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17 S.A.N. NUTRITION CORP., SUPREME FORMULATIONS LLC

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

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

Plaintiff,

v.

S.A.N. NUTRITION CORP., a Nevada  
corporation; SUPREME FORMULATIONS  
LLC, a California limited liability company;  
and DOES 1 – 25,

Defendants.

**CASE NO. RG18932118**

ASSIGNED FOR ALL PURPOSES TO  
HONORABLE JUDGE STEPHEN  
PULIDO, DEPT. 517

**STIPULATED CONSENT  
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: December 13, 2018

Trial Date: None set

**1. INTRODUCTION**

**1.1** On December 18, 2018, 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 S.A.N. NUTRITION CORP. and SUPREME  
3 FORMULATIONS LLC (collectively “SAN NUTRITION”) and DOES 1-25. In this action,  
4 ERC alleges that a number of products manufactured, distributed, or sold by SAN  
5 NUTRITION contain lead and/or cadmium, chemicals listed under Proposition 65 as  
6 carcinogens and reproductive toxins, and expose consumers to these chemicals at a level  
7 requiring a Proposition 65 warning. These products (referred to hereinafter individually as a  
8 “Covered Product” or collectively as “Covered Products”) are: (1) Rawfusion Complete 100%  
9 Plant-Based Whole Food Proteins Vanilla (lead), (2) SAN Titanium Standard Mass Effect  
10 Revolution Ultra-Pure Muscle Mass Gainer Milk Chocolate Delight (lead, cadmium), (3) SAN  
11 Titanium Standard Mass Effect Revolution Ultra-Pure Muscle Mass Gainer Strawberry Cream  
12 (lead, cadmium), (4) Rawfusion Complete 100% Plant-Based Whole Food Proteins Chocolate  
13 (lead), (5) SAN Titanium Standard Mass Effect Revolution Ultra-Pure Muscle Mass Gainer  
14 Vanilla Bean (lead, cadmium), (6) SAN Titanium Standard Meta Force 5.0 6-Stage Fast &  
15 Controlled Multi-Dispersed Protein Matrix Chocolate Rocky Road (lead), (7) SAN Titanium  
16 Standard Meta Force 5.0 6-Stage Fast & Controlled Multi-Dispersed Protein Matrix Vanilla  
17 Almond (lead), (8) SAN Titanium Standard 100% Pure Titanium Beef Supreme Chocolate  
18 Fudge (lead), (9) SAN Titanium Standard Meta Force 5.0 Strawberry Cheesecake (lead), (10)  
19 SAN Titanium Standard 100% Pure Titanium Whey Banana Coconut (lead), (11) Rawfusion  
20 Whole Foods Protein Bar Fueled With Superfoods Almond Berry (lead), (12) Rawfusion Raw  
21 Plant-Based Protein Fusion Vanilla Bean (lead), (13) Rawfusion Raw Plant-Based Protein  
22 Fusion Natural Chocolate (lead), (14) Rawfusion Raw Plant-Based Protein Fusion Banana Nut  
23 (lead), (15) Rawfusion Raw Plant-Based Protein Fusion Peanut Chocolate Fudge (lead), (16)  
24 Rawfusion Raw Plant Based Protein Fusion Chocolate Strawberry (lead), (17) SAN Green  
25 Supreme Fusion Nutrient-Dense Superfoods (lead), (18) SAN Titanium Standard 100% Pure  
26 Titanium Beef Supreme Vanilla Cream (lead), (19) SAN Titanium Standard Alpha Impact  
27 (lead), (20) SAN Titanium Standard Amino Acid 5000 (lead), (21) SAN Dr. Feel Good! (lead),  
28 (22) SAN Titanium Standard BCAA Boosted Furious Fruit Punch (lead), (23) SAN Titanium

