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6 Attorneys for Plaintiff
ENVIRONMENTAL RESEARCH CENTER

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF MARIN

10 ENVIRONMENTAL RESEARCH CENTER, a) CASE NO. CIV-10-04706
11 non-profit California corporation,)

12 Plaintiff,)

13 1338299 ONTARIO LTD. TRADESTYLE:)
14 INTEGRITY MARKETING., a corporation;)
NEW ALBERTSONS, INC., a corporation;)
15 CVS PHARMACY INC., a corporation; THE)
KROGER COMPANY, a corporation; RITE)
16 AID CORPORATION, a corporation; and)
WAL-MART STORES INC., a corporation.)

17 Defendants.)

**[PROPOSED] STIPULATED CONSENT
JUDGMENT**

18 IT IS HEREBY STIPULATED AND AGREED by the Parties hereto, as follows:

19 **WHEREAS:**

20 A. ENVIRONMENTAL RESEARCH CENTER (“ERC”) is a citizen enforcer of
21 Proposition 65 and is a non-profit corporation organized under California’s Non-Profit Public
22 Benefit Corporation Law.

23 B. 1338299 ONTARIO LTD. is a Canadian entity that does business as INTEGRITY
24 MARKETING (“INTEGRITY MARKETING”). INTEGRITY MARKETING allegedly

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1 manufactured, packaged, distributed, marketed, and/or sold the product that is listed on Exhibit
2 A, containing lead and lead compounds sold in the State of California (“the Products”).
3 Although only one brand name product is the subject of this Consent Judgment, the word
4 “Products” is used throughout this document in order to make it clear that many units (bottles) of
5 this product were sold. “Parties” is intended to mean ERC and Integrity Marketing only.

6 C. The name of the Product covered under this Agreement is set forth in **Exhibit A**,
7 attached hereto (any products not set forth on Exhibit A hereto are not subject to the injunctive
8 provisions herein, and are not covered by the release of liability herein);

9 D. On February 27, 1987, the State of California officially listed the chemical lead as
10 a chemical known to cause reproductive toxicity, pursuant to California Health and Safety Code
11 § 25249.8;

12 E. On October 1, 1992, the State of California officially listed the chemicals lead and
13 lead compounds as chemicals known to cause cancer, pursuant to California Health and Safety
14 Code § 25249.8;

15 F. The Products have allegedly been sold by INTEGRITY MARKETING for use in
16 California since at least September 2007; Integrity Marketing has maintained that it never sold
17 Internal Flush in California and that Integrity Health Products, LLC, a Florida limited liability
18 company that is related to Integrity Marketing, made all of the sales of the Products in
19 California.

20 G. On June 28, 2010, ERC served INTEGRITY MARKETING and each of the
21 appropriate public enforcement agencies with a document entitled "60-Day Notice" that provided
22 INTEGRITY MARKETING and the public enforcement agencies with notice that INTEGRITY
23 MARKETING was in violation of California Health and Safety Code § 25249.6 *et seq.*
24 ("Proposition 65") for failing to warn purchasers and individuals using the Products that the use

1 of the Products exposes them to lead, a chemical known to the State of California to cause cancer
2 and/or reproductive toxicity (a copy of the 60-Day Notice is attached hereto as **Exhibit B**);

3 H. The Action was brought by ERC in the public interest at least sixty (60) days after
4 ERC provided notice of the Proposition 65 violations to INTEGRITY MARKETING and the
5 appropriate public enforcement agencies and none of the public enforcement agencies had
6 commenced and begun diligently prosecuting an action against INTEGRITY MARKETING for
7 such violations;

