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11 NAVITAS LLC

12  
13 **SUPERIOR COURT OF CALIFORNIA**  
14 **COUNTY OF SAN FRANCISCO**

15 ERIKA MCCARTNEY, in the public interest, )  
16 )  
17 Plaintiff, )  
18 v. )  
19 NAVITAS LLC, a California limited liability )  
company; and DOES 1 through 500, inclusive, )  
20 Defendants. )  
21 )  
22 )

CIVIL ACTION NO. CGC-14-541238  
**[PROPOSED] STIPULATED CONSENT  
JUDGMENT; [PROPOSED] ORDER**  
[Cal. Health and Safety Code  
Sec. 25249.6, *et seq.*]

1 **1. INTRODUCTION**

2 **1.1** This Action arises out of the alleged violations of California’s Safe Drinking Water  
3 and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 et seq.  
4 (also known as and hereinafter referred to as “Proposition 65”) regarding the following product  
5 (hereinafter collectively the “Covered Product”: Navitas Naturals Cacao Powder.  
6

7 **1.2** Plaintiff ERIKA MCCARTNEY (“MCCARTNEY”) is a California resident acting  
8 as a private enforcer of Proposition 65. MCCARTNEY brings this Action in the public interest  
9 pursuant to California Health and Safety Code Section 25249. MCCARTNEY asserts that she is  
10 dedicated to, among other causes, helping safeguard the public from health hazards by reducing the  
11 use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and  
12 employees, and encouraging corporate responsibility.  
13

14 **1.3** Defendant Navitas, LLC is a California limited liability company, and is referred to  
15 hereinafter as “NAVITAS.”

16 **1.4** NAVITAS distributes and sells the Covered Product.

17 **1.5** MCCARTNEY and NAVITAS are hereinafter sometimes referred to individually as  
18 a “Party” or collectively as the “Parties.” □

19 **1.6** On or about June 11, 2014, pursuant to California Health and Safety Code Section  
20 25249.7(d)(1), MCCARTNEY served a 60-Day Notice of Violations of Proposition 65 (“Notice of  
21 Violations”) on the California Attorney General, other public enforcers, and NAVITAS. A true  
22 and correct copy of the Notice of Violations is attached hereto as Exhibit A.  
23

24 **1.7** After more than sixty (60) days passed since service of the Notice of Violations, and  
25 no designated governmental agency filed a complaint against NAVITAS with regard to the  
26

1 Covered Product or the alleged violations, MCCARTNEY filed a complaint (the "Complaint") for  
2 injunctive relief and civil penalties. The Complaint is based on the allegations in the Notice of  
3 Violations.

4       **1.8** The Complaint and the Notice of Violations each allege that NAVITAS  
5 manufactured, distributed, and/or sold in California the Covered Product, which contains cadmium,  
6 a chemical listed under Proposition 65 as a reproductive toxin, and exposed consumers at a level  
7 requiring a Proposition 65 warning. Further, the Complaint and Notice of Violations allege that use  
8 of the Covered Product exposes persons in California to cadmium without first providing clear and  
9 reasonable warnings, in violation of California Health and Safety Code Section 25249.6.  
10 NAVITAS generally denies all material and factual allegations of the Notice of Violation and the  
11 Complaint, filed an answer asserting various affirmative defenses, and specifically denies that the  
12 Plaintiff or California consumers have been harmed or damaged by its conduct. NAVITAS and  
13 MCCARTNEY each reserve all rights to allege additional facts, claims, and affirmative defenses if  
14 the Court does not approve this Consent Judgment.  
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17       **1.9** The Parties enter into this Consent Judgment in order to settle, compromise and  
18 resolve disputed claims and avoid prolonged and costly litigation. Nothing in this Consent  
19 Judgment, nor compliance with its terms, shall constitute or be construed as an admission by any of  
20 the Parties, or by any of their respective officers, directors, shareholders, employees, agents, parent  
21 companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, distributors,  
22 wholesalers, or retailers, of any fact, conclusion of law, issue of law, violation of law, fault,  
23 wrongdoing, or liability, including without limitation, any admission concerning any alleged  
24 violation of Proposition 65. Except as expressly set forth herein, nothing in this Consent Judgment  
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1 shall prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in  
2 any other or future legal proceeding. Provided, however, nothing in this Section shall affect the  
3 enforceability of this Consent Judgment.

