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Quick Trim, LLC  
12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF SAN FRANCISCO

15 ENVIRONMENTAL RESEARCH  
16 CENTER, a California non-profit  
corporation,

17  
18 Plaintiff,

19 v.

20 QUICK TRIM, LLC, and DOES 1-100,  
21 inclusive,

22 Defendant.  
23

Case No. CGC-11-513672

**[PROPOSED] CONSENT JUDGMENT**

24  
25 **1. INTRODUCTION**

26 1.1 On August 25, 2011, Plaintiff Environmental Research Center, Inc. (“ERC”), a  
27 non-profit corporation, as a private enforcer and in the public interest, initiated this action by  
28 filing a Complaint for Injunctive Relief and Civil Penalties under to the provisions of

1 California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and  
2 Safety Code § 25249.5, *et seq.* (also known as and hereinafter referred to as "Proposition 65"),  
3 against Defendant Quick Trim, LLC ("Quick Trim"). On July 25, 2013, ERC filed a First  
4 Amended Complaint for Injunctive Relief and Civil Penalties ("Amended Complaint"). In this  
5 action, ERC claims that certain products manufactured, distributed, and/or sold by Quick Trim  
6 contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and  
7 expose consumers to levels of lead requiring Proposition 65 warnings. ERC and Quick Trim are  
8 hereinafter sometimes referred to individually as a "Party" or collectively as the "Parties".

9 1.2 ERC is a California non-profit corporation dedicated to, among other causes,  
10 helping safeguard the public from health hazards by reducing the use and misuse of hazardous  
11 and toxic chemicals, facilitating a safe environment for consumers and employees, and  
12 encouraging corporate responsibility. ERC has diligently prosecuted this matter and is settling  
13 this case in the public interest.

14 1.3 Quick Trim is a "person in the course of doing business" within the meaning of  
15 Proposition 65. Quick Trim arranges the manufacture, distribution or sale of the Covered  
16 Products.

17 1.4 The Amended Complaint are based on allegations contained in two Notices of  
18 Violations of Proposition 65 ("Notices of Violations"), which were dated September 24, 2010  
19 and December 10, 2012, and served on the California Attorney General, other public enforcers  
20 and Quick Trim. True and correct copies of the Notices of Violations are attached hereto as  
21 Exhibit A. The following products were identified in these Notices of Violations: (1) Quick  
22 Trim Fast-Shake Chocolate; (2) Quick Trim, LLC ISO Burn AM 14 Day Diet System 3 Part  
23 System; (3) Quick Trim, LLC ISO Cleanse PM 3 Part System; (4) Quick Trim, LLC ISO Flush 3  
24 Part System; (5) Quick Trim Extreme Burn; (6) Quick Trim, LLC ISO Cleanse PM 14 Day Diet  
25 System; (7) Quick Trim, LLC ISO Burn AM; (8) Quick Trim, LLC Hotstix-Berry Flavor; (9)  
26 Quick Trim LLC Fast-Shake Vanilla; (10) QuickTrim LLC Extreme Burn Weight Loss Formula;  
27 (11) QuickTrim LLC Burn & Cleanse 14 Day Metabolic Makeover; (12) QuickTrim LLC Iso-  
28 Burn Daytime Thermogenic Formula; and (13) QuickTrim LLC Iso-Cleanse Nighttime

1 Cleansing Formula. (These listed products are hereinafter referred to collectively as the “Covered  
2 Products” and in the singular as a “Covered Product.”) More than 60 days have passed since the  
3 Notices of Violations were served and no public enforcement entity has filed a complaint against  
4 Quick Trim with regard to the Covered Products or the alleged violations.

5 1.5 ERC’s Notices of Violations and the Amended Complaint allege that the Covered  
6 Products exposed persons in California to lead without first providing clear and reasonable  
7 warnings, in violation of Cal. Health & Safety Code Section 25249.6. Quick Trim denies all  
8 material allegations contained in the Notices of Violations and Amended Complaint and  
9 specifically denies that the Covered Products required a Proposition 65 warning or otherwise  
10 cause harm to any person.

