

1 Michael Freund (State Bar No. 99687)
2 Ryan Hoffman (State Bar No. 283297)
3 1919 Addison Street, Suite 105
4 Berkeley, CA 94704
5 Tel: (510) 540-1992
6 Fax: (510) 540-5543
7 Email: freund1@aol.com

8 Attorney for Plaintiff
9 ENVIRONMENTAL RESEARCH CENTER

10 Jeffrey Margulies (State Bar No. 126002)
11 Margot M. Fourqurean (State Bar No. 263205)
12 Fulbright & Jaworski L.L.P.
13 555 South Flower Street, 41st Floor
14 Los Angeles, CA 90071
15 Tel: (213) 892-9286
16 Fax: (213) 892-9494
17 Email: jeff.margulies@nortonrosefulbright.com

18 Attorneys for Defendant
19 GLOBAL HEALING CENTER, INC., GHC ND
20 OPERATIONS, LLC

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA

22 COUNTY OF ALAMEDA

23 ENVIRONMENTAL RESEARCH
24 CENTER, a California non-profit
25 corporation,

26 Plaintiff,

27 v.

28 GLOBAL HEALING CENTER, INC.,
GLOBAL HEALING CENTER, LP, and
DOES 1-100,

Defendants.

CASE NO. RG13674997

[PROPOSED] STIPULATED
CONSENT JUDGMENT; [PROPOSED]
ORDER

Health & Safety Code § 25249.5 et seq.

Action Filed: April 11, 2013
Trial Date: [None set]

1 **1. INTRODUCTION**

2 **1.1** On April 11, 2013, Plaintiff Environmental Research Center (“ERC”), a non-
3 profit corporation, as a private enforcer, and in the public interest, initiated this Action by filing
4 a Complaint for Injunctive and Declaratory relief and Civil Penalties (the “Complaint”)
5 pursuant to the provisions of California Health and Safety Code section 25249.5 et seq.
6 (“Proposition 65”), against Global Healing Center, Inc. and GHC ND Operations, LLC. ERC
7 filed a Request for Dismissal as to GHC ND Operations, and the Court entered dismissal for
8 this Defendant only on August 9, 2013. During mediation on September 9, 2013, ERC agreed
9 to execute a Consent Judgment with Global Healing Center, Inc. and Global Healing Center,
10 LP (collectively, “Global Healing” or “Defendant”). In this Action, ERC alleges that the
11 products manufactured, distributed or sold by Global Healing, as more fully described below,
12 contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and
13 that such products expose consumers at a level requiring a Proposition 65 warning. These
14 products are: Global Healing Center Paratrex Capsules (since reformulated); Premier Research
15 Labs Premier Greens Caps Super Greens Formula; Sunwarrior Ormus SuperGreens; and
16 Sunwarrior Protein Raw Vegan Vanilla (collectively, the “Covered Products”). ERC and Global
17 Healing are referred to individually as a “Party” or collectively as the “Parties.”

18 **1.2** ERC is a California non-profit corporation dedicated to, among other causes,
19 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
20 and toxic chemicals, facilitating a safe environment for consumers and employees, and
21 encouraging corporate responsibility.

22 **1.3** Defendant is a business entity that employed ten or more persons at all times
23 relevant to this Action. Defendant arranges or has arranged the manufacture, distribution and
24 sale of the Covered Products. Due to an entity conversion, Global Healing Center, Inc. is now
25 known as Global Healing Center, LP, which is the successor in interest to Global Healing
26 Center, Inc.
27
28

1 **1.4** The Complaint is based on allegations contained in ERC’s Notice of Violations,
2 dated October 26, 2012, that was served on the California Attorney General, other public
3 enforcers, and Defendant. A true and correct copy of the Notice of Violations is attached as
4 Exhibit A. More than 60 days have passed since the Notice of Violations was mailed, and no
5 designated governmental entity has filed a complaint against Defendant with regard to the
6 Covered Products or the alleged violations.

