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13 Attorneys for Defendant  
14 LUCKYVITAMIN CORPORATION

15  
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 COUNTY OF ALAMEDA

18 ENVIRONMENTAL RESEARCH  
CENTER, INC., a California non-profit  
19 corporation

20 Plaintiff,

21 vs.

22 VITACOST.COM, INC., LUCKY  
VITAMIN CORPORATION, and DOES 1-  
23 100

24 Defendants.

CASE NO. RG15770506

STIPULATED CONSENT  
JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Action Filed: May 15, 2015  
Trial Date: None set

25 1. INTRODUCTION

26 1.1 On May 15, 2015, Plaintiff Environmental Research Center, Inc. ("ERC"), a  
27 non-profit corporation, as a private enforcer, and in the public interest, initiated this action by  
28

1 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the "Complaint")  
2 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*  
3 ("Proposition 65"), against LuckyVitamin Corporation erroneously sued as Lucky Vitamin  
4 Corporation ("LuckyVitamin") and Docs 1-100. In this action, ERC alleges that certain  
5 products sold by LuckyVitamin contain lead at a level requiring a Proposition 65 warning.  
6 These products (referred to hereinafter individually as a "Covered Product" or collectively as  
7 "Covered Products") are: "The Ultimate Life The Ultimate DefenZyme" and "The Ultimate  
8 Life The Ultimate Meal Vegan."

9       **1.2** ERC and LuckyVitamin are hereinafter referred to individually as a "Party" or  
10 collectively as the "Parties."

11       **1.3** ERC is a California non-profit corporation.

12       **1.4** For purposes of this Consent Judgment, the Parties agree that LuckyVitamin is a  
13 business entity that has employed ten or more persons at all times relevant to this action, and  
14 qualifies as a "person in the course of business" within the meaning of Proposition 65.  
15 LuckyVitamin distributes and sells the Covered Products.

16       **1.5** The Complaint is based on allegations contained in ERC's Notice of Violation  
17 dated February 13, 2015, that was served on the California Attorney General, other public  
18 enforcers, and LuckyVitamin ("Notice"). A true and correct copy of the Notice is attached as  
19 **Exhibit A** and is hereby incorporated by reference. More than 60 days have passed since the  
20 Notice was mailed and uploaded to the Attorney General's website, and no designated  
21 governmental entity has filed a complaint against LuckyVitamin with regard to the Covered  
22 Products or the alleged violations.

23       **1.6** ERC's Notice and Complaint allege that use of the Covered Products  
24 exposes persons in California to lead without first providing clear and reasonable warnings in  
25 violation of California Health and Safety Code section 25249.6. LuckyVitamin denies all  
26 material allegations contained in the Notice and Complaint and specifically denies that it  
27 violated Proposition 65 or that the Covered Products require or required a Proposition 65  
28 warning or otherwise caused harm to any person. Nothing in the Consent Judgment shall be

1 construed as an admission by LuckyVitamin of any fact, issue of law or violation of law, nor  
2 shall compliance with the Consent Judgment constitute or be construed as an admission by  
3 LuckyVitamin of any fact, issue of law or violation of law, at any time, for any purpose.  
4 Nothing in the Consent Judgment shall prejudice, waive or impair any right, remedy, argument  
5 or defense that LuckyVitamin may have in other or further legal proceedings.

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, franchisees, 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 only, the Parties stipulate that this Court has  
23 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction  
24 over LuckyVitamin as to the acts alleged in the Complaint, that venue is proper in Alameda, and  
25 that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all  
26 claims which were or could have been asserted in his action based on the facts alleged in the  
27 Notices and the Complaint.  
28

1     **3. INJUNCTIVE RELIEF**

2           **3.1**     Beginning on the Effective Date, LuckyVitamin shall be permanently enjoined  
3 from “Distributing into the State of California”, or directly selling in the State of California,  
4 any Covered Product which exposes a person to a “Daily Lead Exposure Level” of more than  
5 0.5 micrograms per day of lead when the maximum suggested dose is taken as directed on the  
6 Covered Product’s label, unless it meets the warning requirements under Section 3.2.

