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ENVIRONMENTAL RESEARCH CENTER  
6

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9 T: (415) 781-7900  
10 F: (415) 781-2635

11 Attorneys for Defendant  
GARY NULL & ASSOCIATES, INC.

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF ALAMEDA  
14

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

17 Plaintiff,

18 v.

19 GARY NULL & ASSOCIATES, INC., and  
20 DOES 1-100

21 Defendants.

CASE NO. RG14733262

STIPULATED CONSENT JUDGMENT;  
[PROPOSED] ORDER

Health & Safety Code § 25249.5 et seq.

Action Filed: July 16, 2014  
Trial Date: None set

22  
23 1. INTRODUCTION

24 1.1 On July 16, 2014, Plaintiff Environmental Research Center ("ERC"), a non-  
25 profit corporation, as a private enforcer, and in the public interest, initiated this action by filing  
26 a Complaint for Injunctive and Declaratory relief and Civil Penalties (the "Complaint")  
27 pursuant to the provisions of California Health and Safety Code section 25249.5 et seq.  
28 ("Proposition 65"), against Gary Null & Associates, Inc. and DOES 1-100 (collectively "Gary

1 Null"). In this action, ERC alleges that the following products referred to hereinafter  
2 individually as "Covered Product" or collectively as "Covered Products", manufactured,  
3 distributed or sold by Gary Null contain lead, a chemical listed under Proposition 65 as a  
4 carcinogen and reproductive toxin, and expose consumers at a level requiring a Proposition 65  
5 warning:

- 6 1. Gary Null & Associates Inc. Gary Null's Muscle with Rice Protein Product
- 7 ~~2. Gary Null & Associates, Inc. Gary Null's Cruciferous Stuff Rich Chocolate Flavor~~
- 8 3. Gary Null & Associates, Inc. Gary Null's Coco-Magic Bar Coconut-Chocolate
- 9 4. Gary Null & Associates, Inc. Gary Null's Detox
- 10 5. Gary Null and Associates, Inc. Gary Null's Greens & Grains
- 11 6. Gary Null & Associates, Inc. Gary Null's Muscle Natural French Vanilla Flavor
- 12 7. Gary Null and Associates Inc. Gary Null's Friendly Fiber Formula.

13 1.2 ERC is a California non-profit corporation dedicated to, among other causes,  
14 helping safeguard the public from health hazards by reducing the use and misuse of hazardous  
15 and toxic chemicals, facilitating a safe environment for consumers and employees, and  
16 encouraging corporate responsibility.

17 1.3 Gary Null is a New York Corporation that, at all relevant times for the purpose of  
18 this Consent Judgment, employed ten or more persons and qualified as a "person in the course of  
19 business" within the meaning of Proposition 65. Gary Null distributes and sells the Covered  
20 Products.

21 1.4 ERC and Gary Null are referred to individually as "Party" or collectively as the  
22 "Parties."

23 1.5 The Complaint is based on allegations contained in ERC's Notice of Violation,  
24 dated November 30, 2012, that was served on the California Attorney General, other public  
25 enforcers, and Gary Null ("Notice"). A true and correct copy of the Notice is attached as  
26 Exhibit A and is hereby incorporated by reference. More than 60 days have passed since the  
27 Notice was mailed and uploaded onto the Attorney General's website, and no designated  
28 governmental entity has filed a complaint against Gary Null with regard to the Covered

1 Products or the alleged violations.

2 1.6 ERC's Notice and Complaint allege that use of the Covered Products exposes  
3 persons in California to lead without first providing clear and reasonable warnings in violation  
4 of California Health and Safety Code section 25249.6. Gary Null denies all material allegations  
5 contained in the Notice and Complaint.

6 1.7 The Parties have entered into this Consent Judgment in order to settle,  
7 ~~compromise and resolve disputed claims and thus avoid prolonged and costly litigation.~~  
8 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of  
9 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
10 parent companies, subsidiaries, divisions, affiliates, franchises, licensees, customers, suppliers,  
11 distributors, wholesalers, or retailers. Except for the representations made above, nothing in  
12 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of  
13 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an  
14 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any  
15 purpose.

16 1.8 Except as expressly set forth herein, nothing in this Consent Judgment shall  
17 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
18 other or future legal proceeding unrelated to these proceedings.

19 1.9 The Effective Date of this Consent Judgment is the date on which it is entered as  
20 a Judgment by this Court.