8 I. On September 17, 2010, ERC served NEW ALBERTSONS, INC., CVS
9 PHARMACY INC., THE KROGER COMPANY, RITE AID CORPORATION, and WAL-
10 MART STORES INC. (collectively hereafter, "RETAILER DEFENDANTS") and each of the
11 appropriate public enforcement agencies with a document entitled "60-Day Notice" that provided
12 RETAILER DEFENDANTS and the public enforcement agencies with notice that RETAILER
13 DEFENDANTS were in violation of California Health and Safety Code § 25249.6 *et seq.*
14 ("Proposition 65") for failing to warn purchasers and individuals using the Products that the use
15 of the Products exposes them to lead, a chemical known to the State of California to cause cancer
16 and/or reproductive toxicity (a exemplar copy of the 60-Day Notice sent to the RETAILER
17 DEFENDANTS is attached hereto as **Exhibit C**); throughout this Consent Judgment,
18 "Defendants" means all of the named defendants.

19 J. The Action was amended by ERC in the public interest at least sixty (60) days after
20 ERC provided notice of the Proposition 65 violations to the RETAILER DEFENDANTS and the
21 appropriate public enforcement agencies and none of the public enforcement agencies had
22 commenced and begun diligently prosecuting an action against the RETAILER DEFENDANTS;

23 K. For purposes of this Consent Judgment only, the Parties stipulate that this Court
24 has jurisdiction over the subject matter of this action and personal jurisdiction over the Parties,

1 that venue is proper in this Court, and that this Court has jurisdiction to enter a Consent
2 Judgment pursuant to the terms set forth herein;

3 L. The Parties enter into this Consent Judgment to settle disputed claims between
4 them and to avoid prolonged litigation. By execution of this Consent Judgment, DEFENDANTS
5 do not admit any violations or the applicability of Proposition 65. Except for the representations
6 made above, nothing in this Consent Judgment shall be construed as an admission by
7 DEFENDANTS or Plaintiff of any fact, issue of law, or violation of law, nor shall compliance
8 with this Consent Judgment constitute or be construed as an admission by DEFENDANTS or
9 Plaintiff of any fact, issue of law, or violation of law;

10 M. Except as expressly provided herein, nothing in this Consent Judgment shall
11 prejudice, waive or impair any right, remedy or defense the Parties may have in any other or
12 further legal proceeding. This paragraph shall not diminish or otherwise affect the obligations,
13 responsibilities, and duties of any Party to this Consent Judgment; and,

14 N. The "Effective Date" of this Agreement shall be the date upon which this Consent
15 Judgment is entered by the Court.

16 **NOW, THEREFORE**, in consideration of the promises, covenants and agreements
17 herein contained, the sufficiency and adequacy of which is hereby acknowledged by the Parties:

18 1. **Immediate Provision of Clear and Reasonable Health Hazard Warnings For**
19 **All Products.** INTEGRITY MARKETING represents that no Product has been shipped by it for
20 sale or use in California as of December 31, 2010 and agrees that it shall not ship (or cause to be
21 shipped) for sale or use in California any of the Products unless each such unit of the Product
22 bears the following warning statement on its individual unit label packaging:

23 **WARNING: This product contains lead, a substance known to**
24 **the State of California to cause birth defects or other**
25 **reproductive harm. DO NOT USE DURING PREGNANCY.**

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1 The warning statement shall be prominent and displayed on the unit packaging of the Product
2 with such conspicuousness, as compared with other words, statements, or designs so as to render
3 it likely to be read and understood by an ordinary individual purchasing or using the Product.

4 2. **Civil Penalty Assessment.** INTEGRITY MARKETING agrees to pay a civil
5 penalty in the amount of \$8,000 pursuant to Health & Safety Code §25249.7(b). Plaintiff shall
6 remit 75% of this amount to the State of California pursuant to Health & Safety Code §25192.

7 3. **Payment In Lieu of Further Civil Penalties.** INTEGRITY MARKETING
8 agrees to make an additional payment in lieu of further civil penalties in the amount of \$26,500
9 to ERC for projects to reduce exposures to toxic chemicals, and to increase consumer, worker
10 and community awareness of the health hazards posed by toxic chemicals.

