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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **COUNTY OF ALAMEDA**

19 **ENVIRONMENTAL RESEARCH**  
20 **CENTER, INC., a California non-profit**  
21 **corporation**

22 **Plaintiff,**

23 **vs.**

24 **AMERICAN BOTANICAL PHARMACY,**  
25 **individually and dba DR. SCHULZE'S and**  
26 **DOES 1-100**

27 **Defendants.**

28 **CASE NO. RG19020847**

**STIPULATED CONSENT**  
**JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: May 29, 2019

Trial Date: None set

1 **1. INTRODUCTION**

2 **1.1** On May 29, 2019, Plaintiff Environmental Research Center, Inc. ("ERC"), a non-  
3 profit corporation, as a private enforcer and in the public interest, initiated this action by filing a  
4 Complaint for Injunctive and Declaratory Relief and Civil Penalties (the "Complaint") pursuant to  
5 the provisions of California Health and Safety Code section 25249.5 *et seq.* ("Proposition 65"),  
6 against American Botanical Pharmacy, individually and dba Dr. Schulze's ("ABP") and Does 1-

1 100. In this action, ERC alleges that a number of products manufactured, distributed, or sold by  
2 ABP contain lead and/or cadmium, chemicals listed under Proposition 65 as carcinogens and  
3 reproductive toxins, and expose consumers to these chemicals at a level requiring a Proposition 65  
4 warning. These products (referred to hereinafter individually as a "Covered Product" or collectively  
5 as "Covered Products") are: (1) Dr. Schulze's Original Clinical Formulae SuperMeal Meal  
6 Replacement (lead, cadmium), (2) Dr. Schulze's Original Clinical Formulae Male "SHOT" (lead),  
7 (3) Dr. Schulze's SuperFood Bar Original Flavor (lead), (4) Dr. Schulze's Original Clinical  
8 Formulae Organic Super Protein Plus (lead, cadmium), (5) Dr. Schulze's Organic Cacao Crunch  
9 The Ultimate Decadent Nutritional Energy Snack Treats (lead), and (6) Dr. Schulze's Original  
10 Clinical Formulae Cold & Flu Herbal "Shot" (lead).

11 1.2 ERC and ABP are hereinafter referred to individually as a "Party" or collectively as  
12 the "Parties."

13 1.3 ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other  
14 causes, helping safeguard the public from health hazards by reducing the use and misuse of  
15 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and  
16 encouraging corporate responsibility.

17 1.4 For purposes of this Consent Judgment, the Parties agree that ABP is a business  
18 entity that has employed ten or more persons at all times relevant to this action, and qualifies as a  
19 "person in the course of doing business" within the meaning of Proposition 65. ABP manufactures,  
20 distributes, and/or sells the Covered Products.

21 1.5 The Complaint is based on allegations contained in ERC's Notice of Violation dated  
22 March 8, 2019 that was served on the California Attorney General, other public enforcers, and ABP  
23 ("Notice"). A true and correct copy of the 60-Day Notice dated March 8, 2019 is attached hereto as  
24 **Exhibit A** and incorporated herein by reference. More than 60 days have passed since the Notice  
25 was served on the Attorney General, public enforcers, and ABP and no designated governmental  
26 entity has filed a Complaint against ABP with regard to the Covered Products or the alleged  
27 violations.  
28

1           1.6     ERC's Notice and Complaint allege that use of the Covered Products exposes  
2 persons in California to lead and/or cadmium without first providing clear and reasonable warnings  
3 in violation of California Health and Safety Code section 25249.6. ABP denies all material  
4 allegations contained in the Notice and Complaint and denies that the Covered Products require  
5 warnings under Proposition 65.

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

12           1.8     Except as expressly set forth herein, nothing in this Consent Judgment shall  
13 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
14 current or future legal proceeding unrelated to these proceedings.

15           1.9     A Covered Product for which only lead is identified in the Notice is not required to  
16 comply with any injunctive terms relating to cadmium in Section 3.

17           1.10    The Effective Date of this Consent Judgment is the date on which it is entered as a  
18 Judgment by this Court.

19       **2.     JURISDICTION AND VENUE**

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

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

2             **3.1**     On and after the date that is two (2) months after the Effective Date (the  
3     “Compliance Date”), any Covered Products that ABP manufactures, or that are manufactured for or  
4     on behalf of ABP, that are thereafter sold in the State of California or “Distributed into the State of  
5     California” shall either qualify as a Conforming Covered Product under Section 3.3 or comply with  
6     the warning requirements under Section 3.2

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

11                    **3.1.2**     For purposes of this Consent Judgment, the “Daily Lead Exposure Level”  
12    shall be measured in micrograms, and shall be calculated using the following formula: micrograms  
13    of lead per gram of product, multiplied by grams of product per serving of the product (using the  
14    largest serving size appearing on the product label), multiplied by servings of the product per day  
15    (using the largest number of recommended daily servings appearing on the label), which equals  
16    micrograms of lead exposure per day, excluding, pursuant to Section 3.3.3, the amount of lead in  
17    the ingredients listed in **Table 1** below, if applicable. If the label contains no recommended daily  
18    servings, then the number of recommended daily servings shall be one.