11 1.6 The Parties have entered into this Consent Judgment in order to settle,  
12 compromise and resolve disputed claims and thus avoid prolonged and costly litigation. Nothing  
13 in this Consent Judgment shall constitute or be construed as an admission by any of the Parties,  
14 or by any of their respective officers, directors, shareholders, employees, agents, parent  
15 companies, subsidiaries, divisions, affiliates, franchises, licensees, distributors, wholesalers, or  
16 retailers, of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or  
17 liability, including without limitation, any admission concerning any alleged violation of  
18 Proposition 65, nor shall this Consent Judgment be offered or admitted as evidence in any  
19 administrative or judicial proceeding or litigation in any court, agency, or forum, except with  
20 respect to an action seeking to enforce the terms of this Consent Judgment.

21 1.7 Except as expressly set forth herein, nothing in this Consent Judgment shall  
22 prejudice, waive or impair any right, remedy, argument, or defense the Parties may have in any  
23 other or future legal proceeding unrelated to these proceedings. This paragraph shall not  
24 diminish or otherwise affect the obligations, responsibilities, and duties of any Party with respect  
25 to this Consent Judgment.

26 1.8 The “Effective Date” of this Consent Judgment shall be the date this Consent  
27 Judgment is entered by the Court.

28 1.9 The only products covered by this Consent Judgment are the Covered Products,

1 and the only chemical covered by this Consent Judgment is the chemical lead as related to the  
2 Covered Products only.

3 1.10 Since receiving the Notices of Violations, Quick Trim claims it has ceased  
4 production of the majority of the products at issue here and is investigating whether additional  
5 units remain in its possession. Quick Trick claims it further plans to stop production of the  
6 remaining Covered Products if it cannot get the lead levels in a daily serving to below 0.5  
7 micrograms. Quick Trim will comply with the injunctive terms contained in paragraph 3 should  
8 it elect to produce additional units of the Covered Products in the future.

9 **2. JURISDICTION AND VENUE**

10 For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
11 jurisdiction over the subject matter of this action and personal jurisdiction over the Parties as to  
12 the acts alleged in the Amended Complaint, that venue is proper in San Francisco County, and  
13 that this Court has jurisdiction to enter this Consent Judgment pursuant to the terms set forth  
14 herein.

15 **3. INJUNCTIVE RELIEF**

16 3.1 On and after the Effective Date, Quick Trim shall be permanently enjoined from  
17 manufacturing for sale in California, "Distributing into California," or directly selling to any  
18 consumer located in California any of the Covered Products (1) without complying with the  
19 warning requirement set forth in Section 3.2 below; or (2) that have a daily lead exposure level  
20 of more than 0.5 micrograms of lead per day. The term "Distributing into California," as used  
21 herein, means to ship any of the Covered Products into California for sale in California or to sell  
22 or provide any of the Covered Products to any person or entity Quick Trim knows intends to or  
23 will ship any of the Covered Products into or sell any of the Covered Products in California.

24 **3.2 Clear and Reasonable Warnings**

25 For Covered Products that are subject to the warning requirement of Section 3.1, Quick  
26 Trim shall provide the following warning as specified below:

27 **WARNING:** This product contains lead, a chemical known to the State of  
28 California to cause [cancer and] birth defects or other reproductive harm.

1 (The text in the brackets related to cancer in the warning above shall be included only with any  
2 of the Covered Products that have a daily lead exposure level of more than 15 micrograms of  
3 lead per day.) The warning shall be permanently affixed to or prominently printed on the  
4 product label with such conspicuousness, as compared to other words, statements or designs on  
5 the label, so as to render it likely to be read and understood by the ordinary purchaser and/or user  
6 of the product under customary conditions of purchase or use of the product. The warning shall  
7 be the same size as the largest of any other health or safety warnings on the product label and the  
8 word “**WARNING**” shall be in all capital letters and in bold print.

### 9 3.3 Calculation of Lead Content

10 For purposes of Section 3.1 above and this Consent Judgment only, daily lead exposure  
11 levels shall be measured in micrograms, and shall be calculated using the following formula:  
12 micrograms of lead per gram of product, multiplied by grams of product per serving of the  
13 product (using the largest serving size appearing on the product label), multiplied by servings of  
14 the product per day (using the largest number of servings in a recommended dosage appearing on  
15 the product label) which equals micrograms of lead exposure per day.