11 4. **Reimbursement of Plaintiff's Fees and Costs.** INTEGRITY MARKETING
12 agrees to reimburse Plaintiff's reasonable investigative, expert and attorneys' fees and costs
13 incurred as a result of investigating and bringing this matter to the attention of INTEGRITY
14 MARKETING, and negotiating a settlement in the public interest; these fees and costs total
15 \$45,500.

16 5. **Payment Schedule.** Pursuant to Paragraphs 2, 3 and 4 herein, INTEGRITY
17 MARKETING agrees to remit the total amount of \$80,000 to Plaintiff, payable to: the "Law
18 Offices of Andrew L. Packard Attorney-Client Trust Account" and remitted to the Law Offices
19 of Andrew L. Packard at the law firm's address noted in the Notice provision below. The
20 schedule for the payment of these funds shall be as follows: (a) an initial payment of \$40,000
21 within five (5) calendar days of the Parties' mutual execution of the Proposed Consent Judgment,
22 which funds shall be held in escrow by Plaintiff until the Effective Date; and (b) a second and
23 final payment of the remaining balance of \$40,000 within five (5) calendar days of INTEGRITY
24 MARKETING's legal counsel's receipt of notice of entry by electronic mail of this Consent

1 Judgment. In the event that any payments owed under this Consent Judgment is not remitted on
2 or before its due date, INTEGRITY MARKETING shall be deemed to be in default of its
3 obligations under this Consent Judgment. Plaintiff shall provide written notice to INTEGRITY
4 MARKETING of any default; if INTEGRITY MARKETING fails to remedy the default within
5 two (2) business days of such notice, then all future payments due hereunder shall become
6 immediately due and payable, with the prevailing federal funds rate applying to all interest
7 accruing on unpaid balances due hereunder, beginning on the due date of the funds in default.
8 INTEGRITY MARKETING agrees to deposit with Greenberg Traurig, LLP (Denver Office) on
9 or before May 15, 2011 the \$40,000 that will be needed to satisfy the second payment set out
10 above.

11 **6. Plaintiff's Release of DEFENDANTS; Includes A "Downstream Release."**

12 Plaintiff, acting on behalf of itself and acting on behalf of the general public, permanently and
13 fully releases all of the named Defendants, their parents, subsidiaries, affiliates (including those
14 companies that are under common ownership and/or common control), such as Integrity Health
15 Products LLC, a Florida LLC), shareholders, directors, members, officers, employees, and
16 attorneys, and each entity to whom each of them directly or indirectly distributed or sold the
17 Products, including but not limited to distributors, wholesalers, customers, retailers, franchisees,
18 and any other person or entity in the course of doing business who distributed, marketed or sold
19 the products, from all claims of any nature that have been asserted in this lawsuit or which could
20 have been asserted in a Prop 65 Notice or this lawsuit. Specifically, ERC acknowledges that this
21 release covers the retailers that have been named as defendants in the underlying actions,
22 including Wal-mart Stores, Inc., Rite-Aid Corporation, CVS Pharmacy, Inc., New Albertsons,
23 Inc., and The Kroger Company and the subsidiaries and affiliates of each.

24 **7. Limits of Release.** Nothing in this release is intended to apply to any

1 occupational or environmental exposures arising under Proposition 65 nor shall it apply to any
2 INTEGRITY MARKETING products not set forth on Exhibit A to this Consent Judgment.

3 **8. DEFENDANTS' Release of Environmental Research Center.** Integrity
4 Marketing, by this Agreement, waives all rights to institute any form of legal action against ERC
5 for all actions or statements made or undertaken by ERC in the course of seeking enforcement of
6 Proposition 65 against the named DEFENDANTS by means of the Notices described in
7 paragraphs G and I, herein and agrees to indemnify and hold harmless Plaintiff from any such
8 legal action by any of the retailer defendants.