19                    **3.1.3**     For purposes of this Consent Judgment, the “Daily Cadmium Exposure  
20    Level” shall be measured in micrograms, and shall be calculated using the following formula:  
21    micrograms of cadmium per gram of product, multiplied by grams of product per serving of the  
22    product (using the largest serving size appearing on the product label), multiplied by servings of the  
23    product per day (using the largest number of recommended daily servings appearing on the label),  
24    which equals micrograms of cadmium exposure per day. If the label contains no recommended  
25    daily servings, then the number of recommended daily servings shall be one.

26    ///  
27    ///  
28    ///

1           **3.2 Clear and Reasonable Warnings**

2                   **3.2.1 Language**

3           If ABP is required to provide a warning pursuant to Section 3.1, the following warning must  
4 be utilized (“Warning”):

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

8           ABP shall use the phrase “cancer and” in the Warning if ABP has reason to believe that the  
9 “Daily Lead Exposure Level” is greater than 15 micrograms of lead as determined pursuant to the  
10 quality control methodology set forth in Section 3.4 or if ABP has reason to believe that another  
11 Proposition 65 chemical is present which may require a cancer warning. As identified in the  
12 brackets, the Warning shall appropriately identify at least one listed chemical (either lead or  
13 cadmium) that is present in each of the Covered Products. If a Covered Product contains both lead  
14 and cadmium, the Warning may identify lead, cadmium, or both, at ABP’s discretion. Where the  
15 Warning is being provided for more than one endpoint (cancer and reproductive toxicity) the  
16 Warning must include the name of one or more chemicals for each endpoint, unless the named  
17 chemical is listed as known to cause both cancer and reproductive toxicity and has been so  
18 identified in the Warning.

19                   **3.2.2 Methods**

20                           **(a) In-Store Sales**

21           For Covered Products sold in retail stores in California, the Warning shall be securely  
22 affixed to or printed upon the container or label of each Covered Product. If the Warning is  
23 provided on the label, it must be set off from other surrounding information and enclosed in a box.  
24 The Warning shall be at least the same size as the largest of any other health or safety warnings also  
25 appearing on the label or container of ABP’s product packaging.

26           Alternatively, for Covered Products sold in retail stores in California, the Warning may be  
27 provided through a posted sign, shelf tag, or shelf sign. At ABP’s option, ABP may follow the  
28 procedure set out in 27 Cal. Code Regs. § 25600.2 (effective August 30, 2018) by providing a .

1 written notice directly to the authorized agent for a retail seller or any other person or entity that  
2 may be designated to receive written notices in an amendment to 27 Cal. Code Regs. §25600.2(b).

3 **(b) Website Sales**

4 If the Covered Products are offered by ABP on a website for purchase by consumers in  
5 California, the Warning must also be provided by including either the Warning, or a clearly marked  
6 hyperlink that links directly to the Warning using the word “**WARNING**” (in all capital and bold  
7 letters), on the product display page or on the checkout page prior to the purchaser’s completing the  
8 purchase. Alternatively, the Warning can be provided on the invoice or on a slip sheet placed in the  
9 boxes of Covered Products shipped to California. If ABP uses a slip sheet with the Warning, ABP  
10 shall provide one slip sheet with the Warning for each Covered Product in a box or one slip sheet  
11 with the Warning that lists all the Covered Products in the box. The Covered Products may be  
12 returned by the consumer for a refund within 30 days of the invoice date at no cost to the consumer  
13 if the consumer references the Warning as a reason for the return. The slip sheet with the Warning  
14 must be at least five (5) inches x seven (7) inches in size.

15 **(c) Catalog Sales**

16 If the Covered Products are offered by ABP in a catalog for purchase by consumers in  
17 California, the Warning must also be provided in the catalog in a manner that clearly associates it  
18 with the item (the Covered Product) being purchased. Alternatively, the Warning can be provided  
19 on the invoice or on a slip sheet placed in the boxes of Covered Products shipped to California. If  
20 ABP uses a slip sheet with the Warning, ABP shall provide one slip sheet with the Warning for each  
21 Covered Product in a box or one slip sheet with the Warning that lists all the Covered Products in  
22 the box. The Covered Products may be returned by the consumer for a refund within 30 days of the  
23 invoice date at no cost to the consumer if the consumer references the Warning as a reason for the  
24 return. The slip sheet with the Warning must be at least five (5) inches x seven (7) inches in size.

25 **3.2.3** The word “**WARNING**” shall be in all capital letters and in bold print. No  
26 statements intended to or likely to have the effect of diminishing the impact of the Warning on the  
27 average lay person shall accompany the Warning. Further, no statements may accompany the Warning  
28

1 that state or imply that the source of the listed chemical has an impact on or results in a less harmful  
2 effect of the listed chemical.

3 The Warning shall be displayed with such conspicuousness, as compared with other words,  
4 statements or designs on the label or container, or in the catalog or on the website, if applicable, to  
5 render the Warning likely to be read and understood by an ordinary individual under customary  
6 conditions of purchase or use of the product.

