition)  
1200 S Pine Island Rd  
Plantation, FL 33324

CT Corporation System  
Registered Agent for Ancient Brands, LLC, individually and  
dba Ancient Nutrition)  
300 Montvue Road  
Knoxville, TN 37919

Kenneth A. Duke, Jr.  
(Registered Agent for Ancient Nutrition Holdings, LLC, individually  
and dba Ancient Nutrition)  
924 Pompano Dr  
Jupiter, FL 33458

On February 22, 2019, between 8:00 a.m. and 5:00 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 February 22, 2019, between 8:00 a.m. and 5:00 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:

Nancy O’Malley, District Attorney  
Alameda County  
7677 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
sgrassini@contracostada.org

Barbara Yook, District Attorney  
Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249  
Prop65Env@co.calaveras.ca.us

Thomas L. Hardy, District Attorney  
Inyo County  
168 North Edwards Street  
Independence, CA 93526  
inyoda@inyocounty.us



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

Dije Ndreu, Deputy District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney  
Napa County  
1127 First Street, Suite C  
Napa, CA 94559  
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney  
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3072 Orange Street  
Riverside, CA 92501  
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney  
Sacramento County  
901 G Street  
Sacramento, CA 95814  
Prop65@sacda.org

Mark Ankcorn, Deputy City Attorney  
San Diego City Attorney  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

Gregory Alker, Assistant District Attorney  
San Francisco County  
732 Brannan Street  
San Francisco, CA 94103  
gregory.alker@sfgov.org

Valerie Lopez, Deputy City Attorney  
San Francisco City Attorney  
1390 Market Street, 7<sup>th</sup> Floor  
San Francisco, CA 94102  
Valerie.Lopez@sfcityatty.org

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney  
San Luis Obispo County  
County Government Center Annex, 4<sup>th</sup> Floor  
San Luis Obispo, CA 93408  
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney  
Santa Barbara County  
1112 Santa Barbara Street  
Santa Barbara, CA 93101  
DAProp65@co.santa-barbara.ca.us

Yen Dang, Supervising Deputy District Attorney  
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70 W Hedding St  
San Jose, CA 95110  
EPU@da.sccgov.org

Jeffrey S. Rosell, District Attorney  
Santa Cruz County  
701 Ocean Street  
Santa Cruz, CA 95060  
Prop65DA@santacruzcounty.us

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Dr  
Sonoma, CA 95403  
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
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Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org





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

On February 22, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on February 22, 2019, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink that reads "Phyllis Dunwoody". The signature is written in a cursive, flowing style.

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Phyllis Dunwoody



**Service List**

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012	District Attorney, San Bernardino County 303 West Third Street San Bernardino, CA 92415	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063	
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Sierra County 100 Courthouse Square, 2 <sup>nd</sup> Floor Downieville, CA 95936	
District Attorney, El Dorado County 778 Pacific St Placerville, CA 95667	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354	
District Attorney, Humboldt County 825 5th Street 4 <sup>th</sup> Floor Eureka, CA 95501	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Sutter County 463 2 <sup>nd</sup> Street Yuba City, CA 95991	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901	