

MATTHEW C. MACLEAR (SBN 209228)
ANTHONY M. BARNES (SBN 199048)
AQUA TERRA AERIS LAW GROUP
7425 Fairmount Ave.
El Cerrito, CA 94530
Ph: 415-568-5200
Email: mcm@atalawgroup.com

Attorneys for Plaintiff
ENVIRONMENTAL RESEARCH CENTER, INC.

ANTHONY J. CORTEZ (SBN 251743)
Greenberg Traurig, LLP
1201 K Street, Suite 1100
Sacramento, CA 95814
Telephone: (916) 442-1111
Facsimile: (916) 448-1709
Email: cortezan@gtlaw.com

Attorneys for Defendant
DIET DIRECT, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

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

Plaintiff,

v.

DIET DIRECT, INC., a North Carolina
corporation, and DOES 1-25,

Defendants.

CASE NO. RG15790424

**STIPULATED CONSENT
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: October 21, 2015

Trial Date: None set

1. INTRODUCTION

1.1 On October 21, 2015, Plaintiff Environmental Research Center, Inc. (“ERC”), a non-profit corporation, as a private enforcer, and in the public interest, initiated this action by filing a Complaint for Permanent Injunction, Civil Penalties, and Other Relief (the

1 “Complaint”) pursuant to the provisions of California Health and Safety Code section 25249.5
2 *et seq.* (“Proposition 65”), against Diet Direct, Inc. (“Diet Direct”) and Does 1-25. In this
3 action, ERC alleges that a number of products manufactured, distributed or sold by Diet Direct
4 contain lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and
5 expose consumers to this chemical at a level requiring a Proposition 65 warning. These
6 products (referred to hereinafter individually as a “Covered Product” or collectively as
7 “Covered Products”) are:

- 8 • Wonderslim Nutrition Bar Mint Cocoa
- 9 • Wonderslim Nutrition Bar Dark Chocolate Marshmallow
- 10 • Wonderslim Pudding/Shake Mocha Cream
- 11 • Wonderslim Pudding/Shake Cocomint Cream
- 12 • Wonderslim Pudding/Shake Chocolate Cream
- 13 • Wonderslim Pudding/Shake Dark Cocoa Cream
- 14 • Wonderslim Pudding/Shake Vanilla Cream
- 15 • Wonderslim Pudding/Shake Hazelnut Cocoa Cream
- 16 • Wonderslim Pudding/Shake Strawberry Cream
- 17 • Wonderslim Hot Drink Creamy Cappuccino
- 18 • WonderSlim Mommy Slim Strawberry Shake
- 19 • WonderSlim Mommy Slim Chocolate Shake
- 20 • WonderSlim Mommy Slim Mocha Shake
- 21 • WonderSlim Mommy Slim Vanilla Shake
- 22 • WonderSlim Gourmet Shake Chocolate
- 23 • Diet Direct BariWise Hot Chocolate Amaretto
- 24 • WonderSlim Soup Chicken flavored & Vegetable Cream
- 25 • Diet Direct BariWise Soup Tomato

26 **1.2** ERC represents and warrants that as of the Effective Date, it has not purchased
27 or tested any products manufactured, distributed, or sold by Diet Direct other than Covered
28

1 Products that it contends are in violation of Proposition 65. ERC and Diet Direct are hereinafter
2 referred to individually as a “Party” or collectively as the “Parties.”

3 **1.3** ERC is a California non-profit corporation dedicated to, among other causes,
4 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
5 and toxic chemicals, facilitating a safe environment for consumers and employees, and
6 encouraging corporate responsibility.

7 **1.4** For purposes of this Consent Judgment, the Parties agree that Diet Direct is a
8 business entity that has employed ten or more persons at all times relevant to this action, and
9 qualifies as a “person in the course of business” within the meaning of Proposition 65. Diet Direct
10 manufactures, distributes or sells the Covered Products.

11 **1.5** The Complaint is based on allegations contained in ERC’s Notice of Violation
12 dated June 5, 2015, that was served on the California Attorney General, other public enforcers,
13 and Diet Direct (“Notice”). A true and correct copy of the Notice is attached as Exhibit A and
14 is hereby incorporated by reference. More than 60 days have passed since the Notice was
15 mailed and uploaded to the Attorney General’s website, and no designated governmental entity
16 has filed a complaint against Diet Direct with regard to the Covered Products or the alleged
17 violations.