### 16 3.4 Testing

17 3.4.1 Beginning on the Effective Date and continuing for a period of five years  
18 thereafter, for any of the Covered Products Quick Trim is manufacturing for sale in California,  
19 Distributing into California, or directly selling to any consumer located in California, at least  
20 once every three months, Quick Trim shall have three randomly selected samples from a single  
21 lot of each such Covered Product (in the form intended for sale to the end-user) tested for lead  
22 content. The term “lot,” as used herein, means one manufacturing cycle. Each lot shall be  
23 designated by a numbers, letters, or a combination of numbers and letters unique to that lot, and  
24 which shall be affixed or printed on each bottle or container of any of the Covered Products in  
25 that lot. Each sample to be tested shall be randomly selected using a sound statistical sampling  
26 plan, and shall be identified in Quick Trim’s request to the laboratory for testing as being  
27 submitted pursuant to this Consent Judgment. For each Covered Product, the highest lead  
28 content test result of the three randomly selected and tested samples shall be used for calculating

1 the daily lead exposure level for that Covered Product as set forth in Section 3.3 above.

2           3.4.2 Testing for lead content under Section 3.4 shall be performed using  
3 closed-vessel, microwave-assisted acid digestion employing high-purity reagents, followed by  
4 Inductively Coupled Plasma-Mass Spectrometry (ICP-MS), achieving a limit of quantification of  
5 less than or equal to 0.010 mg/kg; or heat-assisted acid digestion employing high-purity reagents,  
6 followed by Inductively Coupled Plasma-Mass Spectrometry (ICP-MS), achieving a limit of  
7 quantification of less than or equal to 0.010 mg/kg; or any other testing method agreed upon in  
8 writing by the Parties.

9           3.4.3 Testing for lead content under Section 3.4 shall be performed by an  
10 independent third-party laboratory certified by the California Environmental Laboratory  
11 Accreditation Program for the analysis of heavy metals or an independent third-party laboratory  
12 approved by, accredited by, or registered with the United States Food & Drug Administration for  
13 analysis of heavy metals. Quick Trim shall also retain all test results and documentation for a  
14 period of four years from the date of the test.

15           3.4.4 Beginning on the Effective Date and continuing for a period of five years  
16 thereafter, Quick Trim shall arrange for copies of all laboratory reports with results of testing for  
17 lead content under Section 3.4 to be automatically sent by the testing laboratory directly to ERC  
18 within ten working days after completion of that testing. These reports shall be deemed and  
19 treated by ERC as confidential information under the terms of the confidentiality agreement  
20 entered into by the Parties.

21           3.4.5 Nothing in this Consent Judgment shall limit Quick Trim's ability to  
22 conduct, or require that others conduct, additional testing of the Covered Products, including the  
23 raw materials used in their manufacture.

24           3.4.6 The testing and sampling methodology set forth in Section 3.4 is a result  
25 of negotiation and compromise, and is accepted by the Parties for the purposes of settling,  
26 compromising, and resolving the issues in this action, including future compliance with Section  
27 3 of this Consent Judgment, and shall not be used for any purpose or in any other matter, except  
28 for the purposes of determining future compliance with this Consent Judgment.

1           **3.5 Products in the Stream of Commerce**

2           The injunctive relief set forth in Section 3 shall not apply to any of the Covered Products  
3 that Quick Trim puts into the stream of commerce before the Effective Date. On the Effective  
4 Date, Quick Trim shall provide ERC with the last lot number and expiration date for each of the  
5 Covered Products in the stream of commerce as of the Effective Date.

6           **4. SETTLEMENT PAYMENT**

7           **4.1 Total Payment**

8           In full and final satisfaction of civil penalties, payment in lieu of further civil penalties,  
9 ERC’s expenses and costs of litigation, and ERC’s attorney fees, Quick Trim shall, within 10  
10 business days after receiving the Notice of Entry of this Consent Judgment, issue a single check  
11 in the amount of \$150,000 (“Total Settlement Amount”), made payable to “Environmental  
12 Research Center – ERC Escrow Account”, and send the check by first-class registered or  
13 certified mail, or overnight delivery, directly to ERC at the following address:

14                     Environmental Research Center  
15                     3111 Camino Del Rio North, Suite 400  
                       San Diego, CA 92108

16 Quick Trim shall also issue a single IRS Federal Tax Form 1099 for the above payment to ERC.  
17 Sections 4.2-4.5 below describe the agreed partition of the Total Settlement Amount.