1 Standard MegaTron Muscle Pump Volumizer Green Apple (lead), (24) SAN Titanium  
2 Standard Myo Test Safe & Effective (lead), (25) SAN Titanium Standard Fierce Domination  
3 Furious Fruit Punch (lead), (26) SAN Titanium Standard Fierce Domination Ragin' Raspberry  
4 Lemonade (lead), (27) SAN SAN Exclusive Pro Series Launch 4350 Reloaded Orange Tang  
5 (lead), (28) SAN Titanium Standard CM2 Supreme (lead), (29) SAN Titanium Standard Fierce  
6 with T-Drive Tropical Mango (lead), (30) SAN Titanium Standard Fierce with T-Drive Atomic  
7 Green Apple (lead), (31) SAN Titanium Standard MegaTron Muscle Pump Volumizer  
8 Watermelonade (lead), (32) SAN Glucosamine Chondroitin With MSM Pure & High Grade  
9 (lead), (33) SAN Titanium Standard Titanium Isolate Supreme 2.0 Strawberry Yogurt (lead),  
10 and (34) SAN Titanium Standard Titanium Isolate Supreme 2.0 Delicious Milk Chocolate  
11 (lead).

12       **1.2**     ERC and SAN NUTRITION are hereinafter referred to individually as a “Party”  
13 or collectively as the “Parties.”

14       **1.3**     ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other  
15 causes, helping safeguard the public from health hazards by reducing the use and misuse of  
16 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,  
17 and encouraging corporate responsibility.

18       **1.4**     For purposes of this Consent Judgment, the Parties agree that each defendant is a  
19 business entity each of which has employed ten or more persons at all times relevant to this action,  
20 and qualifies as a “person in the course of doing business” within the meaning of Proposition 65.  
21 SAN NUTRITION manufactures, distributes, and/or sells the Covered Products. During any  
22 period of time that SAN NUTRITION employs fewer than ten employees, it is exempt from  
23 Proposition 65’s warning requirements and prohibition on discharges into drinking water sources.

24       **1.5**     The Complaint is based on allegations contained in ERC’s Notices of Violation  
25 dated September 12, 2018 and October 3, 2018 that were served on the California Attorney  
26 General, other public enforcers, and SAN NUTRITION (“Notices”). True and correct copies of  
27 the 60-Day Notices dated September 12, 2018 and October 3, 2018 are attached hereto as  
28 **Exhibits A and B** and incorporated herein by reference. More than 60 days have passed since

1 the Notices were served on the Attorney General, public enforcers, and SAN NUTRITION and  
2 no designated governmental entity has filed a Complaint against SAN NUTRITION with regard  
3 to the Covered Products or the alleged violations.

4 **1.6** ERC's Notices and Complaint allege that use of the Covered Products exposes  
5 persons in California to lead and/or cadmium without first providing clear and reasonable  
6 warnings in violation of California Health and Safety Code section 25249.6. SAN  
7 NUTRITION denies all material allegations contained in the Notices and Complaint.

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

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

18 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered as  
19 a Judgment by this Court.

## 20 **2. JURISDICTION AND VENUE**

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

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

2             **3.1** Beginning on the Effective Date, SAN NUTRITION 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 Products which expose a  
5 person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day and/or  
6 “Daily Cadmium Exposure Level” of more than 4.1 micrograms of cadmium per day 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 SAN NUTRITION knows or has  
11 reason to know will 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 recommended daily servings appearing on  
17 the label), which equals micrograms of lead exposure per day, excluding, pursuant to Section  
18 3.1.4, the amount of lead in the ingredients listed in **Table 1** below, if applicable. If the label  
19 contains no recommended daily servings, then the number of recommended daily servings shall  
20 be one.

21                     **3.1.3** For purposes of this Consent Judgment, the “Daily Cadmium Exposure  
22 Level” shall be measured in micrograms, and shall be calculated using the following formula:  
23 micrograms of cadmium per gram of product, multiplied by grams of product per serving of the  
24 product (using the largest serving size appearing on the product label), multiplied by servings  
25 of the product per day (using the largest number of recommended daily servings appearing on  
26 the label), which equals micrograms of cadmium exposure per day. If the label contains no  
27 recommended daily servings, then the number of recommended daily servings shall be one.

