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8 Environmental Research Center

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12 La Quinta, CA 92253
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15 Attorneys for Defendant
16 ASPEN GROUP, INC.

17 SUPERIOR COURT OF CALIFORNIA
18 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

19 ENVIRONMENTAL RESEARCH
20 CENTER, a California non-profit
21 corporation,

22 Plaintiffs,

23 vs.

24 ASPEN GROUP, INC. and DOES 1-50,
25 Inclusive,

26 Defendants,

Case No.: 30-2012-00606441-CU-MC-CJC

[PROPOSED] STIPULATED CONSENT
JUDGMENT; [PROPOSED] ORDER

[Health & Safety Code § 25249.5, et seq.]

27 1. INTRODUCTION

28 1.1 This Action arises out of the alleged violations of California's Safe Drinking
Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5
et seq. (also known as and herein after referred to as "Proposition 65") regarding the following
products (hereinafter collectively the "Covered Products" or "Covered Product" to refer to a

1 single product):

- 2 1) Aspen Group Inc. Aspen Aqua-Lim
- 3 2) Aspen Group Inc. Aspen-PMS
- 4 3) Aspen Group Inc. Aspen Siberian Ginseng
- 5 4) Aspen Group Inc. Aspen Enviro-Gard
- 6 5) Aspen Group Inc. Aspen Parasit-X
- 7 6) Aspen Group Inc. Aspen Chit-O-Slim Plus
- 8 7) Aspen Group Inc. Aspen Nerv
- 9 8) Aspen Group Inc. Aspen Chit-O-Slim HD Plus
- 10 9) Aspen Group Inc. Aspen Lung Maintenance
- 11 10) Aspen Group Inc. Aspen Glucosync

12 1.2 Plaintiff Environmental Research Center, Inc. ("ERC") is a California non-profit
13 corporation acting as a private enforcer of Proposition 65 that is dedicated to, among other
14 causes, helping safeguard the public from health hazards by reducing the use and misuse of
15 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
16 and encouraging corporate responsibility. ERC brings this Action in the public interest pursuant
17 to California Health and Safety Code Section 25249.7.

18 1.3 Defendant ASPEN GROUP, INC. is a Wisconsin Corporation. For a portion of
19 the time period regarding the claims asserted in the Action, ASPEN GROUP, INC. employed ten
20 or more persons and during that period(s) was a "person in the course of doing business" within
21 the meaning of Proposition 65. At the time of the execution of this Consent Judgment, ASPEN
22 GROUP, INC. contends that it presently employs less than ten employees. ASPEN GROUP,
23 INC. manufactures, distributes and sells the Covered Products.

24 1.4 ERC and ASPEN GROUP, INC. are hereinafter sometimes referred to
25 individually as a "Party" or collectively as the "Parties."

26 1.5 On October 21, 2011, pursuant to California Health and Safety Code Section
27 25249.7(d)(1), ERC served a Notice of Violations of Proposition 65 ("Notice of Violations") on
28 the California Attorney General, other public enforcers, and ASPEN GROUP, INC. A true and

1 correct copy of the Notice of Violations is attached hereto as Exhibit A.

2 1.6 After more than sixty (60) days passed since service of the Notice of Violations,
3 and no designated governmental agency filed a complaint against ASPEN GROUP, INC. with
4 regard to the Covered Products or the alleged violations, ERC filed the Complaint in this Action
5 (the "Complaint") for injunctive relief and civil penalties. The Complaint is based on the
6 allegations in the Notice of Violations.

7 1.7 The Complaint and the Notice of Violations each allege that ASPEN GROUP,
8 INC. manufactured, distributed, and/or sold in California the Covered Products, which contain
9 lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose
10 consumers at a level requiring a Proposition 65 warning. They further allege that use of the
11 Covered Products exposes persons in California to lead without first providing clear and
12 reasonable warnings, in violation of California Health and Safety Code Section 25249.6. ASPEN
13 GROUP, INC. denies all material allegations of the Notice of Violations and the Complaint,
14 asserts numerous affirmative defenses, and specifically denies that the Covered Products require
15 a Proposition 65 warning or otherwise cause harm to any person. By entering into this Consent
16 Judgment, ASPEN GROUP, INC. does not admit a violation of state or federal law.

