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17 B.N.G. ENTERPRISES INC. and FUSION  
18 FORMULATIONS, L.L.C.

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
20 **COUNTY OF ALAMEDA**

21 ENVIRONMENTAL RESEARCH  
22 CENTER, INC. a non-profit California  
23 corporation,

Plaintiff,

v.

24 B.N.G. ENTERPRISES INCORPORATED, an  
25 Arizona Corporation, and FUSION  
26 FORMULATIONS, L.L.C., an Arizona  
27 Limited Liability Company,

Defendants.

CASE NO. RG15782403

**STIPULATED CONSENT  
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: August 18, 2015

Trial Date: None set

28 **1. INTRODUCTION**

29 **1.1** On August 18, 2015, Plaintiff Environmental Research Center, Inc. ("ERC"), a  
30 non-profit corporation, as a private enforcer, and in the public interest, initiated this action by  
31 filing a Complaint for Injunctive Relief and Civil Penalties (the "Complaint") pursuant to the  
32 provisions of California Health and Safety Code section 25249.5 *et seq.* ("Proposition 65"),

1 against B.N.G. ENTERPRISES INCORPORATED and FUSION FORMULATIONS, L.L.C.,  
2 (collectively “B.N.G. ENTERPRISES”). In this action, ERC alleges that a number of products  
3 manufactured, distributed or sold by B.N.G. ENTERPRISES contain lead, a chemical listed  
4 under Proposition 65 as a carcinogen and reproductive toxin, and expose consumers to this  
5 chemical at a level requiring a Proposition 65 warning. These products (referred to hereinafter  
6 individually as a “Covered Product” or collectively as “Covered Products”) are:

- 7           ◦ **BNG Enterprises Inc. Natural Treasures Horny Goat Weed**
- 8           ◦ **BNG Enterprises Inc. Natural Treasures Miracle Breast**
- 9           ◦ **BNG Enterprises Inc. Herbal Clean Simply Slender Master Cleanse**

10           1.2   ERC and B.N.G. ENTERPRISES are hereinafter referred to individually as a  
11 “Party” or collectively as the “Parties.”

12           1.3   ERC is a California non-profit corporation dedicated to, among other causes,  
13 helping safeguard the public from health hazards by reducing the use and misuse of hazardous  
14 and toxic chemicals, facilitating a safe environment for consumers and employees, and  
15 encouraging corporate responsibility.

16           1.4   For purposes of this Consent Judgment, the Parties agree that B.N.G.  
17 ENTERPRISES is a business entity that has employed ten or more persons at all times relevant to  
18 this action, and qualifies as a “person in the course of business” within the meaning of Proposition  
19 65. B.N.G. ENTERPRISES manufactures, distributes and sells the Covered Products.

20           1.5   The Complaint is based on allegations contained in ERC’s Notice of Violation  
21 dated April 10, 2015, that was served on the California Attorney General, other public  
22 enforcers, and B.N.G. ENTERPRISES (“Notice”). A true and correct copy of the Notice is  
23 attached as Exhibit A and is hereby incorporated by reference. More than 60 days have passed  
24 since the Notice was mailed and uploaded to the Attorney General’s website, and no designated  
25 governmental entity has filed a complaint against B.N.G. ENTERPRISES with regard to the  
26 Covered Products or the alleged violations.

27           1.6   ERC’s Notice and Complaint allege that use of the Covered Products exposes  
28 persons in California to lead without first providing clear and reasonable warnings in violation

1 of California Health and Safety Code section 25249.6. B.N.G. ENTERPRISES denies all  
2 material allegations contained in the Notice and Complaint.

3       1.7 The Parties have entered into this Consent Judgment in order to settle,  
4 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.  
5 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of  
6 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
7 parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,  
8 distributors, wholesalers, or retailers. Except for the representations made above, nothing in  
9 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of  
10 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an  
11 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any  
12 purpose.

13       1.8 Except as expressly set forth herein, nothing in this Consent Judgment shall  
14 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
15 other or future legal proceeding unrelated to these proceedings.

16       1.9 The Effective Date of this Consent Judgment is the date on which it is entered as  
17 a Judgment by this Court.