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1	Magnesium Oxide	Up to 0.4 micrograms/gram
2	Magnesium Carbonate	Up to 0.332 micrograms/gram
3	Magnesium Hydroxide	Up to 0.4 micrograms/gram
4	Zinc Gluconate	Up to 0.8 micrograms/gram
5	Potassium Chloride	Up to 1.1 micrograms/gram
6	Cocoa-powder	Up to 1.0 micrograms/gram
7	Chocolate Liquor	Up to 1.0 micrograms/gram
8	Cocoa Butter	Up to 0.1 micrograms/gram

9

10                   **3.1.5** As of October 1, 2019, SAN NUTRITION has discontinued the

11 production of the following products: (1) Rawfusion Complete 100% Plant-Based Whole Food

12 Proteins Vanilla (lead); (2) Rawfusion Complete 100% Plant-Based Whole Food Proteins

13 Chocolate (lead); (3) SAN Titanium Standard 100% Pure Titanium Beef Supreme Chocolate

14 Fudge (lead); (4) Rawfusion Whole Foods Protein Bar Fueled With Superfoods Almond Berry

15 (lead); (5) SAN Titanium Standard 100% Pure Titanium Beef Supreme Vanilla Cream (lead); (6)

16 SAN Titanium Standard Alpha Impact (lead); (7) SAN Titanium Standard MegaTron Muscle

17 Pump Volumizer Green Apple (lead); (8) SAN Titanium Standard MegaTron Muscle Pump

18 Volumizer Watermelonade (lead).

19                   **3.1.6** SAN NUTRITION will phase out the following products from its line of

20 products within four to six months after October 1, 2019: (1) SAN Titanium Standard Meta

21 Force 5.0 Strawberry Cheesecake (lead); (2) SAN Titanium Standard 100% Pure Titanium Whey

22 Banana Coconut (lead); (3) SAN Titanium Standard Fierce Domination Furious Fruit Punch

23 (lead); (4) SAN Titanium Standard Fierce Domination Ragin' Raspberry Lemonade (lead); (5)

24 SAN SAN Exclusive Pro Series Launch 4350 Reloaded Orange Tang (lead); (6) SAN Titanium

25 Standard Fierce with T-Drive Tropical Mango (lead); and (7) SAN Titanium Standard Fierce

26 with T-Drive Atomic Green Apple (lead).

27                   **3.2 Clear and Reasonable Warnings**

28                   If SAN NUTRITION is required to provide a warning pursuant to Section 3.1, the

1 following warning must be utilized (“Warning”):

2 **⚠️ WARNING:** Consuming this product can expose you to chemicals including [lead]  
3 [and] [cadmium] which is [are] known to the State of California to cause [cancer and] birth  
4 defects or other reproductive harm. For more information go to  
5 [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

6 SAN NUTRITION shall use the phrase “cancer and” in the Warning if SAN NUTRITION  
7 has reason to believe that the the “Daily Lead Exposure Level” is greater than 15 micrograms of  
8 lead as determined pursuant to the quality control methodology set forth in Section 3.4 or if SAN  
9 NUTRITION has reason to believe that another Proposition 65 chemical is present which may  
10 require a cancer warning. As identified in the brackets, the warning shall appropriately reflect  
11 whether there is lead, cadmium, or both chemicals present in each of the Covered Products.

12 The Warning shall be securely affixed to or printed upon the container or label of each  
13 Covered Product. If the Warning is provided on the label, it must be set off from other  
14 surrounding information and enclosed in a box. In addition, for any Covered Product sold over  
15 the internet, the Warning shall appear on the checkout page when a California delivery address is  
16 indicated for any purchase of any Covered Product. An asterisk or other identifying method  
17 must be utilized to identify which products on the checkout page are subject to the Warning. In  
18 no event shall any internet or website Warning be contained in or made through a link.

19 The Warning shall be at least the same size as the largest of any other health or safety  
20 warnings also appearing on its website or on the label or container of SAN NUTRITION’s product  
21 packaging and the word “**WARNING**” shall be in all capital letters and in bold print. No  
22 statements intended to or likely to have the effect of diminishing the impact of the Warning on the  
23 average lay person shall accompany the Warning. Further no statements may accompany the  
24 Warning that state or imply that the source of the listed chemical has an impact on or results in a  
25 less harmful effect of the listed chemical.