18           **4.2 Civil Penalty**

19           As a portion of the Total Settlement Amount, \$21,560 shall be considered a civil penalty  
20 pursuant to California Health and Safety Code § 25249.7(b)(1). ERC shall remit 75% (\$16,170)  
21 of the civil penalties to the Office of Environmental Health Hazard Assessment (“OEHHA”) for  
22 deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance with California  
23 Health and Safety Code § 25249.12(c), and a copy of the transmittal letter will be sent to  
24 Defendant’s counsel. ERC will retain the remaining 25% (\$5,390) of the civil penalty.

25           **4.3 Payment in Lieu of Further Civil Penalties**

26           As a portion of the Total Settlement Amount, \$64,647 shall be considered a payment to  
27 ERC in lieu of further civil penalties for activities such as (1) funding the investigating,  
28 researching and testing of consumer products that may contain Proposition 65 listed chemicals;

1 (2) funding grants to California non-profit foundations/entities dedicated to public health;  
2 (3) funding ERC's Got Lead? Program to assist consumers in testing products for lead content;  
3 (4) funding post-settlement monitoring of past consent judgments; (5) funding to maintain ERC's  
4 database of lead-free products, Proposition 65-compliant products and contaminated products;  
5 (6) funding to track and catalog Proposition 65-compliant, contamination-free sources of  
6 ingredients used in the products ERC tests; and (7) funding the continued day to day business of  
7 enforcement of Proposition 65 matters which address contaminated ingestible products, similar  
8 to the subject matter of this action.

#### 9 4.4 Reimbursement of Expenses and Costs

10 As a portion of the Total Settlement Amount, \$20,000 shall be considered a  
11 reimbursement to ERC for its reasonable investigation costs associated with the enforcement of  
12 Proposition 65 and other expenses and costs incurred as a result of investigating, bringing this  
13 matter to Quick Trim's attention, litigating and negotiating a settlement in the public interest.

#### 14 4.5 Attorney Fees

15 As a portion of the Total Settlement Amount, \$43,793 shall be considered a payment to  
16 ERC for its attorneys' fees of Philip T. Emmons (\$41,625) and Karen A. Evans (\$2,168).

### 17 5. COSTS AND FEES

18 Except as expressly set forth herein in Section 4, each Party shall bear its own attorneys'  
19 fees, costs and expenses in this action.

### 20 6. RELEASE

21 6.1 ERC, acting on its own behalf and in the public interest, releases Quick Trim and  
22 its officers, directors, shareholders, employees, agents, representatives, parent companies,  
23 subsidiaries, divisions, subdivisions, affiliates, franchisees, licensees, successors, assigns and  
24 attorneys, and suppliers, manufacturers, distributors, wholesalers, retailers and all other entities  
25 in the distribution chain of the Covered Products, but excluding private label customers,  
26 (collectively "Released Parties"), from all claims for violations of Proposition 65 up through the  
27 Effective Date based on exposure to lead from the Covered Products as set forth in the Notices of  
28 Violations and the Complaint.



1           6.2     Compliance with the terms of this Consent Judgment constitutes compliance with  
2 Proposition 65 with respect to consumer exposures to lead from the Covered Products as set  
3 forth in the Notices of Violations and the Amended Complaint.

4           6.3     ERC on behalf of itself only, on the one hand, and Quick Trim, on the other hand,  
5 release and waive all claims they may have against each other and their respective officers,  
6 directors, employees, agents, representatives and attorneys for any statements or actions made or  
7 undertaken by them or their respective officers, directors, employees, agents, representatives and  
8 attorneys in connection with the Notices of Violations or this action.

9           6.4     Nothing in this release is intended to apply to any occupational or environmental  
10 exposures arising under Proposition 65, nor shall it apply to any of Quick Trim's products other  
11 than the Covered Products.