### 7 **3.3 Conforming Covered Products**

8 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure  
9 Level” is no greater than 0.5 micrograms of lead per day after subtracting the amount of lead  
10 deemed to be “naturally occurring” for each ingredient listed in **Table 1**, pursuant to the method  
11 outlined below, and for which the “Daily Cadmium Exposure Level” is no more than 4.1  
12 micrograms of cadmium per day.

13 **3.3.1** The amount of lead deemed “naturally occurring” in each of the  
14 Conforming Covered Products is the sum of the amounts of “naturally occurring” lead supplied by  
15 each ingredient listed in **Table 1** that is present in each Conforming Covered Product. For each  
16 ingredient listed in **Table 1**, the amount of lead deemed “naturally occurring” is listed in **Table 1** in  
17 micrograms of “naturally occurring” lead per gram of the ingredient that is contained in the  
18 Conforming Covered Product.

19 **3.3.2** To subtract the “naturally occurring” lead in any Covered Product for  
20 purposes of determining the Daily Lead Exposure Level and whether the Covered Product qualifies  
21 as a Conforming Covered Product under this Consent Judgment, as provided in Section 3.3.1, ABP  
22 shall provide to ERC, within thirty (30) days after the first anniversary of the Compliance Date, the  
23 documentation required under Section 3.3.3(a) and (b). No deduction for “naturally occurring” lead  
24 shall be permitted until after ABP provides to ERC the documentation required under Section  
25 3.3.3(a) and (b) as indicated in the preceding sentence. Thereafter, for three (3) additional  
26 consecutive anniversaries after the Compliance Date, if ABP deducts “naturally occurring” lead in  
27 calculating the Daily Lead Exposure Level, ABP shall provide to ERC, within thirty (30) days after  
28

1 each such anniversary date, the documentation required under Section 3.3.3(a) and (b) for each such  
2 applicable twelve-month period preceding the applicable anniversary of the Compliance Date.

3 **3.3.3** In calculating the Daily Lead Exposure Level for a Covered Product, ABP  
4 shall be allowed to deduct the amount of lead which is deemed “naturally occurring” in the  
5 ingredients listed in **Table 1** that are contained in that Covered Product under the following  
6 conditions: For each year that ABP claims entitlement to a “naturally occurring” allowance, ABP  
7 shall provide ERC with the following information: (a) ABP must produce to ERC a written list of  
8 each ingredient in the Covered Product for which a “naturally occurring” allowance is claimed; (b)  
9 ABP must provide ERC with documentation of laboratory testing, conducted during the year for  
10 which the “naturally occurring” allowance is claimed, that complies with Sections 3.4.3 and 3.4.4  
11 and that shows the amount of lead, if any, contained in each ingredient listed in **Table 1** that is  
12 contained in the Covered Product; (c) If the laboratory testing reveals the presence of lead in any of  
13 the ingredients listed in **Table 1** that are contained in the Covered Product, ABP shall be entitled to  
14 deduct the amount of lead contained in each ingredient, up to the full amount of the allowance for  
15 each ingredient as specified in **Table 1**; and (d) If the Covered Product does not contain any of the  
16 ingredients listed in **Table 1**, ABP shall not be entitled to a deduction for “naturally occurring” lead  
17 in the Covered Product for those ingredients. The information required by Sections 3.3.3(a) and (b)  
18 shall be provided to ERC within thirty (30) days of the Compliance Date, or anniversary thereof, for  
19 any year that ABP shall claim entitlement to the “naturally occurring” allowance:

20 **Table 1**

21

<b>Ingredient</b>	<b>Amount of lead (Pb) per gram of ingredient deemed naturally occurring</b>
22 Calcium (elemental)	Up to 0.8 mcg Pb per gram of elemental calcium
23 Ferrous Fumarate	Up to 0.4 mcg Pb per gram of ferrous fumarate
24 Zinc Oxide	Up to 8.0 mcg Pb per gram of zinc oxide
25 Magnesium Oxide	Up to 0.4 mcg Pb per gram of magnesium oxide
26 Magnesium Carbonate	Up to 0.332 mcg Pb per gram of magnesium carbonate
27 Magnesium Hydroxide	Up to 0.4 mcg Pb per gram of magnesium hydroxide

28



Ingredient	Amount of lead (Pb) per gram of ingredient deemed naturally occurring
Zinc Gluconate	Up to 0.8 mcg Pb per gram of zinc gluconate
Potassium Chloride	Up to 1.1 mcg Pb per gram of potassium chloride
Cocoa powder	Up to 1.0 mcg Pb per gram of cocoa powder
Cocoa Liquor	Up to 1.0 mcg Pb per gram of cocoa liquor
Cocoa Butter	Up to 0.1 mcg Pb per gram of cocoa butter