26 SAN NUTRITION must display the above Warning with such conspicuousness, as  
27 compared with other words, statements or designs on the label or container, or on its website, if  
28 applicable, to render the Warning likely to be read and understood by an ordinary individual under  
29 customary conditions of purchase or use of the product.



1           **3.3     Conforming Covered Products**

2           A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure  
3 Level” is no greater than 0.5 micrograms of lead per day and/or “Daily Cadmium Exposure Level”  
4 is no more than 4.1 micrograms of cadmium per day as determined by the quality control  
5 methodology described in Section 3.4.

6           **3.4     Testing and Quality Control Methodology**

7           **3.4.1** Beginning within one year of the Effective Date, SAN NUTRITION  
8 shall arrange for lead and cadmium testing of the Covered Products at least once a year for a  
9 minimum of three consecutive years by arranging for testing of three randomly selected  
10 samples of each of the Covered Products, in the form intended for sale to the end-user, which  
11 SAN NUTRITION intends to sell or is manufacturing for sale in California, directly selling to a  
12 consumer in California or “Distributing into the State of California.” If tests conducted  
13 pursuant to this Section demonstrate that no Warning is required for a Covered Product during  
14 each of three consecutive years, then the testing requirements of this Section will no longer be  
15 required as to that Covered Product. However, if during or after the three-year testing period,  
16 SAN NUTRITION changes ingredient suppliers for any of the Covered Products and/or  
17 reformulates any of the Covered Products, SAN NUTRITION shall test that Covered Product  
18 annually for at least two (2) consecutive years after such change is made.

19           **3.4.2** For purposes of measuring the “Daily Lead Exposure Level” and/or  
20 “Daily Cadmium Exposure Level,” the highest lead and/or cadmium detection result of the  
21 three (3) randomly selected samples of the Covered Products will be controlling.

22           **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a  
23 laboratory method that complies with the performance and quality control factors appropriate  
24 for the method used, including limit of detection, qualification, accuracy, and precision that  
25 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry (“ICP-MS”)  
26 achieving a limit of quantification of less than or equal to 0.010 mg/kg.

27           **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an  
28 independent third party laboratory certified by the California Environmental Laboratory

1 Accreditation Program or an independent third-party laboratory that is registered with the  
2 United States Food & Drug Administration.

3 **3.4.5** Nothing in this Consent Judgment shall limit SAN NUTRITION's  
4 ability to conduct, or require that others conduct, additional testing of the Covered Products,  
5 including the raw materials used in their manufacture.

6 **3.4.6** Within thirty (30) days of ERC's written request, SAN NUTRITION  
7 shall deliver lab reports obtained pursuant to Section 3.4 to ERC. SAN NUTRITION shall  
8 retain all test results and documentation for a period of three years from the date of each test.  
9 ERC shall not request such lab reports more than once annually, absent good cause to do so.

#### 10 **4. SETTLEMENT PAYMENT**

11 **4.1** In full satisfaction of all potential civil penalties, additional settlement payments,  
12 attorney's fees, and costs, SAN NUTRITION shall make a total payment of \$61,250.00 ("Total  
13 Settlement Amount") to ERC in three periodic payments (the "Periodic Payments") according  
14 to the following payment schedule ("Due Dates"):

- 15 • Payment 1--\$20,500 due within 5 days of the Effective Date;
- 16 • Payment 2--\$20,500 due within 35 days of the Effective Date;
- 17 • Payment 3--\$20,250 due within 65 days of the Effective Date.

18 **4.2** SAN NUTRITION shall make the Periodic Payments by wire transfer to ERC's  
19 account, for which ERC will give SAN NUTRITION the necessary account information. The  
20 Total Settlement Amount shall be apportioned as follows:

21 **4.3** \$10,000.00 shall be considered a civil penalty pursuant to California Health and  
22 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$7,500.00) of the civil penalty to the  
23 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
24 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
25 Code section 25249.12(c). ERC will retain the remaining 25% (\$2,500.00) of the civil penalty.

26 **4.4** \$9,491.50 shall be distributed to ERC as reimbursement to ERC for reasonable  
27 costs incurred in bringing this action.