## 12     **7.     MOTION FOR COURT APPROVAL**

13           7.1     Upon execution of this Consent Judgment by the Parties, ERC shall notice,  
14 prepare, and file a Motion for Approval & Entry of Consent Judgment pursuant to 11 California  
15 Code of Regulations § 3000, *et seq.* This motion shall be served upon Quick Trim and upon the  
16 California Attorney General's Office. Quick Trim and ERC shall use their best efforts to support  
17 entry of this Consent Judgment in the form submitted to the Court for approval.

18           7.2     If, after service of the Motion for Approval & Entry of Consent Judgment, the  
19 California Attorney General objects in writing to any term in this Consent Judgment or files an  
20 opposition to the motion, the Parties shall use their best efforts to resolve the concern in a timely  
21 manner prior to the hearing on the motion. If the concern of the California Attorney General is  
22 not resolved prior to the hearing on the motion, any Party may withdraw from this Consent  
23 Judgment prior to the date of the hearing, with notice to all Parties in accordance with Paragraph  
24 17 below and notice to the California Attorney General's Office, and upon such notice this  
25 Consent Judgment shall be null and void.

26           7.3     This Consent Judgment shall be effective only after it has been entered by the  
27 Court. Otherwise, it shall be of no force or effect and cannot be used in any other proceeding for  
28 any purpose.

1 **8. RETENTION OF JURISDICTION**

2 This Court shall retain jurisdiction of this matter to enforce, modify, or terminate this  
3 Consent Judgment.

4 **9. MODIFICATION OF CONSENT JUDGMENT**

5 This Consent Judgment after its entry by the Court may be modified only upon written  
6 agreement of the Parties and upon entry of a modified Consent Judgment by the Court thereon.  
7 In the event of an agreed upon modification, Quick Trim shall reimburse ERC its attorneys' fees  
8 and costs associated with a joint motion or application to the Court in support of the agreed upon  
9 modification of the Consent Judgment.

10 **10. ENFORCEMENT OF CONSENT JUDGMENT; GOOD FAITH ATTEMPT TO  
11 RESOLVE DISPUTES**

12 In the event a dispute arises with respect to any Party's compliance with the terms and/or  
13 conditions of this Consent Judgment after its entry by the Court, the Party seeking compliance of  
14 another Party shall make a good faith attempt to resolve the dispute by conferring with the other  
15 Party in person, by telephone or by written communication before seeking relief from the Court.  
16 If the dispute is not resolved after such an attempt, this Consent Judgment may be enforced in  
17 this Court pursuant to Code of Civil Procedure § 664.4 or any other valid provision of the law.  
18 The prevailing party in any such dispute brought to this Court for resolution shall be awarded all  
19 reasonable costs and attorney's fees. As used in the preceding sentence, the term "prevailing  
20 party" means a party who is successful in obtaining relief more favorable to it than the relief the  
21 other party was agreeable to providing during the Parties' good faith attempt to resolve the  
22 dispute that is the subject of such an enforcement proceeding.

23 **11. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

24 In the event that, after entry of this Consent Judgment in its entirety, any of the provisions  
25 hereof are subsequently held by a court to be unenforceable, the validity of the enforceable  
26 provisions shall not be adversely affected.

27 **12. GOVERNING LAW**

28 The terms of this Consent Judgment shall be governed by the laws of the State of

1 California and apply within the State of California.

2 **13. RELATION TO OTHER ACTIONS**

3 This Consent Judgment shall have no application or effect on Quick Trim for sales of the  
4 Covered Products to consumers outside the State of California.

5 **14. DRAFTING**

6 The terms of this Consent Judgment have been reviewed by the respective legal counsel  
7 for the Parties prior to its signing, and each Party has had an opportunity to fully discuss the  
8 terms and conditions with its legal counsel. The Parties agree that, in any subsequent  
9 interpretation or construction of this Consent Judgment, no inference, assumption or presumption  
10 shall be drawn, and no provision of this Consent Judgment shall be construed against any Party,  
11 based on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or  
12 drafted all or any portion of this Consent Judgment. It is conclusively presumed that all of the  
13 Parties participated equally in the preparation and drafting of this Consent Judgment.

14 **15. ENTIRE AGREEMENT**

15 This Consent Judgment contains the sole and entire agreement and understanding of the  
16 Parties with respect to the entire subject matter hereof, and supersedes and replaces any and all  
17 prior agreements or understandings, written or oral, with regard to the matters set forth herein.  
18 No other agreements or understandings not specifically referred to herein, oral or otherwise, shall  
19 be deemed to exist or to bind any of the Parties.