**3.4 Testing and Quality Control Methodology**

**3.4.1** Beginning within one (1) year after the Compliance Date, and at least once a year for a minimum of three consecutive years thereafter, ABP shall arrange for lead testing of the Covered Products by arranging for testing of five randomly selected samples of each of the Covered Products, in the form intended for sale to the end-user, which ABP intends to sell or is manufacturing for sale in California, directly selling to a consumer in California or “Distributing into the State of California.” If tests conducted pursuant to this Section demonstrate that no Warning is required for a Covered Product during each of three consecutive years, then the testing requirements of this Section will no longer be required as to that Covered Product. However, if during or after the three-year testing period, ABP, or its manufacturer, changes ingredient suppliers for any of the Covered Products and/or changes the formulation of the Covered Products with respect to (a) any ingredient listed in **Table 1** and/or (b) any ingredient that contributes more than 0.1 mcg/day of lead in the finished product (as calculated by the formula set forth in Section 3.1.2), ABP shall test that Covered Product annually for at least three (3) consecutive years after such change is made. Nothing in Section 3.4.1 shall be construed to add, change or increase any “naturally occurring” allowance as provided in Section 3.3 or impact, reduce or diminish any requirement for Warning pursuant to Section 3 of this Consent Judgment

**3.4.2** For purposes of measuring the “Daily Lead Exposure Level” and/or “Daily Cadmium Exposure Level,” the arithmetic mean of the five (5) randomly selected samples of the Covered Products will be controlling.

1           **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a  
2 laboratory method that complies with the performance and quality control factors appropriate for  
3 the method used, including limit of detection, qualification, accuracy, and precision that meets the  
4 following criteria: Inductively Coupled Plasma-Mass Spectrometry (“ICP-MS”) achieving a limit of  
5 quantification of less than or equal to 0.010 mg/kg.

6           **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an  
7 independent third party laboratory certified by the California Environmental Laboratory  
8 Accreditation Program or an independent third-party laboratory that is registered with the United  
9 States Food & Drug Administration.

10           **3.4.5** Nothing in this Consent Judgment shall limit ABP’s ability to conduct, or  
11 require that others conduct, additional testing of the Covered Products, including the raw materials  
12 used in their manufacture.

13           **3.4.6** Within thirty (30) days of ERC’s written request, ABP shall deliver lab  
14 reports obtained pursuant to Section 3.4 to ERC. ABP shall retain all test results and documentation  
15 for a period of five years from the date of each test.

16           **3.4.7** The testing requirements of Section 3.4.1 do not apply to any Covered  
17 Product for which ABP has provided the Warning specified in Section 3.2 continuously and  
18 uninterrupted after the Compliance Date; however, in the event ABP ceases at any time to provide  
19 the Warning specified in Section 3.2, ABP shall be required to comply with the testing requirements  
20 of Section 3.4.1 beginning immediately after the date the Warning ceases to be provided or one year  
21 after the Compliance Date, whichever date is later.

22 **4. SETTLEMENT PAYMENT**

23           **4.1** In full satisfaction of all potential civil penalties, additional settlement payments,  
24 attorney’s fees, and costs, ABP shall make a total payment of \$85,000.00 (“Total Settlement  
25 Amount”) to ERC within 5 days of the Effective Date (“Due Date”). ABP shall make this payment  
26 by wire transfer to ERC’s account, for which ERC will give ABP the necessary account  
27 information. The Total Settlement Amount shall be apportioned as follows:  
28

1           4.2     \$35,493.26 shall be considered a civil penalty pursuant to California Health and  
2 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$26,619.94) of the civil penalty to the  
3 Office of Environmental Health Hazard Assessment (“OEHHA”) for deposit in the Safe Drinking  
4 Water and Toxic Enforcement Fund in accordance with California Health and Safety Code section  
5 25249.12(c). ERC will retain the remaining 25% (\$8,873.32) of the civil penalty.

6           4.3     \$3,140.77 shall be distributed to ERC as reimbursement to ERC for reasonable costs  
7 incurred in bringing this action.

8           4.4     \$26,619.91 shall be distributed to ERC as an Additional Settlement Payment  
9 (“ASP”), pursuant to California Code of Regulations, title 11, sections 3203, subdivision (d) and  
10 3204. ERC will utilize the ASP for activities that address the same public harm as allegedly caused  
11 by Defendant in this matter. These activities are detailed below and support ERC’s overarching goal  
12 of reducing and/or eliminating hazardous and toxic chemicals in dietary supplement products in  
13 California. ERC’s activities have had, and will continue to have, a direct and primary effect within  
14 the State of California because California consumers will be benefitted by the reduction and/or  
15 elimination of exposure to lead and/or cadmium in dietary supplements and/or by providing clear  
16 and reasonable warnings to California consumers prior to ingestion of the products.