28 **4.5** \$26,844.75 shall be distributed to Aqua Terra Aeris Law Group as

1 reimbursement of ERC's attorney's fees, while \$14,913.75 shall be distributed to ERC for its  
2 in-house legal fees. Except as explicitly provided herein, each Party shall bear its own fees and  
3 costs.

4       **4.6**     In the event that SAN NUTRITION fails to remit the Periodic Payments owed  
5 under Section 4 of this Consent Judgment on or before the Due Date, SAN NUTRITION shall  
6 be deemed to be in material breach of its obligations under this Consent Judgment. ERC shall  
7 provide written notice of the delinquency to SAN NUTRITION via electronic mail. If SAN  
8 NUTRITION fails to deliver the delinquent payment within five (5) days from the written  
9 notice, the Total Settlement Amount, less any amounts previously paid pursuant to Section 4.1,  
10 shall be immediately due and owing and shall accrue interest at the statutory judgment interest  
11 rate provided in the California Code of Civil Procedure section 685.010. Additionally, SAN  
12 NUTRITION agrees to pay ERC's reasonable attorney's fees and costs for any efforts to collect  
13 the payment(s) due under this Consent Judgment.

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

15       **5.1**     This Consent Judgment may be modified only as to injunctive terms (i) by  
16 written stipulation of the Parties and upon entry by the Court of a modified consent judgment or  
17 (ii) by motion of either Party pursuant to Section 5.3 or 5.4 and upon entry by the Court of a  
18 modified consent judgment.

19       **5.2**     If any Party seeks to modify this Consent Judgment under Section 5.1, then that  
20 Party must provide written notice to the other Party of its intent ("Notice of Intent"). The  
21 Parties shall meet and confer in good faith regarding the proposed modification within (60)  
22 days of the receiving Party's receipt of the Notice of Intent. Within thirty (30) days of the meet  
23 and confer conference, if the Parties are not able to fully resolve the issues regarding the  
24 proposed modification, the Party disputing the modification shall provide the other party with a  
25 written basis for its position. The Parties shall continue to meet and confer for an additional  
26 thirty (30) days in an effort to resolve any remaining disputes. Should it become necessary, the  
27 Parties may agree in writing to different deadlines for the meet and confer period.

28       **5.3**     In the event that SAN NUTRITION initiates or otherwise requests a

1 modification under Section 5.1, and the meet and confer process leads to a joint motion or  
2 application for a modification of the Consent Judgment, SAN NUTRITION shall reimburse  
3 ERC its costs and reasonable attorney's fees for the time spent in the meet-and-confer process  
4 and filing and arguing the motion or application. ERC shall not be reimbursed for costs or  
5 attorney's fees for an uncontested motion, or for a minimisterial motion (such as a change in  
6 name or contact information) or if ERC does not expend more than two (2) hours of attorney  
7 time on the joint motion.

8 **5.4** Where the meet-and-confer process does not lead to a joint motion or  
9 application in support of a modification of the Consent Judgment, then either Party may seek  
10 judicial relief on its own.

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

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

15 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming  
16 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall  
17 inform SAN NUTRITION in a reasonably prompt manner of its test results, including  
18 information sufficient to permit SAN NUTRITION to identify the Covered Products at issue,  
19 and of ERC's calculation of the Daily Lead Exposure Level. SAN NUTRITION shall, within  
20 thirty (30) days following such notice, provide ERC with testing information, from an  
21 independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4,  
22 demonstrating SAN NUTRITION's compliance with the Consent Judgment. The Parties shall  
23 first attempt to resolve the matter prior to ERC taking any further legal action.

24 **7. APPLICATION OF CONSENT JUDGMENT**

25 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
26 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
27 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,  
28 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no

1 application to any Covered Product which is distributed or sold exclusively outside the State of  
2 California and which is not used by California consumers.

