

# 60-DAY NOTICE OF VIOLATION

(Pursuant to California Health & Safety Code §§ 25249.5, *et seq.*)

September 28, 2020

To:

President/CEO  
Glanbia Nutritionals (NA), Inc.  
c/o Corporate Creations Network Inc.  
4640 Admiralty Way, 5<sup>th</sup> Floor  
Marina del Rey, CA 90292

Jeff Bezos, President/CEO  
Amazon.com, Inc.  
c/o CSC –Lawyers Incorporating Service  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

Sharon Leite, CEO  
Vitamin Shoppe Inc.  
c/o CSC –Lawyers Incorporating Service  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

Mark Garvey, Director  
Glanbia Nutritionals (Ireland) Limited  
No. 7 The Green, “Ayrfield”  
Granges Road, Kilkenny  
Co. Kilkenny  
Ireland

CC: California Attorney General’s Office;  
District Attorney’s Offices for All California Counties; and  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento, and Los Angeles

## I. INTRODUCTION

Safe Products for Californians, LLC (“SPFC”) is the noticing entity, acting in the interest of the general public. It seeks to reduce or eliminate the presence of hazardous substances in consumer products sold in California, and to ensure that California consumers are aware of the presence of such substances in consumer goods so that they can make an educated effort to limit their own exposure where deemed necessary.

This Notice is provided to the public agencies listed above pursuant to California Health & Safety Code §§ 25249.6, *et seq.* (“Proposition 65”). As noted above, notice is also being provided to the violators, Glanbia Nutritionals (NA), Inc., Amazon.com, Inc., Vitamin Shoppe Inc., and Glanbia Nutritionals (Ireland) Limited (the “Violators”). The violations covered by this Notice consist of the product exposures, routes of exposure, and types of harm potentially resulting from exposure to the toxic chemical (“listed chemical”) identified below, as follows:

Product Exposure:	See Section VII, Exhibit A
Listed Chemical:	Lead and Lead Compounds
Routes of Exposure:	Ingestion
Types of Harm:	Birth Defects and Other Reproductive Harm

## II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer exposures in violation of Proposition 65, and that is covered by this Notice, is listed under “Product Category/Type” in Exhibit A in Section VII below. All products within the type covered by this Notice shall be referred to hereinafter as the “products.” The sales of these products in California dating back to at least February 13, 2020 are subject to this Notice. As a result of sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

California consumers are exposed to the listed chemical through the act of buying, acquiring or utilizing the products. By way of example but not limitation, direct exposures occur when people (including children) ingest the product per the product label instructions, which recommend that such supplement be regularly consumed. The concentration of the noted contaminant compound present within each recommended serving (as suggested by the product manufacturer) constitutes a significant contaminant dose exposure to consumers through the intended daily ingestion of the product.

### **III. CONTACT INFORMATION**

Please direct all questions concerning this notice to SPFC at the following address:

Tanya E. Moore, Esq.  
MOORE LAW FIRM, P.C.  
300 S. First Street Ste. 342  
San Jose, CA 95113  
Telephone (408) 298-2000  
Email: [service@moorelawfirm.com](mailto:service@moorelawfirm.com)

### **IV. PROPOSITION 65 INFORMATION**

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment’s (“OEHHA”) Proposition 65 Implementation Office at (916) 445-6900. For the Violators’ reference, attached is a copy of “Proposition 65: A Summary,” which has been prepared by OEHHA.

### **V. RESOLUTION OF NOTICED CLAIMS**

Based on the allegations set forth in this Notice, SFPC intends to file a citizen enforcement lawsuit against the alleged Violators unless such Violators enter into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the exposure of California citizens to the listed chemical(s); and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code § 25249.7(b). If the alleged Violators are interested in resolving this dispute without resorting to time-consuming and expensive litigation, please feel free to contact SPFC’s counsel identified in Section III above. It should be noted that neither SPFC’s counsel nor SPFC can: (1)

finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any district or city attorney who received this Notice. Therefore, while reaching an agreement with SPFC will resolve its claims; such agreement may not satisfy the public prosecutors.