## 21 2. JURISDICTION AND VENUE

22 For purposes of this Consent Judgment and for any further court action that may become  
23 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter  
24 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction  
25 over Gary Null as to the acts alleged in the Complaint, that venue is proper in Alameda County,  
26 and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of  
27 all claims up through and including the Effective Date which were or could have been asserted in  
28 this action based on the facts alleged in the Notice and Complaint.

1     **3. INJUNCTIVE RELIEF**

2           Beginning on the Effective Date, Gary Null shall be permanently enjoined from  
3     "Distributing into the State of California" or directly selling in the State of California, any of  
4     the Covered Products. As used in Consent Judgment, the term "Distributing into the State of  
5     California" shall mean to directly ship a Covered Product into California for sale in California  
6     or to sell a Covered Product to a distributor that Gary Null knows will sell the Covered Product  
7     in California.

8     **4. SETTLEMENT PAYMENT**

9           4.1       In full satisfaction of all potential civil penalties, payment in lieu of civil  
10    penalties, attorney's fees, and costs, Gary Null shall make a total payment of \$50,000.00  
11    ("Total Settlement Payment") of which \$30,000.00 shall be paid ERC within 10 days of the  
12    Effective Date. The remaining amount, \$20,000.00 shall be paid within 70 days of the  
13    Effective Date. Gary Null shall make this payment by wire transfer to ERC's escrow account,  
14    for which ERC will give Gary Null the necessary account information. The Total Settlement  
15    Amount shall be apportioned as follows:

16           4.2       \$5,104.00 shall be considered a civil penalty pursuant to California Health  
17    and Safety Code §25249.7(b)(1). ERC shall remit 75% (\$3,828.00) of the civil penalty to the  
18    Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
19    Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
20    Code §25249.12(c). ERC will retain the remaining 25% (\$1,276.00) of the civil penalty.

21           4.3       \$26,318.00 shall be distributed to Environmental Research Center as  
22    reimbursement to ERC for reasonable costs associated with the enforcement of Proposition 65  
23    and other costs incurred as a result of work in bringing this action; and \$5,103.00 shall be  
24    distributed to Environmental Research Center in lieu of further civil penalties, for the day-to-  
25    day business activities such as (1) continued enforcement of Proposition 65, which includes  
26    work, analyzing, researching and testing consumer products that may contain Proposition 65  
27    chemicals, focusing on the same or similar type of ingestible products that are the subject  
28

1 matter of the current action; (2) the continued monitoring of past consent judgments and  
2 settlements to ensure companies are in compliance with Proposition 65.

3 4.4 \$8,750.00 shall be distributed to Ryan Hoffinan as reimbursement of ERC's  
4 attorney's fees, \$4,725.00 shall be distributed to Michael Freund as reimbursement of ERC's  
5 attorney's fees.

6 **5. MODIFICATION OF CONSENT JUDGMENT**

7 ~~5.1 This Consent Judgment may be modified only (i) by written stipulation of~~  
8 the Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent  
9 judgment.

10 5.2 If Gary Null seeks to modify this Consent Judgment under Section 5.1, then  
11 Gary Null must provide written notice to ERC of its intent ("Notice of Intent"). If ERC seeks  
12 to meet and confer regarding the proposed modification in the Notice of Intent, then ERC must  
13 provide written notice to Gary Null within thirty days of receiving the Notice of Intent. If ERC  
14 notifies Gary Null in a timely manner of ERC's intent to meet and confer, then the Parties shall  
15 meet and confer in good faith as required in this Section. The Parties shall meet in person or  
16 via telephone within thirty (30) days of ERC's notification of its intent to meet and confer.  
17 Within thirty days of such meeting, if ERC disputes the proposed modification, ERC shall  
18 provide to Gary Null a written basis for its position. The Parties shall continue to meet and  
19 confer for an additional thirty (30) days in an effort to resolve any remaining disputes. Should  
20 it become necessary, the Parties may agree in writing to different deadlines for the meet-and-  
21 confer period.

22 5.3 In the event that Gary Null initiates or otherwise requests a modification  
23 under Section 5.1, and the meet and confer process leads to a joint motion or application of the  
24 Consent Judgment, Gary Null shall reimburse ERC its costs and reasonable attorney's fees for  
25 the time spent in the meet-and-confer process and filing and arguing the motion or application.