20 **16. EXECUTION IN COUNTERPARTS**

21 This Consent Judgment may be executed in counterparts, which taken together shall be  
22 deemed to constitute one document. A facsimile or pdf signature shall be construed as valid as  
23 the original signature.

24 **17. NOTICES**

25 All notices required by this Consent Judgment to be given to any Party shall be sent by  
26 first-class registered or certified mail, or overnight delivery, to all of the following:

27 ///

28 ///

1 **FOR ERC:**

2 Chris Heptinstall, Executive Director  
3 Environmental Research Center  
4 3111 Camino Del Rio North, Suite 400  
5 San Diego, CA 92108

6 Philip T. Emmons  
7 Law Office of Philip T. Emmons  
8 1990 North California Blvd., 8<sup>th</sup> Floor  
9 Walnut Creek, CA 94596-3742

10 Karen A. Evans  
11 Law Office of Karen A. Evans  
12 4218 Biona Place  
13 San Diego, CA 92116

14 **FOR QUICK TRIM:**

15 Scott Yagoda  
16 General Counsel  
17 8 Henderson Drive  
18 West Cadwell, NJ 07006

19 Greenberg Traurig, LLP  
20 James Mattesich  
21 1201 K Street, Suite 1100  
22 Sacramento, CA 95814-3938

23 **18. AUTHORITY TO STIPULATE TO THIS CONSENT JUDGMENT**

24 Each person signing this Consent Judgment on behalf of a Party certifies that he or she is  
25 fully authorized by that Party to stipulate to the terms and conditions of this Consent Judgment  
26 on behalf of that Party, to enter into and execute this Consent Judgment on behalf of that Party,  
27 and to legally bind that Party to this Consent Judgment. Each person signing this Consent  
28 Judgment on behalf of a Party represents and warrants that he or she has read and understands  
this Consent Judgment, and agrees to all of the terms and conditions of this Consent Judgment on  
behalf of that Party.


///

///

1 **IT IS SO STIPULATED:**


2 Dated: 8/13/2013

ENVIRONMENTAL RESEARCH CENTER

3  
4 By:   
5 Chris Hopinstall  
6 Executive Director

7 Dated: August 13, 2013


QUICK TRIM, LLC

8 By:   
9 Scott Yagoda  
10 General Counsel

11 **APPROVED AS TO FORM:**

12 Dated: 8/13/13

LAW OFFICE OF PHILIP T. EMMONS

13 By:   
14 Philip T. Emmons  
15 Attorney for Plaintiff  
16 ENVIRONMENTAL RESEARCH CENTER

17 Dated: 8/13/13

GREENBERG TRAURIG, LLP

18 By:   
19 James Mattesich  
20 Attorney for Defendant  
21 QUICK TRIM, LLC

22 **ORDER AND JUDGMENT**

23 Based on the Parties' stipulation, and good cause appearing therefor, this Consent  
24 Judgment is approved and judgment is hereby entered according to its terms.

25 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

26 Dated: \_\_\_\_\_

27 \_\_\_\_\_  
28 Judge of the Superior Court

**EXHIBIT A**

LAW OFFICE OF  
**PHILIP T. EMMONS**  
208 Normandy Lane  
Walnut Creek, CA 94598  
Tel: (925) 349-4029  
E-Mail: p-emmons@hotmail.com

September 24, 2010

**VIA CERTIFIED MAIL**

Current CEO or President  
Quick Trim, LLC  
3750 Investment Lane, Suite 2  
West Palm Beach, FL 33404

Mona Lalla  
(Quick Trim, LLC's Registered Agent of  
Service for Process)  
3750 Investment Lane  
West Palm Beach, FL 33404

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

**VIA PRIORITY MAIL**

District Attorneys of All California Counties  
and Select City Attorneys  
(See Attached Certificate of Service)

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

Dear Addressees:

I represent the Environmental Research Center ("ERC") in connection with this Notice of Violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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.