4       **1.10** The “Effective Date” of this Consent Judgment shall be the date this Consent  
5 Judgment is entered as a Judgment.  
6

7 **2. JURISDICTION AND VENUE**

8       The Parties stipulate that this Court has jurisdiction over the subject matter of this Action  
9 and personal jurisdiction over the Parties, that venue is proper in this Court, and that this Court has  
10 jurisdiction to enter this Consent Judgment pursuant to the terms set forth herein.

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

12       **3.1** Beginning on the Effective Date, NAVITAS shall be permanently enjoined from  
13 offering for sale to a consumer in California, directly selling to a consumer in California, or  
14 “Distributing into California” any of the Covered Product for which the serving size suggested on  
15 the label contains more than 4.1 micrograms of cadmium per day unless the label of the Covered  
16 Product contains a Proposition 65 compliant warning, consistent with Section 3.4, below.  
17 “Distributing into California” means to ship any of the Covered Product to California for sale or to  
18 sell any of the Covered Product to a distributor that NAVITAS knows or has reason to know will  
19 sell the Covered Product in California. Provided, however, that NAVITAS may manufacture or  
20 package and sell Covered Product for which the maximum daily serving recommended on the label  
21 contains more than 4.1 micrograms of cadmium per day without providing a Proposition 65  
22 compliant warning so long as such products are only for sale to consumers located outside of  
23 California and NAVITAS does not distribute them into California.  
24  
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1           **3.2** All Covered Product that have been or will have been distributed, shipped, or sold,  
2 or otherwise placed in the stream of commerce through and including the Effective Date of this  
3 Consent Judgment are exempt from the provisions of Sections 3.1, and 3.3 through 3.4 and are  
4 included within the release in Sections 8.1 through 8.4. On the Effective Date, NAVITAS shall  
5 provide Plaintiff with the last lot number and expiration date for the Covered Product in the stream  
6 of commerce through the Effective Date.  
7

8           **3.3** For a period of three (3) years from the Effective Date, any batch or lot number of  
9 the Covered Product offered for sale to any consumer in California without a Proposition 65-  
10 compliant warning shall be tested for cadmium contamination utilizing inductively coupled plasma-  
11 mass spectrometry. All tests shall be conducted at the expense of NAVITAS. NAVITAS shall  
12 provide the verified results of all tests to counsel for MCCARTNEY, via regular U.S. Mail, within  
13 five (5) days of receipt of such results by NAVITAS. All test results shall be provided to counsel  
14 for MCCARTNEY prior to the Covered Product being offered for sale to any consumer in  
15 California. For purposes of this Consent Judgment, daily cadmium exposure levels shall be  
16 measured in micrograms and shall be calculated using the following formula: Micrograms of  
17 cadmium per gram of product, multiplied by grams per serving of the product, multiplied by  
18 servings of the product per day (using the largest number of servings in the appearing on the  
19 product label), which equals micrograms of cadmium exposure per day. NAVITAS will determine  
20 grams per serving of the product based on the largest serving size appearing on the product label;  
21 provided, however, that, if the serving size is reduced to less than 5g, exposure will be based on a  
22 5g serving size, unless NAVITAS first seeks Court modification of this Consent Judgment.  
23  
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25           **3.4 Clear and Reasonable Warnings**  
26

1 For the Covered Product that is subject to the warning requirement of Section 3.1,  
2 NAVITAS shall provide the following warning ("Warning") as specified below:

3  
4 **[California Proposition 65] WARNING:** This product contains [cadmium,] a chemical  
5 known to the State of California to cause birth defects or other reproductive harm.  
6

7 The text in brackets in the warnings above is optional.

8 The Warning shall be permanently affixed to or printed on (at the point of manufacture,  
9 prior to shipment to California, or prior to distribution within California) the outside packaging or  
10 container of each unit of the Covered Product. The Warning shall be displayed with such  
11 conspicuousness, as compared with other words, statements designs or devices on the outside  
12 packaging or labeling, as to render it likely to be read and understood by an ordinary individual  
13 prior to use. If the Warning is displayed on the product container or labeling, the Warning shall be  
14 at least the same size as the largest of any other health or safety warnings on the product container  
15 or labeling, and the word "WARNING" shall be in all capital letters and in bold print. If printed on  
16 the labeling itself, the Warning shall be contained in the same section of the labeling that states  
17 other safety warnings concerning the use of the Covered Product, if any.