26 5.4 Where the meet-and-confer process does not lead to a joint motion or  
27 application in support of a modification of the Consent Judgment, then either Party may seek  
28 judicial relief on its own. In such a situation, the prevailing party may seek to recover costs and

1 reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"  
2 means a party who is successful in obtaining relief more favorable to it than the relief that the  
3 other party was amenable to providing during the Parties' good faith attempt to resolve the  
4 dispute that is the subject of the modification.

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

7 ~~6.1 This Court shall retain jurisdiction of this matter to enforce, modify or~~  
8 terminate this Consent Judgment.

9 **7. APPLICATION OF CONSENT JUDGMENT**

10 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
11 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
12 divisions, affiliates, franchisees, licensees, customers, distributors, wholesalers, retailers,  
13 predecessors, successors, and assigns. This Consent Judgment shall have no application to  
14 Covered Products which are distributed or sold exclusively outside the State of California and  
15 which are not used by California consumers.

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

17 8.1 This Consent Judgment is a full, final, and binding resolution between ERC,  
18 on behalf of itself and in the public interest, and Gary Null, of any alleged violation of  
19 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of  
20 exposure to lead from the handling, use, or consumption of the Covered Products and fully  
21 resolves all claims that have been or could have been asserted in this action up to and including  
22 the Effective Date for failure to provide Proposition 65 warnings for the Covered Products.  
23 ERC, on behalf of itself and in the public interest, hereby discharges Gary Null and its  
24 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
25 divisions, affiliates, suppliers, franchisees, licensees, customers, distributors, wholesalers,  
26 retailers, and all other upstream and downstream entities in the distribution chain of any  
27 Covered Product, and the predecessors, successors and assigns of any of them (collectively,  
28 "Released Parties"), from any and all claims, actions, causes of action, suits, demands,

1 liabilities, damages, penalties, fees, costs and expenses asserted, or that could have been  
2 asserted, as to any alleged violation of Proposition 65 arising from the failure to provide  
3 Proposition 65 warnings on the Covered Products regarding lead.

4       8.2       ERC on its own behalf only, on one hand, and Gary Null on its own behalf  
5 only, on the other, further waive and release any and all claims they may have against each  
6 other for all actions or statements made or undertaken in the course of seeking or opposing  
7 enforcement of Proposition 65 in connection with the Notice or Complaint up through and  
8 including the Effective Date, provided, however, that nothing in Section 8 shall affect or limit  
9 any Party's right to seek to enforce the terms of this Consent Judgment.

10       8.3       It is possible that other claims not known to the Parties arising out of the  
11 facts alleged in the Notice or the Complaint and relating to the Covered Products will develop  
12 or be discovered. ERC on behalf of itself only, on one hand, and Gary Null, on the other hand,  
13 acknowledge that this Consent Judgment is expressly intended to cover and include all such  
14 claims up through the Effective Date, including all rights of action therefore. ERC and Gary  
15 Null acknowledge that the claims released in Sections 8.1 and 8.2 above may include unknown  
16 claims, and nevertheless waive California Civil Code section 1542 as to any such unknown  
17 claims. California Civil Code section 1542 reads as follows:

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

23 ERC on behalf of itself only, on the one hand, and Gary Null, on the other hand, acknowledge  
24 and understand the significance and consequences of this specific waiver of California Civil  
25 Code section 1542.

26       8.4       Compliance with the terms of this Consent Judgment shall be deemed to  
27 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead  
28 in the Covered Products as set forth in the Notice and the Complaint.

29       8.5       Nothing in this Consent Judgment is intended to apply to any occupational  
30 or environmental exposures arising under Proposition 65, nor shall it apply to any of Gary

1 Null's products other than the Covered Products.

2 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

5 **10. GOVERNING LAW**

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

8 **11. PROVISION OF NOTICE**

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

12 **FOR ENVIRONMENTAL RESEARCH CENTER:**

13 Chris Heptinstall, Executive Director, Environmental Research Center  
14 3111 Camino Del Rio North, Suite 400  
15 San Diego, CA 92108  
16 Tel: (619) 500-3090  
17 Email: chris\_erc501c3@yahoo.com

18 With a copy to:

19 Michael Freund SBN 99687  
20 Ryan Hoffman SBN 283297  
21 Michael Freund & Associates  
22 1919 Addison Street, Suite 105  
23 Berkeley, CA 94704  
24 Telephone: (510) 540-1992  
25 Facsimile: (510) 540-5543