7 **1.5** ERC’s Notice of Violations and the Complaint allege that use of the Covered
8 Products exposes persons in California to lead without first providing clear and reasonable
9 warnings in violation of California Health and Safety Code section 25249.6. Defendant denies
10 all material allegations contained in the Notice of Violations and Complaint and specifically
11 denies that the Covered Products required a Proposition 65 warning or otherwise caused harm
12 to any person. Defendant asserts that any detectible levels of lead in the Covered Products are
13 the result of naturally occurring lead levels, as provided for in California Code of Regulations,
14 Title 27, Section 25501(a). Nothing in the Consent Judgment shall be construed as an
15 admission by Defendant of any fact, issue of law or violation of law, nor shall compliance with
16 the Consent Judgment constitute or be construed as an admission by Defendant of any fact,
17 issue of law or violation of law, at any time, for any purpose.

18 **1.6** The Parties have entered into this Consent Judgment in order to settle,
19 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.
20 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of
21 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,
22 parent companies, subsidiaries, divisions, affiliates, franchises, licensees, customers, suppliers,
23 distributors, wholesalers, or retailers. Except for the representations made above, nothing in
24 this Consent Judgment shall be construed as an admission by Defendant or ERC of any fact,
25 issue of law, or violation of law, nor shall compliance with this Consent Judgment be construed
26 as an admission by Defendant or ERC of any fact, issue of law, or violation of law.
27
28

1 **1.7** Except as expressly set forth herein, nothing in this Consent Judgment shall
2 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
3 other or future legal proceeding unrelated to these proceedings.

4 **1.8** The Effective Date of this Consent Judgment is the date on which it is entered as
5 a Judgment by this Court.

6 **1.9** Subsequent to receiving ERC's Notice of Violation, Global Healing discontinued
7 for sale Premier Greens Caps Super Greens Formula; Sunwarrior Ormus SuperGreens; and
8 Sunwarrior Protein Raw Vegan Vanilla and reformulated Global Healing Center Paratrex. The
9 Parties agree that the reformulated Paratrex is in compliance with Proposition 65 as of the date
10 on which they are signing this Consent Judgment because its lead exposure levels were reduced
11 to less than 0.5 micrograms of lead per day.
12
13

14 **2. JURISDICTION AND VENUE**

15 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
16 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
17 over Defendant as to the acts alleged in the Complaint, that venue is proper in Alameda County,
18 and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of
19 all claims which were or could have been asserted in his action based on the facts alleged in the
20 Notice of Violations and the Complaint. Defendant contends that the jurisdiction of this Court is
21 non-exclusive.
22
23
24
25
26
27
28

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

2 **3.1** Any Covered Products manufactured after the Effective Date that Defendant
3 thereafter sells in California, markets or distributes¹ for sale into California, or offers for sale to
4 a third party for retail sale to California must either: (1) qualify as a “Reformulated Covered
5 Product” under Section 3.3, or (2) meet the warning requirements under Section 3.2.

6 **3.2 Clear and Reasonable Warnings**

7 If Global Healing provides a warning for Covered Products pursuant to Section 3.1, then Global
8 Healing must provide the following warning:
9

10 [California Proposition 65] **WARNING: This product contains lead, a**
11 **chemical known [to the State of California] to cause [cancer and] birth**
12 **defects or other reproductive harm.**

13 Defendant shall use the term “cancer and” in the warning only if the maximum daily dose
14 recommended on the label contains more than 15 micrograms of lead as determined pursuant to
15 the quality control methodology set forth in Section 3.4. The words “California Proposition 65”
16 may be included at Defendant’s option.
17

18 Defendant shall provide the warning on all of the following: 1) on Defendant’s insert in
19 boxes of Covered Products shipped to California; 2) on Defendant’s receipt/invoice in boxes of
20 Covered Products shipped to California; and 3) on Defendant’s products in any retail stores it may
21 have in California. No additional language about Proposition 65 or lead may accompany the
22 Proposition 65 warning, and Defendant shall not provide any general or “Blanket” warnings
23 regarding Proposition 65. Notwithstanding the foregoing, nothing in this paragraph shall restrict
24 the ability of GHC to comment on, or provide its opinion of, Prop. 65 on inserts, pages, or browser
25

26 _____
27 ¹ As used in this Consent Judgment, the term “distributes for sale into California” means
28 to directly ship a Covered Product into California for sale in California or to sell a Covered
Product to a distributor that Defendant knows will sell the Covered Product in California.

1 windows, as long as those inserts, pages, or browser windows are separate from the inserts, pages,
2 or browser windows containing the foregoing warning.