17           Based on a review of past years’ actual budgets, ERC is providing the following list of  
18 activities ERC engages in to protect California consumers through Proposition 65 citizen  
19 enforcement, along with a breakdown of how ASP funds will be utilized to facilitate those  
20 activities: (1) ENFORCEMENT (65-80%): obtaining, shipping, analyzing, and testing dietary  
21 supplement products that may contain lead and/or cadmium and are sold to California consumers.  
22 This work includes continued monitoring and enforcement of past consent judgments and  
23 settlements to ensure companies are in compliance with their obligations thereunder, with a specific  
24 focus on those judgments and settlements concerning lead and/or cadmium. This work also includes  
25 investigation of new companies that ERC does not obtain any recovery through settlement or  
26 judgment; (2) VOLUNTARY COMPLIANCE PROGRAM (10-20%): maintaining ERC’s  
27 Voluntary Compliance Program by acquiring products from companies, developing and maintaining  
28 a case file, testing products from these companies, providing the test results and supporting

1 documentation to the companies, and offering guidance in warning or implementing a self-testing  
2 program for lead and/or cadmium in dietary supplement products; and (3) "GOT LEAD"  
3 PROGRAM (up to 5%): maintaining ERC's "Got Lead?" Program which reduces the numbers of  
4 contaminated products that reach California consumers by providing access to free testing for lead  
5 in dietary supplement products (Products submitted to the program are screened for ingredients  
6 which are suspected to be contaminated, and then may be purchased by ERC, catalogued, sent to a  
7 qualified laboratory for testing, and the results shared with the consumer that submitted the  
8 product).

9 ERC shall be fully accountable in that it will maintain adequate records to document and  
10 will be able to demonstrate how the ASP funds will be spent and can assure that the funds are being  
11 spent only for the proper, designated purposes described in this Consent Judgment. ERC shall  
12 provide the Attorney General, within thirty days of any request, copies of documentation  
13 demonstrating how such funds have been spent.

14 4.5 \$19,746.06 shall be distributed to ERC for its in-house legal fees. Except as  
15 explicitly provided herein, each Party shall bear its own fees and costs.

16 4.6 In the event that ABP fails to remit the Total Settlement Amount owed under Section  
17 4 of this Consent Judgment on or before the Due Date, ABP shall be deemed to be in material  
18 breach of its obligations under this Consent Judgment. ERC shall provide written notice of the  
19 delinquency to ABP via electronic mail. If ABP fails to deliver the Total Settlement Amount within  
20 five (5) days from the written notice, the Total Settlement Amount shall accrue interest at the  
21 statutory judgment interest rate provided in the California Code of Civil Procedure section 685.010.  
22 Additionally, ABP agrees to pay ERC's reasonable attorney's fees and costs for any efforts to  
23 collect the payment due under this Consent Judgment.

## 24 5. MODIFICATION OF CONSENT JUDGMENT

25 5.1 This Consent Judgment may be modified only as to injunctive terms (i) by written  
26 stipulation of the Parties and upon entry by the Court of a modified consent judgment or (ii) by  
27  
28

1 motion of either Party pursuant to Section 5.3 or 5.4 and upon entry by the Court of a modified  
2 consent judgment.

3       **5.2** If ABP seeks to modify this Consent Judgment under Section 5.1, then ABP must  
4 provide written notice to ERC of its intent (“Notice of Intent”). If ERC seeks to meet and confer  
5 regarding the proposed modification in the Notice of Intent, then ERC must provide written notice  
6 to ABP within thirty (30) days of receiving the Notice of Intent. If ERC notifies ABP in a timely  
7 manner of ERC’s intent to meet and confer, then the Parties shall meet and confer in good faith as  
8 required in this Section. The Parties shall meet in person or via telephone within thirty (30) days of  
9 ERC’s notification of its intent to meet and confer. Within thirty (30) days of such meeting, if ERC  
10 disputes the proposed modification, ERC shall provide to ABP a written basis for its position. The  
11 Parties shall continue to meet and confer for an additional thirty (30) days in an effort to resolve any  
12 remaining disputes. Should it become necessary, the Parties may agree in writing to different  
13 deadlines for the meet-and-confer period.

14       **5.3** In the event that ABP initiates or otherwise requests a modification under Section  
15 5.1, and the meet and confer process leads to a joint motion or application for a modification of the  
16 Consent Judgment, ABP shall reimburse ERC its costs and reasonable attorney’s fees for the time  
17 spent in the meet-and-confer process and filing and arguing the motion or application.

18       **5.4** Where the meet-and-confer process does not lead to a joint motion or application in  
19 support of a modification of the Consent Judgment, then either Party may seek judicial relief on its  
20 own. In any such contested court proceeding, ERC may seek costs and any attorney’s fees incurred  
21 in opposing the motion pursuant to California Code of Civil Procedure section 1021.5.

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

23       **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or terminate this  
24 Consent Judgment.

25       **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming Covered  
26 Product (for which ERC alleges that no Warning has been provided), then ERC shall inform ABP in  
27 a reasonably prompt manner of its test results, including information sufficient to permit ABP to  
28 identify the Covered Products at issue. ABP shall, within thirty (30) days following such notice,

1 provide ERC with testing information, from an independent third-party laboratory meeting the  
2 requirements of Sections 3.4.3 and 3.4.4, demonstrating ABP's compliance with the Consent  
3 Judgment. The Parties shall first attempt to resolve the matter prior to ERC taking any further legal  
4 action.

