



## **Environmental Research Center**

3111 Camino Del Rio North, Suite 400  
San Diego, CA 92108  
619-500-3090

January 12, 2024

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I am the In-House Counsel for Environmental Research Center, Inc. (“ERC”). 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 Section 25249.7(d) of the statute, 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 attached with the copy of 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:

**HMR Plan, LLC**  
**Weight Loss, Inc. f/k/a HMR Weight Management Services Corp**  
**Profile Development, LLC**  
**Profile Plan, LLC**  
**Sanford Frontiers**  
**Ten Oaks Management, LLC**

**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. **HMR 70 Plus Chocolate Shake and Pudding Mix - Lead**
2. **HMR 800 Chocolate Shake Mix - Lead**
3. **HMR Double Chocolate Chip Flavored Bar - Lead**
4. **HMR Iced Oatmeal Flavored Bar - 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 January 12, 2021, 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 expensive and time-consuming litigation.

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Please direct all questions concerning this notice to my attention, or Chris Heptinstall, Executive Director of ERC, at the above listed address and telephone number.

Sincerely,



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Charles Poss  
In-House Counsel  
Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to HMR Plan, LLC, Weight Loss, Inc. f/k/a HMR Weight Management Services Corp, Profile Development, LLC, Profile Plan, LLC, Sanford Frontiers, Ten Oaks Management, LLC and their Registered Agents 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 HMR Plan, LLC, Weight Loss, Inc. f/k/a HMR Weight Management Services Corp, Profile Development, LLC, Profile Plan, LLC, Sanford Frontiers, Ten Oaks Management, LLC**

I, Charles Poss, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

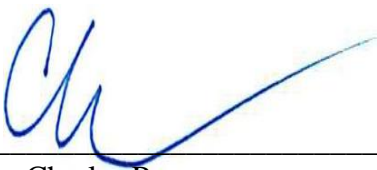
2. I am an attorney for the noticing party.

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: January 12, 2024

  
\_\_\_\_\_  
Charles Poss

**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 January 12, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS 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 in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
HMR Plan, LLC, Profile Development, LLC  
and Profile Plan, LLC  
7505 S Louise Ave  
Sioux Falls, SD 57108

Cogency Global Inc.  
(Registered Agent for HMR Plan, LLC,  
Profile Plan, LLC, and Ten Oaks Management, LLC)  
850 New Burton Road, Ste 201  
Dover, DE 19904

Current President or CEO  
Weight Loss, Inc. f/k/a HMR Weight  
Management Services Corp.  
99 Summer St, Ste 1200  
Boston, MA 02110

CT Corporation System  
(Registered Agent for Weight Loss, Inc. f/k/a  
HMR Weight Management Services Corp.)  
155 Federal St, Ste 700  
Boston, MA 02110

Cogency Global Inc.  
(Registered Agent for Profile Development, LLC)  
326 N Madison Ave  
Pierre, SD 57501

Current President or CEO  
Sanford Frontiers, Profile Development, LLC  
and Profile Plan, LLC  
1305 W 18<sup>th</sup> St  
Sioux Falls, SD 57105

CT Corporation System  
(Registered Agent for Sanford Frontiers)  
319 S Coteau St  
Pierre, SD 57501

CT Corporation System  
(Registered Agent for Weight Loss, Inc. f/k/a  
HMR Weight Management Services Corp.)  
1209 N. Orange St  
Wilmington, DE 19801

Cogency Global Inc.  
(Registered Agent for Ten Oaks Management, LLC)  
212 South Tryon St, Ste 1000  
Charlotte, NC 28281

On January 12, 2024, 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  
Post Office Box 70550  
Oakland, CA 94612-0550

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On January 12, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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:

Pamela Y. Price, District Attorney  
Alameda County  
7677 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Barbara Yook, District Attorney  
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Prop65Env@co.calaveras.ca.us

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

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Fresno, CA 93721  
consumerprotection@fresnocountyca.gov

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168 North Edwards Street  
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inyoda@inyocounty.us

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Susanville, CA 96130  
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San Rafael, CA 94903  
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Prop65@countyofmerced.com

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

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CEPD@countyofnapa.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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Prop65notice@ocdapa.org

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Roseville, CA 95678  
Prop65@placer.ca.gov

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davidhollister@countyofplumas.com

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edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney  
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200 E. Santa Clara Street, 16<sup>th</sup> Floor  
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daspecialops@ventura.org

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

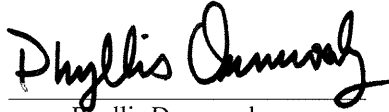
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Executed on January 12, 2024, in Fort Oglethorpe, Georgia.

  
Phyllis Dunwoody



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**Service List**

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

District Attorney, Amador  
County  
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Jackson, CA 95642

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

District Attorney, Colusa  
County  
310 6<sup>th</sup> St  
Colusa, CA 95932

District Attorney, Del Norte  
County  
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Crescent City, CA 95531

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Willows, CA 95988

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Eureka, CA 95501

District Attorney, Imperial  
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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  
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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  
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209 West Yosemite Avenue  
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County  
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San Bernadino, CA 92415

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Redwood City, CA 94063

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Modesto, CA 95354

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District Attorney, Trinity  
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District Attorney, Tuolumne  
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Sonora, CA 95370

District Attorney, Yuba  
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Marysville, CA 95901

Los Angeles City Attorney's  
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City Hall East  
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Los Angeles, CA 90012