

LAW OFFICE OF RICHARD M. FRANCO

6500 ESTATES DRIVE
OAKLAND, CA 94611
510.684.1022
RICK@RFRANCOLAW.COM

July 24, 2019

To: President or CEO- Best Nest Wellness, LLC
California Attorney General
City Attorneys for Los Angeles, San Diego, San Francisco and San Jose
District Attorneys for 58 Counties (See attached Certificate of Service)

Re: Notice of Violations of California Safe Drinking Water and Toxic Enforcement Act (Health and Safety Code Section 25249.5 *et seq.*) (Proposition 65)

Dear Addressees:

I represent Center for Food Safety 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 and Safety Code Section 22249.5 *et seq.*, also known as Proposition 65. Center for Food Safety is a national nonprofit public interest and environmental advocacy organization working to protect human health and the environment by curbing the use of harmful food production practices and by promoting organic and other forms of sustainable agriculture. This letter serves to provide notification to you and to the public enforcement agencies listed above of the violations of Proposition 65 detailed herein.

This letter constitutes notice that the entities listed below have violated and continue to violate the warning provisions of Proposition 65. Specifically, the entities listed below have violated and continue to violate the warning requirement in California Health and Safety Code section 25249.6, which provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..."

Violators: The name of the entity that violated Proposition 65 as described in this Notice is Best Nest Wellness, LLC (hereinafter referred to as the "Violator".)

Listed Chemical: The violations described herein involve exposure to the listed chemical 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.

Product Causing Violations: The following consumer product is the subject of this notice because it is causing exposures to lead in violation of Proposition 65:

- **Best Nest Wellness Mama Bird AM/PM Prenatal Multi+ tablets**

Nature of Violation: The alleged Violator knowingly and intentionally exposed and continue to expose consumers in the State of California to lead without first providing a clear and reasonable Proposition 65 warning. The Violator has manufactured, marketed, distributed and/or sold the above-identified products to California consumers, which have exposed and continue to expose California consumers to the listed chemical lead without providing the required Proposition 65 warning.

Route of Exposure: Use of the product identified in this notice results in exposures to lead, primarily via ingestion of the product.

Duration of Violations: The violations have been occurring since at least July 24, 2018, and are ongoing.

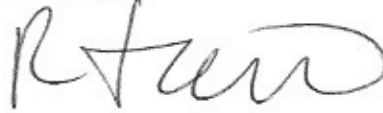
A summary of Proposition 65, prepared by the California Office of Environmental Health Hazard Assessment, is enclosed with the copy of this notice sent to the Violator.

Pursuant to California Health and Safety Code section 25249.7(d), Center for Food Safety intends to file a citizen enforcement action sixty days after service of this notice unless the Violator agrees in an enforceable written instrument to (1) recall products already sold in California; (2) reformulate the products so as to eliminate further exposures to the listed chemical or provide clear and reasonable warnings for products sold in California in the future; and (3) pay an appropriate civil penalty. Center for Food Safety is interested in pursuing a reasonable and constructive resolution to this matter, in order to avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation.

George Kimbrell is Legal Director of Center for Food Safety and is located in Center for Food Safety's Pacific Northwest Office, at 2009 NE Alberta St., Ste. 207, Portland, Oregon 97211. Center for Food Safety also maintains a California office at 303 Sacramento St., 2nd Floor, San Francisco, CA 94111. Center for Food Safety has retained me in connection with this matter. Please direct all correspondence concerning this notice to my attention at the above-listed law office address and telephone number.

Notice of Violation
July 24, 2019
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Sincerely,

A handwritten signature in black ink, appearing to read 'R. Franco', with a stylized, flowing script.