17 1.8 The Parties enter into this Consent Judgment in order to settle, compromise and
18 resolve disputed claims and avoid prolonged and costly litigation as to all claims currently
19 known by ERC regarding Proposition 65. Nothing in this Consent Judgment, nor compliance
20 with its terms, shall constitute or be construed as an admission by any of the Parties, or by any of
21 their respective officers, directors, shareholders, employees, agents, parent companies,
22 subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors, wholesalers, or
23 retailers, of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or
24 liability, including without limitation, any admission concerning any alleged violation of
25 Proposition 65. Except as expressly set forth herein, nothing in this Consent Judgment shall
26 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
27 other or future legal proceeding unrelated to these proceedings. However, nothing in this Section
28 shall affect the enforceability of this Consent Judgment.

1 **1.9** The "Effective Date" of this Consent Judgment shall be the date this Consent
2 Judgment is entered by the Court.

3 **1.10** The Parties enter this Consent Judgment after extensive negotiations and after
4 disclosure of financial information revealing the financial condition of ASPEN GROUP, INC.,
5 which disclosure supports the amount of the settlement and results in a settlement of this matter
6 for costs and fees only. The terms of this Consent Judgment were negotiated concurrently with
7 ATRIUM, INC., which is a defendant in the matter of ERC v. ATRIUM, INC., et al., Orange
8 County Superior Court Case Number 30-2012-00606444. ASPEN GROUP, INC. and ATRIUM,
9 INC. are related in ownership and control. Therefore, the payments required pursuant to this
10 Consent Judgment, in Section 4 are jointly and severally owed by ASPEN GROUP, INC. and
11 ATRIUM, INC.

12 **2. JURISDICTION AND VENUE**

13 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
14 jurisdiction over the subject matter of this Action and personal jurisdiction over the Parties; that
15 venue is proper in this Court, and that this Court has jurisdiction to enter this Consent Judgment
16 pursuant to the terms set forth herein.

17 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING, AND WARNINGS**

18 **3.1** Beginning on the Effective Date, ASPEN GROUP, INC. shall be permanently
19 enjoined from manufacturing for sale in California, directly selling to a consumer in California
20 or "Distributing into California" any of the Covered Products for which the maximum daily dose
21 recommended on the label contains more than 0.5 micrograms of lead, unless such Covered
22 Product complies with the warning requirements in Section 3.3 or qualifies a "Reformulated
23 Covered Product" pursuant to Section 3.4. "Distributing into California" and "Distribute into
24 California" mean to directly ship any of the Covered Products into California for sale or to sell
25 any of the Covered Products to a distributor that ASPEN GROUP, INC. knows will sell the
26 Covered Product in California.

27 **3.2 Calculation of Lead Levels**

28 As used in this Consent Judgment, lead levels are calculated pursuant to the testing

1 protocol described in Section 3.5. For purposes of measuring the lead, the highest lead detection
2 result of the 5 randomly selected samples of the Covered Products will be controlling.

3 **3.3 Clear and Reasonable Warnings.**

4 For those Covered Products that are subject to the warning requirement of Section 3.1,
5 ASPEN GROUP, INC. shall provide the following warning:

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

8 The text in brackets in the warning above is optional, except that the term "cancer" must
9 be included only if the maximum daily dose recommended on the label contains more than 15
10 micrograms of lead.

11 The warning shall be prominently affixed to or printed upon the Covered Product's label
12 so as to be clearly conspicuous, as compared with other statements or designs on the label as to
13 render it likely to be read and understood by an ordinary purchaser or user of the Covered
14 Product. If the warning is displayed on the Covered Product's label, it shall be at least the same
15 size as the largest of any other health or safety warnings on the Covered Product and the word
16 "WARNING" shall be in all capital letters and in bold print.

17 For any Covered Product sold via a website, the warning shall appear on the checkout
18 page on the website for California consumers relating to any of the Covered Products being sold.

19 ASPEN GROUP, INC. shall not provide any additional information, statements, or
20 comments regarding Proposition 65 in addition to the Warning, but ASPEN GROUP, INC. may
21 refer customers to its company website address and provide any information separately on its
22 website.