5 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

13 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on  
14 behalf of itself and in the public interest, and ABP and its respective officers, directors,  
15 shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers, franchisees,  
16 licensees, customers (not including private label customers of ABP), distributors, wholesalers,  
17 retailers, and all other upstream and downstream entities in the distribution chain of any Covered  
18 Product, and the predecessors, successors, and assigns of any of them (collectively, "Released  
19 Parties"). ERC, on behalf of itself and in the public interest, hereby fully releases and discharges the  
20 Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities,  
21 damages, penalties, fees (including but not limited to attorneys' fees, investigation fees, and expert  
22 fees), costs, and expenses (collectively, "Claims") asserted, or that could have been asserted, from  
23 the handling, use, or consumption of the Covered Products, as to any alleged violation of  
24 Proposition 65 or its implementing regulations arising from the failure to provide Proposition 65  
25 warnings regarding lead and/or cadmium for the Covered Products manufactured, distributed, or  
26 sold by ABP before the Compliance Date.

27 ///

28 ///

1           **8.2**     ERC on behalf of itself and its respective owners, principals, shareholders, officers,  
2 directors, employees, agents, parents, subsidiaries, successors, assigns, and legal representatives  
3 (collectively referred to as “ERC Releasers”), and not on behalf of the general public, hereby  
4 waives and releases the Released Parties from any and all Claims that were asserted, or that could  
5 have been asserted, for any alleged violations of any other statutory or common law arising from  
6 alleged exposures to lead and cadmium in the Covered Products manufactured, distributed, or sold  
7 by ABP before the Effective Date.

8           In addition, ERC agrees that the warning requirements of Section 3.2 of this Consent  
9 Judgment shall be deemed to be compliant for warnings for lead for those products covered in a  
10 prior consent judgment between ERC and ABP dated March 4, 2014 (“Prior Consent Judgment”).  
11 The products covered in the Prior Consent Judgment and this Consent Judgment are collectively  
12 referred to as the “Products.”

13           **8.3**     ABP, on behalf of itself and the Released Parties, hereby waives and releases any  
14 and all Claims it may have or have had against ERC for any actions or statements made or  
15 undertaken in the course of seeking or opposing enforcement of Proposition 65 in connection with  
16 the Notice and Complaint up through and including the Effective Date.

17           **8.4**     It is possible that other Claims not known to the Parties, arising out of the facts  
18 alleged in the Notice and Complaint, and relating to the Covered Products, will develop or be  
19 discovered. ERC, on behalf of itself and the ERC Releasers, on the one hand, and ABP, on behalf of  
20 itself and the Released Parties, on the other hand, acknowledge that this Consent Judgment is  
21 expressly intended to cover and include all such Claims up through and including the Effective  
22 Date, including all rights of action therefore. ERC and ABP acknowledge that the Claims released  
23 in Sections 8.1, 8.2, and 8.3 above may include unknown Claims, and nevertheless waive California  
24 Civil Code section 1542 as to any such unknown Claims. California Civil Code section 1542 reads  
25 as follows:

26                   A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
27                   THAT THE CREDITOR OR RELEASING PARTY DOES NOT  
28                   KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT  
                      THE TIME OF EXECUTING THE RELEASE AND THAT IF  
                      KNOWN BY HIM OR HER WOULD HAVE MATERIALLY

1                   AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR  
2                   OR RELEASED PARTY.

3                   ERC, on behalf of itself only, on the one hand, and ABP, on behalf of itself only, on the other hand,  
4                   acknowledge and understand the significance and consequences of this specific waiver of California  
5                   Civil Code section 1542.

6                   **8.5**       Compliance with the terms of this Consent Judgment shall be deemed to constitute  
7                   compliance with Proposition 65 by any Released Party regarding alleged exposures to lead and/or  
8                   cadmium in the Covered Products as set forth in the Notice and Complaint.

9                   **8.6**       Nothing in this Consent Judgment is intended to apply to any occupational or  
10                  environmental exposures arising under Proposition 65, nor shall it apply to any of ABP's products  
11                  other than the Covered Products.

12                 **8.7**       Nothing in Section 8 shall affect or limit any Party's right to seek to enforce the  
13                 terms of this Consent Judgment.

14                 **9.       SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

17                 **10.       GOVERNING LAW**

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

20                 **11.       PROVISION OF NOTICE**

21                 All notices required to be given to either Party to this Consent Judgment by the other shall be in  
22                 writing and sent to the following agents listed below via first-class mail or via electronic mail where  
23                 required. Courtesy copies via email may also be sent.

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

25                 Chris Heptinstall, Executive Director, Environmental Research Center  
26                 3111 Camino Del Rio North, Suite 400  
27                 San Diego, CA 92108  
28                 Ph: (619) 500-3090  
                  Email: chris.heptinstall@erc501c3.org

///



1           **With a copy to:**

2           Charles W. Poss  
3           Environmental Research Center, Inc.  
4           3111 Camino Del Rio North, Suite 400  
5           San Diego, CA 92108  
6           Ph: (619) 500-3090  
7           Email: charles.poss@erc501c3.org

8           **AMERICAN BOTANICAL PHARMACY, individually and dba DR. SCHULZE'S:**

9           Adam Loef  
10          CEO  
11          American Botanical Pharmacy  
12          4114 Glencoe Avenue  
13          Marina Del Rey, CA 90292

14          **With a copy to:**

15          Sarah Esmaili  
16          Arnold & Porter Kaye Scholer LLP  
17          Three Embarcadero Center, 10<sup>th</sup> Floor  
18          San Francisco, CA 94111  
19          Telephone: (415) 471-3283  
20          Facsimile: (415) 471-3400  
21          Email: [sarah.esmaili@apks.com](mailto:sarah.esmaili@apks.com)

22          **12. COURT APPROVAL**

23            **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a Motion  
24            for Court Approval. The Parties shall use their best efforts to support entry of this Consent  
25            Judgment.

