

Michael Freund & Associates

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Michael Freund, Esq.

September 27, 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 pursue 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 person/company covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Paradigm Holdings, L.L.C.
Steven F. Hotze, MD**

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:

- 1. Hotze Vitamins Pure Cleanse Functional Detoxification Powder Natural Berry Flavor - Lead**
- 2. Hotze Vitamins Pure Pea Protein Natural Vanilla Flavor - Lead**
- 3. Hotze Vitamins Pure Pea Protein Natural Chocolate Flavor - Lead**
- 4. Hotze Vitamins Optimal Greens Detoxification and Mental Clarity Lemon-Lime Flavor - Lead**
- 5. Hotze Vitamins Bodyworks Plus by Dr Hotze - Lead**
- 6. Hotze Vitamins Fiber Blend Plus Probiotics - Lead**
- 7. Hotze Vitamins Milk Thistle Extract 150 mg - Lead**
- 8. Hotze Vitamins Dr Hotze's Mocha Protein Bar - Lead**
- 9. My Hotze Pak Detox Starter Pak - Lead**

- a. **My Hotze Pak Detox Starter Pak Breakfast**
- b. **My Hotze Pak Detox Starter Pak Lunch**
- c. **My Hotze Pak Detox Starter Pak Dinner**
- 10. **My Hotze Pak Skinny Pak - Lead**
 - a. **My Hotze Pak Skinny Pak Breakfast**
 - b. **My Hotze Pak Skinny Pak Dinner**
- 11. **Hotze Vitamins Dr. Hotze's Dark Chocolate Coconut Bar - Lead**
- 12. **My Hotze Pak 14 Day Detox Kit - Lead**
 - a. **My Hotze Pak 14 Day Detox Kit Bedtime**
 - b. **My Hotze Pak 14 Day Detox Kit Dinner**
 - c. **My Hotze Pak 14 Day Detox Kit Breakfast**
 - d. **My Hotze Pak 14 Day Detox Kit Upon Rising**
 - e. **Hotze Vitamins Pure Cleanse Functional Detoxification Powder Natural Berry Flavor**
 - f. **Hotze Vitamins Pure Pea Protein Natural Vanilla Flavor**
- 13. **Hotze Vitamins Cranberry Concentrate - 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.

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 this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least May 10, 2015, 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 this known toxic chemical is 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 chemical. 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 this chemical.

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 chemical, 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 chemical, as well as an expensive and time-consuming litigation.

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ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Freund".

Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Paradigm Holdings, L.L.C., Steven F. Hotze, MD and their Registered Agent 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 Paradigm Holdings, L.L.C. and Steven F. Hotze, MD

I, Michael Freund, 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 chemical that is 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: September 27, 2019

Michael Freund

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 September 27, 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
Paradigm Holdings, L.L.C.
20214 Braidwood Drive, Suite 215
Katy, TX 77450

Steven F. Hotze
(Registered Agent for Paradigm Holdings, L.L.C.)
20214 Braidwood Drive, Suite 215
Katy, TX 77450

Current President or CEO
Steven F. Hotze, MD
20214 Braidwood Drive, Suite 215
Katy, TX 77450

On September 27, 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 September 27, 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

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

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

Thomas L. Hardy, District Attorney
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Michelle Latimer, Program Coordinator
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Prop65DA@co.monterey.ca.us

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CityAttyProp65@sandiego.gov

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

Valerie Lopez, Deputy City Attorney
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1390 Market Street, 7th Floor

San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org

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

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

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Bud Porter, Supervising Deputy District Attorney
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800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

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

On September 27, 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 September 27, 2019, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink, reading "Phyllis Dunwoody". The signature is written in a cursive, flowing style. The first name "Phyllis" is written in a larger, more prominent script, and "Dunwoody" follows in a similar but slightly smaller script. The signature is positioned above a horizontal line.

Phyllis Dunwoody

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

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Service List

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

District Attorney, Amador
County
708 Court Street, Suite 202
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
778 Pacific St
Placerville, CA 95667

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

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

District Attorney, Humboldt
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Eureka, CA 95501

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El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
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Hanford, CA 93230

District Attorney, Lake County
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Lakeport, CA 95453

District Attorney, Los Angeles
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Hall of Justice
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Los Angeles, CA 90012

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Madera, CA 93637

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San Rafael, CA 94903

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District Attorney, Mendocino
County
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Santa Ana, CA 92701

District Attorney, Placer
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Ste 240
Roseville, CA 95678

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Hollister, CA 95023

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Modesto, CA 95354

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District Attorney, Trinity
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