9 **9. Motion for Approval of Consent Judgment/Notice to the California Attorney**
10 **General's Office.**

11 9.1 Upon execution of this [Proposed] Consent Judgment by
12 the Parties, Plaintiff shall notice a Motion for Approval & Entry of Consent
13 Judgment in the Marin Superior Court pursuant to Title 11, Cal. Code of Regs.
14 §3000, et seq. This motion shall be served upon all of the Parties to the Action
15 and upon the California Attorney General's Office. In the event that the Court
16 fails to approve and order entry of the judgment, this Consent Judgment shall
17 become null and void upon the election of any Party as to them and upon written
18 notice to all of the Parties to the Action pursuant to the notice provisions herein.
19 INTEGRITY MARKETING and Plaintiff shall use their best efforts to support
20 entry of this Consent Judgment in the form submitted to the Office of the
21 Attorney General. If the Attorney General objects in writing to any term in this
22 Consent Judgment, the Parties shall use best efforts to resolve the concern in a
23 timely manner and prior to the hearing on the motion to approve this Consent
24 Judgment. If the Parties cannot resolve an objection of the Attorney General,

1 then Plaintiff and INTEGRITY MARKETING shall proceed with seeking entry
2 of an order by the court approving this Consent Judgment in the form originally
3 submitted to the Office of the Attorney General. If the Attorney General elects to
4 file papers with the Court stating that the People shall appear at the hearing for
5 entry of this Consent Judgment so as to oppose entry of the Consent Judgment,
6 then a party may withdraw from this Consent Judgment prior to the date of the
7 hearing, with notice to all Parties and the Attorney General, and upon such notice
8 this Consent Judgment shall be null and void.

9 9.2 In the event that the Court approves and orders entry of the
10 judgment, Plaintiff shall lodge a Stipulation and Order requesting dismissal with
11 prejudice of the RETAILER DEFENDANTS. Plaintiff agrees to make such filing
12 immediately upon the Court's approval and Order, but before the Entry of
13 Judgment.

14 10. **Severability.** In the event that any of the provisions of this Agreement are held
15 by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely
16 affected.

17 11. **Enforcement.** In the event that a dispute arises with respect to any of the
18 provisions of this Agreement, this Agreement may be enforced pursuant to Code of Civil
19 Procedure § 664.6 or any other valid provision of law. The prevailing party in any such dispute
20 shall be awarded all reasonable fees and costs incurred.

21 12. **Governing Law.** The terms of this Agreement shall be governed by the laws of
22 the State of California.

23 13. **Notices.** All correspondence and notices required to be provided under this
24 Agreement shall be in writing and shall be sent by first class registered or certified mail

1 addressed as follows. All correspondence to ERC shall be mailed to:

2 Environmental Research Center
3 5694 Mission Center Road, #199
4 San Diego, CA 92108

5 And to:

6 Andrew L. Packard
7 The Law Offices of Andrew L. Packard
8 100 Petaluma Blvd. N Ste. 301
9 Petaluma, CA 94952

10 All correspondence to INTEGRITY MARKETING shall be mailed to:

11 Mr. Michael Broccolo
12 INTEGRITY MARKETING
13 12-111 Fourth Avenue, Suite 365
14 St. Catherines, Ontario L2S 3P5 Canada

15 E-mail: mike@integrityhealth.tv

16 And to:

17 Mr. James R. Prochnow
18 Greenberg Traurig LLP
19 1200 17th Street, Suite 2400
20 Denver, CO 80202

21 E-mail: prochnowj@gtlaw.com

22 14. **Integration & Modification.** This Consent Judgment, together with the Exhibits
23 hereto which are specifically incorporated herein by this reference, constitutes the entire
24 agreement between the Parties relating to the rights and obligations herein granted and assumed,
25 and supersedes all prior agreements and understandings between the Parties. This Consent
26 Judgment may be modified only upon the written agreement of the Parties.

15. **Counterparts.** This Consent Judgment may be executed in counterparts, each of

1 which shall be deemed an original, and all of which, when taken together, shall constitute one
2 and the same document.