18       **2. JURISDICTION AND VENUE**

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

26 ///

27 ///

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

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

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

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

18             **3.2 Clear and Reasonable Warnings**

19             **3.2.1** If B.N.G. ENTERPRISES is required to provide a warning pursuant to  
20 Section 3.1, the following warning must be utilized:

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

23 B.N.G. ENTERPRISES shall use the phrase “cancer and” in the warning only if the maximum  
24 daily dose recommended on the label contains more than 15 micrograms of lead as determined  
25 pursuant to the quality control methodology set forth in Section 3.4.

26             For non-internet sales, the warning shall be securely affixed to or printed upon the  
27 container or label of each Covered Product. For internet sales, B.N.G. ENTERPRISES will  
28 provide the warning on its website. The product page for each Covered Product will contain a

1 hyperlink to the warning. The hyperlink will read as follows: California Residents Proposition  
2 65 Warning. A warning will also be printed on the invoice accompanying any Covered Product  
3 shipped to a California address.

4 The hyperlink and the warning shall be at least the same size as the largest of any other  
5 health or safety warnings also appearing on its website or on the label or container of B.N.G.  
6 ENTERPRISES' product packaging and the word "WARNING" shall be in all capital letters and  
7 in bold print. No other statements about Proposition 65 or lead may accompany the warning.

8 B.N.G. ENTERPRISES must display the above warnings with such conspicuousness, as  
9 compared with other words, statements, or design of the website, label, or container to render the  
10 warning likely to be read and understood by an ordinary individual under customary conditions of  
11 purchase or use of the product. The hyperlink must be displayed on the product page with such  
12 conspicuousness, as compared with other words, statements and/or design of the webpage to  
13 render the hyperlink likely to be seen by an ordinary user.

### 14 3.3 Reformulated Covered Products

15 A Reformulated Covered Product is one for which the Daily Lead Exposure Level when  
16 the maximum suggested dose is taken as directed on the Reformulated Covered Product's label,  
17 contains no more than 0.5 micrograms of lead per day as determined by the quality control  
18 methodology described in Section 3.4.

### 19 3.4 Testing and Quality Control Methodology

20 3.4.1 Beginning within one year of the Effective Date, B.N.G. ENTERPRISES  
21 shall arrange for lead testing of the Covered Products at least once a year for a minimum of five  
22 consecutive years by arranging for testing of three (3) randomly selected samples of each of the  
23 Covered Products, in the form intended for sale to the end-user, which B.N.G. ENTERPRISES  
24 intends to sell or is manufacturing for sale in California, directly selling to a consumer in  
25 California or "Distributing into California." The testing requirement does not apply to any of  
26 the Covered Products for which B.N.G. ENTERPRISES has provided the warning specified in  
27 Section 3.2. If tests conducted pursuant to this Section demonstrate that no warning is required  
28 for a Covered Product during each of five consecutive years, then the testing requirements of

1 this Section will no longer be required as to that Covered Product. However, if during or after  
2 the five-year testing period, B.N.G. ENTERPRISES changes ingredient suppliers for any of the  
3 Covered Products and/or reformulates any of the Covered Products, B.N.G. ENTERPRISES  
4 shall test that Covered Product annually for at least four (4) consecutive years after such change  
5 is made.

6           3.4.2 For purposes of measuring the "Daily Lead Exposure Level", the second  
7 highest lead detection result of the three (3) randomly selected samples of the Covered Products  
8 will be controlling.

9           3.4.3 All testing pursuant to this Consent Judgment shall be performed using a  
10 laboratory method that complies with the performance and quality control factors appropriate  
11 for the method used, including limit of detection, qualification, accuracy, and precision that  
12 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry ("ICP-MS")  
13 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing  
14 method subsequently agreed to in writing by the Parties.

15           3.4.4 All testing pursuant to this Consent Judgment shall be performed by an  
16 independent third party laboratory certified by the California Environmental Laboratory  
17 Accreditation Program or an independent third-party laboratory that is registered with the  
18 United States Food & Drug Administration.

19           3.4.5 Nothing in this Consent Judgment shall limit B.N.G. ENTERPRISES'  
20 ability to conduct, or require that others conduct, additional testing of the Covered Products,  
21 including the raw materials used in their manufacture.