- 3 1) In any website warning, Defendant shall identify and list each Covered Product that
4 requires a warning.
- 5 2) Regarding the insert warnings, Defendant and/or its distributor shall provide
6 one insert warning for each box of products going to a California consumer. The insert
7 warning shall be a minimum of 5 inches x 7 inches. The insert warning shall identify each
8 Covered Product that requires a warning.
- 9 3) For the receipt/invoice warnings, the receipt/invoice shall identify each Covered Product
10 that requires a warning and be present on the front of the receipt/invoice.

11 Defendant must display the above warnings with such conspicuousness, as compared with
12 other words, statements, or design of the label, container, website, insert, receipt, or invoice, as
13 applicable, to render the warning likely to be read and understood by an ordinary individual under
14 customary conditions of purchase or use of the Covered Product. The word “**WARNING**” must
15 be in all capital letters and bold print and must be at least as large as any of the other health and
16 safety warnings appearing with it.

20 **3.3 Calculation of Lead Levels; Reformulated Covered Products**

21 A Reformulated Covered Product is one for which the maximum recommended daily serving on
22 the label contains no more than 0.5 micrograms of lead per day as determined by the quality
23 control methodology described in Section 3.4. As used in this Consent Judgment, “no more than
24 0.5 micrograms of lead per day” means that the samples of the testing performed by Defendant
25 under Section 3.4 yield a daily exposure of no more than 0.5 micrograms of lead (with daily
26 exposure calculated pursuant to Section 3.4 of this Consent Judgment). For products that cause
27
28

1 exposures in excess of 0.5 micrograms of lead per day, Defendant shall provide the warning set
2 forth in Section 3.2. For purposes of determining which warning, if any, is required pursuant to
3 Section 3.2, the highest lead detection result of the five (5) randomly selected samples of the
4 Covered Products will be controlling.
5

6 **3.4 Testing and Quality Control Methodology**

7 **3.4.1** For purposes of this Consent Judgment, daily lead exposure levels shall
8 be measured in micrograms, and shall be calculated using the following formula: micrograms
9 of lead per gram of product, multiplied by grams of product per serving of the product (using
10 the largest serving size appearing on the product label), multiplied by servings of the product
11 per day (using the largest number of servings in a recommended dosage appearing on the
12 product label), which equals micrograms of lead exposure per day.

13 **4. SETTLEMENT PAYMENT**

14 **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil
15 penalties, attorney's fees and costs (which includes, but is not limited to attorney's fees and
16 costs and testing nutritional health supplements), Defendant shall make a total payment of
17 \$97,750.00 pursuant to the payment plan set forth in Section 4.6. Said payment shall be
18 apportioned as follows:
19

20 **4.2** \$5,000.00 shall be payable as civil penalties pursuant to California Health and
21 Safety Code section 25249.7(b)(1). Of this amount, \$3,750.00 shall be payable to the Office
22 of Environmental Health Hazard Assessment ("OEHHA") and \$1,250.00 shall be payable to
23 Environmental Research Center. California Health and Safety Code section 25249.12(c)(1)
24 & (d). ERC will be responsible for forwarding the civil penalty to OEHHA.

25 **4.3** \$37,615.78 shall be payable to Environmental Research Center as
26 reimbursement to ERC for reasonable costs associated with the enforcement of Proposition
27 65 and other costs incurred as a result of work in bringing this Action and defending against
28 Global Healing's action against ERC.

1 **4.4** \$26,677.85 shall be payable to Michael Freund as reimbursement of ERC's
2 attorney's fees. \$20,186.24 shall be payable to Justin Jeter as reimbursement of ERC's
3 attorney's fees in defending against Global Healing's action against ERC. \$2,045.30 shall
4 be payable to Denise Hoffman as reimbursement of ERC's attorney's fees. \$6,224.83 shall
5 be payable to Ryan Hoffman as reimbursement of ERC's attorney's fees.

6 **4.5** Defendant shall mail or deliver the payments in this Section by first-class,
7 registered, or certified mail and in the form of checks to Environmental Research Center at
8 the address stated in the Provision of Notice below. Defendant will be provided with
9 taxpayer identification information to enable Defendant to process the payments.