3 16. **Authorization.** The undersigned are authorized to execute this Consent
4 Judgment on behalf of their respective Parties and have read, understood, and agree to all of the
5 terms and conditions of this Consent Judgment.

6
7 DATED: 4/18/2011 By: 
8 Chris Hepinstall
9 ENVIRONMENTAL RESEARCH CENTER

10 DATED: _____ By: _____
11 Michael Broccolo
12 INTEGRITY MARKETING

13 IT IS SO ORDERED.

14 Dated: _____
15 _____
16 Judge of the Superior Court

17 **EXHIBIT A** - Product List

18 **EXHIBIT B** - June 28, 2010 NOV to INTEGRITY MARKETING

19 **EXHIBIT C** - September 17, 2010 NOV to Retailer DEFENDANTS

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1 which shall be deemed an original, and all of which, when taken together, shall constitute one
2 and the same document.

3 16. **Authorization.** The undersigned are authorized to execute this Consent
4 Judgment on behalf of their respective Parties and have read, understood, and agree to all of the
5 terms and conditions of this Consent Judgment.

6
7 DATED: _____

By: _____

8 Chris Heptinstall
9 ENVIRONMENTAL RESEARCH CENTER

10 DATED: April 18, 2011

By: _____

11 Michael Broccolo
12 INTEGRITY MARKETING

13 IT IS SO ORDERED.

Dated: _____

14 Judge of the Superior Court

15 **EXHIBIT A - Product List**

16 **EXHIBIT B - June 28, 2010 NOV to INTEGRITY MARKETING**

17 **EXHIBIT C - September 17, 2010 NOV to Retailer DEFENDANTS**

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EXHIBIT A

PRODUCT LIST

Internal Flush a/k/a Flush the Fat, with Internal Flush

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EXHIBIT B

LAW OFFICES OF
ANDREW L. PACKARD
100 PETALUMA BLVD N, STE 301, PETALUMA, CA 94952
PHONE (707) 763-7227 FAX (707) 763-9227
INFO@PACKARDLAWOFFICES.COM

June 28, 2010

VIA CERTIFIED MAIL

Current President or CEO
1338299 Ontario Ltd. Tradestyle: Integrity Marketing
45 Hannover Dr Unit 4
St Catharines, ON L2W 1A3

Re: Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

Dear Sirs,

This firm represents the Environmental Research Center (hereafter, "ERC"), a non-profit corporation organized under California's Non-Profit Public Benefit Corporation Law in connection with this notice of violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986, codified at Health & Safety Code §25249.5 *et seq.* (also referred to as "Proposition 65").

ERC is dedicated to, among other causes, reducing the use and misuse of hazardous and toxic substances, consumer protection, worker safety and corporate responsibility. ERC has documented the violations of Proposition 65 described herein, and this letter serves to provide notification of these violations to you and to the public enforcement agencies. Pursuant to §25249.7(d) of the statute, ERC intends to bring an enforcement action sixty (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. A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator(s).

The names of the violator(s) covered by this notice are: 1338299 Ontario Ltd. Tradestyle: Integrity Marketing (hereafter, the "Violator(s)"). The Violators manufacture, market, distribute and/or sell in California the following products causing exposures to lead and lead compounds:

Flush The Fat with Internal Flush

On February 27, 1987, the State of California officially listed lead as a substance known to cause reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as a substance known to cause cancer.

Route of exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products by consumers. Accordingly, consumer exposures have occurred and continue to occur primarily through the ingestion route, but also may occur through the inhalation and/or and dermal contact routes of exposure.