23 **3.4 Reformulated Covered Products.**

24 A Reformulated Covered Product is one for which the maximum recommended daily
25 serving on the label contains no more than 0.5 micrograms of lead per day.

26 **3.5 Testing and Quality Control Methodology**

27 (a) Beginning within one year of the Effective Date, ASPEN GROUP, INC. shall test
28 five (5) randomly selected samples of each of the Covered Products (in the form intended for

1 sale to the end-user) for lead content. The testing requirement does not apply to any of the
2 Covered Products for which ASPEN GROUP, INC. has provided the warning specified in
3 Section 3.3.

4 (b) Testing for lead shall be performed using Inductively Coupled Plasma-Mass
5 Spectrometry ("ICP-MS") or any other testing method subsequently agreed to in writing by the
6 Parties.

7 (c) All testing pursuant to this Consent Judgment shall be performed by an
8 independent third party laboratory certified by the California Environmental Laboratory
9 Accreditation Program or an independent third party laboratory that is registered with the United
10 States Food & Drug Administration.

11 (d) ASPEN GROUP, INC. shall retain all test results and documentation for a period
12 of four (4) years from the date of the test. ASPEN GROUP, INC. shall provide copies of the test
13 results to ERC within 10 days of ASPEN GROUP, INC.'s receipt of the test results.

14 (e) ASPEN GROUP, INC. shall test each of the Covered Products at least once a year
15 for a minimum of four (4) consecutive years by testing five randomly selected samples of each
16 Covered Product which ASPEN GROUP, INC. intends to sell or is manufacturing for sale in
17 California, directly selling to a consumer in California, or "Distributing into California. If tests
18 conducted pursuant to this Section demonstrate that no warning is required for a Covered
19 Product during each of four (4) consecutive years, then the testing requirements of this Section
20 will no longer be required as to that Covered Product. However, if during or after the four (4)
21 year period, ASPEN GROUP, INC. changes ingredient suppliers for any of the Covered Products
22 and/or reformulates any of the Covered Products, ASPEN GROUP, INC. shall test that Covered
23 Product annually for at least four (4) consecutive years after such change is made.

24 (f) For purposes of this Consent Judgment, daily lead exposure levels shall be
25 measured in micrograms, and shall be calculated using the following formula: Micrograms of
26 lead per gram of product, multiplied by grams per serving of the product (using the largest
27 serving size appearing on the product label), multiplied by servings of the product per day (using
28 the largest number of servings in the recommended dosage appearing on the product label),

1 which equals micrograms of lead exposure per day.

2 **4. SETTLEMENT PAYMENT**

3 4.1 ASPEN GROUP, INC. shall make a total payment of \$37,500.00 within 10
4 business days of the Effective Date, which shall be in full and final satisfaction of all potential
5 civil penalties, payment in lieu of civil penalties, and attorney's fees and costs. The payment will
6 be sent to counsel for ERC, William F. Wraith, Wraith Law, 16485 Laguna Canyon Road, Suite
7 250, Irvine, California, 92618. The payment shall be issued as separate checks apportioned as
8 follows:

9 4.2 \$14,038.66 payable to ERC as reimbursement to ERC for reasonable costs
10 associated with the enforcement of Proposition 65 and other costs incurred as a result of work in
11 bringing this Action.

12 4.3 \$16,280.17 payable to William F. Wraith as reimbursement of ERC's attorney's
13 fees and attorney's costs.

14 4.4 \$7,181.17 payable to Karen Evans as reimbursement of ERC's attorney's fees and
15 attorney's costs.

16 4.5 Pursuant to Section 1.10, ASPEN GROUP, INC. and ATRIUM, INC. are jointly
17 and severally responsible for the full amount of the payments required in this Section. Therefore,
18 each owes the full amount, though only a total of \$37,500.00 is owed between ASPEN GROUP,
19 INC. and ATRIUM, INC.

20 **5. MODIFICATION OF CONSENT JUDGMENT**

21 This Consent Judgment may be modified only by: (i) Written agreement and stipulation
22 of the Parties and (ii) upon entry of a modified Consent Judgment by the Court. ERC is entitled
23 to reimbursement of all reasonable attorneys' fees and costs regarding any modification
24 requested or initiated by ASPEN GROUP, INC.