18 **1.6** ERC’s Notice and Complaint allege that use of the Covered Products exposes
19 persons in California to lead without first providing clear and reasonable warnings in violation
20 of California Health and Safety Code section 25249.6. Diet Direct denies all material
21 allegations contained in the Notice and Complaint.

22 **1.7** The Parties have entered into this Consent Judgment in order to settle,
23 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.
24 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of
25 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,
26 parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
27 distributors, wholesalers, or retailers. Except for the representations made above, nothing in
28 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of

1 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an
2 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any
3 purpose.

4 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
5 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
6 other or future legal proceeding unrelated to these proceedings.

7 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered as
8 a Judgment by this Court.

9 **2. JURISDICTION AND VENUE**

10 For purposes of this Consent Judgment and any further court action that may become
11 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
12 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction
13 over Diet Direct as to the acts alleged in the Complaint, that venue is proper in Alameda County,
14 and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of
15 all claims up through and including six months from the Effective Date (“Compliance Date”)
16 which were or could have been asserted in this action based on the facts alleged in the Notice and
17 Complaint.

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

19 **3.1** Beginning on the Compliance Date, Diet Direct shall be permanently enjoined
20 from manufacturing for sale in the State of California, “Distributing into the State of
21 California”, or directly selling in the State of California, any Covered Product which exposes a
22 person to a “Daily Lead Exposure Level” of more than 0.5 micrograms per day of lead when
23 the maximum suggested dose is taken as directed on the Covered Product’s label, unless it
24 meets the warning requirements under Section 3.2.

25 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State
26 of California” shall mean to directly ship a Covered Product into California for sale in
27 California or to sell a Covered Product to a distributor that Diet Direct knows will sell the
28 Covered Product in California.

3.1.2 For purposes of this Consent Judgment, the “Daily Lead Exposure Level” shall be measured in micrograms, and shall be calculated using the following formula: micrograms of lead per gram of product, multiplied by grams of product per serving of the product (using the largest serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of servings in a recommended dosage appearing on the product label), which equals micrograms of lead exposure per day, excluding amounts of allowances of lead in the ingredients listed in the table below:

INGREDIENT	ALLOWANCES OF AMOUNT OF LEAD
Calcium (Elemental)	0.8 micrograms/1000 milligrams
Ferrous Fumarate	0.4 micrograms/gram
Zinc Oxide	8.0 micrograms/gram
Magnesium Oxide	0.4 micrograms/gram
Magnesium Carbonate	0.332 micrograms/gram
Magnesium Hydroxide	0.4 micrograms/gram
Zinc Gluconate	0.8 micrograms/gram
Potassium Chloride	1.1 micrograms/gram
Cocoa-powder	1.0 micrograms/gram

Clear and Reasonable Warnings

If Diet Direct is required to provide a warning pursuant to Section 3.1, the following warning must be utilized:

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

Diet Direct shall use the phrase “cancer and” in the warning only if the maximum daily dose recommended on the label contains more than 15 micrograms of lead as determined pursuant to the quality control methodology set forth in Section 3.4. Diet Direct has the option to include the phrase “lead” in the warning.

1 The warning shall be securely affixed to or printed upon the container or label of each
2 Covered Product, or it shall be provided digitally for online sales. For online warnings, the
3 warning must be displayed to the consumer prior to purchase when a California address is
4 indicated for any purchase of any Covered Product.

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

9 Diet Direct must display the above warnings with such conspicuousness, as compared with
10 other words, statements, or design of the label or container, as applicable, to render the warning
11 likely to be read and understood by an ordinary individual under customary conditions of purchase
12 or use of the product.