26 **FOR GARY NULL & ASSOCIATES, INC.**

27 Scott London, Esq.  
28 COO/General Counsel  
29 Gary Null & Associates, Inc.  
30 2307 Broadway, 2<sup>nd</sup> Floor  
31 New York, NY 10024

32 With a copy to:

33 Carol R. Brophy (SBN 155767)  
34 Sedgwick LLP  
35 333 Bush Street, 30<sup>th</sup> Floor  
36 San Francisco, CA 94104-2834  
37 T: (415) 781-7900

1 F: (415) 781-2635

2 **12. COURT APPROVAL**

3 12.1 Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
4 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
5 Consent Judgment.

6 12.2 If the California Attorney General objects to any term in this Consent  
7 Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and  
8 if possible prior to the hearing on the motion.

9 12.3 If this Stipulated Consent Judgment is not approved by the Court, it shall be  
10 void and have no force or effect.

11 **13. EXECUTION AND COUNTERPARTS**

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

15 **14. DRAFTING**

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

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

21 If a dispute arises with respect to either Party's compliance with the terms of this Consent  
22 Judgment entered by the Court, the Parties shall meet in person or by telephone and endeavor to  
23 resolve the dispute in an amicable manner. No action or motion may be filed in the absence of  
24 such a good faith attempt to resolve the dispute beforehand. In the event an action or motion is  
25 filed, however, the prevailing party may seek to recover costs and reasonable attorney's fees. As  
26 used in the preceding sentence, the term "prevailing party" means a party who is successful in  
27 obtaining relief more favorable to it than the relief that the other party was amenable to providing  
28 during the Parties' good faith attempt to resolve the dispute that is the subject of such enforcement

1 action.

2 **16. ENTIRE AGREEMENT, AUTHORIZATION**

3 **16.1** This Consent Judgment contains the sole and entire agreement and  
4 understanding of the Parties with respect to the entire subject matter herein, and any and all  
5 prior discussions, negotiations, commitments and understandings related hereto. No  
6 representations, oral or otherwise, express or implied, other than those contained herein have  
7 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
8 herein, shall be deemed to exist or to bind any Party.

9 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully  
10 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as  
11 explicitly provided herein, each Party shall bear its own fees and costs.

12 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
13 **CONSENT JUDGMENT**

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

17 (1) Find that the terms and provisions of this Consent Judgment represent a fair and  
18 equitable settlement of all matters raised by the allegations of the Complaint, that the matter has  
19 been diligently prosecuted, and that the public interest is served by such settlement; and

20 (2) Make the findings pursuant to California Health and Safety Code section  
21 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

22 ///

23 ///

24 ///

25 ///

26 ///

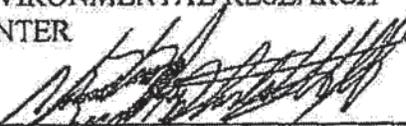
27 ///

28 ///

1 IT IS SO STIPULATED:

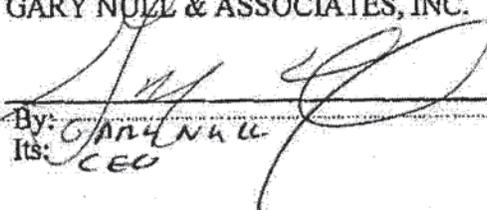
2 Dated: 9/18/, 2014

ENVIRONMENTAL RESEARCH  
CENTER

3  
4 By:   
Chris Hepinstall, Executive Director

5 Dated: 9/19, 2014

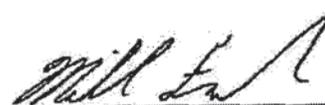
GARY NULL & ASSOCIATES, INC.