## VI. ADDITIONAL NOTICE INFORMATION

(THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 § 12903(b)(4).)

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors, and/or manufacturers of the example within the category or type of product are also provided below. SPFC believes and alleges that the sale of the offending products also has occurred without the requisite Proposition 65 “clear and reasonable warnings” at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the internet, and/or via a catalog by the Violators and other distributors and retailers of the manufacturer.

<i>Product*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributor(s)</i>
Nature Fuel Keto Meal Replacement – Creamy Vanilla Milkshake UPC# 7-46888-93033-5	Amazon.com, Inc. Vitamin Shoppe Inc.	Glanbia Nutritionals (NA), Inc. Glanbia Nutritionals (Ireland) Limited
Nature Fuel Keto Meal Replacement – Double Chocolate Milkshake UPC# 7-46888-93031-1	Amazon.com, Inc. Vitamin Shoppe Inc.	Glanbia Nutritionals (NA), Inc. Glanbia Nutritionals (Ireland) Limited

## VII. EXHIBIT A

<i>Product Category/Type</i>	<i>Such As*</i>	<i>Toxins</i>
Nature Fuel Keto Meal Replacement Milkshakes	Nature Fuel Keto Meal Replacement – Creamy Vanilla Milkshake UPC# 7-46888-93033-5	Lead and Lead Compounds
Nature Fuel Keto Meal Replacement Milkshakes	Nature Fuel Keto Meal Replacement – Double Chocolate Milkshake UPC# 7-46888-93031-1	Lead and Lead Compounds

\*The specifically identified example of the type of product that is subject to this Notice is for the recipients’ benefit to assist in their investigation of, among other things, the magnitude of potential

exposures to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under “Product Category/Type” in Exhibit A. Further, it is SPFC’s position that the alleged Violators are obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients’ custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

# CERTIFICATE OF MERIT

(Pursuant to California Health & Safety Code § 25249.7(d))

I, Tanya E. Moore, hereby declare:

1. This Certificate of Merit accompanies the attached Sixty-Day Notice in which it is alleged that the parties identified in the Notice have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings;
2. I am the attorney for the noticing party;
3. I have consulted with one or more persons with relevant and appropriate experience or experience who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of this action;
4. Based on the information obtained through these consultations, and on all 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 the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute; and
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including information identified in 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 28, 2020

Tanya Moore  
Tanya Moore (Sep 28, 2020 11:02 PDT)

Tanya E. Moore

# CERTIFICATE OF SERVICE BY MAIL

I, Jessica Mendoza, hereby declare:

1. I am, and was at the time of service hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 300 South First Street, Ste. 342, San Jose, California, 95113.

2. On September 28, 2020, I served the following documents:

- 60-Day Notice of Violation
- Certificate of Merit
- “The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by First Class Mail:

President/CEO  
Glanbia Nutritionals (NA), Inc.  
c/o Corporate Creations Network Inc.  
4640 Admiralty Way, 5th Floor  
Marina del Rey, CA 90292

Jeff Bezos, President/CEO  
Amazon.com, Inc.  
c/o CSC –Lawyers Incorporating Service  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

Sharon Leite, CEO  
Vitamin Shoppe Inc.  
c/o CSC –Lawyers Incorporating Service  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

Mark Garvey, Director  
Glanbia Nutritionals (Ireland) Limited  
No. 7 The Green, “Ayrfield”  
Granges Road, Kilkenny  
Co. Kilkenny  
Ireland

3. On September 28, 2020, I served the following documents:

- 60-Day Notice of Violation
- 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 United States Postal Service Office for delivery by First Class Mail.