10 **4.6** The timing of payments shall be as follows and as further explained in the
11 table below: One payment of \$25,000.00 sent within 10 days following service of Notice of
12 Entry of Consent Judgment; Three payments of \$15,000.00 each, with each payment sent
13 every 30 days for the following three months; and the final payment of \$27,750.00 sent 30
14 days after that.
15
16

17

Payment Amount	Deadline to Send Payment
\$25,000.00	10 days following service of Notice of Entry of Consent Judgment
\$15,000.00	40 days following service of Notice of Entry of Consent Judgment
\$15,000.00	70 days following service of Notice of Entry of Consent Judgment
\$15,000.00	100 days following service of Notice of Entry of Consent Judgment
\$27,750.00	130 days following service of Notice of Entry of Consent Judgment

18
19
20
21
22
23
24
25
26
27
28

1 **5. MODIFICATION OF CONSENT JUDGMENT**

2 **5.1** This Consent Judgment may be modified only by: (i) written agreement and
3 stipulation of the Parties; and (ii) upon entry of a modified Consent Judgment by the Court.

4 **5.2** If Defendant seeks to modify this Consent Judgment under Section 5.1, then
5 Defendant must provide written notice to ERC of its intent (“Notice of Intent”). If ERC
6 seeks to meet and confer regarding the proposed modification in the Notice of Intent, then
7 ERC must provide written notice to Defendant within thirty days of receiving the Notice of
8 Intent. If ERC notifies Defendant in a timely manner of ERC’s intent to meet and confer,
9 then the Parties shall meet and confer in good faith as required in this Section. The Parties
10 shall meet in person or by phone within thirty (30) days of ERC’s notification of its intent to
11 meet and confer. Within thirty days of such meeting, if ERC disputes the proposed
12 modification, then ERC must provide to Defendant a written basis for its position. The
13 Parties shall continue to meet and confer for an additional thirty (30) days in an effort to
14 resolve any remaining disputes. The Parties may agree in writing to different deadlines for
15 the meet-and-confer period.
16

17 **5.3** In the event that Defendant initiates or otherwise requests a modification
18 under Section 5.1, Defendant shall reimburse ERC its costs and reasonable attorney’s fees
19 for the time spent in the meet-and-confer process and filing and arguing a joint motion or
20 application in support of a modification of the Consent judgment, as well as ERC’s
21 reasonable costs; provided, however, that these fees and costs shall not exceed \$10,000 total
22 without the prior written consent of Defendant.

23 **5.4** Where the meet-and-confer process does not lead to a joint motion or
24 application in support of a modification of the Consent Judgment, then either Party may seek
25 judicial relief on its own. In such a situation, the prevailing party may seek to recover costs
26 and reasonable attorney’s fees. As used in the preceding sentence, the term “prevailing
27 party” means a party who is successful in obtaining relief more favorable to it than the relief
28

1 that the other party was amenable to providing during the Parties' good faith attempt to
2 resolve the dispute that is the subject of the modification.

3 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
4 **JUDGMENT**

5 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or
6 terminate this Consent Judgment.

7 **6.2** Only after it complies with Section 15 below may any Party, by motion or
8 application for an order to show cause filed with this Court, enforce the terms and conditions
9 contained in this Consent Judgment.

10 **7. APPLICATION OF CONSENT JUDGMENT**

11 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
12 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
13 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,
14 wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
15 application to Covered Products which are distributed or sold outside the State of California and
16 which are not used by California consumers. This Consent Judgment shall terminate without
17 further action by any Party when DEFENDANT no longer manufactures, distributes or sells all of
18 the Covered Products and all of such Covered Products previously "distributed for sale in
19 California" have reached their expiration dates and are no longer sold.

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

21 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC,
22 on behalf of itself and in the public interest, and Defendant, of any alleged violation of
23 Proposition 65 arising from exposure to lead from the handling, use, or consumption of the
24 Covered Products and fully resolves all claims that have been or could have been asserted in
25 this Action up to and including the Effective Date for Defendant's failure to provide
26
27
28

1 Proposition 65 warnings for exposure to lead from the Covered Products. ERC, on behalf of
2 itself and in the public interest, hereby discharges Defendant from any and all claims,
3 actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs and
4 expenses asserted, or that could have been asserted, as to any alleged violation of
5 Proposition 65 arising from the failure to provide Proposition 65 warnings on the Covered
6 Products regarding lead, as set forth in the Notice of Violation and the Complaint.