13 **3.3 Reformulated Covered Products**

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

18 **3.4 Testing and Quality Control Methodology**

19 **3.4.1** Beginning within one year of the Effective Date, Diet Direct shall
20 arrange for lead testing of the Covered Products at least once a year for a minimum of three
21 consecutive years by arranging for testing of three randomly selected samples of each of the
22 Covered Products, in the form intended for sale to the end-user, which Diet Direct intends to
23 sell or is manufacturing for sale in California, directly selling to a consumer in California or
24 "Distributing into California." The testing requirement does not apply to any of the Covered
25 Products for which Diet Direct has provided the warning specified in Section 3.2. If tests
26 conducted pursuant to this Section demonstrate that no warning is required for a Covered
27 Product during each of three consecutive years, then the testing requirements of this Section
28 will no longer be required as to that Covered Product.

1 **3.4.2** For purposes of measuring the “Daily Lead Exposure Level”, the highest
2 lead detection result of the three (3) randomly selected samples of the Covered Products will be
3 controlling.

4 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
5 laboratory method that complies with the performance and quality control factors appropriate
6 for the method used, including limit of detection, qualification, accuracy, and precision that
7 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (“ICP-MS”)
8 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing
9 method subsequently agreed to in writing by the Parties.

10 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
11 independent third party laboratory certified by the California Environmental Laboratory
12 Accreditation Program or an independent third-party laboratory that is registered with the
13 United States Food & Drug Administration.

14 **3.4.5** Nothing in this Consent Judgment shall limit Diet Direct’s ability to
15 conduct, or require that others conduct, additional testing of the Covered Products, including
16 the raw materials used in their manufacture.

17 **3.4.6** Diet Direct shall retain all test results and documentation for a period of
18 three years from the date of each test.

19 **3.4.7** If at any time after the Compliance Date, ERC tests a Covered Product
20 and the test results indicate that the daily exposure level for lead is greater than 0.5 micrograms
21 per gram, Diet Direct agrees to confidentially supply to ERC within thirty (30) days a list of
22 ingredients, including the percentage of each ingredient (“Ingredient List”), of that particular
23 Covered Product so that ERC may be able to calculate the daily exposure based on the
24 allowances contained in the Section 3.1.2 table. If at any time Diet Direct refuses to provide
25 said Ingredient List to ERC following a test result for lead of greater than 0.5 micrograms per
26 gram, then Diet Direct forfeits allowances for that particular Covered Product.

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, Diet Direct shall make a total payment of \$156,250.00
4 (“Total Settlement Amount”) which shall be made in three (3) payments according to the
5 following schedule:

- 6 a. \$52,083.00 within 10 days of the Effective Date
7 b. \$52,083.00 within 40 days of the Effective Date
8 c. \$52,084.00 within 70 days of the Effective Date

9 **4.2** Diet Direct shall make this payment by wire transfer to ERC’s escrow account,
10 for which ERC will give Diet Direct the necessary account information. The Total Settlement
11 Amount shall be apportioned as follows:

12 **4.3** \$56,394.00 shall be considered a civil penalty pursuant to California Health and
13 Safety Code §25249.7(b)(1). ERC shall remit 75% (\$42,295.50 of the civil penalty to the
14 Office of Environmental Health Hazard Assessment (“OEHHA”) for deposit in the Safe
15 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
16 Code §25249.12(c). ERC will retain the remaining 25% (\$14,098.50) of the civil penalty.

17 **4.4** \$5,397.90 shall be distributed to ERC as reimbursement to ERC for reasonable
18 costs incurred in bringing this action.

19 **4.5** \$56,394.61 shall be distributed to ERC in lieu of further civil penalties, for the
20 day-to-day business activities such as (1) continued enforcement of Proposition 65, which
21 includes work, analyzing, researching and testing consumer products that may contain
22 Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are
23 the subject matter of the current action; (2) the continued monitoring of past consent judgments
24 and settlements to ensure companies are in compliance with Proposition 65; and (3) giving a
25 donation of \$2,820.00 to the Center For Environmental Health to address reducing toxic
26 chemical exposures in California.

1 **4.6** \$19,075.00 shall be distributed to Aqua Terra Aeris Law Group as
2 reimbursement of ERC's attorney's fees, while \$18,988.49 shall be distributed to ERC for its
3 in-house legal fees.

4 **5. MODIFICATION OF CONSENT JUDGMENT**

5 **5.1** This Consent Judgment may be modified only (i) by written stipulation of the
6 Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent
7 judgment.

