

Michael Freund & Associates

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Michael Freund, Esq.

July 26, 2024

**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 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 Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

**DLG Holdings, LLC, individually and dba Livingood Daily
Livingood Practice Management, Inc.**

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. Livingood Daily Chocolate Plant Collagen Powder - Perfluorooctanoic Acid (PFOA)**
- 2. Livingood Daily Vanilla Collagen + Dr. Livingood Coffee - Perfluorooctanoic Acid (PFOA)**
- 3. Livingood Daily Vanilla Plant Collagen Powder - Perfluorooctanoic Acid (PFOA)**

On November 10, 2017, the State of California officially listed Perfluorooctanoic Acid (PFOA) as a chemical known to cause developmental toxicity. On February 25, 2022, the State of California officially listed Perfluorooctanoic Acid (PFOA) as a chemical 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 July 26, 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 Violator to: (1) recall the identified products so as to eliminate further exposures to the identified chemical, and/or (2) affix clear and reasonable Prop 65 warning labels for products sold in the future while reformulating such products to eliminate the exposures, and (3) conduct bio-monitoring of all California consumers that have ingested the identified chemical in the listed products, and (4) pay an appropriate civil penalty. 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.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to DLG Holdings, LLC, individually and dba Livingood Daily and Livingood Practice Management, Inc. 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 DLG Holdings, LLC, individually and dba Livingood Daily and Livingood Practice Management, Inc.

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: July 26, 2024



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 July 26, 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
DLG Holdings, LLC, individually and dba
Livingood Daily and Livingood Practice
Management, Inc.
5700 Calton Drive
Raleigh, NC 27612

Current President or CEO
DLG Holdings, LLC, individually and dba
Livingood Daily and Livingood Practice
Management, Inc.
953 N Harrison Ave
Cary, NC 27513

Current President or CEO
DLG Holdings, LLC, individually and dba
Livingood Daily and Livingood Practice
Management, Inc.
184 Wildfell Trail
Cary, NC 27513

Current President or CEO
DLG Holdings, LLC, individually and dba
Livingood Daily and Livingood Practice
Management, Inc.
2856 Old State Route 73
Wilmington, OH 45177

Current President or CEO
DLG Holdings, LLC, individually and dba
Livingood Daily and Livingood Practice
Management, Inc.
211 Torrey Pines Drive
Cary, NC 27513

David L. Goodwin
(Registered Agent for DLG Holdings, LLC,
individually and dba Livingood Daily)
5700 Calton Drive
Raleigh, NC 27612

Current President or CEO
DLG Holdings, LLC, individually and dba
Livingood Daily and Livingood Practice
Management, Inc.
5000 Centre Green Way, Suite 500
Cary, NC 27513

InCorp Services, Inc.
(Registered Agent for DLG Holdings, LLC,
individually and dba Livingood Daily)
1910 Thomes Ave
Cheyenne, WY 82001

Blake Livingood
(Registered Agent for Livingood Practice
Management, Inc.)
184 Wildfell Trail
Cary, NC 27513

Paracorp Incorporated
(Registered Agent for Livingood Practice
Management, Inc.)
1912 Capitol Avenue, Suite 500
Cheyenne, WY 82001

On July 26, 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
Oakland, CA 94612-0550

On July 26, 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** 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

Devin Chandler, Program Coordinator
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dchandler@co.lassen.ca.us

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

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Walter W. Wall, District Attorney
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Notice of Violation of California Health & Safety Code §25249.5 *et seq.*

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Roseville, CA 95678
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San Diego, CA 92101
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Christopher Dalbey, Deputy District Attorney
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Nora V. Frimann, City Attorney
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Proposition65notices@sanjoseca.gov

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Phillip J. Cline, District Attorney
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Notice of Violation of California Health & Safety Code §25249.5 *et seq.*

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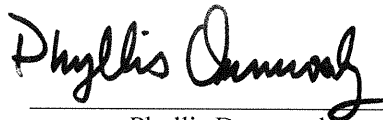
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Gregory D. Totten, District Attorney
Ventura County
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Ventura, CA 93009
daspecialops@ventura.org

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

On July 26, 2024, 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 July 26, 2024, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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Service List

District Attorney, Alpine
County
P.O. Box 248
17300 Hwy 89
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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
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310 6th St
Colusa, CA 95932

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

District Attorney, Glenn
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District Attorney, Humboldt
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825 5th Street 4th Floor
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940 West Main Street, 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 Street
Lakeport, CA 95453

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Madera, CA 93637

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District Attorney, Mono
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San Bernadino, CA 92415

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Redwood City, CA 94063

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Redding, CA 96001

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