18 Displaying the Warning that is in Exhibit B hereto on the outside packaging or container of  
19 each unit of the Covered Product is deemed to be a clear and reasonable warning under, and to fully  
20 comply with, Health & Safety Section 25249.6 and the implementing regulations at Title 27  
21 California Code of Regulations Sections 25601 through 25605.2.

#### 22 **4. SETTLEMENT PAYMENT**

23 **4.1** NAVITAS shall make a total payment of \$80,000 within ten days of the Effective  
24 Date, which shall be in full and final satisfaction of any and all civil penalties, payment in lieu of  
25 civil penalties, and attorneys' fees and costs.  
26

1           **4.2** The payment will be in the form of separate checks sent to counsel for  
2 MCCARTNEY, Robert B. Hancock, Pacific Justice Center, 50 California Street, San Francisco,  
3 California 94111. The checks shall be payable to the following parties and the payment shall be  
4 apportioned as follows:

5           **4.3** \$20,000 (twenty thousand dollars) as civil penalties pursuant to California Health  
6 and Safety Code Section 25249.7(b)(1). Of this amount, \$15,000 (fifteen thousand dollars) shall be  
7 payable to the Office of Environmental Health Hazard Assessment ("OEHHA"), and \$5,000 (five  
8 thousand dollars) shall be payable to MCCARTNEY. (Cal. Health & Safety Code §  
9 25249.12(c)(1) & (d)). MCCARTNEY's counsel will forward the civil penalty to OEHHA.  
10

11           **4.4** \$60,000 (sixty thousand dollars) payable to Pacific Justice Center as reimbursement  
12 of MCCARTNEY's attorneys' fees, costs, investigation and litigation expenses ("Attorney's Fees  
13 and Costs").  
14

15           **4.5** Any failure by NAVITAS to remit payment on or before its due date shall be  
16 deemed a material breach of this Agreement.

## 17 **5. MODIFICATION OF CONSENT JUDGMENT**

18           **5.1** This Consent Judgment may be modified only by: (i) Written agreement and  
19 stipulation of the Parties and upon having such stipulation entered as a modified Consent Judgment  
20 by the Court; or (ii) Upon entry of a modified Judgment by the Court pursuant to a motion by one  
21 of the Parties after exhausting the meet and confer process set forth as follows. If either Party  
22 requests or initiates a modification, then it shall meet and confer with the other Party in good faith  
23 before filing a motion with the Court seeking to modify it. MCCARTNEY is entitled to  
24 reimbursement of all reasonable attorneys' fees and costs regarding the Parties' meet and confer  
25  
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1 efforts for any modification requested or initiated by NAVITAS. Similarly, NAVITAS is entitled  
2 to reimbursement of all reasonable attorney's fees and costs regarding the Parties' meet and confer  
3 efforts for any modification requested or initiated by MCCARTNEY. If, despite their meet and  
4 confer efforts, the Parties are unable to reach agreement on any proposed modification the party  
5 seeking the modification may file the appropriate motion and the prevailing party on such motion  
6 shall be entitled recover its reasonable fees and costs associated with such motion. One basis, but  
7 not the exclusive basis, for NAVITAS to seek a modification of this Consent Judgment is if  
8 Proposition 65 is changed, narrowed, limited, or otherwise rendered inapplicable in whole or in part  
9 to the Covered Product or cadmium due to legislative change, a change in the implementing  
10 regulations, court decisions, or other legal basis.  
11

## 12 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

13 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate this  
14 Consent Judgment.  
15

16 **6.2** Subject to Section 6.3, any Party may, by motion or application for an order to show  
17 cause filed with this Court, enforce the terms and conditions contained in this Consent Judgment.  
18 The prevailing party in any such motion or application may request that the Court award its  
19 reasonable attorneys' fees and costs associated with such motion or application.  
20