7           **3.1.1**   As used in this Consent Judgment, the term “Distributing into the State  
8 of California” shall mean to directly ship a Covered Product into California for sale in  
9 California or to sell a Covered Product to a distributor that LuckyVitamin knows will sell the  
10 Covered Product in California.

11           **3.1.2**   For purposes of this Consent Judgment, the “Daily Lead Exposure  
12 Level” shall be measured in micrograms, and shall be calculated using the following formula:  
13 micrograms of lead per gram of product, multiplied by grams of product per serving of the  
14 product (using the largest serving size appearing on the product label), multiplied by servings  
15 of the product per day (using the largest number of servings in a recommended dosage  
16 appearing on the product label), which equals micrograms of lead exposure per day.

17           **3.2 Clear and Reasonable Warnings**

18           If LuckyVitamin is required to provide a warning pursuant to Section 3.1, the following  
19 warning (“Warning”) must be utilized:

20           **WARNING California Proposition 65:** This product contains lead, a chemical known to  
21 the state of California to cause cancer and birth defects or other reproductive harm.

22           (a)     For sales in retail stores, the Warning may be provided by either of the following  
23 methods, (1) Identifying Signs and Designated Symbol in Retail Stores, or (2) Other Clear and  
24 Reasonable Warnings in Retail Stores, below:

25           (1)     *Identifying Signs and Designated Symbol in Retail Stores.* In retail stores,  
26 the Warning may be provided through the use of a system that combines both a designated symbol  
27 and an identifying sign that explains the meaning of the designated symbol. The designated  
28 symbol (“Symbol”) shall be either:



1 be posted as are necessary to assure that any potential purchaser of Covered Products would be  
2 likely to see a Sign prior to purchase.

3 (B) *Covered Products Sold in Retail Stores: Symbol.* The Symbol shall be  
4 prominently displayed by the Effective date and with such conspicuousness, as compared with  
5 other words, statements, designs, or devices used at the point the Covered Products are offered for  
6 sale, as to render the Symbol likely to be seen by an ordinary individual prior to purchase. The  
7 Symbol shall be displayed on or adjacent to the Covered Products in any one or more of the  
8 following locations:

9 (i) The Symbol may be permanently affixed to or prominently  
10 printed on any placards, signs, or shelf stickers adjacent to the Covered Products that identify the  
11 name or price of the Covered Products displayed, in which case the Symbol shall be no less than  
12 one-quarter inch (0.25 inch) high; or

13 (ii) The Symbol may be permanently affixed to or printed on  
14 (at the point of manufacture, prior to shipment to California, or prior to distribution within  
15 California) the outside packaging or container of each unit of the Covered Products, in which case  
16 the Symbol must be large enough that the characters in the Symbol are in a type size no smaller  
17 than 6 point, and in no case shall the Symbol be less than one-quarter inch (0.25 inch) high.

18 (2) *Other Clear and Reasonable Warnings in Retail Stores.* In  
19 stores not using the Identifying Signs and Designated Symbol in Retail Stores system described in  
20 Section 3.2(a)(1), the Warning shall be permanently affixed to or printed on (at the point of  
21 manufacture, prior to shipment to California, or prior to distribution within California) the outside  
22 packaging or container of each unit of the Covered Products. The Warning shall be displayed with  
23 such conspicuousness, as compared with other words, statements, designs, or devices on the  
24 packaging or labeling, as to render it likely to be read and understood by an ordinary individual  
25 prior to purchase. If the Warning is displayed on the product container or labeling, the Warning  
26 shall be at least the same size as the largest of any other health or safety warnings on the product  
27 container or labeling, and the word "WARNING" shall be in all capital letters and in bold print. If  
28 printed on the labeling itself, the Warning shall be contained in the same section of the labeling

1 that states other safety warnings concerning the use of the product.