Duration of violations. Each of these ongoing violations has occurred on every day since at least June 28, 2007, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against the Violator(s) unless the Violator(s) agree in an enforceable written instrument to: (1) recall products already sold; (2) take effective measures to prevent unwarned lead exposures from being caused by products sold in the future; and (3) pay an appropriate civil penalty. In keeping with the public interest goals of the statute and my client's objectives in issuing this notice, ERC is interested in seeking a constructive resolution of this matter. Such resolution will avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation. ERC's Executive Director is Chris Heptinstall and the organization's mailing address is: 5694 Mission Center Road, #199, San Diego, CA 92108. Tel. (619) 309-4194. However, ERC has retained this firm in connection with this matter; therefore, all communications regarding this Notice of Violation may be directed to my attention at the above-listed firm address and telephone number.

Very Truly Yours,



Andrew L. Packard

Attachments:

OEHHA Summary

Certificate of Merit (w/o AG attachments)

Certificate of Service

List of Service

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65):
A SUMMARY**

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information. Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens. Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause

birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect. Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice. A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

CERTIFICATE OF MERIT

Re: the Environmental Research Center's Notice of Proposition 65 Violations Issued to 1338299 Ontario Ltd. Tradestyle: Integrity Marketing

I, Andrew L. Packard, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party in the notice has violated Health & Safety Code §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 has reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the action.

4. Based on the information obtained through those 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 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. 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 the information identified in Health and 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: June 28, 2010



Andrew L. Packard

CERTIFICATE OF SERVICE

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, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On June 28, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986: A SUMMARY”**

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current President or CEO
1338299 Ontario Ltd. Tradestyle: Integrity Marketing
45 Hannover Dr Unit 4
St Catharines, ON L2W 1A3

On June 28, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT (including supporting documentation required by Title 11 CCR §3102)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On June 28, 2010, 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 with the U.S. Postal Service for delivery by Priority Mail.

Executed on June 28, 2010, in Fort Oglethorpe, Georgia.



Chris Heptinstall

Service List

District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

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

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

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

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
547 Market Street
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

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

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

District Attorney, Fresno County
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District Attorney, Lassen County
220 South Lassen Street, Ste. 8
Susanville, CA 96130

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Los Angeles, CA 90012

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Madera, CA 93637

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District Attorney, Merced County
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District Attorney, Modoc County
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Alturas, CA 96101-4020

District Attorney, Mono County
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District Attorney, Monterey County
230 Church Street, Bldg 2
Salinas, CA 93901

District Attorney, Napa County
931 Parkway Mall
Napa, CA 94559

District Attorney, Nevada County
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Nevada City, CA 95959

District Attorney, Orange County
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Santa Ana, CA 92701

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

June 28, 2010

Page 8

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District Attorney, Sacramento County
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Sacramento, CA 95814

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Hollister, CA 95023

District Attorney, San Bernardino County
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San Bernardino, CA 92415-0004

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San Diego, CA 92112

District Attorney, San Francisco County
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100 Courthouse Square, 2nd Floor
Downieville, CA 95936

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District Attorney, Sonoma County
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District Attorney, Sutter County
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Yuba City, CA 95991

District Attorney, Tehama County
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District Attorney, Trinity County
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District Attorney, Tulare County
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Visalia, CA 93291

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Sonora, CA 95370

District Attorney, Ventura County
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Ventura, CA 93009

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

District Attorney, Yuba County
215 Fifth Street
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm 800
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 3rd Avenue, Ste 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

EXHIBIT C

LAW OFFICES OF
ANDREW L. PACKARD

100 PETALUMA BLVD N, STE 301, PETALUMA, CA 94952

PHONE (707) 763-7227 FAX (707) 763-9227

INFO@PACKARDLAWOFFICES.COM

September 17, 2010

VIA CERTIFIED MAIL

Current President or CEO
New Albertson's Inc.
11840 Valley View Road
Eden Prairie, MN 55344-3643

CT Corporation System
(New Albertson's Inc.'s Registered Agent
for Service of Process)
818 W. 7th Street
Los Angeles, CA 90017

Re: Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

Dear Sirs,

This firm represents the Environmental Research Center (hereafter, "ERC"), a non-profit corporation organized under California's Non-Profit Public Benefit Corporation Law in connection with this notice of violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986, codified at Health & Safety Code §25249.5 *et seq.* (also referred to as "Proposition 65").