21 **6.3** Before filing a motion or application for an order to show cause, MCCARTNEY  
22 shall provide NAVITAS with 30 (thirty) days written notice of any alleged violations of the terms  
23 and conditions contained in this Consent Judgment. As long as NAVITAS cures any such alleged  
24 violations within the 30 (thirty) day period (or if any such violation cannot practicably be cured  
25 within 30 days, it expeditiously initiates a cure within 30 days and completes it as soon as  
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1 practicable) and NAVITAS provides proof to McCartney that the alleged violation(s) was the result  
2 of good faith mistake or accident, then NAVITAS shall not be in violation of the Consent  
3 Judgment. NAVITAS shall have the ability to avail itself of the benefits of this Section two (2)  
4 times per three year period following the Effective Date.

## 5 **7. APPLICATION OF CONSENT JUDGMENT**

6 This Consent Judgment shall apply to and be binding upon the Parties and their respective  
7 officers, directors, successors and assigns, and it shall benefit the Parties and their respective  
8 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,  
9 affiliates, franchisees, licensees, customers (including "Co-Brand" customers; excluding only  
10 "Private Labeler" customers), distributors, wholesalers, retailers, predecessors, successors, and  
11 assigns. "Private Labelers" excluded from the benefits of this Consent Judgment are companies  
12 who rebrand and offer NAVITAS manufactured or distributed products under their own brand, not  
13 under the NAVITAS brand. "Co-Brand" customers who shall benefit from this Consent Judgment  
14 are companies who offer NAVITAS manufactured or distributed products with their own brand and  
15 the NAVITAS brand both displayed on the product packaging.  
16  
17

## 18 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

19 **8.1** This Consent Judgment is a full, final, and binding resolution between  
20 MCCARTNEY, on behalf of herself and in the public interest, and NAVITAS, of any and all direct  
21 or derivative violations (or claimed violations) of Proposition 65 or its implementing regulations  
22 for failure to provide Proposition 65 warnings of exposure to cadmium from the handling, use, or  
23 consumption of the Covered Product and fully resolves all claims that have been or could have  
24 been asserted in this Action up to and including the Effective Date for failure to provide  
25  
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1 Proposition 65 warnings for the Covered Product regarding cadmium. MCCARTNEY, on behalf  
2 of herself and in the public interest, hereby forever releases and discharges, NAVITAS and its past  
3 and present officers, directors, owners, shareholders, employees, agents, attorneys, parent  
4 companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees, customers (including  
5 “Co-Brand” customers; excluding only “Private Labeler” customers), distributors, wholesalers,  
6 retailers, and all other upstream and downstream entities and persons in the distribution chain of  
7 any Covered Product, and the predecessors, successors and assigns of any of them (collectively,  
8 “Released Parties”), from any and all claims and causes of action and obligations to pay damages,  
9 restitution, fines, civil penalties, payment in lieu of civil penalties and expenses (including but not  
10 limited to expert analysis fees, expert fees, attorney’s fees and costs) (collectively, “Claims”)   
11 arising under, based on, or derivative of Proposition 65 or its implementing regulations up through  
12 the Effective Date based on exposure to cadmium from the Covered Product and/or failure to warn  
13 about cadmium, as set forth in the Notice of Violations and the Complaint.  
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16 **8.2** Compliance with the terms of this Consent Judgment shall be deemed to constitute  
17 compliance by any Released Party with Proposition 65 regarding alleged exposures to cadmium  
18 from the Covered Product as set forth in the Notice of Violations and the Complaint.

19 **8.3** It is possible that other Claims not known to MCCARTNEY arising out of the facts  
20 alleged in the Notice of Violations or the Complaint and relating to cadmium in the Covered  
21 Product that were manufactured, sold or Distributed into California before the Effective Date will  
22 develop or be discovered. MCCARTNEY, on behalf of herself only, acknowledges that the Claims  
23 released herein include all known and unknown Claims and waives California Civil Code Section  
24 1542 as to any such unknown Claims. California Civil Code Section 1542 reads as follows:  
25  
26

1           **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
2           **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
3           **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**  
4           **KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS**  
5           **OR HER SETTLEMENT WITH THE DEBTOR.”**

6           MCCARTNEY, on behalf of herself only, acknowledges and understands the significance and  
7           consequences of this specific waiver of California Civil Code section 1542.