The name of the Company covered by this notice that violated Proposition 65 (hereinafter "the Violators") is:

**Quick Trim, LLC**

The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

**QuickTrim Fast-Shake Chocolate - Lead**  
**Quick Trim LLC ISO Burn AM 14 Day Diet System 3 Part System - Lead**  
**Quick Trim LLC ISO Cleanse PM 3 Part System - Lead**  
**Quick Trim LLC ISO Flush 3 Part System - Lead**  
**Quick Trim Extreme Burn - Lead**  
**Quick Trim LLC ISO Cleanse PM 14 Day Diet System - Lead**  
**Quick Trim LLC ISO Burn AM - Lead**  
**Quick Trim LLC Hotstick-Berry Flavor - 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 as chemical known to cause cancer.

This letter is a notice to each of the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to each of the Violators.

Each of the Violators has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The primary route of exposure to these chemicals has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product's label. Each of the Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using these products that they are being exposed to the identified chemicals.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless each of the Violators agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation. ERC's address 5694 Mission Center Road #199, San Diego, CA 92108; Tel. (619) 309-4194. However, ERC has retained me in connection with this matter, and all communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,





---

Philip T. Emmons, Esq.

cc: Karen Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Quick Trim, LLC and its Registered Agent for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center's Notice of Proposition 65 Violations by Quick Trim, LLC**

I, Philip T. Emmons, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged 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: September 24, 2010

---

Philip T. Emmons

**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 24, 2010, 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 the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current CEO or President  
Quick Trim, LLC  
3750 Investment Lane, Suite 2  
West Palm Beach, FL 33404

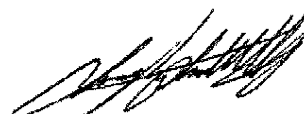
Mona Lalla  
(Quick Trim, LLC's Registered Agent of  
Service for Process)  
3750 Investment Lane  
West Palm Beach, FL 33404

On September 24, 2010, I served the following documents: **NOTICE OF VIOLATION, 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)** 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 24, 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 24, 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  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney, Glenn County  
Post Office Box 430  
Willows, CA 95988

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

District Attorney, Imperial County  
939 West Main Street, Ste 102  
El Centro, CA 92243

District Attorney, Inyo County  
230 W. Line Street  
Bishop, CA 93514

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

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

District Attorney, Los Angeles County  
210 West Temple Street, Rm 345  
Los Angeles, CA 90012

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

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

District Attorney, Mariposa County  
Post Office Box 730  
Mariposa, CA 95338

District Attorney, Mendocino County  
Post Office Box 1000  
Ukiah, CA 95482

District Attorney, Merced County  
2222 M Street  
Merced, CA 95340

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, Monterey County  
230 Church Street, Bldg 2  
Salinas, CA 93901

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

District Attorney, Nevada County  
110 Union Street  
Nevada City, CA 95959

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

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

September 24, 2010

Page 7

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

District Attorney, Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971

District Attorney, Riverside County  
4075 Main Street, 1st Floor  
Riverside, CA 92501

District Attorney, Sacramento County  
901 "G" Street  
Sacramento, CA 9581

District Attorney, San Benito County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

District Attorney, San Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

District Attorney, San Diego County  
330 West Broadway, Room 1300  
San Diego, CA 92101

District Attorney, San Francisco County  
850 Bryant Street, Room 325  
San Francisco, CA 94103

District Attorney, San Joaquin County  
Post Office Box 990  
Stockton, CA 95201

District Attorney, San Luis Obispo County  
1050 Monterey Street, Room 450  
San Luis Obispo, CA 93408

District Attorney, San Mateo County  
400 County Ctr., 3<sup>rd</sup> Floor  
Redwood City, CA 94063

District Attorney, Santa Barbara County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

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

District Attorney, Santa Cruz County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney, Shasta County  
1525 Court Street, Third Floor  
Redding, CA 96001-1632

District Attorney, Sierra County  
PO Box 457  
Downieville, CA 95936

District Attorney, Siskiyou County  
Post Office Box 986  
Yreka, CA 96097

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

District Attorney, Sonoma County  
600 Administration Drive, Room 212J  
Santa Rosa, CA 95403

District Attorney, Stanislaus County  
832 12<sup>th</sup> Street, Ste 300  
Modesto, CA 95353