22           3.4.6 Beginning on the Effective Date and continuing for a period of five  
23 years, B.N.G. ENTERPRISES shall retain all test results and documentation for a period of five  
24 years from the date of each test.

25       **4. SETTLEMENT PAYMENT**

26           4.1 In full satisfaction of all potential civil penalties, payment in lieu of civil  
27 penalties, attorney's fees, and costs, B.N.G. ENTERPRISES shall make a total payment of  
28 \$71,000.00 ("Total Settlement Amount") to ERC within 10 business days of the Effective Date.

1 B.N.G. ENTERPRISES shall make this payment by wire transfer to ERC's escrow account, for  
2 which ERC will give B.N.G. ENTERPRISES the necessary account information. The Total  
3 Settlement Amount shall be apportioned as follows:

4 4.2 \$24,054.00 shall be considered a civil penalty pursuant to California Health and  
5 Safety Code §25249.7(b)(1). ERC shall remit 75% (\$18,040.50) of the civil penalty to the  
6 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
7 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
8 Code §25249.12(c). ERC will retain the remaining 25% (\$6,013.50) of the civil penalty.

9 4.3 \$999.25 shall be distributed to ERC as reimbursement to ERC for reasonable  
10 costs incurred in bringing this action.

11 4.4 \$18,150.75 shall be distributed to ERC in lieu of further civil penalties, for the  
12 day-to-day business activities such as (1) continued enforcement of Proposition 65, which  
13 includes work, analyzing, researching and testing consumer products that may contain  
14 Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are  
15 the subject matter of the current action; (2) the continued monitoring of past consent judgments  
16 and settlements to ensure companies are in compliance with Proposition 65; and (3) giving a  
17 donation of \$907 to As You Sow to address reducing toxic chemical exposures in California.

18 4.5 \$16,158.91 shall be distributed to the Law Office of Richard M. Franco as  
19 reimbursement of ERC's attorney's fees and expenses, while \$11,637.09 shall be distributed to  
20 ERC for its in-house legal fees.

## 21 5. MODIFICATION OF CONSENT JUDGMENT

22 5.1 This Consent Judgment may be modified only (i) by written stipulation of the  
23 Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent  
24 judgment.

25 5.2 If B.N.G. ENTERPRISES seeks to modify this Consent Judgment under Section  
26 5.1, then B.N.G. ENTERPRISES must provide written notice to ERC of its intent ("Notice of  
27 Intent"). If ERC seeks to meet and confer regarding the proposed modification in the Notice of  
28 Intent, then ERC must provide written notice to B.N.G. ENTERPRISES within thirty days of

1 receiving the Notice of Intent. If ERC notifies B.N.G. ENTERPRISES in a timely manner of  
2 ERC's intent to meet and confer, then the Parties shall meet and confer in good faith as  
3 required in this Section. The Parties shall meet in person or via telephone within thirty (30)  
4 days of ERC's notification of its intent to meet and confer. Within thirty (30) days of such  
5 meeting, if ERC disputes the proposed modification, ERC shall provide to B.N.G.  
6 ENTERPRISES a written basis for its position. The Parties shall continue to meet and confer  
7 for an additional thirty (30) days in an effort to resolve any remaining disputes. Should it  
8 become necessary, the Parties may agree in writing to different deadlines for the meet-and-  
9 confer period.

10       5.3 In the event that B.N.G. ENTERPRISES initiates or otherwise requests a  
11 modification under Section 5.1, and the meet and confer process leads to a joint motion or  
12 application of the Consent Judgment, B.N.G. ENTERPRISES shall reimburse ERC its costs  
13 and reasonable attorney's fees for the time spent in the meet-and-confer process and filing and  
14 arguing the motion or application.

15       5.4 Where the meet-and-confer process does not lead to a joint motion or  
16 application in support of a modification of the Consent Judgment, then either Party may seek  
17 judicial relief on its own. In such a situation, the prevailing Party may seek to recover costs  
18 and reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"  
19 means a party who is successful in obtaining relief more favorable to it than the relief that the  
20 other party was amenable to providing during the Parties' good faith attempt to resolve the  
21 dispute that is the subject of the modification.