7
8 **8.2** ERC, on behalf of itself only, hereby releases and discharges Defendant from
9 all known and unknown claims for alleged violations of Proposition 65 arising from or
10 relating to alleged exposures to lead and lead compounds in the Covered Products as set
11 forth in the Notice of Violation. It is possible that other claims not known to the Parties
12 arising out of the facts alleged in the Notice of Violations or the Complaint and relating to
13 the Covered Products will develop or be discovered. ERC, on behalf of itself only,
14 acknowledges that this Consent Judgment is expressly intended to cover and include all such
15 claims, including all rights of action therefore. ERC has full knowledge of the contents of
16 California Civil Code section 1542. ERC, on behalf of itself only, acknowledges that the
17 claims released in Sections 8.1 and 8.2 above may include unknown claims, and nevertheless
18 waives California Civil Code section 1542 as to any such unknown claims. California Civil
19 Code section 1542 reads as follows:

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

25 ERC, on behalf of itself only, acknowledges and understands the significance and
26 consequences of this specific waiver of California Civil Code section 1542.
27
28

1 **8.3** Compliance with the terms of this Consent Judgment shall be deemed to
2 constitute compliance by Defendant with Proposition 65 regarding alleged exposures to lead
3 in the Covered Products as set forth in the Notice of Violation and the Complaint.

4 **8.4** ERC and Defendant each release and waive all claims they may have against
5 each other for any statements or actions made or undertaken by them in connection with the
6 Notice of Violation, the Complaint, or Defendant's Action against ERC in Texas; provided,
7 however, that nothing in Section 8 shall affect or limit any Party's right to seek to enforce
8 the terms of this Consent Judgment.

9
10 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

13 **10. GOVERNING LAW**

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

16 **11. PROVISION OF NOTICE**

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

20 **FOR ENVIRONMENTAL RESEARCH CENTER:**

21 Chris Heptinstall, Executive Director
22 Environmental Research Center
23 3111 Camino Del Rio North, Suite 400
24 San Diego, CA 92108

25 **With a copy to:**
26
27
28

1 Michael Freund
2 Law Offices of Michael Freund
3 1919 Addison Street, Suite 105
4 Berkeley, CA 94704
5 Tel: (510) 540-1992

6 **FOR GLOBAL HEALING:**

7 Global Healing Center, LP
8 Attn: Legal Department
9 2040 North Loop West, Ste. 108
10 Houston, Texas 77018

11 **With copies to:**

12 Jeffrey Margulies
13 Margot M. Fourqurean
14 Fulbright & Jaworski L.L.P.
15 555 South Flower Street, 41st Floor
16 Los Angeles, CA 90071
17 Tel: (213) 892-9286

18 and

19 Stacey L. Barnes
20 Lewis & Barnes
21 5248 Larkin St., Ste. A
22 Houston, Texas 77007
23 Tel: 832-413-5405

24 **12. COURT APPROVAL**

25 **12.1** If this Stipulated Consent Judgment is not approved by the Court, it shall be
26 void and have no force or effect.

27 **12.2** ERC shall comply with California Health and Safety Code section 25249.7(f)
28 and with Title II of the California Code Regulations, Section 3003.

13. EXECUTION AND COUNTERPARTS

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

1 **14. DRAFTING**

2 The terms of this Consent Judgment have been reviewed by the respective counsel for the each
3 Party to this Consent Judgment prior to its signing, and each Party has had an opportunity to fully
4 discuss the terms with counsel. The Parties agree that, in any subsequent interpretation and
5 construction of this Consent Judgment entered thereon, the terms and provisions shall not be
6 construed against any Party.
7

8 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

9 If a dispute arises with respect to either Party's compliance with the terms of this Consent
10 Judgment entered by the Court, the Parties shall meet in person or by telephone and endeavor to
11 resolve the dispute in an amicable manner, and mediate the issue before the Hon. James Warren
12 (Ret.), or a reasonable alternate. No action or motion may be filed in the absence of such a good
13 faith attempt to resolve the dispute beforehand. In the event an action or motion is filed, however,
14 the prevailing party may seek to recover costs and reasonable attorney's fees. As used in the
15 preceding sentence, the term "prevailing party" means a party who is successful in obtaining relief
16 more favorable to it than the relief that the other party was amenable to providing during the
17 parties' good faith attempt to resolve the dispute that is the subject of such enforcement action.
18
19