2 (b) For Covered Products sold by LuckyVitamin to California consumers through the  
3 Internet, the Warning shall be prominently displayed on each webpage describing the ingredients  
4 or attributes of a Covered Product, or the Warning may be provided at the time the customer enters  
5 a California address for the shipping address. In addition, for each shipment of any Covered  
6 Product resulting from such a sale, the Warning shall be displayed on the outside packaging or  
7 container of each unit of the Covered Product or on the invoice that accompanies the shipment of  
8 the Covered Product. In all circumstances, the Warning shall be displayed with such  
9 conspicuousness, as compared with other words, statements, designs, or devices on the webpages,  
10 product packaging, product container, or invoice, as to render it likely to be read and understood  
11 by an ordinary individual prior to purchase. The Warning shall be at least the same size as the  
12 largest of any other health or safety warnings on the webpage, invoice, or product packaging, and  
13 the word "WARNING" shall be in all capital letters and in bold print. A Warning printed on an  
14 invoice must be in a type size at least as tall as the largest letter or numeral in the name or price of  
15 the Covered Product printed on the invoice. The requirements of this paragraph may be modified  
16 by written agreement between LuckyVitamin and ERC. LuckyVitamin must fully comply with  
17 the terms of this section 3.2(b) within 90 of the effective date of this Consent Judgment.

18 (c) For sales and distribution of Covered Products not described in subsections (a) and  
19 (b), above, the Warning shall be provided at the point of sale or distribution prior to purchase by  
20 the consumer. The Warning Shall be displayed with such conspicuousness, as compared with  
21 other words, statements, designs, or devices, as to render it likely to be read and understood by an  
22 ordinary individual prior to purchase. The Warning shall be at least the same size as the largest of  
23 any other health or safety warnings presented, and the word "WARNING" shall be in all capital  
24 letters and in bold print.

25 3.3 No other statements about Proposition 65 may accompany the warnings set forth  
26 in Section 3.2

27 ///

28 ///

1     **4. SETTLEMENT PAYMENT**

2           **4.1**     In full satisfaction of all potential civil penalties, payment in lieu of civil  
3 penalties, attorney's fees, and costs, LuckyVitamin shall make a total payment of \$32,500.00  
4 ("Total Settlement Amount") to ERC within 10 business of receiving Notice of Entry of  
5 Judgment. LuckyVitamin shall make this payment by wire transfer to ERC's escrow account,  
6 for which ERC will give LuckyVitamin the necessary account information. The Total  
7 Settlement Amount shall be apportioned as follows:

8           **4.2**     \$10,764.00 shall be considered a civil penalty pursuant to California Health and  
9 Safety Code §25249.7(b)(1). ERC shall remit 75% (\$8,073.00) of the civil penalty to the  
10 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
11 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
12 Code §25249.12(c). ERC will retain the remaining 25% (\$2,691.00) of the civil penalty.

13           **4.3**     \$1,544.86 shall be distributed to ERC as reimbursement to ERC for reasonable  
14 costs incurred in bringing this action.

15           **4.4**     \$8,133.91 shall be distributed to ERC in lieu of further civil penalties, for the day-  
16 to-day business activities such as (1) continued enforcement of Proposition 65, which includes  
17 work, analyzing, researching and testing consumer products that may contain Proposition 65  
18 chemicals, focusing on the same or similar type of ingestible products that are the subject  
19 matter of the current action; (2) the continued monitoring of past consent judgments and  
20 settlements to ensure companies are in compliance with Proposition 65; and (3) giving a  
21 donation of \$460.00 to the Global Community Monitor to address reducing toxic chemical  
22 exposures in California.

23           **4.5**     \$4,000.00 shall be distributed to Ryan Hoffman for reimbursement of ERC's  
24 outside counsel's legal fees, \$1,440.00 shall be distributed to Michael Freund for  
25 reimbursement of ERC's outside counsel's legal fees, while \$6,617.23 shall be distributed to  
26 ERC for its in-house legal fees.

27     ///

28     ///

1     **5.    MODIFICATION OF CONSENT JUDGMENT**

2           **5.1**    This Consent Judgment may be modified only (i) by written stipulation of the  
3 Parties or pursuant to Sections 5.4 and 5.5 and (ii) upon entry by the Court of a modified  
4 Consent Judgment.