26            **12.2** If the California Attorney General objects to any term in this Consent Judgment, the  
27            Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to  
28            the hearing on the motion.

29            **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be void and  
30            have no force or effect.

31          **13. EXECUTION AND COUNTERPARTS**

32            This Consent Judgment may be executed in counterparts, which taken together shall be  
33            deemed to constitute one document. A facsimile or .pdf signature shall be construed to be as valid as

1 the original signature.

2 **14. DRAFTING**

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

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

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

16 **16. ENFORCEMENT**

17 ERC may, by motion or order to show cause before the Superior Court of Alameda County,  
18 enforce the terms and conditions contained in this Consent Judgment. In any action brought by  
19 ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs, penalties, or remedies  
20 as are provided by law for failure to comply with the Consent Judgment.

21 To the extent the failure to comply with the Consent Judgment constitutes a violation of  
22 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent Judgment,  
23 but may seek in another action whatever fines, costs, penalties, or remedies as are provided by law  
24 for failure to comply with Proposition 65 or other laws.

25 **17. ENTIRE AGREEMENT, AUTHORIZATION**

26 **17.1** This Consent Judgment contains the sole and entire agreement and understanding of  
27 the Parties with respect to the entire subject matter herein, and any and all prior discussions,  
28 negotiations, commitments, and understandings related hereto. No representations, oral or

1 **APPROVED AS TO FORM:**

2  
3 Dated: \_\_\_\_\_, 2019

ENVIRONMENTAL RESEARCH  
CENTER, INC.

4  
5 By: \_\_\_\_\_  
6 Charles W. Poss  
7 Attorney for Plaintiff Environmental  
8 Research Center, Inc.

8 Dated: June 3, 2019

ARNOLD & PORTER KAYE SCHOLER  
LLP

9  
10  
11 By: Sarah Esmaili  
12 Sarah Esmaili  
13 Attorney for Defendant American  
14 Botanical Pharmacy, individually and dba  
15 Dr. Schulze's

14 **ORDER AND JUDGMENT**

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

17 IT IS SO ORDERED, ADJUDGED AND DECREED.

18  
19 Dated: \_\_\_\_\_, 2019

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

1 otherwise, express or implied, other than those contained herein have been made by any Party. No  
2 other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist  
3 or to bind any Party.

4 17.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
5 by the Party he or she represents to stipulate to this Consent Judgment.

6 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
7 **CONSENT JUDGMENT**

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

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

14 (2) Make the findings pursuant to California Health and Safety Code section  
15 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

16  
17 **IT IS SO STIPULATED:**

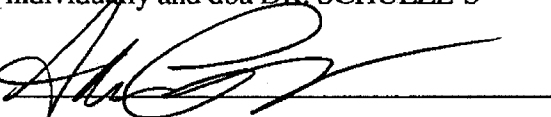
18  
19 Dated: \_\_\_\_\_, 2019

ENVIRONMENTAL RESEARCH  
CENTER, INC.

20  
21 By: \_\_\_\_\_  
Chris Heptinstall, Executive Director

22  
23 Dated: May 29, 2019

AMERICAN BOTANICAL PHARMACY,  
individually and dba DR. SCHULZE'S

24  
25   
26 By: Adam Loef  
27 Its: CEO  
28

1 otherwise, express or implied, other than those contained herein have been made by any Party. No  
2 other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist  
3 or to bind any Party.

4 17.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized  
5 by the Party he or she represents to stipulate to this Consent Judgment.

6 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
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8 This Consent Judgment has come before the Court upon the request of the Parties. The  
9 Parties request the Court to fully review this Consent Judgment and, being fully informed regarding  
10 the matters which are the subject of this action, to:

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

14 (2) Make the findings pursuant to California Health and Safety Code section  
15 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

16  
17 **IT IS SO STIPULATED:**

18  
19 Dated: 5/31/, 2019

ENVIRONMENTAL RESEARCH  
CENTER, INC

20  
21 By:   
22 Chris Hepburn, Executive Director

23 Dated: \_\_\_\_\_, 2019

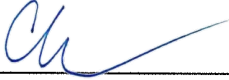
AMERICAN BOTANICAL PHARMACY,  
individually and dba DR. SCHULZE'S

24  
25  
26 By: Adam Loef  
27 Its: CEO  
28

1 **APPROVED AS TO FORM:**

2  
3 Dated: May 31,, 2019

ENVIRONMENTAL RESEARCH  
CENTER, INC.

4  
5 By:   
6 Charles W. Poss  
7 Attorney for Plaintiff Environmental  
8 Research Center, Inc.