8           **8.4**     MCCARTNEY, on one hand, and NAVITAS, on the other hand, each release and  
9           waive all Claims they may have against each other for any statements or actions made or  
10          undertaken by them in connection with the Notice of Violations or the Complaint. However, this  
11          shall not affect or limit any Party’s right to seek to enforce the terms of this Consent Judgment.

12          **9.     CONSTRUCTION AND SEVERABILITY**

13          **9.1**     The terms and conditions of this Consent Judgment have been reviewed by the  
14          respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully  
15          discuss the terms and conditions with its counsel. In any subsequent interpretation or construction  
16          of this Consent Judgment, the terms and conditions shall not be construed against any Party.

17          **9.2**     In the event that any of the provisions of this Consent Judgment is held by a court to  
18          be unenforceable, the validity of the remaining enforceable provisions shall not be adversely  
19          affected.

20          **9.3**     The terms and conditions of this Consent Judgment shall be governed by and  
21          construed in accordance with the laws of the State of California.

22          **10.    PROVISION OF NOTICE**

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

4 **For Erika McCartney:**

5 Melvin B. Pearlston  
6 Robert B. Hancock  
7 PACIFIC JUSTICE CENTER  
8 50 California Street, Suite 1500  
9 San Francisco, California 94111

10 **For Navitas, LLC:**

11 Howard Slavitt  
12 Coblenz Patch Duffy & Bass LLP  
13 One Ferry Building, Suite 200  
14 San Francisco, CA 94111-4213

15 **11. COURT APPROVAL**

16 **11.1** Upon execution of this Consent Judgment by the Parties, MCCARTNEY shall  
17 notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
18 Consent Judgment.

19 **11.2** If the California Attorney General objects to any term in this Consent Judgment, the  
20 Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to  
21 the hearing on the motion.

22 **11.3** If, despite the Parties' best efforts, the Court does not approve this Stipulated  
23 Consent Judgment, it shall be null and void and have no force or effect.

24 **12. EXECUTION AND COUNTERPARTS**

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

### 4 **13. ENTIRE AGREEMENT, AUTHORIZATION**

5 **13.1** This Consent Judgment contains the sole and entire agreement and understanding of  
6 the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
7 negotiations, commitments and understandings related hereto. No representations, oral or  
8 otherwise, express or implied, other than those contained herein have been made by any Party. No  
9 other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist  
10 or to bind any Party.

11 **13.2** Each signatory to this Consent Judgment certifies that he or she is fully authorized  
12 by the Party he or she represents to stipulate to this Consent Judgment. Except as explicitly  
13 provided herein, each Party shall bear its own fees and costs.

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

15 **14.1** This Consent Judgment has come before the Court upon the request of the Parties.  
16 The parties request the Court to fully review this Consent Judgment and, being fully informed  
17 regarding the matters which are the subject of this action, to:

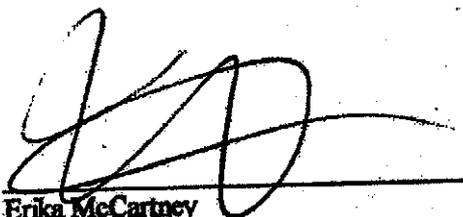
18 (a) Find that the terms and provisions of this Consent Judgment represent a good  
19 faith settlement of all matters raised by the allegations of the Complaint, that the matter has been  
20 diligently prosecuted, and that the public interest is served by such settlement; and

21 (b) Make the findings pursuant to California Health and Safety Code Section  
22 25249.7(f)(4), and approve the Settlement, and this Consent Judgment.  
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**IT IS SO STIPULATED.**

Dated: 4/8/15

  
Erika McCartney

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

Navitas LLC  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

Dated: 4/18/15, 2015

PACIFIC JUSTICE CENTER  
By:   
Robert B. Hancock  
Attorneys for Plaintiff  
ERIKA MCCARTNEY

Dated: \_\_\_\_\_, 2015

COBLENTZ, PATCH, DUFFY & BASS, LLP  
By: \_\_\_\_\_  
Howard Slavitt  
Attorneys for Defendant  
NAVITAS, LLC

1099S.003 200542-4

[PROPOSED] STIPULATED CONSENT JUDGMENT; [PROPOSED] ORDER  
McCartney, Navitas, LLC, Case No. CGC-14-541238

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IT IS SO STIPULATED.