District Attorney, Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney, Tehama County  
Post Office Box 519  
Red Bluff, CA 96080

District Attorney, Trinity County  
Post Office Box 310  
Weaverville, CA 96093

District Attorney, Tulare County  
221 S. Mooney Avenue, Room 224  
Visalia, CA 93291

District Attorney, Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney, Ventura County  
800 South Victoria Avenue  
Ventura, CA 93009

District Attorney, Yolo County  
301 2<sup>nd</sup> 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  
1 Drive Carlton B Goodlett Place  
San Francisco, CA 94102

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

## **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.

LAW OFFICE OF  
**PHILIP T. EMMONS**  
1990 N. California Blvd., 8<sup>th</sup> Floor  
Walnut Creek, CA 94596  
Tel: (925) 287-6436

December 10, 2012

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

**VIA CERTIFIED MAIL**

Current CEO or President  
Quick Trim, LLC  
3750 Investment Lane, Suite 2  
West Palm Beach, FL 33404

**VIA PRIORITY MAIL**

District Attorneys of All California Courts  
and Select City Attorneys  
(See Attached Certificate of Service)

Mona Lalla (Quick Trim, LLC's Registered Agent of  
Service for Process)  
3750 Investment Lane  
West Palm Beach, FL 33404

Current President or CEO  
Windmill Health Products, LLC  
6 Henderson Dr  
West Caldwell, NJ 07006

Angela Vanhouten (Windmill Health Products, LLC's  
Registered Agent of Service for Process)  
6 Henderson Drive  
West Caldwell, NJ 07006

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center ("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 product 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 this product. 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 an attachment with the copy of this letter served on the alleged Violators identified below.

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

**Quick Trim, LLC  
Windmill Health Products, LLC**

**Consumer Product and Listed Chemical.** The product that is the subject of this notice and the chemical in that product identified as exceeding allowable levels is:

**Quick Trim LLC Fast-Shake Vanilla – Lead  
Quick Trim LLC Fast-Shake Chocolate - Lead  
QuickTrim LLC Extreme Burn Weight Loss Formula - Lead  
QuickTrim LLC Burn & Cleanse 14 Day Metabolic Makeover - Lead  
(kit includes the following products)  
    **Iso-Burn Daytime Thermogenic Formula - Lead  
    Iso-Cleanse Nighttime Cleansing Formula - 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 purchase, acquisition, handling and recommended use of this product. Consequently, the primary route of exposure to this chemical has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least December 10, 2009, as well as every day since the product was 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 product. 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 it failed to provide persons handling and/or using this product 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 product so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of this product; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

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

December 10, 2012

Page 3

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



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Philip T. Emmons, Esq.

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Quick Trim, LLC, Windmill Health Products, LLC and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

**Re: Environmental Research Center's Notice of Proposition 65 Violations by Quick Trim, LLC**

**CERTIFICATE OF MERIT**  
**Health and Safety Code Section 25249.7(d)**

I, Philip T. Emmons, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.
4. Based on the information obtained through those consultants, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.
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 section 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: December 10, 2012

---

Philip T. Emmons

**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. 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 December 10, 2012, 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 the party listed below and depositing it in a US Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President  
Quick Trim, LLC  
3750 Investment Lane, Suite 2  
West Palm Beach, FL 33404

Mona Lalla  
(Quick Trim, LLC's Registered Agent of Service for Process)  
3750 Investment Lane  
West Palm Beach, FL 33404

Current President or CEO  
Windmill Health Products, LLC  
6 Henderson Dr  
West Caldwell, NJ 07006

Angela Vanhouten (Windmill Health Products, LLC's Registered Agent of Service for Process)  
6 Henderson Drive  
West Caldwell, NJ 07006

On December 10, 2012, I served the following documents: **NOTICE OF VIOLATION, 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)** 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 with the postage fully prepaid 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 December 10, 2012, 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 with the postage fully prepaid for delivery by Priority Mail.

Executed on December 10, 2012, in Fort Oglethorpe, Georgia.



Amber Schaub

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

December 10, 2012

Page 6

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 <sup>nd</sup> Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 <sup>rd</sup> Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 <sup>th</sup> Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street 4 <sup>th</sup> Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 <sup>th</sup> Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 <sup>nd</sup> Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	

## 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.

#### FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.