9 Dated: \_\_\_\_\_, 2019

ARNOLD & PORTER KAYE SCHOLER  
LLP

10  
11 By: \_\_\_\_\_  
12 Sarah Esmaili  
13 Attorney for Defendant American  
14 Botanical Pharmacy, individually and dba  
15 Dr. Schulze's

14 **ORDER AND JUDGMENT**

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

17 IT IS SO ORDERED, ADJUDGED AND DECREED.

18  
19 Dated: \_\_\_\_\_, 2019

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



## Environmental Research Center

3111 Camino Del Rio North, Suite 400  
San Diego, CA 92108  
619-500-3090

March 8, 2019

### NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.* (PROPOSITION 65)

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I am the Executive Director of Environmental Research Center, Inc. (“ERC”). ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

ERC has identified violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter the “Violator”) is:

**American Botanical Pharmacy, individually and dba Dr. Schulze’s**

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

- 1. Dr. Schulze's Original Clinical Formulae SuperMeal Meal Replacement – Lead, Cadmium**

2. **Dr. Schulze's Original Clinical Formulae Male "SHOT" - Lead**
3. **Dr. Schulze's SuperFood Bar Original Flavor - Lead**
4. **Dr. Schulze's Original Clinical Formulae Organic Super Protein Plus – Lead, Cadmium**
5. **Dr. Schulze's Organic Cacao Crunch The Ultimate Decadent Nutritional Energy Snack Treats - Lead**
6. **Dr. Schulze's Original Clinical Formulae Cold & Flu Herbal "Shot" - Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

Cadmium was officially listed as a chemical known to cause developmental toxicity and male reproductive toxicity on May 1, 1997, while cadmium and cadmium compounds were listed as chemicals known to the State of California to cause cancer on October 1, 1987.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to these chemicals has been and continues to be through ingestion.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least March 8, 2016, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons ingesting these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time-consuming litigation.



March 8, 2019

Page 3

Please direct all questions concerning this notice to ERC at the above listed address and telephone number.

Sincerely,



---

Chris Heptinstall  
Executive Director  
Environmental Research Center

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to American Botanical Pharmacy, individually and dba Dr. Schulze's, and its Registered Agent for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by American Botanical Pharmacy, individually and dba Dr. Schulze's**

I, Chris Heptinstall, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the Executive Director for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: March 8, 2019

---

Chris Heptinstall

**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
American Botanical Pharmacy,  
individually and dba Dr. Schulze’s  
PO Box 9849  
Marina Del Rey, CA 90295

Kirt Sechooler  
(Registered Agent for American Botanical Pharmacy,  
individually and dba Dr. Schulze’s)  
21243 Ventura Blvd, Ste 227  
Woodland Hills, CA 91364

Current President or CEO  
American Botanical Pharmacy,  
individually and dba Dr. Schulze’s  
4114 Glencoe Ave  
Marina Del Rey, CA 90292

On March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Nancy O’Malley, District Attorney  
Alameda County  
7677 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Barbara Yook, District Attorney  
Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249  
Prop65Env@co.calaveras.ca.us

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

March 8, 2019

Page 6

Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
sgrassini@contracostada.org

Thomas L. Hardy, District Attorney  
Inyo County  
168 North Edwards Street  
Independence, CA 93526  
inyoda@inyocounty.us

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
mlatimer@co.lassen.ca.us

Dije Ndreu, Deputy District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney  
Napa County  
1127 First Street, Suite C  
Napa, CA 94559  
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney  
Riverside County  
3072 Orange Street  
Riverside, CA 92501  
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney  
Sacramento County  
901 G Street  
Sacramento, CA 95814  
Prop65@sacda.org

Mark Ankcorn, Deputy City Attorney  
San Diego City Attorney  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

Gregory Alker, Assistant District Attorney  
San Francisco County  
732 Brannan Street  
San Francisco, CA 94103  
gregory.alker@sfgov.org

Valerie Lopez, Deputy City Attorney  
San Francisco City Attorney  
1390 Market Street, 7<sup>th</sup> Floor  
San Francisco, CA 94102  
Valerie.Lopez@sfcityatty.org

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney  
San Luis Obispo County  
County Government Center Annex, 4<sup>th</sup> Floor  
San Luis Obispo, CA 93408  
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney  
Santa Barbara County  
1112 Santa Barbara Street  
Santa Barbara, CA 93101  
DAProp65@co.santa-barbara.ca.us

Yen Dang, Supervising Deputy District Attorney  
Santa Clara County  
70 W Hedding St  
San Jose, CA 95110  
EPU@da.sccgov.org

Jeffrey S. Rosell, District Attorney  
Santa Cruz County  
701 Ocean Street  
Santa Cruz, CA 95060  
Prop65DA@santacruzcounty.us

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Dr  
Sonoma, CA 95403  
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

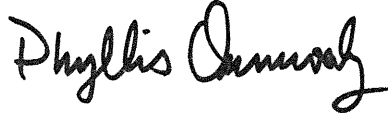
March 8, 2019

Page 7

Jeff W. Reisig, District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95695  
cfepd@yolocounty.org

On March 8, 2019, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on March 8, 2019, in Fort Oglethorpe, Georgia.



---

Phyllis Dunwoody

**Service List**

District Attorney, Alpine  
County  
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