5           **5.2**    If LuckyVitamin seeks to modify this Consent Judgment under Section 5.1, then  
6 LuckyVitamin must provide written notice to ERC of its intent (“Notice of Intent”). If ERC  
7 seeks to meet and confer regarding the proposed modification in the Notice of Intent, then ERC  
8 must provide written notice to LuckyVitamin within twenty (20) days of receiving the Notice of  
9 Intent. If ERC notifies LuckyVitamin in a timely manner of ERC’s intent to meet and confer,  
10 then the Parties shall meet and confer in good faith as required in this Section. The Parties  
11 shall meet in person or via telephone within twenty(20) days of ERC’s notification of its intent  
12 to meet and confer. Within twenty (20) days of such meeting, if ERC disputes the proposed  
13 modification, ERC shall provide to LuckyVitamin a written basis for its position. The Parties  
14 shall continue to meet and confer for an additional twenty (20) days in an effort to resolve any  
15 remaining disputes. Should it become necessary, the Parties may agree in writing to different  
16 deadlines for the meet-and-confer period.

17           **5.3**    In the event that LuckyVitamin initiates or otherwise requests a modification  
18 under Section 5.1, and the meet and confer process leads to a joint motion or application of the  
19 Consent Judgment, LuckyVitamin shall reimburse ERC its costs and reasonable attorney’s fees  
20 for the time spent in the meet-and-confer process and filing and arguing the motion or  
21 application in support of a modification of the Consent Judgment; provided, however, that  
22 these fees and costs shall not exceed \$5,000 total without the prior written consent of  
23 LuckyVitamin.

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

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

3       **5.5** In the event that Proposition 65 is repealed or preempted, then LuckyVitamin  
4 shall have no further obligations pursuant to this Consent Judgment with respect to, and to the  
5 extent the Covered Products are so affected.

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

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

10       **7. APPLICATION OF CONSENT JUDGMENT**

11       This Consent Judgment shall have no application to Covered Products which are  
12 distributed or sold exclusively outside the State of California and which are not used by California  
13 consumers.

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

15       **8.1** This Consent Judgment is a full, final, and binding resolution between ERC,  
16 on behalf of itself and in the public interest, and LuckyVitamin, of any alleged violation of  
17 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of  
18 exposure to lead from the handling, use, or consumption of the Covered Products and fully  
19 resolves all claims that have been or could have been asserted in this Action, including all  
20 claims from the handling, use, or consumption of the Covered Products, as to any alleged  
21 violation of Proposition 65 or its implementing regulations arising from the failure to provide  
22 Proposition 65, up to and including the Effective Date. ERC, on behalf of itself and in the  
23 public interest, hereby discharges and releases LuckyVitamin, its parents, subsidiaries,  
24 affiliated entities under common ownership, directors, officers, agents, employees, attorneys,  
25 and each entity to or from whom LuckyVitamin directly or indirectly acquires, distributes or  
26 sells the Covered Products, including but not limited to, distributors, wholesalers, customers,  
27 retailers, franchises, cooperative members and licensees, (collectively, "Released Parties") from  
28 any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties,

1 fees, costs and expenses asserted, or that could have been asserted, as to any alleged violation  
2 of Proposition 65 arising from the failure to provide Proposition 65 warnings on the Covered  
3 Products regarding lead as set forth in the Notice and the Complaint up to and including the  
4 Effective Date.

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

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

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

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

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

1           **8.5**   Nothing in this Consent Judgment is intended to apply to any occupational or  
2 environmental exposures arising under Proposition 65, nor shall it apply to any of  
3 LuckyVitamin's products other than the Covered Products.

4           **9.   SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

7           **10.   GOVERNING LAW**

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

10          **11.   PROVISION OF NOTICE**

11          All notices required to be given to either Party to this Consent Judgment by the other shall  
12 be in writing and sent to the following agents listed below via first-class mail. Courtesy copies via  
13 email may also be sent.