20 **16. ENTIRE AGREEMENT, AUTHORIZATION**

21 **16.1** This Consent Judgment contains the sole and entire agreement and
22 understanding of the Parties with respect to the entire subject matter herein, and any and all
23 prior discussions, negotiations, commitments and understandings related hereto. No
24 representations, oral or otherwise, express or implied, other than those contained herein have
25 been made by any Party. No other agreements, oral or otherwise, unless specifically referred
26 to herein, shall be deemed to exist or to bind any Party.
27
28

1 16.2 Each signatory to this Consent Judgment certifies that he or she is fully
2 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as
3 explicitly provided herein, each Party shall bear its own fees and costs.

4 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
5 **CONSENT JUDGMENT**

6 This Consent Judgment has come before the Court upon the request of the Parties. The Parties
7 request the Court to fully review this Consent Judgment and, being fully informed regarding the
8 matters which are the subject of this action, to:

- 9
- 10 (1) Find that the terms and provisions of this Consent Judgment represent a fair and equitable
11 settlement of all matters raised by the allegations of the Complaint, that the matter has been
12 diligently prosecuted, and that the public interest is served by such settlement; and
13
- 14 (2) Make the findings pursuant to California Health and Safety Code section 25249.7(f)(4),
15 approve the Settlement, and approve this Consent Judgment.
- 16

17 **IT IS SO STIPULATED:**

18

19

20 Dated: 9/17/, 2013

ENVIRONMENTAL RESEARCH CENTER

21 By: 
22 Chris Hepburn, Executive Director

23

24 Dated: September 16, 2013

GLOBAL HEALING CENTER, INC. n/k/a
GLOBAL HEALING CENTER, LP

25

26 By: 
27 Dr. Edward F. Group, III, President

28

1 APPROVED AS TO FORM:

2

3 Dated: 9/17, 2013

4

5

6

7

8

9 Dated: Sept. 17, 2013

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24


25

26


27

28

ENVIRONMENTAL RESEARCH CENTER

By: 
Michael Freund (SBN 99687)
Attorney for Environmental Research
Center

FULBRIGHT & JAWORSKI L.L.P.

By:  for
Jeffrey Margulies (SBN 126002)
Attorney for Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JUDGMENT

Based upon the Parties' Stipulation and good cause appearing, this Consent Judgment is approved and Judgment is hereby entered according to its terms.

Dated: _____, 2013

Judge of the Superior Court

EXHIBIT A



Environmental Research Center

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

October 26, 2012

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I am the Executive Director of the Environmental Research Center (“ERC”). ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65. A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violators identified below.

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

**Global Healing Center, Inc.
GHC ND Operations, LLC**

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

GHC ND Operations Ltd. Global Healing Center ParaTrex - Lead

Premier Research Labs Premier Greens Caps Super Greens Formula - Lead

Sunwarrior Ormus SuperGreens - Lead

Sunwarrior Protein Raw Vegan Vanilla - 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 26, 2009, 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 Violators 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 Violators 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.

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

October 26, 2012

Page 3

Please direct all questions concerning this notice to ERC at the above listed address and telephone number.

Sincerely,



Chris Heptinstall
Executive Director
Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Global Healing Center, Inc., GHC ND Operations, 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 Global Healing Center, Inc. and GHC ND Operations, LLC

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

I, Chris Heptinstall, 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 the Executive Director 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 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: October 26, 2012

Chris Heptinstall

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 October 26, 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
Global Healing Center, Inc.
2040 North Loop West
Suite 108
Houston, TX 77018

Edward F. Group, III
(Global Healing Center, Inc.’s Registered Agent
for Service of Process)
2040 North Loop West
Suite 108
Houston, TX 77018

Current CEO or President
GHC ND Operations, LLC
2040 North Loop West
Suite 108
Houston, TX 77018

Stacey L. Barnes
(GHC ND Operations, LLC’s Registered Agent
for Service of Process)
4309 Yoakum
Suite 100
Houston, TX 77006

On October 26, 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 October 26, 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.

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
October 26, 2012
Page 6

Executed on October 26, 2012, in Fort Oglethorpe, Georgia.



Amber Schaub

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

October 26, 2012

Page 7

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 nd 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 rd 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 th 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 th 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 th 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 nd 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	