Richard M. Franco

Attachments: Certificate of Merit
Certificate of Service
OEHHA Summary (to Violators and their Registered Agents for
Service of Process only)
Additional Supporting Information for Certificate of Merit (to AG only)

Re: Center for Food Safety's Notice of Proposition Violations to Best Nest Wellness, LLC

I, Richard M. Franco, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which is alleged that the parties identified in the notice violated California Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party, Center for Food Safety.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have review facts, studies or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through these consultants and other information in my possession, I believe there is a reasonable and meritorious case for a 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, additional factual information sufficient to establish the basis for this certificate has been served on the Attorney General, including the information identified in California Health and Safety Code § 25249.7(h)(2), i.e., the identity of the persons consulted with and relied on by the certifier and the facts, studies or other data reviewed by those persons.

Dated: July 24, 2019



Richard M. Franco

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

I am a citizen of the United States, over the age of 18 years old and am not a party to this action. My business address is 6500 Estates Drive, Oakland, CA 94611, located in Alameda County, where the mailing occurred.

On July 24, 2019, I served the following documents: **(1) NOTICE OF VIOLATIONS OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT (HEALTH AND SAFETY CODE SECTION 25249.5 ET SEQ.); (2) CERTIFICATE OF MERIT; and (3) THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** on the following entities by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid and addressed as listed below, and depositing it with the U.S. Postal Service:

Current President or CEO Best Nest Wellness, LLC 387 Corona Street, Suite 616 Denver, CO 80218	Madhavi Gupta (Agent for Service of Process for Best Nest Wellness, LLC) 387 Corona Street, Suite 616 Denver, CO 80218
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On July 24, 2019, I served the following documents: **1) NOTICE OF VIOLATIONS OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT (HEALTH AND SAFETY CODE SECTION 25249.5 ET SEQ.); (2) CERTIFICATE OF MERIT; and (3) ADDITIONAL INFORMATION SUPPORTING CERTIFICATE OF MERIT PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE § 25149.7(d)(1) and 11 CALIFORNIA CODE OF REGULATIONS § 3102** 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
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On July 24, 2019, I served the following documents: **1) NOTICE OF VIOLATIONS OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT (HEALTH AND SAFETY CODE SECTION 25249.5 ET SEQ.); and (2) CERTIFICATE OF MERIT** on the following parties when a true and correct copy thereof was sent via electronic mail to each party listed below:

<p>Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org</p>	<p>Gregory Alker, Assistant District Attorney San Francisco County 732 Brannan Street San Francisco, CA 94103 gregory.alker@sfgov.org</p>
<p>Michelle Latimer, Program Coordinator Lassen County 220 S. Lassen Street Susanville, CA 96130 mlatimer@co.lassen.ca.us</p>	<p>Valerie Lopez, Deputy City Attorney San Francisco City Attorney 1390 Market Street, 7th Floor San Francisco, CA 94102 Valerie.Lopez@sfcityattys.org</p>
<p>Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us</p>	<p>Yen Dang, Supervising Deputy District Atty Santa Clara County 70 W. Hedding Street San Jose, CA 95110 EPU@da.sccgov.org</p>
<p>Allison Haley, District Attorney Napa County 931 Parkway Mall Napa, CA 94559 CEPD@countyofnapa.org</p>	<p>Steven R. Passalacqua, District Attorney Sonoma County 600 Administration Dr. Sonoma, CA 95403 jbarnes@sonoma-county.org</p>
<p>Paul E. Zellerbach, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivdoca.org</p>	<p>Phillip J. Cline, District Attorney Tulare County 221 S. Mooney Blvd. Visalia, CA 95370 Prop65@co.tulare.ca.us</p>
<p>Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.gov</p>	<p>Gregory D. Totten, District Attorney Ventura County 800 S. Victoria Ave Ventura, CA 93009 daspecialops@ventura.org</p>
<p>Chrisopher Dalbey, Deputy District Atty Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us</p>	<p>Jeff W. Ressig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org</p>
<p>Mark Ankcorn, Deputy City Attorney San Diego City Attorney 1200 Third Ave San Diego, CA 92101 CityAttyProp65@sandiego.gov</p>	<p>Nancy O'Malley, District Attorney Alameda County 7776 Oakport Street, Suite 650 Oakland, CA 94621 CEPDProp65@acgov.org</p>