8 **5.2** If Diet Direct seeks to modify this Consent Judgment under Section 5.1, then
9 Diet Direct must provide written notice to ERC of its intent ("Notice of Intent"). If ERC seeks
10 to meet and confer regarding the proposed modification in the Notice of Intent, then ERC must
11 provide written notice to Diet Direct within thirty days of receiving the Notice of Intent. If
12 ERC notifies Diet Direct in a timely manner of ERC's intent to meet and confer, then the
13 Parties shall meet and confer in good faith as required in this Section. The Parties shall meet in
14 person or via telephone within thirty (30) days of ERC's notification of its intent to meet and
15 confer. Within thirty days of such meeting, if ERC disputes the proposed modification, ERC
16 shall provide to Diet Direct a written basis for its position. The Parties shall continue to meet
17 and confer for an additional thirty (30) days in an effort to resolve any remaining disputes.
18 Should it become necessary, the Parties may agree in writing to different deadlines for the
19 meet-and-confer period.

20 **5.3** In the event that Diet Direct initiates or otherwise requests a modification under
21 Section 5.1, and the meet and confer process leads to a joint motion or application of the
22 Consent Judgment, Diet Direct shall reimburse ERC its costs and reasonable attorney's fees for
23 the time spent in the meet-and-confer process and filing and arguing the motion or application.

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.

1 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
2 **JUDGMENT**

3 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate
4 this Consent Judgment.

5 **6.2** If ERC alleges that any Covered Product fails to qualify as a Reformulated
6 Covered Product (for which ERC alleges that no warning has been provided), then ERC shall
7 inform Diet Direct in a reasonably prompt manner of its test results, including information
8 sufficient to permit Diet Direct to identify the Covered Products at issue. Diet Direct shall,
9 within thirty days following such notice, provide ERC with testing information, from an
10 independent third-party laboratory meeting the requirements of Sections 3.4.1 and 3.4.2,
11 demonstrating Diet Direct's compliance with the Consent Judgment, if warranted. ERC shall
12 treat all material exchanged between the Parties pursuant to this section as confidential. The
13 Parties shall first attempt to resolve the matter prior to ERC taking any further legal action.

14 **7. APPLICATION OF CONSENT JUDGMENT**

15 This Consent Judgment shall bind and benefit the Parties and their respective officers,
16 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates,
17 franchisees, licensees, customers (excluding private labelers), distributors, wholesalers, retailers,
18 predecessors, successors, and assigns. This Consent Judgment shall have no application to
19 Covered Products which are distributed or sold exclusively outside the State of California and
20 which are not used by California consumers.

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

22 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
23 behalf of itself and in the public interest, and Diet Direct and its respective officers, directors,
24 shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates, suppliers,
25 franchisees, licensees, customers (not including private label customers of Diet Direct),
26 distributors, wholesalers, retailers, and all other upstream and downstream entities in the
27 distribution chain of any Covered Product, and the predecessors, successors and assigns of any
28 of them (collectively, "Released Parties"), from any and all claims, actions, causes of action,

1 suits, demands, liabilities, damages, penalties, fees, costs and expenses asserted, or that could
2 have been asserted from the handling, use, or consumption of the Covered Products, as to any
3 alleged violation of Proposition 65 or its implementing regulations arising from the failure to
4 provide Proposition 65 warnings on the Covered Products regarding lead up to and including
5 the Compliance Date.

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

12 **8.3** It is possible that other claims not known to the Parties arising out of the facts
13 alleged in the Notice or the Complaint will develop or be discovered. ERC on behalf of itself
14 only, on one hand, and Diet Direct, on the other hand, acknowledge that this Consent Judgment
15 is expressly intended to cover and include all such claims up through the Compliance Date,
16 including all rights of action therefore. ERC and Diet Direct acknowledge that the claims
17 released herein may include unknown claims, and nevertheless waive California Civil Code
18 section 1542 as to any 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 Diet Direct, on the other hand, acknowledge
25 and understand the significance and consequences of this specific waiver of California Civil
26 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 Diet Direct's
3 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 MATTHEW C. MACLEAR
22 ANTHONY M. BARNES
23 AQUA TERRA AERIS LAW GROUP
24 7425 Fairmount Ave.
25 El Cerrito, CA 94530
26 Ph: 415-568-5200
27 Email: mcm@atalawgroup.com