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

4 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on  
5 behalf of itself and in the public interest, and SAN NUTRITION and its respective officers,  
6 directors, shareholders, employees, agents, parent companies, subsidiaries, affiliated entities  
7 within the same corporate family or under common ownership, divisions, suppliers,  
8 franchisees, licensees, customers (not including private label customers of SAN NUTRITION),  
9 distributors, wholesalers, retailers, and all other upstream and downstream entities in the  
10 distribution chain of any Covered Product, and the predecessors, successors, and assigns of any  
11 of them (collectively, "Released Parties"). ERC, on behalf of itself and in the public interest,  
12 hereby fully releases and discharges the Released Parties from any and all claims, actions,  
13 causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses  
14 asserted, or that could have been asserted from the handling, use, or consumption of the  
15 Covered Products, as to any alleged violation of Proposition 65 or its implementing regulations  
16 arising from the failure to provide Proposition 65 warnings on the Covered Products regarding  
17 lead and/or cadmium up to and including the Effective Date.

18 **8.2** ERC on its own behalf only, and SAN NUTRITION on its own behalf only,  
19 further waive and release any and all claims they may have against each other for all actions or  
20 statements made or undertaken in the course of seeking or opposing enforcement of Proposition  
21 65 in connection with the Notices and Complaint up through and including the Effective Date,  
22 provided, however, that nothing in Section 8 shall affect or limit any Party's right to seek to  
23 enforce the terms of this Consent Judgment.

24 **8.3** It is possible that other claims not known to the Parties, arising out of the facts  
25 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be  
26 discovered. ERC on behalf of itself only, and SAN NUTRITION on behalf of itself only,  
27 acknowledge that this Consent Judgment is expressly intended to cover and include all such  
28 claims up through and including the Effective Date, including all rights of action therefore.

1 ERC and SAN NUTRITION acknowledge that the claims released in Sections 8.1 and 8.2  
2 above may include unknown claims, and nevertheless waive California Civil Code section  
3 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

4 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
5 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
6 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE  
7 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE  
8 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE  
9 DEBTOR OR RELEASED PARTY.

8 ERC on behalf of itself only, and SAN NUTRITION on behalf of itself only, acknowledge and  
9 understand the significance and consequences of this specific waiver of California Civil Code  
10 section 1542.

11 **8.4** Compliance with the terms of this Consent Judgment shall be deemed to  
12 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead  
13 and/or cadmium in the Covered Products as set forth in the Notices and Complaint.

14 **8.5** Nothing in this Consent Judgment is intended to apply to any occupational or  
15 environmental exposures arising under Proposition 65, nor shall it apply to any of SAN  
16 NUTRITION's products other than the Covered Products.

17 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

20 **10. GOVERNING LAW**

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

23 **11. PROVISION OF NOTICE**

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

27 ///

28 ///

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

2 Chris Heptinstall, Executive Director, Environmental Research Center, Inc.  
3 3111 Camino Del Rio North, Suite 400  
4 San Diego, CA 92108  
5 Ph: (619) 500-3090  
6 Email: chris.heptinstall@erc501c3.org

7 With a copy to:

8 Matthew C. Maclear  
9 Anthony M. Barnes  
10 Aqua Terra Aeris Law Group  
11 490 43<sup>rd</sup> Street, Suite 108  
12 Oakland, CA 94609  
13 Telephone: (415) 568-5200  
14 Email: mcm@atalawgroup.com

15 **S.A.N. NUTRITION CORP., SUPREME FORMULATIONS LLC**

16 Matt Boldt, President of SAN Nutrition  
17 2400 Sturgis Rd  
18 Oxnard, California 93030  
19 Telephone: (805) 988-0640  
20 Email: matt@sann.net

21 With a copy to:

22 Edmond E. Salem  
23 The Salem Law Firm APLC  
24 2001 Wilshire Blvd., Suite 305  
25 Santa Monica, CA 90403-5683  
26 Telephone: (310) 828-7882  
27 Email: ees@thesalemlawfirm.com

28 **12. COURT APPROVAL**

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

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

12.3 If this Stipulated Consent Judgment is not approved by the Court, it shall be

1 void and have no force or effect.

2 **13. EXECUTION AND COUNTERPARTS**

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

6 **14. DRAFTING**

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

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

16 If a dispute arises with respect to either Party's compliance with the terms of this Consent  
17 Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in  
18 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be  
19 filed in the absence of such a good faith attempt to resolve the dispute beforehand.