Eric J. Dobroth, Deputy District Attorney San Luis Obispo County County Government Center Annex, 4 th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us	Tori Verber Salazar, District Attorney San Joaquin County 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org
Barbara Yook, District Attorney Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249 Prop65Env@co.calaveras.ca.us	Jeffrey S. Rosell, District Attorney Santa Cruz County 701 Ocean Street Santa Cruz, CA 95060 Prop65DA@santacruzcounty.us
Thomas L. Hardy, District Attorney Inyo County 168 North Edwards Street Independence, CA 93526 inyoda@inyocounty.us	

On July 24, 2019, I served the following documents: **1) NOTICE OF VIOLATIONS OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT (HEALTH AND SAFETY CODE SECTION 25249.5 ET SEQ.); (2) CERTIFICATE OF MERIT** on each of the entities on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope with postage fully prepaid and addressed as listed on the attached Service List, and depositing it with the U.S. Postal Service.

Executed on July 24, 2019 in Oakland, California.



Richard M. Franco

Service List

District Attorney
Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney
Amador County
708 Court Street
Jackson, CA 95642

District Attorney
Butte County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney
Colusa County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney
Del Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney
El Dorado County
515 Main Street
Placerville, CA 95667

District Attorney
Fresno County
2220 Tulare Street, Suite
1000 Fresno, CA 93721

District Attorney
Glenn County
Post Office Box 430
Willows, CA 95988

District Attorney
Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney
Imperial County
940 West Main St.
Ste 102
El Centro, CA 92243

District Attorney
Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney
Kings County
1400 West Lacey
Boulevard Hanford, CA
93230

District Attorney
Lake County
255 N. Forbes St.
Lakeport, CA 95453

District Attorney
Los Angeles County
Hall of Justice
211 West Temple St.
Suite 1200
Los Angeles, CA 90012

District Attorney
Madera County
209 West Yosemite Ave.
Madera, CA 93637

District Attorney
Marin County
3501 Civic Center Drive
Room 130
San Rafael, CA 94903

District Attorney
Mariposa County
Post Office Box 730
Mariposa, CA 95338

District Attorney
Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney
Merced County
550 W. Main Street
Merced, CA 95340

District Attorney
Modoc County
204 S Court Street
Room 202
Alturas, CA 96101-4020

District Attorney
Mono County
Post Office Box 617
Bridgeport, CA 93517

District Attorney
Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney
Orange County
401 W. Civic Center Dr.
Santa Ana, CA 92701

District Attorney
Placer County
10810 Justice Center Dr.
Suite 240
Roseville, CA 95678

District Attorney
Plumas County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney
San Benito County
419 Fourth Street
2nd Floor
Hollister, CA 95023

District Attorney
San Bernardino County
303 West Third St.
San Bernardino, CA 92415

District Attorney
San Diego County
330 West Broadway
Suite 1300
San Diego, CA 92101

District Attorney
San Mateo County
400 Country Ctr. 3rd Floor
Redwood City, CA 94063

District Attorney
Shasta County
1355 West Street
Redding, CA 96001

District Attorney
Sierra County
100 Courthouse Square
2nd Floor
Downieville, CA 95936

District Attorney
Siskiyou County
Post Office Box 986
Yreka, CA 96097

District Attorney
Solano County
675 Texas St., Ste 4500
Fairfield, CA 94533

District Attorney
Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney
Sutter County
463 Second Street
Yuba City, CA 95991

District Attorney
Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney
Trinity County
Post Office Box 310
Weaverville, CA 96093

District Attorney
Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney
Yuba County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City
Attorney's Office
City Hall East
200 N. Main St., Ste. 800
Los Angeles, CA 90012

San Jose City Attorney's
Office
200 East Santa Clara Street
16th Floor
San Jose, CA 95113