28 **DIET DIRECT, INC.**

John Thomas, CEO
Diet Direct, Inc.
3200 Corporate Dr
Wilmington, NC 28405
Email: john.thomas@dietdirect.com

1 With a copy to:

2 Anthony J. Cortez
3 GREENBERG TRAURIG, LLP
4 1201 K Street, Suite 1100
5 Sacramento, CA 95814
6 Telephone: (916) 442-1111
7 Email: cortezan@gtlaw.com

8 **12. COURT APPROVAL**

9 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
10 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
11 Consent Judgment.

12 **12.2** If the California Attorney General objects to any term in this Consent Judgment,
13 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
14 prior to the hearing on the motion.

15 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
16 void and have no force or effect.

17 **13. EXECUTION AND COUNTERPARTS**

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

21 **14. DRAFTING**

22 The terms of this Consent Judgment have been reviewed by the respective counsel for each
23 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and
24 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
25 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
26 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
27 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
28 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
24 Parties request the Court to fully review this Consent Judgment and, being fully informed
25 regarding the matters which are the subject of this action, to:

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

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

IT IS SO STIPULATED:

Dated: _____, 2016

ENVIRONMENTAL RESEARCH
CENTER, INC.

By: _____
Chris Heptinstall, Executive Director

Dated: _____, 2016


DIET DIRECT, INC.

By: _____
Its: _____

APPROVED AS TO FORM:

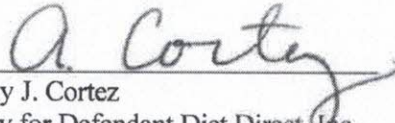
Dated: 8/23, 2016

AQUA TERRA AERIS LAW GROUP

By: 
Matthew C. Maclear
Anthony M. Barnes
Attorneys for Plaintiff Environmental
Research Center, Inc.

Dated: 8/23, 2016

GREENBERG TRAURIG, LLP

By: 
Anthony J. Cortez
Attorney for Defendant Diet Direct, Inc.

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

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

IT IS SO STIPULATED:

Dated: _____, 2016

ENVIRONMENTAL RESEARCH
CENTER, INC.

By: _____
Chris Heptinstall, Executive Director

Dated: August 23, 2016

DIET DIRECT, INC.

By: 
Its: President

APPROVED AS TO FORM:

Dated: _____, 2016

AQUA TERRA AERIS LAW GROUP

By: _____
Matthew C. Maclear
Anthony M. Barnes
Attorneys for Plaintiff Environmental
Research Center, Inc.

Dated: _____, 2016

GREENBERG TRAURIG, LLP

By: _____
Anthony J. Cortez
Attorney for Defendant Diet Direct, Inc.

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

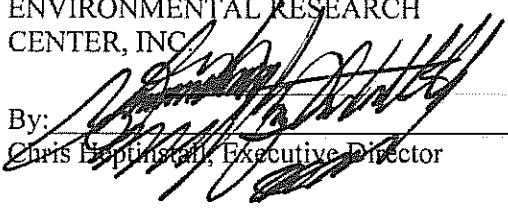
Judge of the Superior Court

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

IT IS SO STIPULATED:

Dated: 8/26/, 2016

ENVIRONMENTAL RESEARCH
CENTER, INC.

By: 
Chris Hopting, Executive Director

Dated: _____, 2016

DIET DIRECT, INC.

By: _____
Its: _____

APPROVED AS TO FORM:

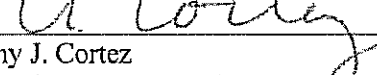
Dated: _____, 2016

AQUA TERRA AERIS LAW GROUP

By: _____
Matthew C. Maclear
Anthony M. Barnes
Attorneys for Plaintiff Environmental
Research Center, Inc.

Dated: 8/23, 2016

GREENBERG TRAURIG, LLP

By: 
Anthony J. Cortez
Attorney for Defendant Diet Direct, Inc.

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