25 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

26 6.1 This Court shall retain jurisdiction of this matter to enforce, modify or terminate
27 this Consent Judgment.

28 6.2 Any Party may, by motion or application for an order to show cause filed with

1 this Court, enforce the terms and conditions contained in this Consent Judgment. The prevailing
2 party in any such motion or application may request that the Court award its reasonable
3 attorneys' fees and costs associated with such motion or application.

4 **7. APPLICATION OF CONSENT JUDGMENT**

5 This Consent Judgment shall apply to, be binding upon, and benefit the Parties and their
6 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
7 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,
8 wholesalers, retailers, predecessors, successors, and assigns.

9 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

10 **8.1** ERC acting on its own behalf and in the public interest releases ASPEN, INC. and
11 its directors, officers, shareholders and affiliates, including Nutri-Pak, (excluding private label
12 customers) from all claims for violations of Proposition 65 up through the Effective Date based
13 on exposure to lead from the Covered Products as set forth in the Notice of Violations.

14 Compliance with the terms of this Consent Judgment shall be deemed to constitute compliance
15 with respect to exposures to lead from the Covered Products as set forth in the Notice of
16 Violations and Complaint.

17 **8.2 Unknown Claims**

18 It is possible that other claims not now known to the Parties arising out of the facts
19 alleged in the Notice of Violations or the Complaint and relating to lead in the Covered Products
20 that were manufactured before the Effective Date will develop or be discovered. ERC, on behalf
21 of itself only, waives California Civil Code Section 1542 as to any such unknown claims.

22 California Civil Code Section 1542 reads as follows:

23 **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
24 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
25 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN**
26 **BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER**
27 **SETTLEMENT WITH THE DEBTOR."**

28 **8.3** ERC, on one hand, and ASPEN GROUP, INC., on the other hand, each release

1 and waive all claims they may have against each other and their respective officers, directors,
2 employees, agents, representatives, and attorneys for any statements or actions made or
3 undertaken by them or their respective officers, directors, employees, agents, representatives, and
4 attorneys in connection with the Notice of Violations or this Action.

5 **9. CONSTRUCTION AND SEVERABILITY**

6 **9.1** The terms and conditions of this Consent Judgment have been reviewed by the
7 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to
8 fully discuss the terms and conditions with its counsel. In any subsequent interpretation or
9 construction of this Consent Judgment, the terms and conditions shall not be construed against
10 any Party.

11 **9.2** In the event that any of the provisions of this Consent Judgment is held by a court
12 to be unenforceable, the validity of the remaining enforceable provisions shall not be adversely
13 affected.

14 **9.3** The terms and conditions of this Consent Judgment shall be governed by and
15 construed in accordance with the laws of the State of California.

16 **10. PROVISION OF NOTICE**

17 All notices required to be given to either Party to this Consent Judgment by the other
18 shall be in writing and sent to the following agents listed below by: (a) first-class, registered, (b)
19 certified mail, (b) overnight courier, or (c) personal delivery to the following

20 **For ENVIRONMENTAL RESEARCH CENTER**

21 Chris Heptinstall, Executive Director
22 Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108

23 William F. Wraith, Esq.
24 Wraith Law
16485 Laguna Canyon Road, Suite 250
25 Irvine, CA 92618

26 **For ASPEN GROUP, INC.**

27 Gregory R. Oleson, Esq.
28 Lewis Brisbois Bisgaard & Smith LLP
78-075 Main Street, Suite 203
La Quinta, CA 92253

1 Aspen Group, Inc.
2 Attn: Ashley Butler
3 P.O. Box 469
4 Green Lake, WI 54941

4 **11. COURT APPROVAL**

5 **11.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
6 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
7 Consent Judgment.

8 **11.2** If the California Attorney General objects to any term in this Consent Judgment,
9 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
10 prior to the hearing on the motion.

11 **11.3** If this Stipulated Consent Judgment is not approved by the Court despite the
12 Parties' best efforts, it shall be null and void and have no force or effect.

13 **12. EXECUTION AND COUNTERPARTS**

14 This Stipulated Consent Judgment may be executed in counterparts, which taken together
15 shall be deemed one document. A facsimile or .pdf signature shall be construed as valid and as
16 the original signature.