20 **16. ENFORCEMENT**

21 ERC may, by motion or order to show cause before the Superior Court of Alameda  
22 County, enforce the terms and conditions contained in this Consent Judgment. In any action  
23 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,  
24 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.  
25 To the extent the failure to comply with the Consent Judgment constitutes a violation of  
26 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent Judgment,  
27 but may seek in another action whatever fines, costs, penalties, or remedies as are provided by  
28 law for failure to comply with Proposition 65 or other laws.



1 **17. ENTIRE AGREEMENT, AUTHORIZATION**

2 17.1 This Consent Judgment contains the sole and entire agreement and  
3 understanding of the Parties with respect to the entire subject matter herein, and any and all  
4 prior discussions, negotiations, commitments, and understandings related hereto. No  
5 representations, oral or otherwise, express or implied, other than those contained herein have  
6 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
7 herein, shall be deemed to exist or to bind any Party.

8 17.2 Each signatory to this Consent Judgment certifies that he or she is fully  
9 authorized by the Party he or she represents to stipulate to this Consent Judgment.

10 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
11 **CONSENT JUDGMENT**

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

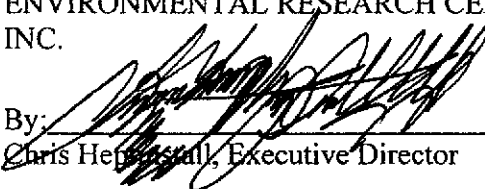
15 (1) Find that the terms and provisions of this Consent Judgment represent a fair and  
16 equitable settlement of all matters raised by the allegations of the Complaint that the matter has  
17 been diligently prosecuted, and that the public interest is served by such settlement; and

18 (2) Make the findings pursuant to California Health and Safety Code section  
19 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

20 **IT IS SO STIPULATED:**

21 Dated: 10/11, 2019

ENVIRONMENTAL RESEARCH CENTER,  
INC.

22  
23 By:   
24 Chris Heffernan, Executive Director

1 Dated: 10/01, 2019

S.A.N. NUTRITION CORP.

2  
3 By: MATT BOLOT  
4 Its: PRESIDENT

5 Dated: 10/01, 2019

SUPREME FORMULATIONS LLC

6  
7 By: MATT BOLOT  
8 Its: MANAGING MEMBER

9  
10 **APPROVED AS TO FORM:**

11 Dated: October 1, 2019

AQUA TERRA AERIS LAW GROUP

12  
13 By: [Signature]  
14 Matthew C. Maclear  
15 Anthony M. Barnes  
16 Attorneys for Plaintiff Environmental  
17 Research Center, Inc.

17 Dated: \_\_\_\_\_, 2019

THE SALEM LAW FIRM APLC

18  
19 By: \_\_\_\_\_  
20 Edmond E. Salem  
21 Attorney for Defendants S.A.N. Nutrition  
22 Corp. and Supreme Formulations LLC

22 **ORDER AND JUDGMENT**

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

25 IT IS SO ORDERED, ADJUDGED AND DECREED.

26  
27 Dated: \_\_\_\_\_, 2019

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

1 Dated: 10/01, 2019

S.A.N. NUTRITION CORP.

2  
3 By: [Signature]  
Its: MATT BOLOT  
PRESIDENT

5 Dated: 10/01, 2019

SUPREME FORMULATIONS LLC

6  
7 By: [Signature]  
Its: MATT BOLOT  
MANAGING MEMBER

10 **APPROVED AS TO FORM:**

11 Dated: October 1, 2019

AQUA TERRA AERIS LAW GROUP

12  
13 By: [Signature]  
14 Matthew C. Maclear  
15 Anthony M. Barnes  
16 Attorneys for Plaintiff Environmental  
17 Research Center, Inc.

17 Dated: 10/01, 2019

THE SALEM LAW FIRM APLC

18  
19 By: [Signature]  
20 Edmond E. Salem  
21 Attorney for Defendants S.A.N. Nutrition  
22 Corp. and Supreme Formulations LLC

22 **ORDER AND JUDGMENT**

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25 IT IS SO ORDERED, ADJUDGED AND DECREED.

27 Dated: \_\_\_\_\_, 2019

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