6  
7 By:   
Its: Gary Null  
CEO

8 APPROVED AS TO FORM:

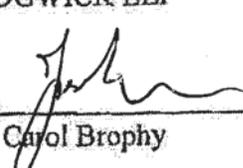
9 Dated: 9/18, 2014

MICHAEL FREUND & ASSOCIATES

10  
11 By:   
Michael Freund  
Ryan Hoffinan

12  
13 Dated: 9/19, 2014

SEDGWICK LLP

14  
15 By:  Jonathan Lee  
for:  
Carol Brophy

16  
17  
18 ORDER AND JUDGMENT

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

21 IT IS SO ORDERED, ADJUDGED AND DECREED.

22  
23 Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
Judge of the Superior Court



**MICHAEL FREUND**  
ATTORNEY AT LAW  
1919 Addison Street, Suite 105  
BERKELEY, CALIFORNIA 94704-101

TEL 510/540-1992  
FAX 510/540-5543  
EMAIL FREUND1@AOL.COM

November 30, 2012

**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"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged 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:

**Gary Null & Associates, Inc.**

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

**Gary Null & Associates Inc. Gary Null's Muscle with Rice Protein - Lead**

**Gary Null & Associates, Inc. Gary Null's Cruciferous Stuff Rich Chocolate Flavor - Lead**

**Gary Null & Associates, Inc. Gary Null's Coco-Magic Bar Coconut-Chocolate - Lead**

**Gary Null & Associates, Inc. Gary Null's Detox - Lead**

**Gary Null and Associates, Inc. Gary Null's Greens & Grains - Lead**

**Gary Null & Associates, Inc. Gary Null's Muscle Natural French Vanilla Flavor - Lead**

Exhibit A

November 30, 2012

Page 2

**Gary Null and Associates Inc. Gary Null's Friendly Fiber 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 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 November 30, 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 Violator violated Proposition 65 because it failed to provide person 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,



---

Michael Freund

**Attachments**

Certificate of Merit

Certificate of Service

OEHHA Summary (to Gary Null & Associates, Inc.)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center's Notice of Proposition 65 Violations by Gary Null & Associates, Inc.**

I, Michael Freund, 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.

Dated: November 30, 2012



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Michael Freund

November 30, 2012

Page 4

**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 November 30, 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 President or CEO  
Gary Null & Associates, Inc.  
P.O. Box 918  
Planetarium Station  
New York, NY 10024

Current President or CEO  
Gary Null & Associates, Inc.  
2307 Broadway  
New York, NY 10024

On November 30, 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 November 30, 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 First Class Mail.

Executed on November 30, 2012, in Fort Oglethorpe, Georgia.



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Amber Schaub

Service List

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

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

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

District Attorney, Butte County  
25 County Center Drive, Suite 245  
Oroville, CA 95965

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

District Attorney, Colusa County  
346 Fifth Street Suite 101  
Colusa, CA 95932

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

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

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

District Attorney, Fresno County  
2220 Tulare Street, Suite 1000  
Fresno, CA 93721

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

District Attorney, Humboldt County  
825 5th Street 4<sup>th</sup> Floor  
Eureka, CA 95501

District Attorney, Imperial County  
940 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 Truxhan 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, Suite 18000  
Los Angeles, CA 90012

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

District Attorney, Marin County  
3501 Civic Center Drive, 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  
550 W. Main 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  
Post Office Box 1131  
Salinas, CA 93902

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 West Civic Center Drive  
Santa Ana, CA 92701

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  
3960 Orange Street  
Riverside, CA 92501

District Attorney, Sacramento County  
901 "G" Street  
Sacramento, CA 95814

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, Suite 1300  
San Diego, CA 92101

District Attorney, San Francisco County  
850 Bryant Street, Suite 322  
San Francisco, CA 94103

District Attorney, San Joaquin County  
222 E. Weber Ave. Rm. 202  
Stockton, CA 95202

District Attorney, San Luis Obispo County  
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1112 Santa Barbara Street  
Santa Barbara, CA 93101

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70 West Hedding Street  
San Jose, CA 95110

District Attorney, Santa Cruz County  
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Santa Cruz, CA 95060

District Attorney, Shasta County  
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Redding, CA 96001

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PO Box 457  
Downieville, CA 95936

District Attorney, Siskiyou County  
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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 95354

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 Blvd., Room 224  
Visalia, CA 93291

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

District Attorney, Ventura County  
800 South Victoria Ave, Suite 314  
Ventura, CA 93009

District Attorney, Yolo County  
301 2<sup>nd</sup> Street  
Woodland, CA 95695

District Attorney, Yuba County  
215 Fifth Street, Suite 152  
Marysville, CA 95901

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

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

San Francisco, City Attorney  
City Hall, Room 234  
1 Dr Carlton B Goodlett PL  
San Francisco, CA 94102

San Jose City Attorney's Office  
200 East Santa Clara Street,  
16<sup>th</sup> Floor  
San Jose, CA 95113