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

\_\_\_\_\_  
Erika McCartney

Dated: 4/9/15

Navitas LLC  
Name: ZACH ADELMAN  
Title: CEO

APPROVED AS TO FORM:

Dated: \_\_\_\_\_, 2015

PACIFIC JUSTICE CENTER  
By: \_\_\_\_\_  
Robert B. Hancock  
Attorneys for Plaintiff  
ERIKA MCCARTNEY

Dated: 4/9, 2015

COBLENTZ, PATCH, DUFFY & BASS, LLP  
By: \_\_\_\_\_  
Howard Slavitt  
Attorneys for Defendant  
NAVITAS, LLC

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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: \_\_\_\_\_, 2015.

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





Melvin B. Pearlston  
Senior Counsel

Of Counsel  
Robert B. Hancock

June 11, 2014

**60- DAY 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 Erika McCartney in this matter. Ms. McCartney 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 the identified 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, Ms. McCartney intends to file a private enforcement action in the public interest 60 days after effective service of the is 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:

Navitas LLC

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

Navitas Naturals Cacao Powder – Cadmium

On May 1, 1997, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male reproductive toxicity.

It should be noted that Ms. McCartney 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, and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion.

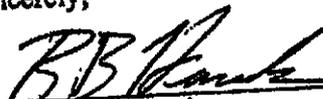
**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least June 11, 2013, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are

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 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, Ms. McCartney is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) recall any products already sold, or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such products; (2) 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 (3) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as expensive and time-consuming litigation. It should be noted that counsel cannot (1) finalize any settlement until after the 60-day notice period has expired; or (2) speak for the California Attorney General or any District or City Attorney who has received this notice. Therefore, while reaching an agreement may satisfy the claims alleged herein, such agreement may not be satisfactory to public prosecutors.

Ms. McCartney has retained me as legal counsel in connection with this matter. Her address is 2124 Lincoln Avenue, #B, Alameda, California, 94501. Her telephone number is 707.502.8635. Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.

Sincerely,



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Robert B. Hancock

**Attachments**

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Navitas LLC only)
- Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Notice of Proposition 65 Violations by Navitas Naturals, Inc.**

Robert B. Hancock declares:

1. This Certificate of Merit accompanies the attached sixty-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 exposures to the listed chemicals that are the subject of the action.

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: June 11, 2014

  
\_\_\_\_\_  
Robert B. Hancock

**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 action.

On June 11, 2014, 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:

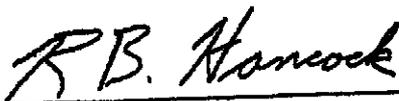
Current Manager or Managing Member  
Navitas LLC  
15 Pamaron Way, Suite A  
Novato, CA 94949

On June 11, 2014, 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 Federal Express drop-off box for overnight delivery to:

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

On June 7 2014, I served the following documents: **NOTICE OF VIOLATION CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail.

Executed under penalty of perjury pursuant to the laws of the State of California this 11th day of June 2014.

  
\_\_\_\_\_  
Robert B. Hancock

Notice of Violations of California Health & Safety Code §25249.5 et. seq.  
 June 11, 2014  
 Page 5