22       **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
23       **JUDGMENT**

24       6.1 This Court shall retain jurisdiction of this matter to enforce, modify or terminate  
25 this Consent Judgment.

26       6.2 If ERC alleges that any Covered Product fails to qualify as a Reformulated  
27 Covered Product (for which ERC alleges that no warning has been provided), then ERC shall  
28 inform B.N.G. ENTERPRISES in a reasonably prompt manner of its test results, including

1 information sufficient to permit B.N.G. ENTERPRISES to identify the Covered Products at  
2 issue. B.N.G. ENTERPRISES shall, within thirty (30) days following such notice, provide  
3 ERC with testing information, from an independent third-party laboratory meeting the  
4 requirements of Sections 3.4.3 and 3.4.4, demonstrating B.N.G. ENTERPRISES' compliance  
5 with the Consent Judgment, if warranted. The Parties shall first attempt to resolve the matter  
6 prior to ERC taking any further legal action.

7 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

15 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on  
16 behalf of itself and in the public interest, and B.N.G. ENTERPRISES and its respective officers,  
17 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates,  
18 suppliers, franchisees, licensees, customers (not including private label customers of B.N.G.  
19 ENTERPRISES), distributors, wholesalers, retailers, and all other upstream and downstream  
20 entities in the distribution chain of any Covered Product, and the predecessors, successors and  
21 assigns of any of them (collectively, "Released Parties"), from any and all claims, actions,  
22 causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses  
23 asserted, or that could have been asserted from the handling, use, or consumption of the  
24 Covered Products, as to any alleged violation of Proposition 65 or its implementing regulations  
25 arising from the failure to provide Proposition 65 warnings on the Covered Products regarding  
26 lead up to and including the Effective Date.

27 **8.2** ERC on its own behalf only, on one hand, and B.N.G. ENTERPRISES on its  
28 own behalf only, on the other, further waive and release any and all claims they may have

1 against each other for all actions or statements made or undertaken in the course of seeking or  
2 opposing enforcement of Proposition 65 in connection with the Notice or Complaint up through  
3 and including the Effective Date, provided, however, that nothing in Section 8 shall affect or  
4 limit any Party's right to seek to enforce the terms of this Consent Judgment.

5       **8.3**     ERC on its own behalf only represents, warrants, and covenants that it will not  
6 pursue any statutory or common law claims that it may have with respect to the Covered  
7 Products manufactured, distributed or sold by B.N.G. ENTERPRISES up through the Effective  
8 Date. ERC further represents and warrants that, as of the date of the execution of this Consent  
9 Judgment, it has no knowledge or information regarding any other alleged violation of  
10 Proposition 65 by B.N.G. ENTERPRISES.

11       **8.4**     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 B.N.G. ENTERPRISES, on the  
14 other hand, acknowledge that this Consent Judgment is expressly intended to cover and include  
15 all such claims up through the Effective Date, including all rights of action therefore. ERC and  
16 B.N.G. ENTERPRISES acknowledge that the claims released in Sections 8.1 and 8.2 above  
17 may include unknown claims, and nevertheless waive California Civil Code section 1542 as to  
18 any such 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  
            KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS  
            OR HER SETTLEMENT WITH THE DEBTOR.

22 ERC on behalf of itself only, on the one hand, and B.N.G. ENTERPRISES, on the other hand,  
23 acknowledge and understand the significance and consequences of this specific waiver of  
24 California Civil Code section 1542.

25       **8.5**     Compliance with the terms of this Consent Judgment shall be deemed to  
26 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead  
27 in the Covered Products as set forth in the Notice and the Complaint.