4. On September 28, 2020, I served the following documents:

- 60-Day Notice of Violation
- Certificate of Merit

on the following party by causing a true and correct .PDF copy thereof to be sent via electronic mail to the party listed below, pursuant to Cal. Code Regs., title. 27, § 25903(c)(1):

Contra Costa County District Attorney  
sgrassini@contracostada.org

Lassen County District Attorney  
mlatimer@co.lassen.ca.us

Monterey County District Attorney  
Prop65DA@co.monterey.ca.us

San Luis Obispo County District Attorney  
edobroth@co.slo.ca.us

Napa County District Attorney  
CEPD@countyofnapa.org

Santa Clara County District Attorney  
EPU@da.sccgov.org

Riverside County District Attorney  
Prop65@rivcoda.org

Sonoma County District Attorney  
jbarnes@sonoma-county.org

Sacramento County District Attorney  
Prop65@sacda.org

Tulare County District Attorney  
Prop65@co.tulare.ca.us

San Francisco County District Attorney  
gregory.alker@sfgov.org

Ventura County District Attorney  
daspecialops@ventura.org

San Joaquin County District Attorney  
DAConsumer.Environmental@sjcda.org

Yolo County District Attorney  
cfepd@yolocounty.org

San Diego County District Attorney  
CityAttyCrimProp65@sandiego.gov

Alameda County District Attorney  
CEPDProp65@acgov.org

Santa Barbara County District Attorney  
DAProp65@co.santa-barbara.ca.us

Santa Cruz County District Attorney  
Prop65DA@santacruzcounty.us

San Francisco City Attorney Office  
Valeria.lopez@sfcityatty.org

Inyo County District Attorney  
inyoda@inyocounty.us

Calaveras County District Attorney  
Prop65Env@co.calaveras.ca.us

Mariposa County District Attorney  
mcda@mariposacounty.org

Nevada County District Attorney  
DA.Prop65@co.nevada.ca.us

Plumas County District Attorney  
davidhollister@countyofplumas.com

San Diego Deputy City Attorney  
CityAttyProp65@sandiego.gov

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

Dated: September 28, 2020



Jessica Mendoza

## SERVICE LIST

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

Amador County District Attorney  
708 Court Street #202  
Jackson, CA 95642

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

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

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

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

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

Glenn County District Attorney  
P.O. Box 430  
Willows, CA 95988

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

Imperial County District Attorney  
940 West Main Street, Suite 102  
El Centro, CA 92243

Kern County District Attorney  
1215 Truxtun Avenue, 4th Floor  
Bakersfield, CA 93301

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

Lake County District Attorney  
255 North Forbes Street  
Lakeport, CA 95453

Los Angeles County District Attorney  
211 West Temple Street  
Suite 1200  
Los Angeles, CA 90012

Madera County District Attorney  
209 West Yosemite Avenue  
Madera, CA 93637

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

Mendocino County District Attorney  
100 North State Street, P.O. Box 1000  
Ukiah, CA 95482

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

Modoc County District Attorney  
204 S. Court Street, Suite 202  
Alturas, CA 96101

Mono County District Attorney  
278 Main St  
Bridgeport, CA 93517

Orange County District Attorney  
401 Civic Center Drive West  
Santa Ana, CA 92701

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

San Benito County District Attorney  
419 4th Street, Second Floor  
Hollister, CA 95203

San Bernardino County District Attorney  
303 West 3rd Street, 6th Floor  
San Bernardino, CA 92415-0502

San Mateo County District Attorney  
400 County Center, Third Floor  
Redwood City, CA 94063

Shasta County District Attorney  
1355 West Street  
Redding, CA 96001

Sierra County District Attorney  
100 Courthouse Square  
Downieville, CA 95936

Siskiyou County District Attorney  
P.O. Box 986  
Yreka, CA 96097

Solano County District Attorney  
675 Texas Street, Suite 4500  
Fairfield, CA 94533

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

Sutter County District Attorney  
466 Second Street, Suite 102  
Yuba City, CA 95991

Tehama County District Attorney  
444 Oak Street, Room L  
Red Bluff, CA 96080

Trinity County District Attorney  
P.O. Box 310  
Weaverville, CA 96093

Tuolumne County District Attorney  
423 North Washington Street  
Sonora, CA 95370

Yuba County District Attorney  
215 Fifth Street  
Marysville, CA 95901

Office of the City Attorney, Los Angeles  
800 City Hall East  
200 North Main Street  
Los Angeles, CA 90012

Office of the City Attorney, Sacramento  
915 I Street, 4th Floor  
Sacramento, CA 95814

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