Service List

- District Attorney, Alameda County  
 1220 Fallon Street, Room 900  
 Oakland, CA 94612
- District Attorney, Alpine County  
 P.O. Box 248  
 Mendocino, CA 96120
- District Attorney, Amador County  
 708 Chest Street, P.O. Box  
 Jackson, CA 95942
- District Attorney, Butte County  
 25 County Center Drive  
 Greenville, CA 95953
- District Attorney, Calaveras County  
 801 Mountain Ranch Road  
 San Andreas, CA 95249
- District Attorney, Colusa County  
 547 Medical Street  
 Colusa, CA 95623
- District Attorney, Contra Costa County  
 900 West Street  
 Martinez, CA 94553
- District Attorney, Del Norte County  
 430 N Street, Ste. 171  
 Crescent City, CA 95531
- District Attorney, El Dorado County  
 515 Main Street  
 Placerville, CA 95267
- District Attorney, Fresno County  
 3320 Tulare Street, #1200  
 Fresno, CA 93721
- District Attorney, Glenn County  
 Post Office Box 452  
 Williams, CA 95968
- District Attorney, Humboldt County  
 823 5th Street  
 Eureka, CA 95901
- District Attorney, Imperial County  
 940 West Main Street, Ste 702  
 El Centro, CA 92543
- District Attorney, Inyo County  
 230 W. Line Street  
 Bishop, CA 93514
- District Attorney, Kern County  
 1215 Truxtun Avenue  
 Bakersfield, CA 93301
- District Attorney, Kings County  
 1400 West Lamy Boulevard  
 Hanford, CA 93230
- District Attorney, Lake County  
 255 W. Parker Street  
 Lakeport, CA 95451
- District Attorney, Lassen County  
 220 South Lumber Street, Ste. 2  
 Susanville, CA 96130
- District Attorney, Los Angeles County  
 210 West Temple Street, Suite 1800  
 Los Angeles, CA 90012
- District Attorney, Madison County  
 209 West Yosemite Avenue  
 Madras, CA 95957
- District Attorney, Madera County  
 2501 Cyle Center Drive, Room 110  
 San Joaquin, CA 95833
- District Attorney, Marin County  
 Post Office Box 228  
 Marinipol, CA 94933
- District Attorney, Mendocino County  
 Post Office Box 1000  
 Ukiah, CA 95483
- District Attorney, Merced County  
 2222 M Street  
 Merced, CA 95340
- District Attorney, Modoc County  
 204 S Court Street, Room 202  
 Altama, CA 96101-0202
- District Attorney, Mono County  
 Post Office Box 617  
 Bridgeport, CA 95117
- District Attorney, Monterey County  
 Post Office Box 1151  
 Salinas, CA 93902
- District Attorney, Napa County  
 931 Parkway Mall  
 Napa, CA 94558
- District Attorney, Nevada County  
 118 Union Street  
 Nevada City, CA 95959
- District Attorney, Orange County  
 401 Civic Center Drive West  
 Brea, CA 92701
- District Attorney, Placer County  
 10810 Justice Center Drive, Ste 140  
 Roseville, CA 95678
- District Attorney, Plumas County  
 520 Main Street, Room 404  
 Quincy, CA 95971
- District Attorney, Riverside County  
 2940 Orange Street  
 Riverside, CA 92502
- District Attorney, Sacramento County  
 901 "Q" Street  
 Sacramento, CA 95814
- District Attorney, San Benito County  
 410 Fourth Street, 2nd Floor  
 Hollister, CA 95033
- District Attorney, San Bernardino County  
 316 N. Mountain View Avenue  
 San Bernardino, CA 92415-0004
- District Attorney, San Diego County  
 210 West Broadway, Room 1200  
 San Diego, CA 92101
- District Attorney, San Francisco County  
 250 Bryant Street, Room 521  
 San Francisco, CA 94102
- District Attorney, San Joaquin County  
 Post Office Box 998  
 Stockton, CA 95201
- District Attorney, San Luis Obispo County  
 2025 Palm St. Room 450  
 San Luis Obispo, CA 93406
- District Attorney, San Mateo County  
 400 County Cir., 1st Floor  
 Redwood City, CA 94062
- District Attorney, Santa Barbara County  
 1115 Santa Barbara Street  
 Santa Barbara, CA 93101
- District Attorney, Santa Clara County  
 70 West Harding Street  
 San Jose, CA 95112
- District Attorney, Santa Cruz County  
 701 Green Street, Room 200  
 Santa Cruz, CA 95060
- District Attorney, Shasta County  
 1355 West Street  
 Redding, CA 96001
- District Attorney, Shasta County  
 P.O. Box 437  
 Downsville, CA 95936
- District Attorney, Shasta County  
 Post Office Box 966  
 Yreka, CA 96097
- District Attorney, Solano County  
 675 Yates Street, Ste 400  
 Fairfield, CA 94533
- District Attorney, Stanislaus County  
 600 Administration Drive,  
 Room 2121  
 State Room, CA 95802
- District Attorney, Stanislaus County  
 232 15th Street, Ste 200  
 Modesto, CA 95212
- District Attorney, Sutter County  
 444 Second Street  
 Yuba City, CA 95971
- District Attorney, Tehama County  
 Post Office Box 519  
 Red Bluff, CA 96080
- District Attorney, Trinity County  
 Post Office Box 210  
 Weaverville, CA 96093
- District Attorney, Tulare County  
 211 S. Murray Avenue, Room 204  
 Visalia, CA 93281
- District Attorney, Tuolumne County  
 423 N. Washington Street  
 Sonoma, CA 95070
- District Attorney, Yuba County  
 800 South Virginia Avenue  
 Yuba City, CA 95602
- District Attorney, Yuba County  
 301 2nd Street  
 Woodland, CA 95699
- District Attorney, Yuba County  
 215 Fifth Street, Suite 123  
 Marysville, CA 95901
- Los Angeles City Attorney's Office  
 City Hall East  
 200 N. Main Street, Rm 800  
 Los Angeles, CA 90012
- San Diego City Attorney's Office  
 1200 1st Avenue, Ste 1600  
 San Diego, CA 92101
- San Francisco City Attorney's Office  
 City Hall, Room 204  
 1 Drive Center & Geary Street  
 San Francisco, CA 94102
- San Jose City Attorney's Office  
 200 East Santa Clara Street,  
 16th Floor  
 San Jose, CA 95113