1           8.6    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 B.N.G.  
3 ENTERPRISES' 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 RICHARD M. FRANCO  
22 LAW OFFICE OF RICHARD M. FRANCO  
23 6500 Estates Drive  
24 Oakland, CA 94611  
25 Ph: 510-684-1022  
26 Email: rick@rfrancolaw.com

27 B.N.G. ENTERPRISES INCORPORATED  
28 and FUSION FORMULATIONS, L.L.C.

Wendi Peterson  
Executive Vice President  
BNG Enterprises  
1430 W. Auto Drive, Suite 109  
Tempe, AZ 85284

1 With a copy to:

2 PEG CAREW TOLEDO  
3 PEG CAREW TOLEDO, LAW CORPORATION  
4 3001 Douglas Blvd., Suite 340  
5 Roseville, CA 95661  
6 Telephone: (916) 462-8950  
7 Fax: (916) 791-0175  
8 Email: peg@toledolawcorp.com

9 **12. COURT APPROVAL**

10 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
11 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
12 Consent Judgment.

13 **12.2** If the California Attorney General objects to any term in this Consent Judgment,  
14 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
15 prior to the hearing on the motion.

16 **12.3** If this Consent Judgment is not approved by the Court, it shall be void and have  
17 no force or effect.

18 **13. EXECUTION AND COUNTERPARTS**

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

22 **14. DRAFTING**

23 The terms of this Consent Judgment have been reviewed by the respective counsel for each  
24 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and  
25 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and  
26 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,  
27 and no provision of this Consent Judgment shall be construed against any Party, based on the fact  
28 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any  
portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated  
equally in the preparation and drafting of this Consent Judgment.

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

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

11       **16. ENTIRE AGREEMENT, AUTHORIZATION**

12           **16.1** This Consent Judgment contains the sole and entire agreement and  
13 understanding of the Parties with respect to the entire subject matter herein, and any and all  
14 prior discussions, negotiations, commitments and understandings related hereto. No  
15 representations, oral or otherwise, express or implied, other than those contained herein have  
16 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
17 herein, shall be deemed to exist or to bind any Party.

18           **16.2** Each signatory to this Consent Judgment certifies that he or she is fully  
19 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as  
20 explicitly provided herein, each Party shall bear its own fees and costs.

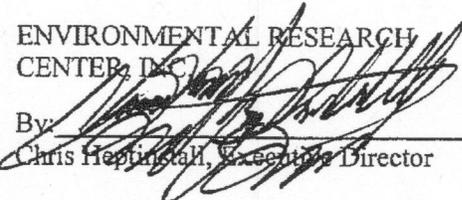
21       **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
22       **CONSENT JUDGMENT**

23 This Consent Judgment has come before the Court upon the request of the Parties. The Parties  
24 request the Court to fully review this Consent Judgment and, being fully informed regarding the  
25 matters which are the subject of this action, to make the findings pursuant to California Health and  
26 Safety Code section 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

1 IT IS SO STIPULATED:

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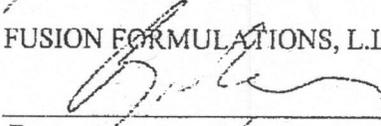
Dated: 5/4/, 2016

ENVIRONMENTAL RESEARCH  
CENTER, INC.  
By:   
Chris Heptinstall, Executive Director

Dated: April 29, 2016

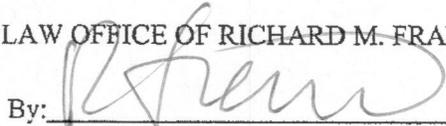
B.N.G. ENTERPRISES INC.  
  
By: \_\_\_\_\_  
Its: President

Dated: April 29, 2016

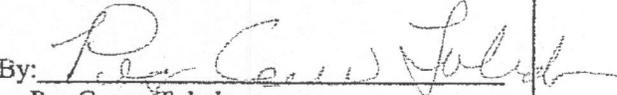
FUSION FORMULATIONS, L.L.C.  
  
By: \_\_\_\_\_  
Its: member

APPROVED AS TO FORM:

Dated: May 4, 2016

LAW OFFICE OF RICHARD M. FRANCO  
By:   
Richard M. Franco  
Attorney for Plaintiff Environmental  
Research Center, Inc.

Dated: May 3, 2016

PEG CAREW TOLEDO, LAW  
CORPORATION  
By:   
Peg Carew Toledo  
Attorneys for Defendants B.N.G.  
Enterprises, Inc. and Fusion  
Formulations, L.L.C.

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ORDER AND JUDGMENT

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_, 2016

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