ERC is dedicated to, among other causes, reducing the use and misuse of hazardous and toxic substances, consumer protection, worker safety and corporate responsibility. ERC has documented the violations of Proposition 65 described herein, and this letter serves to provide notification of these violations to you and to the public enforcement agencies. Pursuant to §25249.7(d) of the statute, ERC intends to bring an enforcement action sixty (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. A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator(s).

The names of the violator(s) covered by this notice are: New Albertson's Inc. (hereafter, the "Violator(s)"). The Violator(s) manufacture, market, distribute and/or sell in California the following products causing exposures to lead and lead compounds:

Integrity Health Products Flush The Fat with Internal Flush

On February 27, 1987, the State of California officially listed lead as a substance known to cause reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as a substance known to cause cancer.

Route of exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products by consumers. Accordingly, consumer exposures have occurred and continue to occur primarily through the ingestion route, but also may occur through the inhalation and/or and dermal contact routes of exposure.

Duration of violations. Each of these ongoing violations has occurred on every day since at least September 17, 2007, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against the Violator(s) unless the Violator(s) agree in an enforceable written instrument to: (1) recall products already sold; (2) take effective measures to prevent unwarned lead exposures from being caused by products sold in the future; and (3) pay an appropriate civil penalty. In keeping with the public interest goals of the statute and my client's objectives in issuing this notice, ERC is interested in seeking a constructive resolution of this matter. Such resolution will avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation. ERC's Executive Director is Chris Heptinstall and the organization's mailing address is: 5694 Mission Center Road, #199, San Diego, CA 92108. Tel. (619) 309-4194. However, ERC has retained this firm in connection with this matter; therefore, all communications regarding this Notice of Violation may be directed to my attention at the above-listed firm address and telephone number.

Very Truly Yours,



Andrew L. Packard

Attachments:

OEHHA Summary (to New Albertson's Inc. and its Registered Agent for Service of Process only)

Certificate of Merit (Additional Supporting Information to AG only)

Certificate of Service

List of Service

CERTIFICATE OF MERIT

Re: the Environmental Research Center's Notice of Proposition 65 Violations Issued to New Albertson's Inc.

I, Andrew L. Packard, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party in the notice has violated Health & Safety Code §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 has reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the action.

4. Based on the information obtained through those 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 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. 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 the information identified in Health and 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 17, 2010



Andrew L. Packard

CERTIFICATE OF SERVICE

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, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On September 17, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986: A SUMMARY”**

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current President or CEO
New Albertson’s Inc.
11840 Valley View Road
Eden Prairie, MN 55344-3643

CT Corporation System
(New Albertson’s Inc.’s Registered Agent
for Service of Process)
818 W. 7th Street
Los Angeles, CA 90017

On September 17, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT (including supporting documentation required by Title 11 CCR §3102)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On September 17, 2010, 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 with the U.S. Postal Service for delivery by Priority Mail.

Executed on September 17, 2010, in Fort Oglethorpe, Georgia.



Chris Heptinstall

Service List

District Attorney, Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

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

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

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

District Attorney, Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney, Colusa County
547 Market Street
Colusa, CA 95932

District Attorney, Contra Costa County
900 Ward Street
Martinez, CA 94553

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

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

District Attorney, Fresno County
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District Attorney, Glenn County
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Nevada City, CA 95959

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Santa Ana, CA 92701

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

September 17, 2010

Page 6

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Sacramento, CA 9581

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Hollister, CA 95023

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San Bernardino, CA 92415-0004

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San Diego, CA 92101

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San Francisco, CA 94103

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Santa Barbara, CA 93101

District Attorney, Santa Clara County
70 West Hedding Street
San Jose, CA 95110

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San Francisco, CA 94102

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