PULL TAB: RESEALABLE PACKAGE



FOR MORE INFORMATION AND RECIPES VISIT: [WWW.NAVITASNATURALS.COM](http://WWW.NAVITASNATURALS.COM)

## ORGANIC CACAO POWDER

Cacao has been enjoyed for its healthful and invigorating properties in South American cultures for thousands of years. This bag contains premium cacao powder that is certified organic, kosher, non-gmo and gluten-free.

The bean of the cacao plant is the nutritional and flavorful source for all chocolate and cocoa products. Cacao is known to contain a rich supply of magnesium, dietary fiber and antioxidants including flavanols and polyphenols.

At Navitas Naturals®, The Superfood Company™, we provide the most nutrient dense foods to nourish your modern life. These whole foods are natural treasures with health benefits that have been celebrated for generations. Our products are of the highest quality and handled with purpose and care to preserve their vital superfood nutrients.

**SUGGESTED USES:**  
ADD TO SMOOTHIES  
USE IN DESSERTS AND BAKING  
FLAVOR SAUCES AND SPREADS

**BENEFITS:**  
MAGNESIUM  
POLYPHENOLS  
100% CACAO



DISTRIBUTED BY  
NAVITAS NATURALS  
NOVATO, CA, USA 94949  
CERTIFIED ORGANIC BY CONTROL UNION  
CERTIFICATIONS CU 802080

### Nutrition Facts

Serving Size: 1 Tbsp (5g)  
Servings Per Container:  
about 45

Calories 20  
Calories from Fat 5

Amount/Serving	% Daily Value*
Total Fat 0.5g	1%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 0mg	0%
Vitamin A 0%	Vitamin C 0%

Amount/Serving	% Daily Value*
Magnesium 34g	9%
Potassium 87g	2%
Total Carbohydrate 3g	1%
Dietary Fiber 1g	4%
Sugars 0g	
Protein 1g	
Calcium 0%	Iron 4%

**INGREDIENTS:** CERTIFIED ORGANIC CACAO (THEOBROMA CACAO) PRODUCT OF PERU  
**ALLERGEN INFORMATION:** PACKAGED IN A FACILITY THAT ALSO HANDLES TREE NUTS (CASHEWS & COCONUT)  
**STORAGE INFORMATION:** REFRIGERATION NOT REQUIRED. STORE IN A COOL, DARK, DRY PLACE.  
**SERVING SUGGESTION:** 1 SERVING PER DAY

\*PERCENTAGE DAILY VALUES BASED ON A 2,000 CALORIE DIET. YOUR DAILY VALUES MAY BE HIGHER OR LOWER DEPENDING ON YOUR CALORIE NEEDS.



SCAN THIS QR CODE TO FIND OUT MORE ABOUT CACAO.

**WARNING:** THIS PRODUCT CONTAINS A CHEMICAL KNOWN TO THE STATE OF CALIFORNIA TO CAUSE BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.



EAT YOUR WAY  
TO HEALTH!