14          **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

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

20          With a copy to:

21          Anne Barker  
22          Environmental Research Center, Inc.  
23          3111 Camino Del Rio North, Suite 400  
24          San Diego, CA 92108  
25          Telephone: (619) 500-3090  
26          Facsimile: (706) 858-0326

27          Michael Freund  
28          Ryan Hoffman  
29          Michael Freund & Associates  
30          1919 Addison Street, Suite 105  
31          Berkeley, CA 94704  
32          Telephone: (510) 540-1992  
33          Facsimile: (510) 540-5543

34          Attorneys for Plaintiff Environmental Research Center, Inc.

1 **FOR LUCKYVITAMIN CORPORATION**

2 James M. Sander  
3 Gary R Kelly  
4 Lucky Vitamin Corporation  
5 300 Sixth Avenue  
6 Pittsburgh, PA 15222  
7 Telephone: (412) 288-4619  
8 Facsimile: (412) 288-4621

9 With a copy to:

10 Randall J. Lee  
11 Alexander F. Pevzner  
12 WFBM, LLP  
13 601 Montgomery Street, Ninth Floor  
14 San Francisco, CA 94111-2612  
15 Telephone: (415) 781-7072  
16 Facsimile: (415) 391-6258

17 Attorneys for Defendant LuckyVitamin Corporation

18 **12. COURT APPROVAL**

19 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
20 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
21 Consent Judgment.

22 **12.2** If the California Attorney General objects to any term in this Consent Judgment,  
23 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
24 prior to the hearing on the motion.

25 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be  
26 void and have no force or effect.

27 **13. EXECUTION AND COUNTERPARTS**

28 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.

**14. DRAFTING**

The terms of this Consent Judgment have been reviewed by the respective counsel for each  
Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and

1 conditions with counsel. The Parties agree that, in any subsequent interpretation and construction  
2 of this Consent Judgment, no inference, assumption, or presumption shall be drawn, and no  
3 provision of this Consent Judgment shall be construed against any Party, based on the fact that one  
4 of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion of  
5 the Consent Judgment. It is conclusively presumed that all of the Parties participated equally in  
6 the preparation and drafting of this Consent Judgment.

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

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

17 **16. ENTIRE AGREEMENT, AUTHORIZATION**

18 **16.1** This Consent Judgment contains the sole and entire agreement and  
19 understanding of the Parties with respect to the entire subject matter herein, and any and all  
20 prior discussions, negotiations, commitments and understandings related hereto. No  
21 representations, oral or otherwise, express or implied, other than those contained herein have  
22 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
23 herein, shall be deemed to exist or to bind any Party.

24 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully  
25 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as  
26 explicitly provided herein, each Party shall bear its own fees and costs.

1 17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF  
2 CONSENT JUDGMENT

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

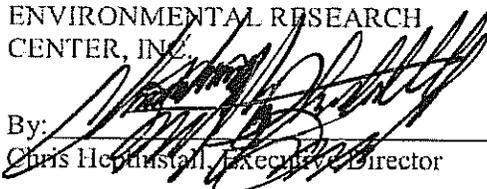
6 (1) Find that the terms and provisions of this Consent Judgment represent a fair and  
7 equitable settlement of all matters raised by the allegations of the Complaint, that the matter has  
8 been diligently prosecuted, and that the public interest is served by such settlement; and

9 (2) Make the findings pursuant to California Health and Safety Code section  
10 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

11 **IT IS SO STIPULATED:**

12 Dated: 3/22/, 2018

ENVIRONMENTAL RESEARCH  
CENTER, INC.

13 By:   
14 Chris Hepburn, Executive Director

15 Dated: March 18, 2018

LUCKYVITAMIN CORPORATION

16 By:   
17 Its: JSP

18  
19 **APPROVED AS TO FORM:**

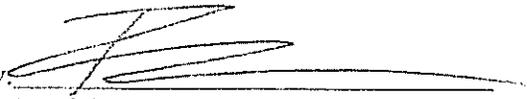
20 Dated: 3/22, 2018

MICHAEL FREUND & ASSOCIATES

21 By:   
22 Ryan Hoffman  
23 Attorney for Plaintiff Environmental  
24 Research Center, Inc.  
25  
26  
27  
28

1 Dated: March 13, 2016

WFBM, LLP

2  
3 By:   
4 Randall J. Lee  
5 Attorney for Defendant LuckyVitamin  
6 Corporation

7  
8  
9  
10 **ORDER AND JUDGMENT**

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

13 IT IS SO ORDERED, ADJUDGED AND DECREED.

14  
15 Dated: \_\_\_\_\_, 2015

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