17 **13. ENTIRE AGREEMENT, AUTHORIZATION**

18 **13.1** This Consent Judgment contains the sole and entire agreement and understanding
19 of the Parties with respect to the entire subject matter herein, and any and all prior discussions,
20 negotiations, commitments and understandings related hereto. No representations, oral or
21 otherwise, express or implied, other than those contained herein have been made by any Party.
22 No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to
23 exist or to bind any Party.

24 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized
25 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly
26 provided herein, each Party shall bear its own fees and costs.

27 **14. REQUEST FOR FINDINGS AND FOR APPROVAL**

28 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.

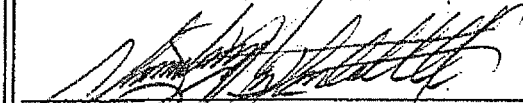
1 The Parties request the Court to fully review this Consent Judgment and, being fully informed
2 regarding the matters which are the subject of this action, to:

3 (a) Find that the terms and provisions of this Consent Judgment represent a good
4 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been
5 diligently prosecuted, and that the public interest is served by such settlement; and


6 (b) Make the findings pursuant to California Health and Safety Code section
7 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.

8 **IT IS SO STIPULATED:**

9 **ENVIRONMENTAL RESEARCH CENTER**

10 
11 _____ Dated: 10/23/2013
12 Chris Heptinstall, Executive Director

13 **ASPEN GROUP, INC.**

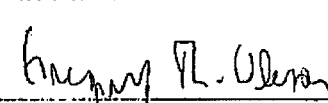
14 
15 _____ Dated: 10/23/13
16 By: Roberta L. Summers
17 Its: President

18 **APPROVED AS TO FORM:**

19 **WRAITH LAW**

20 
21 _____ Dated: 10/23/2013
22 William F. Wraith
23 Counsel for Environmental Research Center

24 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

25 
26 _____ Dated: 10-23-13
27 Gregory R. Olesen
28 Attorneys for Defendant, Aspen Group, Inc.

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ORDER AND JUDGMENT

Based upon the Parties' Stipulation, and good cause appearing therefor, this Consent Judgment is approved and judgment is hereby entered according to its terms.
IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____

Judge, Superior Court of the State of California

EXHIBIT “A”

LAW OFFICE OF
KAREN A. EVANS

4218 Biona Place
San Diego, CA 92116
Tel: (619) 640-8100
E-Mail: karen.erc@cox.net

October 21, 2011

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“ERC”), 5694 Mission Center Road #199, San Diego, CA 92108. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to 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 to the alleged Violator identified below.

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

Aspen Group, Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

Aspen Group Inc. Aspen Aqua-Lim - Lead
Aspen Group Inc. Aspen-PMS - Lead
Aspen Group Inc. Aspen Siberian Ginseng - Lead

Aspen Group Inc. Aspen Enviro-Gard - Lead
Aspen Group Inc. Aspen Parasit-X - Lead
Aspen Group Inc. Aspen Chit-O-Slim Plus - Lead
Aspen Group Inc. Aspen Nerv - Lead
Aspen Group Inc. Aspen Chit-O-Slim HD Plus - Lead
Aspen Group Inc. Aspen Lung Maintenance - Lead
Aspen Group Inc. Aspen Glucosync - 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 these products. Consequently, the primary route of exposure to these chemicals 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 October 21, 2008, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; 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.

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,

A handwritten signature in cursive script that reads "Karen A. Evans".

Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Aspen Group, Inc. 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 Aspen Group, Inc.

I, Karen A. Evans, declare:

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

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are 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.

Karen A. Evans

Dated: October 21, 2011

Karen A. Evans

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 October 21, 2011, 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:

Aspen Group, Inc.
W8098 Beechnut Ave.
Wautoma, WI 54982

Aspen Group, Inc.
460 South Townline Road
Wautoma, WI 54982

Frank Flettenberger, Esq.
Registered Agent of Aspen Group, Inc.
125 N. 2nd Street
P.O.Box 406
Delavan, WI 53191

Aspen Group, Inc.
P.O.Box 469
Green Lake, WI 54941

On October 21, 2011, 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 October 21, 2011, 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 October 21, 2011, 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
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