

**Michael Freund & Associates**

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Michael Freund, Esq.

March 4, 2021

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

Dear Alleged Violator 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 Violator 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 Violator 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 Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter the “Violator”) is:

**Fit Foods Ltd.**

**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. North Coast Naturals Organic Sprouted Raw Brown Rice Protein Unflavoured - Lead**
- 2. Whey Gourmet High Protein Shake Chocolate - Lead**
- 3. PVL Pure Vita Labs Full Potency DAA+ Unflavoured - Lead**
- 4. North Coast Naturals Boosted Iso Protein 100 Whey Protein Isolate Chocolate - Lead**
- 5. North Coast Naturals Cold Pressed Pumpkin Protein Pumpkin Seed Protein Unflavored - Lead**
- 6. North Coast Naturals Boosted Vegan All-In-One Nutritious Whole-Food Shake Chocolate - Lead**
- 7. North Coast Naturals Boosted Plant Protein Fermented & Sprouted Performance Protein Chocolate - 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 March 4, 2018, 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 Violator violated Proposition 65 because it 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 Violator 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.

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](mailto:freund1@aol.com).**

Sincerely,



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Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Fit Foods Ltd.)

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 Fit Foods Ltd.**

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the party 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 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: March 4, 2021

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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 March 4, 2021, 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  
Fit Foods Ltd.  
1589 Kebet Way  
Port Coquitlam, BC V3C 6L5  
Canada

Current President or CEO  
Fit Foods Ltd.  
101-1551 Broadway St.  
Port Coquitlam, BC V3C 6N9  
Canada

On March 4, 2021, 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 March 4, 2021 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  
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891 Mountain Ranch Road  
San Andreas, CA 95249  
Prop65Env@co.calaveras.ca.us

Thomas L. Hardy, District Attorney  
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168 North Edwards Street  
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inyoda@inyocounty.us

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

Walter W. Wall, District Attorney  
Mariposa County  
P.O. Box 730  
Mariposa, CA 95338  
mcda@mariposacounty.org

Kimberly Lewis, District Attorney  
Merced County  
550 West Main St  
Merced, CA 95340  
Prop65@countyofmerced.com

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1200 Aguajito Road  
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Prop65DA@co.monterey.ca.us

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1127 First Street, Ste C  
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3072 Orange Street  
Riverside, CA 92501  
Prop65@rivcoda.org

Clifford H. Newell, District Attorney  
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201 Commercial St  
Nevada City, CA 95959  
DA.Prop65@co.nevada.ca.us

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Prop65@placer.ca.gov

David Hollister, District Attorney  
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davidhollister@countyofplumas.com

Anne Marie Schubert, District Attorney  
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Prop65@sacda.org

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SanDiegoDAProp65@sdcca.org

Mark Ankcorn, Deputy City Attorney  
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San Diego, CA 92101  
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Alethea Sargent, Assistant District Attorney  
White Collar Division  
San Francisco District Attorney's Office  
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North Building, Suite 400N  
San Francisco, CA 94103  
alethea.sargent@sfgov.org

Valerie Lopez, Deputy City Attorney  
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San Francisco, CA 94102  
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Tori Verber Salazar, District Attorney  
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Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

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County Government Center Annex, 4th Floor  
San Luis Obispo, CA 93408  
edobroth@co.slo.ca.us

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

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70 W Hedding St  
San Jose, CA 95110  
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Jeffrey S. Rosell, District Attorney  
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Santa Cruz, CA 95060  
Prop65DA@santacruzcounty.us

Stephan R. Passalacqua, District Attorney  
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jbarnes@sonoma-county.org

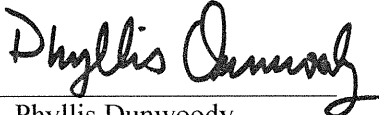
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Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney  
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daspecialops@ventura.org

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

On March 4, 2021 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 March 4, 2021, in Fort Oglethorpe, Georgia.



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Phyllis Dunwoody

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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  
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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  
County  
825 5th Street 4<sup>th</sup> Floor  
Eureka, CA 95501

District Attorney, Imperial  
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El Centro, CA 92243

District Attorney, Kern County  
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Bakersfield, CA 93301

District Attorney, Kings  
County  
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Hanford, CA 93230

District Attorney, Lake  
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Lakeport, CA 95453

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

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

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

District Attorney, Mendocino  
County  
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Ukiah, CA 95482

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, Orange  
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Santa Ana, CA 92703

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

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San Bernadino, CA 92415

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Redwood City, CA 94063

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Fairfield, CA 94533

District Attorney, Stanislaus  
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Modesto, CA 95354

District Attorney, Sutter  
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District Attorney, Trinity  
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Weaverville, CA 96093

District Attorney, Tuolumne  
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Sonora, CA 95370

District Attorney, Yuba  
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Marysville, CA 95901

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City Hall East  
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Los Angeles, CA 90012

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San Jose, CA 95113